

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

**THE BAR STANDARDS BOARD
CENTRAL EXAMINATIONS BOARD
CHAIR'S REPORT**

**Bar Training, BTT, BPTC & BTR
December 2023 Sitting**

EXECUTIVE SUMMARY

The Bar Training Course is the successor to the Bar Professional Training Course ('BPTC') as the vocational training component to be successfully completed prior to call to the Bar. The Bar Training Course saw its first intake of students at 9 Authorised Education and Training Organisations (AETOs) in September 2020. Depending on the course structure offered at each AETO, candidates will have had their first opportunity to attempt the centralised assessments in Civil and Criminal Litigation in December 2020. This report presents the result for the tenth iteration of examinations attempted by Bar Training Course candidates in December 2023, the confirmed post-intervention outcomes for which are as follows:

All Providers (Post-Intervention Results)					
	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22
Civil Litigation					
No. of candidates	407	989	738	823	1517
Passing rate	55.8%	55.5%	41.3%	53.6%	59.6%
Criminal Litigation					
No. of candidates	383	1104	827	824	1653
Passing rate	59.8%	46.2%	42.4%	55.9%	63.7%
	Aug-22	Dec-22	Apr-23	Aug-23	Dec-23
Civil Litigation					
No. of candidates	790	929	1671	889	833
Passing rate	46.2%	56.4%	59.8%	45.1%	53.2%
Criminal Litigation					
No. of candidates	802	596	1583	842	805
Passing rate	52.5%	49.8%	65.6%	39.9%	55.2%

In comparing results across the ten iterations of assessment it should be noted that for the December 2020 sit, only nine AETO centres presented cohorts of candidates for assessment. For April 2021 the figure was 19 AETO centres, which explains why there were significantly more candidates for that sitting compared to December 2020. From April 2021 onwards, sittings will have comprised a mix of first sit (new and deferred) and resitting candidates (*ie*, candidates who had previously failed an assessment without extenuating circumstances). The April 2022 sitting saw the first cohorts entered by ULaw Liverpool, the December 2022 sitting the first cohorts entered by the University of Hertfordshire, and the April 2023 sitting the first candidates entered by ULaw Newcastle. For the December 2023 sitting there were 18 AETO assessment centres providing candidate cohort results (ULaw Bristol, Newcastle and Nottingham did not enter any candidates). As can be seen in the above table, the December 2023 passing rates for both Criminal Litigation and Civil Litigation are largely in line with previous December sitting outcomes. See further on candidate numbers at 1.3 and 1.4, below.

Some of the historic data on candidate numbers and pass rates differ in this Chair's Report from that presented in previous Chair's Reports. This is because previous Chair's Reports utilised data presented at the Final Exam Board, which excluded a small number of candidates from the analysis where they were extreme outliers (such as those who only answered one or two items). In this report, candidate numbers and pass rates are based on the results as sent back to AETOs after the Final Board. The differences are larger in Civil Litigation, as some candidates sit only one paper of the two papers comprising that assessment, and these candidates are always excluded from analysis at the Final Board. This change is simply to ensure consistency in reporting and has no bearing on previous exam board decisions or Chair's Report commentary.

1. BACKGROUND AND CONTEXT

1.1 Why the Central Examinations Board ('CEB') was established

The 2010/11 academic year saw the first round of assessments under the BPTC regime in the wake of the Wood Report (July 2008). Centralising the Professional Ethics, Civil Litigation and Criminal Litigation assessments was a key recommendation of the Wood Report, and the CEB was established to oversee this change on behalf of the Bar Standards Board ('BSB'). 2011/12 was the first year of operation for the system of centralised examinations on the BPTC, with assessments compiled by a team of CEB examiners appointed by the BSB.

1.2 Future Bar Training

- 1.2.1 As part of the Future Bar Training reforms a new vocational training component, Bar Training, was introduced to replace the BPTC for the start of the 2020/21 academic year. Centralised assessment of Professional Ethics is now undertaken as part of the pupillage training requirements. Tuition in Criminal Litigation and Civil Litigation (including dispute resolution) continues to be delivered by course providers, now referred to as Authorised Education and Training Organisations ('AETOs'), with the assessments set by the BSB.
- 1.2.2 The Criminal Litigation assessment takes the form of a closed book three-hour paper comprising 75 multiple-choice questions (MCQs) and single best answer questions (SBAs). Civil Litigation is assessed across two papers (Civil 1 and Civil 2). Civil paper 1 takes the form of a closed book two-hour paper comprised of 50 MCQ and SBA questions. For Civil paper 2, candidates have two and a half hours to attempt 40 questions, the first five are stand-alone MCQ and/or SBA questions, and the remaining 35 take the form of rolling case scenarios – each with seven questions that track a developing narrative. Candidates are permitted access to the White Book for reference during the Civil 2 examination. Candidates attempting the Civil Litigation assessment simply need to achieve a pass mark across the 90 questions. There is no requirement to achieve a minimum number of marks on either Paper 1 or Paper 2.
- 1.2.3 Candidates have three opportunities a year to attempt the centralised Bar Training Course examinations: December ('Winter sit'), April ('Spring sit'), and August ('Summer sit').
- 1.2.4 AETOs must meet the requirements of the Authorisation Framework; in doing so, they may structure their Bar Training Courses in various ways. Some will offer a traditional integrated programme where all subjects are studied in parallel. Full time candidates commencing such courses in September may be attempting the centralised assessments for the first time in either the December or April sits, depending on the assessment strategy adopted. Others may (alternatively, or additionally) offer a 'Part 1-Part 2' structured programme whereby candidates prepare for the centralised assessments in Part 1 before progressing to the examinations in the skills areas in Part 2. In such cases candidates commencing in September would

normally be expected to attempt the centralised assessments for the first time in the December sit immediately following.

- 1.2.5 Some AETOs may offer multiple entry points across the academic year and may permit entry with advanced standing (for example the transfer in of candidates who have successfully completed 'Part 1' of the Bar Training Course at another AETO). Hence, a candidate commencing a course in April may attempt the centralised assessments for the first time in the August sit. Additionally, an AETO offering a 'Part 1-Part 2' structured programme may offer preparation for 'Part 1' online only. Current details of the range of provision across AETOs can be found here:

<https://www.barstandardsboard.org.uk/training-qualification/becoming-a-barrister/vocational-component/aetos-from-2020.html>

- 1.2.6 When reviewing the data contained in this report—and particularly when comparing the performance of AETO cohorts across a sitting and trend data showing performance over time—the following contextualisation should be considered:

- Candidate volumes at AETO centres can vary hugely from one sitting to the next, resulting in a high degree of volatility in the data.
- AETO cohorts may comprise a mixture of first-sit candidates who have never attempted the assessment before; first sit candidates so designated because a previous attempt has been discounted (for example because of extenuating circumstances); and referred candidates who are attempting the examination for a second, or possibly a third or subsequent time, because of previous failure.
- An AETO with a consistently lower pass rate is likely to have far more repeating candidates than an AETO with a consistently higher pass rate.
- A candidate who fails an assessment will not necessarily attempt it at the next opportunity.
- Whereas under the previous BPTC examinations it was reasonably safe to assume that, for the Spring sit, the vast majority of candidates were sitting for the first time, and that the majority of those attempting the Summer sit were referred or deferred candidates (hence enabling year on year comparison of Spring or Summer sit results) no such certainty exists in relation to the make-up of the cohorts attempting the Spring, Summer or Winter sits of the centralised examinations for the Bar Training Course.

1.3 Candidate numbers by AETO centre: Civil Litigation

AETO	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22	
BPP Birmingham	28	31	28	40	47	
BPP Bristol	19	16	14	19	7	
BPP Leeds	27	32	20	35	16	
BPP London	151	179	150	262	274	
BPP Manchester	58	54	35	89	49	
Cardiff	51	39	15	60	35	
City	22	208	132	59	378	
Hertfordshire	N/A	N/A	N/A	N/A	N/A	
ICCA	28	34	5	56	33	
MMU	23	9	11	24	7	
Northumbria	N/A	64	36	15	64	
NTU	N/A	50	37	23	53	
ULaw Birmingham	N/A	34	41	18	82	
ULaw Bristol	N/A	13	4	1	18	
ULaw Leeds	N/A	22	17	7	43	
ULaw Liverpool	N/A	N/A	N/A	N/A	16	
ULaw London	N/A	89	106	65	216	
ULaw Manchester	N/A	19	18	7	54	
ULaw Newcastle	N/A	N/A	N/A	N/A	N/A	
ULaw Nottingham	N/A	7	1	2	16	
UWE	N/A	89	68	41	109	
TOTAL	407	989	738	823	1517	
AETO	Aug-22	Dec-22	Apr-23	Aug-23	Dec-23	Total To-Date
BPP Birmingham	32	56	42	55	35	394
BPP Bristol	9	8	9	6	5	112
BPP Leeds	5	16	18	9	24	202
BPP London	173	260	299	244	217	2209
BPP Manchester	37	73	73	79	72	619
Cardiff	14	72	25	13	81	405
City	136	75	397	105	46	1558
Hertfordshire	N/A	13	6	7	1	27
ICCA	14	89	38	14	117	428
MMU	8	23	12	7	37	161
Northumbria	36	14	69	24	10	332
NTU	34	24	74	42	25	362
ULaw Birmingham	51	30	89	46	12	403
ULaw Bristol	5	3	33	9	N/A	86
ULaw Leeds	25	12	60	31	9	226
ULaw Liverpool	5	2	56	21	14	114
ULaw London	137	101	197	96	57	1064
ULaw Manchester	20	7	44	18	11	198
ULaw Newcastle	N/A	N/A	9	5	N/A	14
ULaw Nottingham	7	6	12	3	N/A	54
UWE	42	45	109	55	60	618
TOTAL	790	929	1671	889	833	9586

1.3.1 The December 2020 sit was the first opportunity for candidates to attempt the centralised assessments for the Bar Training Course, hence the lower volume of candidates. As can be seen, for the December 2023 sit, BPP London had the largest cohort, accounting for 26.1% of the Civil Litigation candidate entries, and has provided 23% of the total number of candidate entries across the nine sittings offered thus far. As noted above, three AETOs have cohort numbers in single figures for the December 2023 sit, a factor that can impact significantly on the comparison of cohort data.

1.4 Candidate numbers by AETO centre: Criminal Litigation

AETO	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22
BPP Birmingham	28	30	29	43	64
BPP Bristol	20	16	13	26	5
BPP Leeds	20	25	24	35	20
BPP London	137	202	174	270	261
BPP Manchester	52	62	47	91	60
Cardiff	54	37	19	19	70
City	20	247	154	77	425
Hertfordshire	N/A	N/A	N/A	N/A	N/A
ICCA	32	31	7	56	31
MMU	20	14	11	20	11
Northumbria	N/A	40	25	13	64
NTU	N/A	51	36	23	55
ULaw Birmingham	N/A	46	49	20	88
ULaw Bristol	N/A	15	2	N/A	18
ULaw Leeds	N/A	38	20	8	47
ULaw Liverpool	N/A	N/A	N/A	N/A	17
ULaw London	N/A	107	127	73	234
ULaw Manchester	N/A	23	19	7	61
ULaw Newcastle	N/A	N/A	N/A	N/A	N/A
ULaw Nottingham	N/A	5	1	2	14
UWE	N/A	115	70	41	108
TOTAL	383	1104	827	824	1653

AETO	Aug-22	Dec-22	Apr-23	Aug-23	Dec-23	Total To-Date
BPP Birmingham	22	36	32	33	60	377
BPP Bristol	7	N/A	1	9	4	101
BPP Leeds	7	5	14	20	5	175
BPP London	199	120	184	249	215	2011
BPP Manchester	34	35	65	49	68	563
Cardiff	21	20	68	15	37	360
City	141	61	408	114	73	1720
Hertfordshire	N/A	15	9	10	1	35
ICCA	13	92	37	9	129	437
MMU	7	24	8	7	35	157
Northumbria	24	14	75	14	9	278
NTU	32	24	69	38	27	355
ULaw Birmingham	56	19	80	40	12	410
ULaw Bristol	5	2	32	7	N/A	81
ULaw Leeds	25	9	60	30	11	248
ULaw Liverpool	2	2	59	20	13	113
ULaw London	129	76	174	103	54	1077
ULaw Manchester	9	3	43	13	10	188
ULaw Newcastle	N/A	N/A	9	1	N/A	10
ULaw Nottingham	3	3	13	3	N/A	44
UWE	66	36	143	58	42	679
TOTAL	802	596	1583	842	805	9419

1.4.1 As with the data for Civil Litigation, the December 2020 sit was the first opportunity for candidates to attempt the centralised assessments for the Bar

Training Course, hence the lower volume of candidates. As can be seen, for the December 2023 sit, BPP London had the largest cohort, accounting for 26.6% of the Criminal Litigation candidate entries, and has provided 21.3% of the total number of candidate entries across the nine sittings offered thus far. As noted above, four AETOs have cohort numbers in single figures for the December 2023 sit, a factor that can impact significantly on the comparison of cohort data.

2. BAR TRAINING COURSE CENTRALISED ASSESSMENT PROCEDURES

The assessment process is overseen by the CEB whose members are appointed by the BSB. The CEB comprises a Chair, teams of examiners (a Chief Examiner and a number of Assistant Chief Examiners for each subject). The CEB is supported by an independent observer, an independent psychometrician and senior staff from the BSB. The Chair and the examiners contribute a mix of both academic and practitioner experience.

2.1 How examination papers are devised and approved

- 2.1.1 The bank of material used for compiling the centralised assessments is derived from a number of sources including questions devised by specialist question writers commissioned by the BSB (some of whom are based at AETO institutions), and questions devised by members of the central examining teams.
- 2.1.2 Draft assessment papers are compiled by the relevant CEB examiner teams, under the guidance of the Chief Examiner for each centrally assessed knowledge area. A series of paper confirmation meetings are held, attended by the relevant examiner team, the Chair of the CEB, and key BSB support staff. These meetings consider the suitability of each question and the proposed answer, with particular emphasis on balance of subject matter, syllabus coverage, currency of material, clarity and coherence of material, and level of challenge. If a question has been used previously, consideration is also given to the statistics regarding the question's prior performance. In addition, the draft papers are reviewed by the BSB's syllabus team to ensure that all questions comply with the current curriculum. Any recommendations made during this process by the BSB's syllabus team are passed on to the Chief Examiner who will determine any changes to be made to the draft paper. The draft paper is then stress tested under the equivalent of exam conditions, and the outcomes used to inform further review by the relevant Chief Examiner. Finally, a proof-reader checks each exam paper for compliance with house style, grammatical accuracy, typographical errors, and ease of reading.

2.2 Standard setting

Before candidates attempt the examinations for Civil Litigation and Criminal Litigation the papers are subjected to a standard setting process to determine a passing standard which will be recommended to the Final Examination Board. The method used for these two subjects is known as the Angoff Method, and it helps ensure that

the standard required to achieve a pass mark is consistent from one sitting of the assessment to the next. Using standard setting, the number of MCQs a candidate needs to answer correctly in order to pass the assessment may go up or down from one sitting to the next depending on the level of challenge presented by the exam paper as determined by the standard setters. For a more detailed explanation of this process see: <https://www.barstandardsboard.org.uk/uploads/assets/514638a6-383c-40b2-8fc2dd8b2fe83585/20220819-Standard-setting.pdf>

2.3 How the exams are conducted

- 2.3.1 Candidates across all AETO institutions normally attempt the centralised assessments in each of the knowledge areas on the same dates. In any case where an AETO identifies candidates as having reasonable or other adjustments arrangements necessitating a start time earlier than that of the main cohort, the relevant candidates are not allowed to leave their assessment area until the commencement of the main cohort assessment. Secure delivery and collection arrangements are put in place for all examination materials.
- 2.3.2 Candidates are allowed to attempt the assessments at locations overseas. The onus is placed on the candidates' AETO to ensure that a secure assessment centre is available, and the BSB normally requires the start time of the examination at the overseas centre to be the same as the UK start time (an earlier/later start time may be permitted provided there is an overlap and candidates are quarantined). To ensure the complete security of the examination papers, the BSB dispatches all examinations to the overseas contacts directly.
- 2.3.3 AETO institutions are given guidance on examination arrangements by the BSB. Exam invigilation reports for exams (listing for example, public transport strikes, bomb alerts, fire alarms, building noise), are submitted by AETOs, detailing any issues they believe may have had a material bearing on the conduct of the examination itself at their assessment centres and, if required, these reports are considered at the CEB Subject and Final Exam Boards.
- 2.3.4 Each AETO oversees its own "fit to sit" policy. Some AETOs require candidates to complete a "fit to sit" form at the time of an exam. Other AETOs will complete this process at enrolment, candidates confirming that if they are present at the time of the exam, they are fit to sit the exam. The December 2023 Bar Training exam dates were as follows:

Criminal Litigation:	Friday 1 December 2023 at 14:00
Civil Litigation (Paper 1):	Monday 4 December 2023 at 14:00
Civil Litigation (Paper 2):	Wednesday 6 December 2023 at 14:00

2.4 Marking

2.4.1 Candidates attempting the Civil Litigation and Criminal Litigation assessments record their answers on machine-readable answer sheets. AETOs return the original answer sheets to the BSB for machine marking. The answer sheet scanning is undertaken by specially trained BSB support staff, using specialist scanners and software. The scanner removes the risk of wrongly capturing marks which may occur with human input. This process enables accurate production of data statistics and results analysis for consideration at the exam boards. Once scripts are uploaded, the BSB staff compare the scripts received with the exam attendance lists supplied by Providers to ensure all the expected scripts have been received. Where there is an expected script which is not received, or a script received which was not expected, this is queried with the AETO.

2.5 Examination Boards

- 2.5.1 The CEB operates a two-tier Examination Board process. A first-tier Subject Board is convened for each of the knowledge areas attended by all members of the examining team and the independent observer. The recommendations from each of these first-tier Boards are then fed into an over-arching Final Examination Board where the recommendations are considered and a final decision on cohort performance in each of the centralised assessment knowledge areas is arrived at.
- 2.5.2 Prior to the meeting of the Subject Board the examining teams receive copies of AETO feedback on each of the assessment items. The examining teams formulate their draft responses to this feedback indicating whether or not they think the points raised by the AETOs appear to warrant further investigation at the Subject Board. The examining teams consider the AETO feedback without any knowledge of the statistical data relating to the operation of each assessment item to ensure an objective approach to the feedback and the need for further investigation.
- 2.5.3 The meeting of the Subject Board considers, with the advice of the independent observer, the outcome of the standard setting process and whether there are any grounds to question the reliability of the assessment, or whether there are any other factors that might lead the Subject Board to recommend a different passing standard. The Subject Board then comes to a preliminary conclusion regarding the pass standard to be recommended to the Final Board. The Subject Board then considers the results for each assessment item. The key data presented to the Subject Board (reflecting the recommended passing standard) will also include:
- data showing the pass rate for each MCQ cross-referenced to the representations made in the feedback pro-formas returned by the AETOs – thus flagging up any correlation of AETO criticisms and concerns with systemic poor performance by candidates.
 - statistical analysis produced by the BSB Exams Team and endorsed by the psychometrician, including facility values, point biserials, and a

measure of discrimination for each distractor, as well as an estimate of reliability for the assessment as a whole.

- the Chief Examiner's commentary on the assessment process.
- feedback on the examination questions and the examination paper as a whole provided by the AETOs.
- a report from the Chair of the relevant standard setting meeting.
- invigilator reports detailing evidence of issues that may have impacted on the conduct of the examination itself at any AETO centre.

2.5.4 On the basis of the above evidence, and as informed by the Independent Observer's views, the Subject Boards have the discretion to intervene where there is evidence that a particular element of an assessment has not operated effectively. Options typically include:

- crediting more than one answer to an MCQ as correct.
- disregarding an MCQ entirely if deemed defective or inappropriate (eg, no correct answer) – no candidate is credited, and the maximum score is recalculated.
- crediting all candidates with the correct answer if an MCQ is deemed defective or inappropriate.
- scaling overall marks for an assessment, or for a sub-cohort due to local assessment issues (provided the sub-cohort constitutes a statistically reliable sample for scaling purposes).

2.5.5 Once the Subject Board has considered the pass standard and agreed any necessary interventions it is notified of the resulting pass rate for the cohort of candidates as a whole. The Subject Board has the discretion to reconsider its decision in relation to the pass standard in the light of this data if there are principled grounds for so doing, before arriving at a definitive recommended pass standard to put forward to the Final Board.

2.5.6 In confirming marks for cohorts of candidates the CEB is concerned to ensure that a consistent measure of achievement has been applied across all AETOs, and that proper account has been taken of any relevant factors that may have had a bearing on the performance of a cohort of candidates. As a result, the CEB has the discretion to scale cohort marks (upwards or downwards) if it feels there are issues relating to all candidates, or a statistically relevant sub-cohort of candidates, that justify such intervention. The CEB will not use this discretion to intervene in respect of issues arising from the delivery of the course by an AETO or matters related to the conduct of the assessment that can be dealt with through an AETO's extenuation processes.

2.5.7 The Final Examination Board considers the recommendations of the Subject Boards in respect of the AETO cohort performances in each of the knowledge areas. The meeting is attended by the CEB Chair, the relevant Chief Examiners, key BSB staff, an independent psychometrician, and an independent observer. The function of the Final Examination Board is to test the recommendations of the Subject Boards and to confirm the MCQ cohort marks subject to any outstanding quality assurance issues. Prior to confirmation of results by the Final Board, the expression 'pass rates' should

be understood as being used in a qualified sense. Candidates cannot be categorically referred to as 'passing' or 'failing' until the Final Board has agreed the passing standard to be applied in respect of an assessment and any proposed interventions, whether in respect of individual items or generic scaling. Once cohort marks are confirmed by the CEB they cannot subsequently be altered by AETO institutions — although AETOs may cap passing results as 60% for resitting candidates or set aside results due to extenuating circumstances or academic misconduct. The process for challenging marks confirmed by the CEB is outlined on our website: <https://www.barstandardsboard.org.uk/uploads/assets/bb0267a5-d71f-4f37-8bae534100dd7290/Regulations-Governing-Student-Review.pdf>

2.6 Reporting results to AETOs

- 2.6.1 Once the CEB has confirmed the centralised assessment marks for each cohort of candidates at each AETO, the marks are distributed to the AETOs where they feed into their individual candidate profiles considered at the AETO award and progression examination Boards. The actual scores achieved by candidates need to be aligned with a 60% passing mark in order to best fit with the AETOs' systems. Hence if, for example, the passing standard for Criminal Litigation is 43/75 (in effect 57%), a candidate achieving 43/75 will be reported as having a score of 60% (the pass mark). All other candidate scores will be translated accordingly depending on the passing standard adopted.
- 2.6.2 It is at the AETO Examination Boards that issues relating to individual candidates such as extenuating circumstances or academic misconduct are considered.

3. BAR TRAINING CRIMINAL LITIGATION RESULTS DECEMBER 2023 SIT

3.1 Exam Board decisions in relation to selected questions

- 3.1.1 The CEB invited AETOs to provide feedback on the examination paper as a whole and each question if there were issues that the AETO wished to bring to the attention of the Exam Board before it proceeded to confirm the results. Along with the statistical data available to the Exam Board (see 2.5.3 above), the feedback from the AETOs can be of material assistance to the Exam Board in determining whether or not any intervention is required in respect of any individual question.
- 3.1.2. The examining team is first asked to reflect on the AETO feedback without having sight of any of the statistical data revealing how candidates have performed in respect of a particular question. This enables the examining team to focus on the substantive points raised by the AETOs (in particular, questions of substantive law and procedure) without being influenced by evidence of actual cohort performance. Independently of this, the psychometrician advising the Exam Board, analyses the data on cohort performance and prepares a report on any apparent anomalies in terms of passing rates for individual questions, poor correlation, and low discrimination.
- 3.1.3 Discrimination refers to the extent to which candidates, who performed well in the examination as a whole, answered a specific question correctly, and the extent to which candidates who were weak overall answered the same specific question incorrectly. Where the statistical analysis shows poor discrimination, it can be evidence that candidates had to resort to guessing which answer was correct, suggesting that the question had not operated as expected. It is also the case that where the passing rate for an item is very high, the discrimination score can be low, simply because the vast majority of candidates (both weak overall and strong overall) will have answered the question correctly. Correlation is a similar measure. The Board expects to see a positive correlation figure in respect of the correct or intended best answer for any given question, and a negative correlation score in relation to a wrong, or 'not the best' answer. A positive correlation outcome for a wrong or 'not the best' answer suggests that the stronger candidates (in terms of performance across the examination as a whole) were attracted to that answer.
- 3.1.4 For the December 2023 Criminal Litigation assessment, requests for intervention from AETOs were received in relation to 8/75 questions (see 3.1.5, below). Typically, responses from AETOs raised issues such as the possibility of there being more than one 'best' answer; the link between the question asked and the syllabus reading material; syllabus coverage; the level of challenge offered by the question; and whether the question was one that it was fair to ask candidates at this stage in their training.

3.1.5 Summary of Exam Board deliberations

The table below provides a summary of the Exam Board deliberations where interventions (if any) were agreed, and instances where, although no intervention was agreed, points for future reference were raised in the Board’s deliberations.

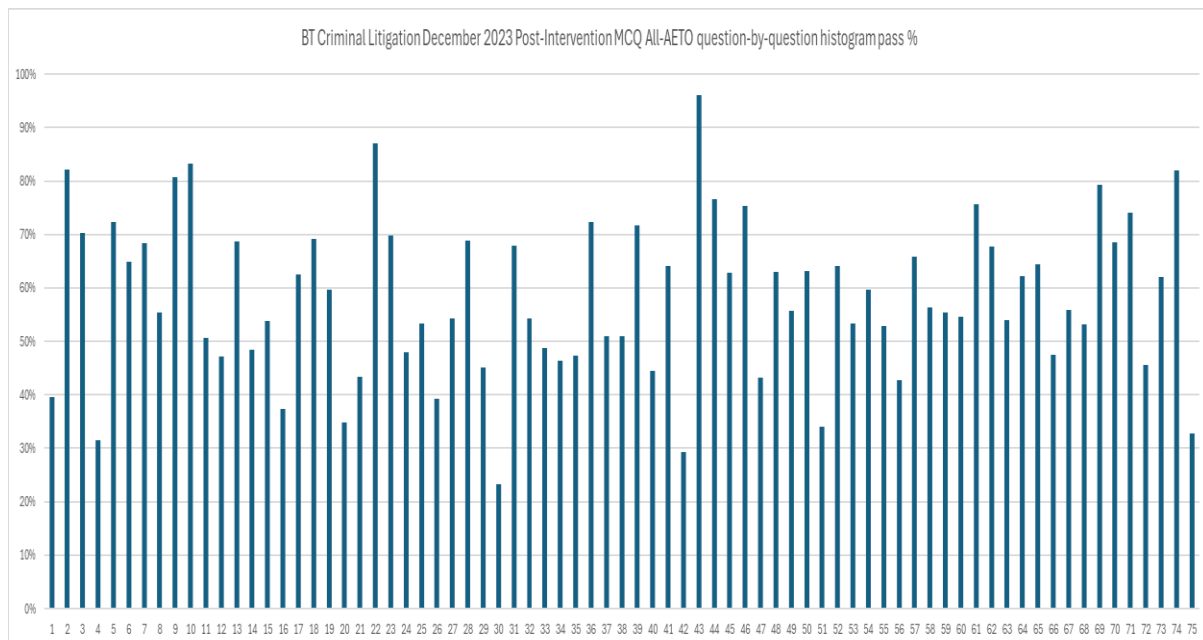
Item	Number of AETOs requesting an intervention	Exam Board decision and rationale
Q.7	2	<p>Passing rate 20%. Very poor discrimination. This MCQ related to jury trial procedure. This question tested candidates’ ability to identify the most likely outcome where the defence failed to object to a witness statement being read out under s.9 CJA 1967. AETO feedback suggested that students would find it difficult to distinguish between options A and D, given the syllabus reading, and requested that option A be credited in addition to D. The question had poor discrimination, and the correct answer D had a low positive correlation of 0.10, with only 20% of candidates selecting this option. Option A was more popular than D, with 49% of candidates selecting it and a neutral correlation. There was also a positive correlation on option C of 0.06. This question had been used previously, with a facility value of 0.50 and a point biserial of 0.23. As a result of the slightly low discrimination on its previous outing, the question was amended, and a new stem was added. The question did not perform as intended, and it was agreed that the redrafted stem was suboptimal in that, although it used the word “correct”, so the question was designated as an MCQ, it also asked the candidates to identify what the ‘most likely’ outcome was. This meant that the question effectively operated as an SBA, despite being labelled as an MCQ. Option A was a legally correct statement, although in practice would be less likely to result than option D. It was agreed that the intended improvement had in fact resulted in a worse performance and had clearly confused candidates, so all agreed that option A should be credited in addition to option D.</p> <p><i>The Board decided to credit [A] in addition to correct answer [D].</i></p>

Item	Number of AETOs requesting an intervention	Exam Board decision and rationale
Q.16	1	<p>Passing rate 38%. Good discrimination. The AETO feedback suggested answer [A] should be credited in addition to correct answer [B]. The Board discussed answer [A] and confirmed it was wrong.</p> <p><i>The Board decided not to intervene.</i></p>
Q.19	1	<p>Passing rate 60%. Acceptable discrimination. The AETO feedback suggested answer [B] should be credited in addition to correct answer [D]. The Board discussed answer [B] and confirmed it was wrong. The AETO feedback was noted but it was agreed that it was not relevant to the validity of the question.</p> <p><i>The Board decided not to intervene.</i></p>
Q.20	1	<p>Passing rate 36%. Acceptable discrimination. The Chair noted there was a small positive correlation for answer [C]. The AETO feedback suggested answer [B] should be credited in addition to correct answer [D]. The Board discussed answers [B] and [C] confirmed they were both wrong.</p> <p><i>The Board decided not to intervene.</i></p>
Q.33	1	<p>Passing rate 49%. Very good discrimination. The AETO feedback requesting an intervention (credit answer [A] in addition to [D] because the syllabus did not require candidates to know the elements of the offence of rape) was noted but it was agreed that it was not relevant to the validity of the question.</p> <p><i>The Board decided not to intervene.</i></p>
Q.43	1	<p>Passing rate 96%. Poor discrimination. The AETO feedback suggested crediting answer [B] in addition to [A], on the basis that a child witness could also have the benefit of a live link as per proposition [B]., and that the relevant reading was off syllabus. The feedback was noted but it was agreed that it was not relevant to the validity of the question.</p> <p><i>The Board decided not to intervene.</i></p>

Item	Number of AETOs requesting an intervention	Exam Board decision and rationale
Q.51	1	<p>Passing rate 34%. Good discrimination. The Chair noted there was positive correlation for answer [B]. The AETO feedback suggested answer [C] should be credited in addition to correct answer [A]. The Board discussed answers [B] and [C] confirmed they were both wrong.</p> <p><i>The Board decided not to intervene.</i></p>
Q.69	1	<p>Passing rate 80%. Very good discrimination. The AETO feedback requested that option [D] should be credited in addition to correct answer [C] because it was not obvious why res gestae was a better response than reliance on s.116 CJA 2003. The AETO feedback was noted but it was agreed that it was not relevant to the validity of the question.</p> <p><i>The Board decided not to intervene.</i></p>

3.2 Post-intervention histogram of MCQs

The histogram below shows the facility score (% of Bar Training candidates answering correctly) for each of the questions in the December 2023 Criminal Litigation examination.



The post-intervention data shows 7 MCQs with an all-AETO cohort pass rate below 40% (compared to 16 for the August 2023 sit). There is no evidence to suggest a fall-off in candidate performance during the examination (assuming most candidates

attempted the 75 MCQs in the order presented). Across the first 25 MCQs the average pass rate was 58%, across MCQs 26 to 50 it fell to 57%, and across MCQs 51 to 75 it rose to 59%. The word count of the assessment was not felt by the Final Board to have been an issue.

3.3 Standard setting and reliability of the assessment

3.3.1 The pass standard reported to the Criminal Litigation Subject Board was 41.1/75, rounded up to 42 to follow standard practice. The outcome of the standard setting process is a recommended pass standard rather than a determined outcome of what the pass standard should be. The Final Board endorsed that recommendation and confirmed the pass standard as 42/75.

3.3.2 Data supplied to the Final Exam Board by the psychometrician indicated that, with a KR-20 Reliability score of 0.89, the assessment had exceeded the benchmark KR-20 Reliability of 0.8. The Exam Board noted that all other data suggested an assessment operating as expected.

	Apr-22	Aug-22	Dec-22	Apr-23	Aug-23	Dec-23
No. of Candidates	1653	802	594	1583	840	805
No. of Scored Items	75	75	75	75	75	75
Pass Standard	44 (58.7%)	42 (56.0%)	44 (58.7%)	43 (57.3%)	43 (57.3%)	42 (56.0%)
No. Passing	1053 (63.7%)	421 (52.5%)	296 (49.8%)	1039 (65.6%)	297 (35.4%)	444 (55.2%)
Mean Score	46.62 (62.16%)	42.02 (56.03%)	44.18 (58.91%)	47.0 (62.7%)	39.5 (52.7%)	43.6 (58.2%)
Standard Deviation	10.35 (13.79%)	9.44 (12.58%)	10.81 (14.42%)	11.2 (14.9%)	10.7 (14.3%)	11.7 (15.7%)
Range of Scores	5 to 71	15 to 70	15 to 72	11 to 74	13 to 69	13 to 73
Reliability (KR-20)	0.87	0.83	0.88	0.89	0.87	0.89
Reliability for Equivalent 90-item Test	0.89	0.85	0.89	0.90	0.88	0.91
Standard Error of Measurement	3.71 (4.95%)	3.91 (5.21%)	3.82 (5.09%)	3.7 (5.0%)	4 (5.33%)	3.9 (5.2%)

3.4 Chief Examiner's Report

The Chief Examiner for Criminal Litigation reported that she was satisfied that this assessment was fair to candidates and allowed them to demonstrate their competence to the required threshold, noting that comments from AETOs were generally positive overall.

3.5 Independent Observer confirmation

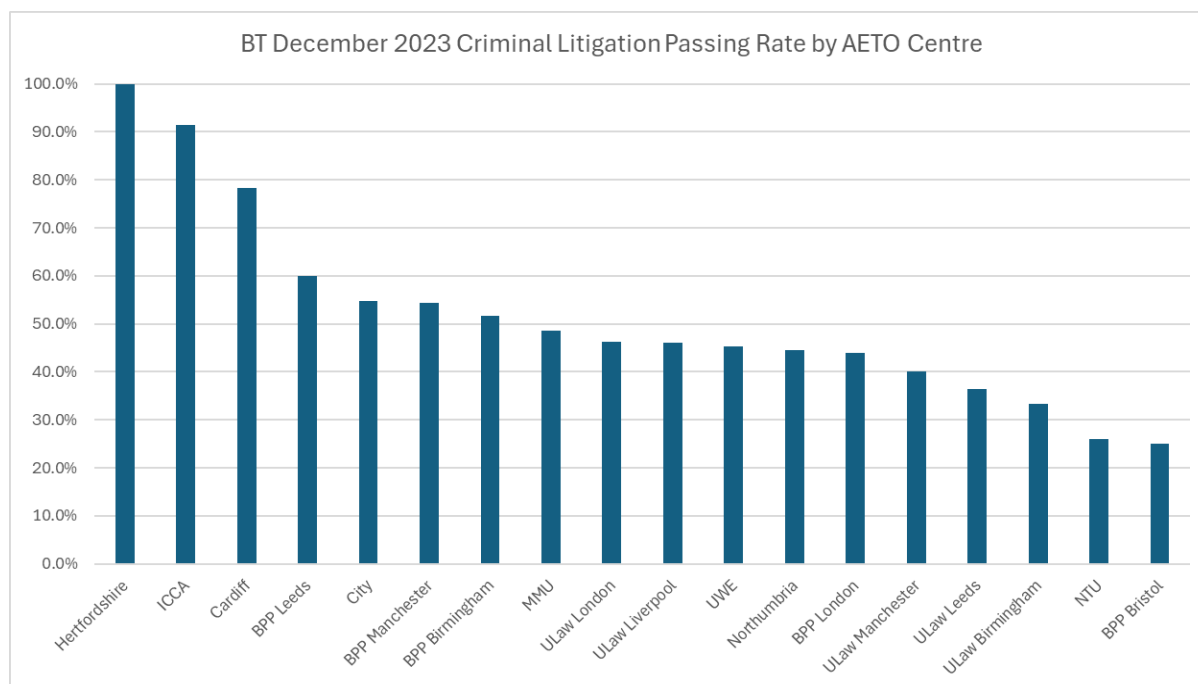
The Independent Observer endorsed the proceedings in respect of the Criminal Litigation assessment.

3.6 Criminal Litigation post-intervention pass rate December 2023

All-AETO Post-Intervention	Criminal Litigation April 2022	Criminal Litigation August 2022	Criminal Litigation December 2022	Criminal Litigation April 2023	Criminal Litigation August 2023	Criminal Litigation December 2023
Number of Candidates	1653	802	594	1583	840	805
Passing Rate	63.7%	52.5%	49.8%	65.6%	39.9%	55.2%

The table above shows the all-AETO December 2023 post-intervention Bar Training cohort pass rate of 55.2% for Criminal Litigation, based on a passing standard recommended to the Final Board (as a result of the standard setting process) of 42/75. The post-intervention passing rate is in the middle of the range for the last six cycles.

3.7 December 2023 Criminal Litigation pass rates by AETO centre



3.7.1 In the above graph the 18 AETO centre cohorts are ranged left to right in declining order of their December 2023 pass rates in the Criminal Litigation assessment. Hertfordshire achieves a 100% passing rate, but this is because the one candidate who entered secured a pass. Of the AETO centres entering more than 10 candidates, the ICCA cohort performance was the strongest, achieving a passing rate of 91.5%. Cardiff also performed very well with a passing rate of 78.4%

3.7.2 Distribution of first sit candidates across the AETO centres for Criminal Litigation December 2023 sitting

AETOs Ranked by % of cohort first sitting CRIMINAL LITIGATION			
AETO	Cohort Size	# First Sit	% First Sit
ICCA	129	126	97.7%
Cardiff	37	35	94.6%
MMU	35	33	94.3%
BPP Manchester	68	58	85.3%
BPP Birmingham	60	49	81.7%
BPP London	215	126	58.6%
BPP Bristol	4	2	50.0%
ULaw London	54	18	33.3%
BPP Leeds	5	1	20.0%
City	73	12	16.4%
UWE	42	7	16.7%
Hertfordshire	1	0	0.0%
Northumbria	9	0	0.0%
NTU	27	0	0.0%
ULaw Birmingham	12	0	0.0%
ULaw Leeds	11	0	0.0%
ULaw Liverpool	13	0	0.0%
ULaw Manchester	10	0	0.0%
ULaw Bristol	0	N/A	N/A
ULaw Newcastle	0	N/A	N/A
ULaw Nottingham	0	N/A	N/A
OVERALL	805	465	57.8%

Seven of the eighteen AETO centres entering candidates for the December 2023 Criminal Litigation assessment had a preponderance of first sit candidates.

3.7.3 Comparison of first sit and resit candidate passing rates at each AETO for Criminal Litigation December 2023 sitting

First Sit Pass Rates and Resit Pass Rates		
AETO	First Sit % Pass	Resit % Pass
BPP Birmingham	55%	36%
BPP Bristol	0%	50%
BPP Leeds	0%	75%
BPP London	51%	34%
BPP Manchester	55%	50%
Cardiff	80%	50%
City	50%	56%
Hertfordshire	N/A	100%
ICCA	92%	67%
MMU	52%	0%
Northumbria	N/A	44%
NTU	N/A	26%
ULaw Birmingham	N/A	33%
ULaw Bristol	N/A	N/A
ULaw Leeds	N/A	36%
ULaw Liverpool	N/A	46%
ULaw London	67%	36%
ULaw Manchester	N/A	40%
ULaw Newcastle	N/A	N/A
ULaw Nottingham	N/A	N/A
UWE	14%	51%
OVERALL	65%	42%

Data presented to the exam boards for the December 2023 sitting showing the split between first sit and resit candidates for Criminal Litigation revealed that 57.8% were attempting on a first sit basis (ie first ever attempt at the examination, or previous attempts discounted on the basis of accepted extenuating circumstances), and 42.2% as resit candidates (ie candidates who had previously failed the examination without mitigating circumstances having been submitted or accepted). First sit cohorts tend to be stronger than resit cohorts, and with this in mind it should be noted that, for the December 2023 Civil Litigation examination, only four reported a higher passing rate for their resit cohort compared to their first sit cohort. Again, the low number of candidates is a factor, BPP Bristol and BPP Leeds each having only two and one first sit candidates respectively.

3.7.4 Passing rates of first sit cohorts at each AETO for Criminal Litigation December 2023 sitting.

AETOs Ranked by First Sit Pass Rate CRIMINAL LITIGATION	
AETO	First Sit % Pass
ICCA	92%
Cardiff	80%
ULaw London	67%
BPP Manchester	55%
BPP Birmingham	55%
MMU	52%
BPP London	51%
City	50%
UWE	14%
BPP Bristol	0%
BPP Leeds	0%
Hertfordshire	N/A
Northumbria	N/A
NTU	N/A
ULaw Birmingham	N/A
ULaw Bristol	N/A
ULaw Leeds	N/A
ULaw Liverpool	N/A
ULaw Manchester	N/A
ULaw Newcastle	N/A
ULaw Nottingham	N/A

There were only three AETO centres were fewer than 50% of first sit candidates managed to secure a pass in the December 2023 Criminal Litigation assessment. Seven of those AETO centres entering candidates for the December 2023 Criminal Litigation assessment had no first sitting candidates.

3.8 Criminal Litigation trend data – how AETO cohorts have performed over the last 6 sittings

	Apr 22 % Pass	Aug 22 % Pass	Dec 22 % Pass	Apr 23 % Pass	Aug 23 % Pass	Dec 23 % Pass	Average over 6 sits
ULaw Newcastle				88.9	100.0		94.5
ICCA	87.1	100.0	89.1	89.2	77.8	91.5	89.1
Cardiff	74.3	47.6	60.0	83.8	53.3	78.4	66.2
Ulaw Leeds	78.7	60.0	77.8	66.7	56.7	36.4	62.7
Ulaw Nottingham	71.4	33.3	0.0	76.9	100.0		56.3
Ulaw London	73.9	53.5	40.8	67.2	54.4	46.3	56.0
City	71.1	51.1	44.3	74.3	38.6	54.8	55.7
BPP Manchester	53.3	58.8	45.7	64.6	53.1	54.4	55.0
BPP Leeds	45.0	42.9	60.0	50.0	60.0	60.0	53.0
BPP Birmingham	50.0	40.9	52.8	68.8	51.5	51.7	52.6
Northumbria	64.1	37.5	57.1	76.0	35.7	44.4	52.5
BPP London	40.6	61.3	41.7	63.6	31.6	43.9	47.1
BPP Bristol	40.0	57.1		100.0	11.1	25.0	46.7
Ulaw Birmingham	70.5	35.7	36.8	60.0	35.0	33.3	45.2
Ulaw Bristol	66.7	40.0	0.0	75.0	42.9		44.9
Ulaw Manchester	78.7	44.4	0.0	62.8	38.5	40.0	44.1
UWE	57.4	57.6	25.0	48.3	29.3	45.2	43.8
Ulaw Liverpool	70.6	50.0	0.0	47.5	40.0	46.2	42.4
MMU	54.5	42.9	58.3	25.0	14.3	48.6	40.6
Hertfordshire			20.0	22.2	0.0	100.0	35.6
NTU	50.9	18.8	37.5	36.2	31.6	25.9	33.5

3.8.1 AETO centre cohorts are listed in order of the average of their Criminal Litigation passing rates across the last six sittings of the Bar Training centralised assessments. Note that Hertfordshire entered candidates for the first time in the December 2022 sit, and ULaw Newcastle for the first time in April 2023. Greyed out cells indicate other instances in the table above where an AETO centre did not enter any candidates. The calculation of AETO centre averages have been adjusted to reflect this. The data shows that ULaw Newcastle currently has the highest average passing rate (94.5%), albeit achieved across only two of the six sittings within the scope of this analysis. NTU has the lowest at 33.5%. The ICCA cohort has achieved the highest average passing rate (89.1%) for those AETOs with data for all six sittings, and NTU the lowest at 33.5%. The ICCA cohort has achieved the highest passing rate in three of the last six sittings.

3.8.2 An alternative way of assessing the success of each AETO across all the sittings to date (ie, ten sittings in total) is to consider the cumulative total of candidates entered thus far and to compare this with the cumulative total number of candidates who have secured a pass.

BT Criminal Litigation - December 2020 to December 2023 (10 sits)			
AETO	Total Number of Attempts	Total Number of Passes	% Pass
ICCA	437	399	91.3%
ULaw Newcastle	10	9	90.0%
ULaw Nottingham	44	30	68.2%
ULaw Bristol	81	55	67.9%
ULaw Leeds	248	153	61.7%
City	1720	1054	61.3%
Cardiff	360	218	60.6%
ULaw Manchester	188	113	60.1%
ULaw London	1077	622	57.8%
Northumbria	278	152	54.7%
BPP Manchester	563	302	53.6%
ULaw Birmingham	410	212	51.7%
BPP Leeds	175	90	51.4%
ULaw Liverpool	113	54	47.8%
BPP London	2011	936	46.5%
BPP Birmingham	377	172	45.6%
BPP Bristol	101	46	45.5%
UWE	679	290	42.7%
MMU	157	65	41.4%
NTU	355	125	35.2%
Hertfordshire	35	6	17.1%
TOTAL	9419	5103	54.2%

As can be seen from the above table 5,103 candidates have passed Bar Training Criminal Litigation assessments since the first sitting in December 2020, based on 9,419 attempts – thus the aggregate passing rate to date is 54.2%. There are 11 AETOs failing to achieve this average thus far, with a 89.6% range in cumulative passing rates between the strongest and weakest AETO centre cohorts. Eight AETO centres are failing to progress at least 50% of their candidates in Criminal Litigation.

4. BAR TRAINING CIVIL LITIGATION RESULTS DECEMBER 2023 SIT

4.1 Exam Board decisions in relation to selected questions

- 4.1.1 The CEB invited AETOs to provide feedback on the examination paper as a whole and each question if there were issues that the AETO wished to bring to the attention of the Exam Board before it proceeded to confirm the results. Along with the statistical data available to the Exam Board (see 2.5.3 above), the feedback from the AETOs can be of material assistance to the Exam Board in determining whether or not any intervention is required in respect of any individual question.
- 4.1.2 The examining team is first asked to reflect on the AETO feedback without having sight of any of the statistical data revealing how candidates have performed in respect of a particular question. This enables the examining team to focus on the substantive points raised by the AETOs (in particular, questions of substantive law and procedure) without being influenced by evidence of actual cohort performance. Independently of this, the psychometrician advising the Exam Board analyses the data on cohort performance and prepares a report on any apparent anomalies in terms of passing rates for individual questions, poor correlation, and low discrimination.
- 4.1.3 Discrimination refers to the extent to which candidates, who performed well in the examination as a whole, answered a specific question correctly, and the extent to which candidates who were weak overall answered the same specific question incorrectly. Where the statistical analysis shows poor discrimination, it can be evidence that candidates had to resort to guessing which answer was correct, suggesting that the question had not operated as expected. It is also the case that where the passing rate for an item is very high, the discrimination score can be low, simply because the vast majority of candidates (both weak overall and strong overall) will have answered the question correctly. Correlation is a similar measure. The Board expects to see a positive correlation figure in respect of the correct or intended best answer for any given question, and a negative correlation score in relation to a wrong, or 'not the best' answer. A positive correlation outcome for a wrong or 'not the best' answer suggests that the stronger candidates (in terms of performance across the examination as a whole) were attracted to that answer.
- 4.1.4 For the December 2023 Civil Litigation assessment requests for intervention from AETOs were received in relation to 10/90 questions (see 4.1.5, below). Typically, responses from AETOs raised issues such as the possibility of there being more than one 'best' answer; the link between the question asked and the syllabus reading material; syllabus coverage; the level of challenge offered by the question; and whether the question was one that it was fair to ask candidates at this stage in their training.

4.1.5 Summary of Exam Board deliberations

The table below provides a summary of the Exam Board deliberations where interventions (if any) were agreed, and instances where, although no intervention was agreed, points for future reference were raised in the Board's deliberations.

Item	Number of AETOs responding	Exam Board decision and rationale
Paper 1		
Q.20	1	<p>Passing rate 39%. Acceptable discrimination. AETO feedback requested that the question be removed from the paper. The examining team disagreed with this and noted that correct answer [C] was supported in the reading at 19.42.</p> <p><i>The Board decided not to intervene.</i></p>
Q.24	1	<p>Passing rate 41%. Acceptable discrimination. AETO feedback requested that the question be removed because it did not make it sufficiently clear that what was being sought in the correct answer was 'Early Neutral Evaluation' the examining team disagreed with this and noted that enough material was given in the fact pattern and the wording was provided from Jackson. They also noted that the statistics suggested that there was nothing wrong with the question.</p> <p><i>The Board decided not to intervene.</i></p>
Q.38	1	<p>Passing rate 51%. Very good discrimination. AETO feedback requested that the question be removed from the paper. The examining team noted that the statistics were good. After discussion the team were satisfied that distractors [B], [C] and [D] were not the correct answers as, if the candidates followed the correct steps, they would have got to correct answer [A]. However, the examining team noted the AETO feedback and agreed that that the stem of the question could be improved for future use.</p> <p><i>The Board decided not to intervene.</i></p>

Item	Number of AETOs responding	Exam Board decision and rationale
Q.40	1	<p>Passing rate 51%. Good discrimination. AETO feedback commented that the question could be improved for future use. The examining team disagreed with this feedback and noted that the wording was completely sound. The examining team did note that this question tested the same area as Question 42, however, the team thought that the questions were distinct enough and had enough material to differentiate. It was noted that in fairness to all candidates, that as neither of the questions were fatally flawed, both questions would remain on the paper.</p> <p><i>The Board decided not to intervene.</i></p>
Q.44	1	<p>Passing rate 19%. Very good discrimination. AETO feedback requested that the question be removed from the paper on the basis that it was unfair to require memorisation of commentary wording in a closed book exam. The examining team disagreed with this and noted that the commentary was easy to find, and the wording was easy to remember. It was noted that the question could be used as a paper two question in the future.</p> <p><i>The Board decided not to intervene</i></p>
Q.46	1	<p>Passing rate 60%. Poor discrimination. Despite there being no comments from AETOs, it was noted that there was slight positive correlation on distractor [C]. The Chief Examiner commented that, based on the facts in the question, that candidates should have gone straight for correct answer [B]. The Examining team did, however, highlight that there could have been a route to distractor [C] being correct, as in the second paragraph there could have been further facts to make the answer clearer. After further discussion and looking through the reading, the examining team concluded that there were sufficient routes as to why candidates would think distractor [C] was an equally valid response when compared with [A], the examiners' preferred best answer. The Board agreed to bear in mind fairness to candidates in agreeing to also credit [C] as a viable route by which proceedings might be concluded, in addition to [A] as it was expecting too much of candidates to determine the comparative speed of the process.</p> <p><i>The Board recommended that option [C] should be credited in addition to the best answer [B].</i></p>

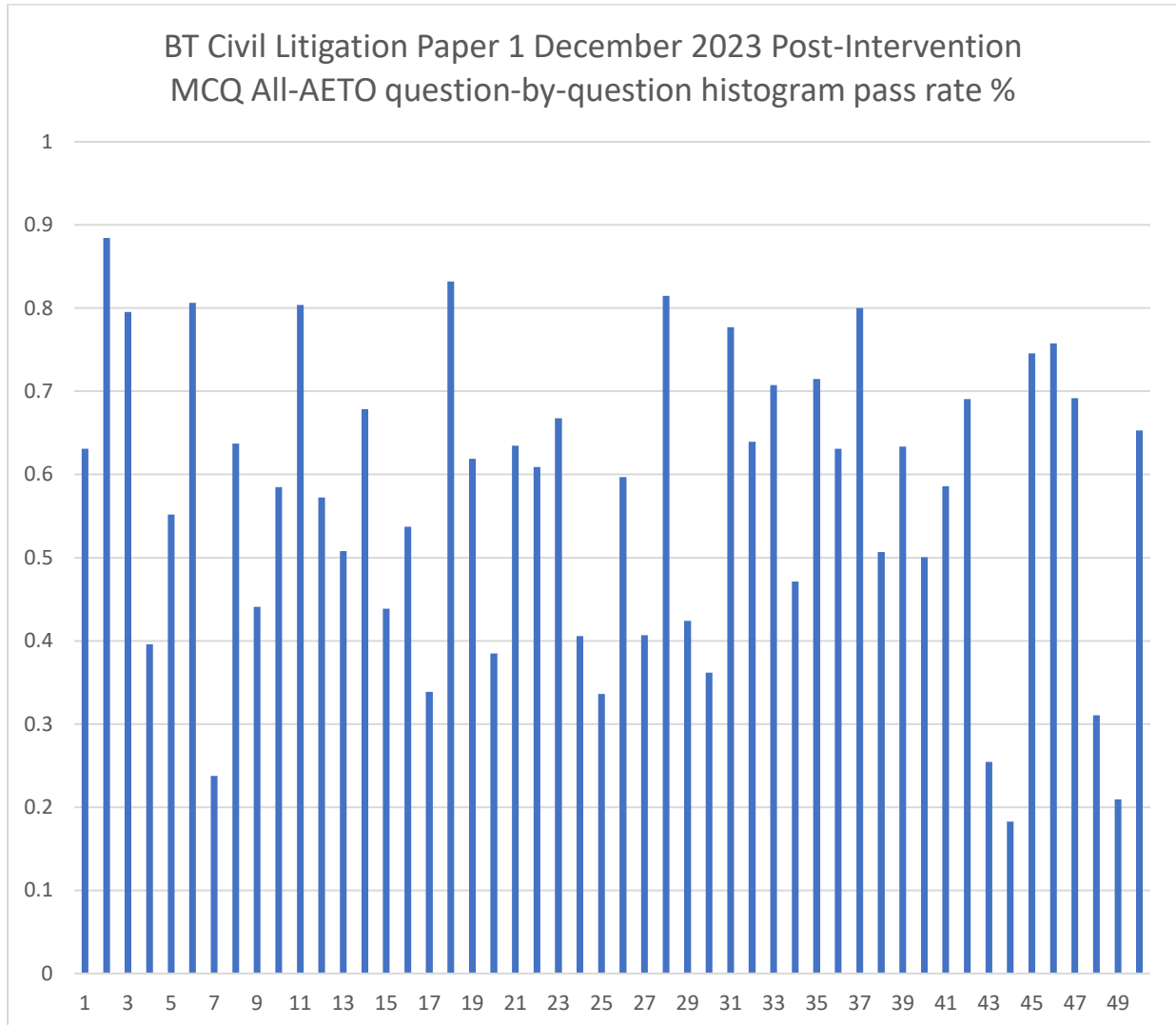
Item	Number of AETOs responding	Exam Board decision and rationale
Paper 2		
Q.1	1	<p>Passing rate 89%. Low Discrimination. AETO feedback was that distractor [A] should have been credited along with correct answer [B]. The Chief Examiner disagreed with the feedback and noted that correct answer [B] was the fullest and most detailed answer and distractor [A] was incorrect.</p> <p><i>The Board decided not to intervene.</i></p>
Q.13	1	<p>Passing rate 14%. Excellent Discrimination. AETO feedback was that they thought distractor [A] should have been credited along with correct answer [B]. The Chief Examiner disagreed and noted that distractor [A] was incorrect and correct answer [B] was the only possible answer. It was also noted that the fact pattern indicated where candidates would find the answer relating to consecutive, as opposed to concurrent, time limits in the White Book.</p> <p><i>The Board decided not to intervene.</i></p>
Q.15	1	<p>Passing rate 66% Very Good Discrimination. AETO feedback was that they thought distractor [D] should have been credited along with correct answer [C]. The Chief Examiner disagreed with the feedback and was satisfied that there was a significant distinction between the two distractors. It was noted that correct answer [C] is the more complete answer and distractor [D] only indicates a portion of the answer.</p> <p><i>The Board decided not to intervene.</i></p>
Q.18	1	<p>Passing rate 49%. Low Discrimination. AETO feedback requested that the question be removed from the paper as choosing the best answer would require practitioner knowledge. The Chief Examiner disagreed and noted that [B] was the single best answer.</p> <p>It was noted that although this was a challenging question, it could be achieved by logic, and candidates were given adequate direction as the overriding objective was cited in the fact pattern.</p> <p><i>The Board decided not to intervene.</i></p>

Item	Number of AETOs responding	Exam Board decision and rationale
Q.23	1	<p>Passing rate 7%. Poor Discrimination. The AETO feedback was about a minor drafting point in the question. It was agreed by the team to look at this before using the question again. It was recognised that this question was intended to operate as an SBA with only [C] being the correct answer. It was determined that, in light of the standard setting data and the presented facts, the question may not have operated in a way that was entirely fair to candidates. The team agreed to refer to this question when making a recommendation for the passing standard.</p> <p><i>The Board decided not to intervene.</i></p>
Q.26	1	<p>Passing rate 53%. Excellent Discrimination. AETO feedback requested that the question be removed from the paper. The Chief Examiner disagreed with this intervention noting that the question could have been phrased better with not so much emphasis on a court order, but that it had to be mentioned as it was a trigger point. The team agreed to look at the wording before using the question again.</p> <p><i>The Board decided not to intervene.</i></p>
Q.27	1	<p>Passing rate 60%. Very Good Discrimination. AETO feedback was that distractor [A] should be credited along with correct answer [C]. The Chief Examiner disagreed noting that this was an MCQ, and no other answer was correct / could be credited. The team considered using different dates and months to assist those candidates with dyslexia, it was agreed by the team to rephrase this question before using it again.</p> <p><i>The Board decided not to intervene</i></p>

4.2 Post-intervention histogram of MCQs

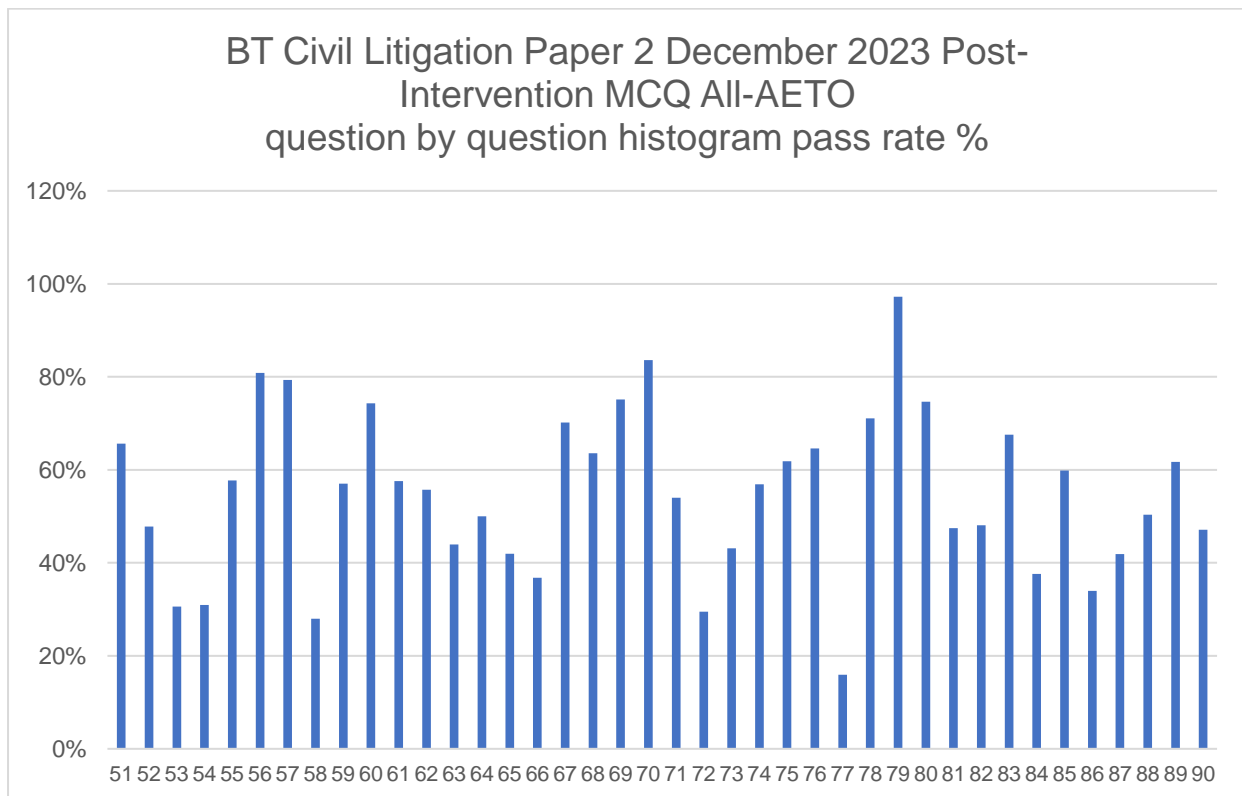
The histograms below show the facility scores (% of Bar Training candidates answering correctly) for each of the questions in the December 2023 Civil Litigation examination (following any agreed interventions detailed at 4.1.5).

4.2.1 Paper 1



For Civil Litigation Paper 1 the post-intervention data shows ten MCQs with an all-AETO cohort pass rate below 40% (compared to 9 out of 49 for the August 2023 sit). Assuming candidates attempted the questions in the order presented there is some slight evidence of candidate fatigue being a factor. The average passing rate across the first 25 MCQs was 58%, compared with 56% across MCQs 26 to 50 (see discussion on pass standard below).

4.2.2 Paper 2



For Civil Litigation Paper 2 the post-intervention data shows six MCQs with an all-AETO cohort pass rate below 40% (compared to 9 for the August 2023 sit). Across both papers 1 & 2 there were, therefore 16 questions with a passing rate of 40% or below, compared to 18/89 in the August 2023 sitting. Assuming candidates attempted the Paper 2 questions in the order presented there is no evidence of candidate fatigue being a factor. The average passing rate across the first 20 MCQs in paper 2 was 58%, compared to 60% across MCQs 21 to 40. The average passing rate for the first five stand-alone questions on Paper 2 was just 68%, higher than that for any of the subsequent rolling case scenarios.

4.3 Standard setting and reliability of the assessment

4.3.1 The standard setting exercise was undertaken without incident and the Chair for that exercise commended the recommended pass standard to the Board. The recommended pass standard was reported to the Civil Subject Board as being 50/90. Following discussion on the potential impact of issues related to the operation of Q23 on Paper 2, it was agreed that the recommendation to the Final Board would be a reduction in the pass standard to 49/90. The Final Board accepted that recommendation noting that, whilst Q23 on Paper 2 may not have operated in a way that was entirely fair to candidates (in particular, the unintended level of difficulty presented by the question), there was no basis for any intervention in respect of the question itself, either by suppressing it or crediting other answers.

4.3.2 Data supplied to the final Exam Board by the psychometrician indicated that the assessment had exceeded the benchmark score for reliability. The Exam Board noted that all other data suggested an assessment operating as expected.

	Apr-22	Aug-22	Dec-22	Apr-23	Aug-23	Dec-23
No. of Candidates	1517	790	929	1671	889	833
No. of Scored Items	89	90	90	89	89	90
Pass Standard	49 (55.1%)	52 (57.8%)	48 (53.3%)	51 (57.3%)	50 (56.2%)	49 (54.4%)
No. Passing	904 (59.6%)	365 (46.2%)	524 (56.4%)	1000 (59.8%)	401 (45.1%)	443 (53.2%)
Mean Score	52.45 (58.93%)	50.16 (55.74%)	50.50 (56.11%)	53.7 (60.4%)	48.2 (53.6%)	51.6 (57.3%)
Standard Deviation	13.59 (15.27%)	10.94 (12.16%)	13.43 (14.92%)	13.2 (14.9%)	13.2 (14.7%)	14.7 (16.4%)
Range of Scores	5 to 87	16 to 85	18 to 86	15 to 87	17 to 84	15 to 87
Reliability (KR-20)	0.90	0.85	0.90	0.90	0.90	0.92
Reliability for Equivalent 90-item Test	0.90	0.85	0.90	0.90	0.90	0.92
Standard Error of Measurement	4.23 (4.75%)	4.29 (4.77%)	4.20 (4.67%)	4.10 (4.6%)	4.3 (4.7%)	4.1 (4.8%)

4.4 Chief Examiner's Report

The Chief Examiner for Civil Litigation reported that AETO feedback had been noticeably lessening over time and there were fewer challenges overall. This was taken as an encouraging sign that the CEB has engendered confidence in the assessments. The feedback which was received was, overall, positive and encouraging, reflecting a feeling amongst AETOs that the questions had been drafted with due care and attention to detail.

4.5 Independent Observer confirmation

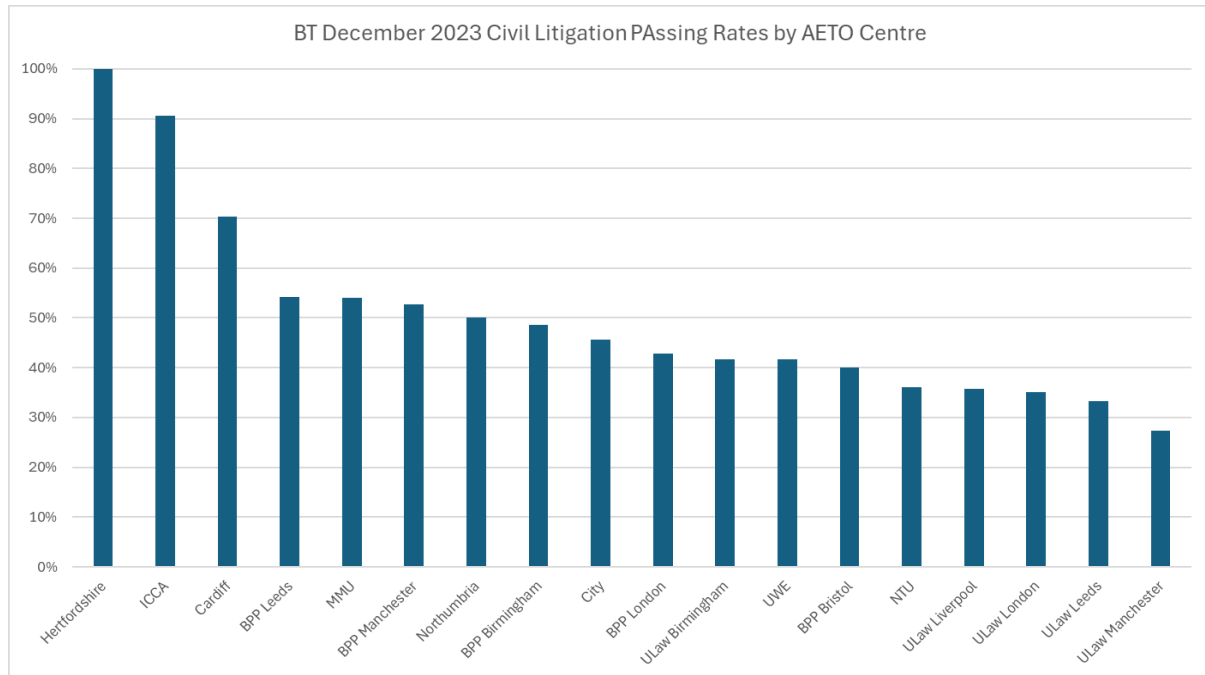
The Independent Observer endorsed the proceedings in respect to Civil Litigation.

4.6 Civil Litigation post-intervention pass rate December 2023

All-AETO Post-Intervention	Civil Litigation April 2022	Civil Litigation August 2022	Civil Litigation December 2022	Civil Litigation April 2023	Civil Litigation August 2023	Civil Litigation December 2023
Number of Candidates	1517	790	929	1671	889	833
Passing Rate	59.6%	46.2%	56.4%	59.8%	45.1%	53.2%

The table above shows the all-AETO December 2023 post-intervention Bar Training cohort pass rate of 53.2% for Civil Litigation, based on a passing standard recommended to the Final Board (as a result of the standard setting process) of 49/90. The post-intervention passing rate sits in the middle of the range for recent sittings (as is the case for Criminal Litigation for this sitting).

4.7 December 2023 Civil Litigation pass rates by AETO



4.7.1 The 18 AETO centre cohorts entering candidates for the Civil Litigation assessment are ranged left to right in descending order of their December 2023 pass rates. As was the case with the Criminal Litigation assessment, Hertfordshire achieve a 100% passing rate because the one candidate who entered secured a pass. Of those AETO centres entering more than 10 candidates, the ICCA cohort performance was the strongest, achieving a passing rate of 90%. Cardiff also performed very well with a passing rate of 70%.

4.7.2 Distribution of first sit candidates across the AETO centres for Civil Litigation
December 2023 sitting

AETOs Ranked by % First Sit			
AETO	Cohort Size	No. First Sitting	% First Sit
Hertfordshire	1	1	100%
ICCA	117	113	97%
Cardiff	81	77	95%
BPP Leeds	24	21	88%
MMU	37	32	86%
BPP Manchester	72	49	68%
BPP Birmingham	35	23	66%
BPP London	217	127	59%
ULaw London	57	24	42%
BPP Bristol	5	2	40%
City	46	11	24%
UWE	60	10	17%
Northumbria	10	1	10%
NTU	25	1	4%
ULaw Birmingham	12	0	0%
ULaw Leeds	9	0	0%
ULaw Liverpool	14	0	0%
ULaw Manchester	11	0	0%
ULaw Bristol	0	N/A	N/A
ULaw Newcastle	0	N/A	N/A
ULaw Nottingham	0	N/A	N/A
OVERALL	833	492	59.1%

Eight of the eighteen AETO centres entering candidates for the December 2023 Civil Litigation assessment had a preponderance of first sit candidates.

4.7.3 Comparison of first sit and resit candidate passing rates at each AETO for Civil Litigation December 2023 sitting

First Sit Pass Rates and Resit Pass Rates CIVIL LITIGATION		
AETO	First Sit % Pass	Resit % Pass
BPP Birmingham	65%	17%
BPP Bristol	50%	33%
BPP Leeds	52%	67%
BPP London	50%	32%
BPP Manchester	57%	43%
Cardiff	73%	25%
City	55%	43%
Hertfordshire	100%	N/A
ICCA	91%	75%
MMU	63%	0%
Northumbria	0%	56%
NTU	100%	33%
ULaw Birmingham	N/A	42%
ULaw Bristol	N/A	N/A
ULaw Leeds	N/A	33%
ULaw Liverpool	N/A	36%
ULaw London	54%	21%
ULaw Manchester	N/A	27%
ULaw Newcastle	N/A	N/A
ULaw Nottingham	N/A	N/A
UWE	30%	44%
OVERALL	65%	35%

Data presented to the exam boards for the December 2023 sitting showing the split between first sit and resit candidates for Civil Litigation revealed that 59.1% were attempting on a first sit basis (ie first ever attempt at the examination, or previous attempts discounted on the basis of accepted extenuating circumstances), and 40.9% as resit candidates (ie candidates who had previously failed the examination without mitigating circumstances having been submitted or accepted). First sit cohorts tend to be stronger than resit cohorts, and with this in mind it should be noted that, for the December 2023 Civil Litigation examination, only three of the 13 AETO centres with both first sit and resit candidates reported higher passing rates for their resit cohorts compared to their first sit cohorts.

4.7.4 Passing rates of first sit cohorts at each AETO for Civil Litigation December 2023 sitting

AETOs ranked by First Sit Pass Rate CIVIL LITIGATION	
AETO	First Sit % Pass
Hertfordshire	100%
NTU	100%
ICCA	91%
Cardiff	73%
BPP Birmingham	65%
MMU	63%
BPP Manchester	57%
City	55%
ULaw London	54.2%
BPP Leeds	52%
BPP London	50%
BPP Bristol	50%
UWE	30.0%
Northumbria	0%
ULaw Birmingham	N/A
ULaw Bristol	N/A
ULaw Leeds	N/A
ULaw Liverpool	N/A
ULaw Manchester	N/A
ULaw Newcastle	N/A
ULaw Nottingham	N/A

Only two AETO centres failed to pass more than 50% of their first sit candidates in the December 2023 Civil Litigation assessment, although in some cases cohort numbers were very small.

4.8 Civil Litigation trend data – how AETO cohorts have performed over the last 6 sits

	Apr 22 % Pass	Aug 22 % Pass	Dec 22 % Pass	Apr 23 % Pass	Aug 23 % Pass	Dec 23 % Pass	Average over 6 sits
ICCA	81.8	92.9	86.5	84.2	78.6	90.6	85.8
ULaw Newcastle				44.4	80.0		62.2
ULaw Nottingham	43.8	28.6	66.7	66.7	100.0		61.1
ULaw Leeds	69.8	56.0	75.0	66.7	64.5	33.3	60.9
City	74.1	45.6	53.3	73.8	50.5	45.7	57.2
Cardiff	71.4	28.6	77.8	56.0	30.8	70.4	55.8
ULaw Bristol	61.1	40.0	33.3	66.7	66.7		53.6
ULaw London	65.7	40.1	47.5	63.5	64.6	35.1	52.8
BPP Manchester	51.0	45.9	58.9	56.2	48.1	52.8	52.2
Northumbria	51.6	44.4	42.9	65.2	54.2	50.0	51.4
ULaw Manchester	63.0	50.0	57.1	45.5	61.1	27.3	50.7
ULaw Liverpool	62.5	60.0	50.0	41.1	47.6	35.7	49.5
BPP London	48.2	60.1	52.7	53.8	32.4	42.9	48.4
UWE	52.3	38.1	53.3	48.6	43.6	41.7	46.3
BPP Leeds	43.8	40.0	56.3	38.9	44.4	54.2	46.3
BPP Birmingham	36.2	50.0	53.6	47.6	32.7	48.6	44.8
ULaw Birmingham	50.0	29.4	36.7	61.8	39.1	41.7	43.1
Hertfordshire			23.1	33.3	14.3	100.0	42.7
BPP Bristol	28.6	55.6	62.5	22.2	33.3	40.0	40.4
MMU	28.6	25.0	47.8	41.7	28.6	54.1	37.6
NTU	41.5	20.6	20.8	37.8	42.9	36.0	33.3

4.8.1 AETO centre cohorts are listed in order of the average of their Civil Litigation passing rates across the last six sittings of the Bar Training centralised assessments. Note that Hertfordshire entered candidates for the first time in the December 2022 sit, and ULaw Newcastle for the first time in April 2023. Greyed out cells indicate other instances in the table above where an AETO centre did not enter any candidates. The calculation of AETO centre averages have been adjusted to reflect this. The data shows that the ICCA has achieved the highest average passing rate (85.8%), and NTU the lowest at 33.3%. The ICCA cohort has achieved the highest passing rate in four of the six sittings.

4.8.2 An alternative way of assessing the success of each AETO centre across all the sittings to date is to consider the cumulative total of candidates entered thus far and to compare this with the cumulative total number of candidates who have secured a pass.

BT Civil Litigation - December 2020 to December 2023 (10 sits)			
AETO	Total Number of Attempts	Total Number of Passes	% Pass
ICCA	428	382	89.3%
City	1558	1016	65.2%
Ulaw Bristol	86	56	65.1%
Ulaw Leeds	226	147	65.0%
Cardiff	392	247	63.0%
ULaw Newcastle	14	8	57.1%
Ulaw Manchester	198	109	55.1%
Ulaw London	1064	572	53.8%
Ulaw Nottingham	54	29	53.7%
BPP Manchester	619	331	53.5%
Northumbria	332	166	50.0%
BPP Leeds	202	98	48.5%
Ulaw Birmingham	403	195	48.4%
BPP London	2209	1056	47.8%
BPP Bristol	112	52	46.4%
Ulaw Liverpool	114	52	45.6%
UWE	618	281	45.5%
MMU	161	69	42.9%
BPP Birmingham	394	168	42.6%
NTU	362	128	35.4%
Hertfordshire	27	7	25.9%
TOTAL	9573	5169	54.0%

As can be seen from table 5 above, 169 candidates have passed Bar Training Civil Litigation since the first sitting in December 2020, based on 9,573 attempts – thus the aggregate passing rate to date is 54%. There are 14 AETOs failing to achieve this average thus far, with a 63.4% range in cumulative passing rates between the strongest and weakest cohorts. There are ten AETO centres where, to date, less than 50% of Civil Litigation candidates attempting the assessment have secured a pass. Some of these candidates will have further opportunities to attempt the assessment depending on factors such as extenuating circumstances, and their previous number of unsuccessful attempts.

5. FURTHER COMPARATIVE ANALYSIS

5.1 Comparing performance in Criminal and Civil Litigation examinations

The post-intervention passing rates for the December 2023 sits in Criminal Litigation and Civil Litigation were very close to each other, at 55.2% and 53.2% respectively, with the Criminal Litigation cohort having a slightly higher percentage of resitting candidates (42.2% vs 40.9%). There were 402 Bar Training candidates who attempted both Litigation assessments at the December 2023 sitting and the cross-tabulated outcomes, are as follows:

(a) All candidates attempting both papers:

	Pass Crime	Fail Crime
Pass Civil	159	25
Fail Civil	53	165

	Pass Crime	Fail Crime
Pass Civil	39.6%	6.2%
Fail Civil	13.2%	41.0%

(b) All candidates attempting both papers as first sit candidates:

	Pass Crime	Fail Crime
Pass Civil	125	10
Fail Civil	17	33

	Pass Crime	Fail Crime
Pass Civil	67.6%	5.4%
Fail Civil	9.2%	17.8%

(c) All candidates attempting both papers as resit candidates:

	Pass Crime	Fail Crime
Pass Civil	25	13
Fail Civil	28	109

	Pass Crime	Fail Crime
Pass Civil	14.3%	7.4%
Fail Civil	16.0%	62.3%

The key cells (on the shaded background) are those which show the number of candidates who passed one subject but failed the other. If the two subjects were equally difficult to pass (making allowances for the fact that the Bar Training examinations in Civil and Criminal Litigation now have rather different formats), the number of candidates in these two cells should be approximately equal. To the extent that this data provides a reliable means of evidencing whether or not the two papers (notwithstanding their differing formats) provided a similar level of challenge, some comfort can be drawn from the relative closeness of the figures in the shaded boxes at (b) in respect of the performance of first sit candidates. On any analysis, however, the discrepancy between the shaded cells in the data set is within acceptable bounds. Note that whilst there were 402 candidates in all – as represented in table (a), not all candidates were first sitting both papers or resitting both papers (some may have been first sitting one and resitting another) – hence the sum of tables (b) and (c) does not equal 402.

5.2 Centralised assessment post-intervention pass rates compared December 2020 to December 2023

ALL-AETO Post-Intervention	Dec-20		Apr-21		Aug-21	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	383	407	1104	989	827	738
Passing Rate	59.8%	55.8%	46.2%	55.5%	42.4%	41.3%
Pass Standard	44/75	50/90	41/75	52/89	46/75	50/89
Reliability Score	0.91	0.91	0.86	0.90	0.85	0.88
ALL-AETO Post-Intervention	Dec-21		Apr-22		Aug-22	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	824	823	1653	1517	802	790
Passing Rate	55.9%	53.6%	63.7%	59.6%	52.5%	46.2%
Pass Standard	44/75	50/90	44/75	49/89	42/75	52/90
Reliability Score	0.87	0.89	0.89	0.90	0.85	0.85
ALL-AETO Post-Intervention	Dec-22		Apr-23		Aug-23	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	596	929	1583	1671	842	889
Passing Rate	49.8%	56.4%	65.6%	59.8%	39.9%	45.1%
Pass Standard	44/75	48/90	43/75	51/89	43/75	50/89
Reliability Score	0.89	0.90	0.90	0.90	0.87	0.9
ALL-AETO Post-Intervention	Dec-23		Apr-24		Aug-24	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	805	833				
Passing Rate	55.2%	53.2%				
Pass Standard	42/75	49/90				
Reliability Score	0.91	0.92				

Criminal Litigation candidate numbers for December 2023 were comparable to the previous two December sittings for the current assessment format, and the passing rates for both assessments are largely in line with previous December sittings. The variations in cohort size tends to reflect the course structures adopted by AETOs, which in turn determines when most candidates will be attempting each of the centralised assessments for the first time. Cohort numbers are also impacted by the approval of additional AETOs and AETO centres. There were 9 cohorts entered for December 2020, 18 for April 2021, and 21 had been authorised by the time of the April 2023 sitting.

All Litigation	All Litigation	All Litigation	All Litigation
All sits	Dec	April	August
52.9%	55.0%	58.4%	44.6%
Criminal Litigation	Criminal Litigation	Criminal Litigation	Criminal Litigation
All	Dec	April	August
53.1%	55.2%	58.5%	44.9%
Civil Litigation	Civil Litigation	Civil Litigation	Civil Litigation
All	Dec	April	August
52.7%	54.7%	58.3%	44.2%

Overall passing rates across the ten sittings to date of the current format assessments show an average passing rate of 52.9%, with the average passing rate for Criminal Litigation (53.1%) being very marginally higher than that for Civil Litigation (52.7%). In terms of variation in passing rates across sittings, the April cohorts have, on average, been the strongest (58.4%) with the August cohorts the weakest (44.6%). The April 2023 passing rate for Criminal Litigation (65.6%) is the highest recorded for either subject across the nine sittings, and the August 2023 passing rate for Criminal Litigation (39.9%) is the lowest. It should be noted that this data shows averages of passing rates across sittings and does not reflect the volume of candidates at any given sitting (ie, passing rates at April sittings have the same weighting as passing rates at August sittings, despite the higher volume of candidates normally entered for an April sit).

5.3 December 2023 post-intervention pass rates for both Criminal Litigation and Civil Litigation by AETO

AETO	Civil Litigation	Criminal Litigation	AVERAGE
Hertfordshire	100%	100%	100.0%
ICCA	91%	91%	91.0%
Cardiff	70%	78%	74.4%
BPP Leeds	54%	60%	57.1%
BPP Manchester	53%	54%	53.6%
MMU	54%	49%	51.3%
City	46%	55%	50.2%
BPP Birmingham	49%	52%	50.1%
Northumbria	50%	44%	47.2%
UWE	42%	45%	43.5%
BPP London	43%	44%	43.4%
ULaw Liverpool	36%	46%	40.9%
ULaw London	35%	46%	40.7%
ULaw Birmingham	42%	33%	37.5%
ULaw Leeds	33%	36%	34.8%
ULaw Manchester	27%	40%	33.6%
BPP Bristol	40%	25%	32.5%
NTU	36%	26%	31.0%
ULaw Bristol	N/A	N/A	N/A
ULaw Newcastle	N/A	N/A	N/A
ULaw Nottingham	N/A	N/A	N/A

5.3.1 AETO cohorts are listed in descending order of the average of their passing rates across the two December 2023 Litigation examinations. Hertfordshire, therefore, had the highest average passing rate across both litigation subjects at 100%, but this has to be seen in the context of only 1 candidate being entered for each examination. In terms of the AETOs with more statistically reliable volumes of candidate the ICCA achieved an average passing rate of 91%, with Cardiff next on 74.4%. NTU recorded the lowest average at 31%. Overall, 10 of the 18 AETO centres entering candidates failed to achieve an average passing rate, across the two litigation subjects, of 50%. These figures need to be viewed with caution, however, as they are distorted, to some extent by low cohort numbers in some cases.

5.3.2 An alternative way of looking at the extent to which AETO centres were successful in supporting their candidates in the December 2023 Litigation assessments is to aggregate the total number of candidates entered for each exam at an AETO centre and compare this with the aggregate number of candidates passing at that AETO centre.

AETO	Dec-23 Criminal Candidates	Dec-23 Civil Candidates	Total Dec-23 Instances of Assessment	Total Passing Criminal Dec-23	Total Passing Civil Dec-23	Total Dec-23 Candidates Passing an Exam	Overall % of Candidates Passing an Exam in Dec-23
Hertfordshire	1	1	2	1	1	2	100.0%
ICCA	129	117	246	118	106	224	91.1%
Cardiff	37	81	118	29	57	86	72.9%
BPP Leeds	5	24	29	3	13	16	55.2%
BPP Manchester	68	72	140	37	38	75	53.6%
MMU	35	37	72	17	20	37	51.4%
City	73	46	119	40	21	61	51.3%
BPP Birmingham	60	35	95	31	17	48	50.5%
Northumbria	9	10	19	4	5	9	47.4%
BPP London	215	217	432	94	93	187	43.3%
UWE	42	60	102	19	25	44	43.1%
ULaw Liverpool	13	14	27	6	5	11	40.7%
ULaw London	54	57	111	25	20	45	40.5%
ULaw Birmingham	12	12	24	4	5	9	37.5%
ULaw Leeds	11	9	20	4	3	7	35.0%
BPP Bristol	4	5	9	1	2	3	33.3%
ULaw Manchester	10	11	21	4	3	7	33.3%
NTU	27	25	52	7	9	16	30.8%
ULaw Bristol	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ULaw Newcastle	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ULaw Nottingham	N/A	N/A	N/A	N/A	N/A	N/A	N/A
TOTAL	805	833	1638	444	443	887	54.2%

As the table above shows, Hertfordshire was, technically, the most successful AETO in terms of the percentage of candidates entered for any of the December 2023 examinations achieving a pass, in either examination, with a figure of 100%. Looking at AETO centres entering more than 10 candidates, however, shows that by some margin the most successful AETO centre in terms of progressing candidates at the December 2023 sitting was the ICCA, with 224 instances of candidates passing based on 246 attempts (91.1%). At the other extreme, at NTU, only 30.8% of its candidates managed to get through either exam. Out of 18 AETO centres, 10 failed to achieve a 50% progression rate calculated on this basis. The extent to which these outcomes reflect the impact of resitting candidates remains, to some extent, a matter of

conjecture. If there is a correlation between lower passing rates and the number of resitting candidates, it might be reasonable to expect any AETO centre with an above average percentage of first sit candidates to be able to achieve a higher-than-average passing rate across both Litigation subjects taken together.

5.3.3 There is evidence, based on the December 2023 sitting outcomes, to suggest that the higher the proportion of resitting candidates within a cohort, the lower the average passing rate is likely to be, taking both litigation subjects together. Hence, (setting aside the rather special case of Hertfordshire where there were only 2 candidates in total, one first sitting and one resitting) the ICCA achieves its 91% average passing rate across the two subjects with only 2.85% of its candidates attempting as resitters. At Cardiff just over 5% were resitting. BPP London accounted for approximately 25% of all resitting candidates and achieved an average passing rate of 43.4%, 10% below the all-AETO average. In that context the performance of the City cohort perhaps merits a mention in that, notwithstanding having 80% of its candidates entering as resitters, it achieved an average passing rate of 50.2%, not too far shy of the all-AETO average. That example aside, all 7 of the AETO centres recording an average a passing rate of 41% or below had a preponderance of resit candidates. The usual caveats relating to low cohort numbers apply in respect of these observations.

5.3.4 Looking across the last ten cycles of Bar Training centralised Litigation assessments there is no compelling evidence to suggest AETO cohorts have found the Civil Litigation assessment more challenging than those in Criminal Litigation, although the outcomes for specific sittings are quite marked. The table below shows the variance in passing rates between the two Litigation subjects for each AETO centre at each of the ten sittings for the current assessment format (AETOs without cohorts for a sitting have blank data cells). The blue shading (negative) indicates that candidates have performed better on Crime than on Civil, hence, at BPP Birmingham in December 2020 the Civil Litigation passing rate was 3.6% below that for Criminal Litigation.

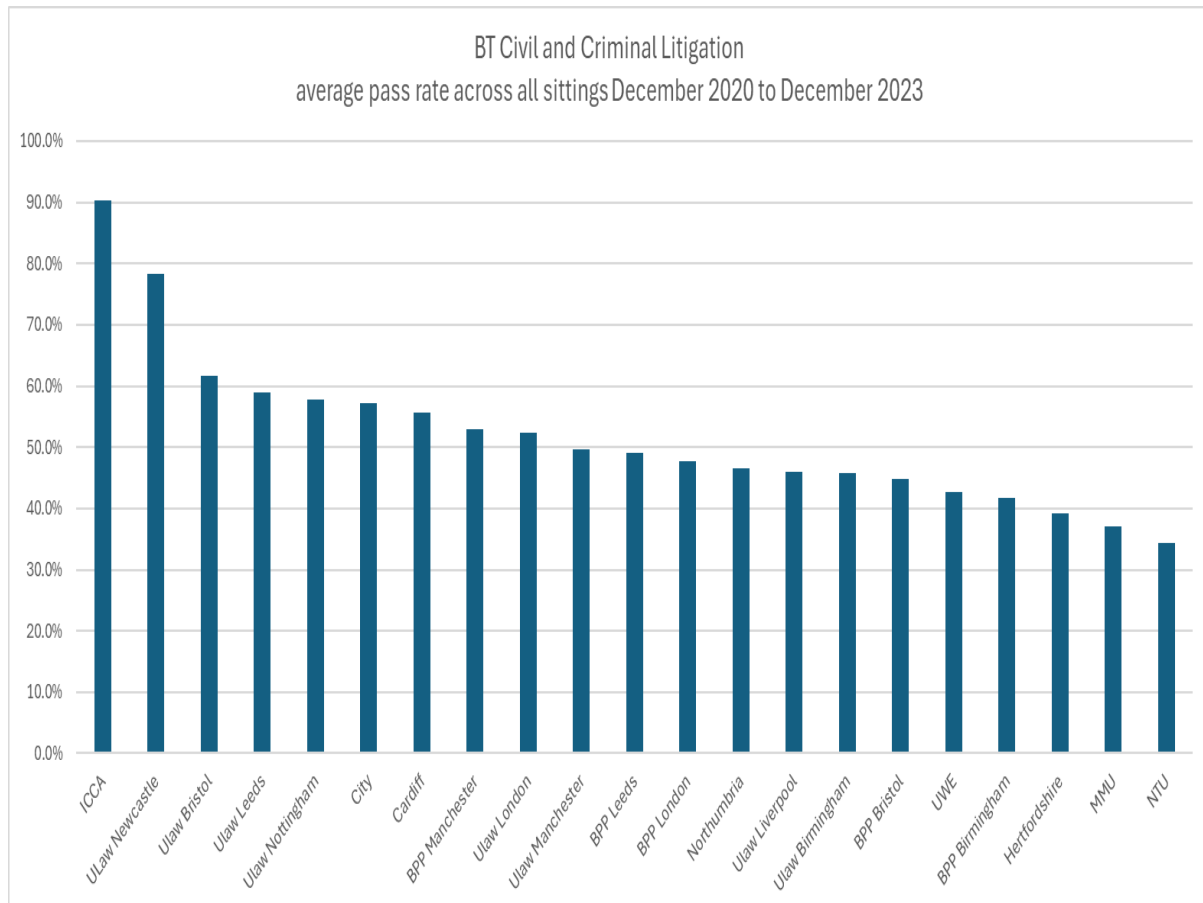
The biggest average differential is recorded by the ULaw Newcastle figure - 32% higher in Criminal Litigation (albeit across only 2 sittings). For the 8 AETO centres with results across all ten sittings, the biggest average differential is at BPP Leeds with a 6.5% better outcome in respect of Criminal Litigation.

	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22	
BPP Birmingham	-3.6%	12.3%	7.8%	-14.0%	-13.8%	
BPP Bristol	-2.6%	6.3%	12.1%	-0.8%	-11.4%	
BPP Leeds	-26.9%	20.6%	-26.7%	8.6%	-1.3%	
BPP London	-3.7%	12.7%	-10.2%	-6.6%	7.6%	
BPP Manchester	-2.6%	16.1%	-16.1%	0.1%	-2.3%	
Cardiff	-2.0%	13.6%	0.7%	20.7%	-2.9%	
City	12.3%	13.7%	7.1%	-8.7%	3.0%	
Hertfordshire						
ICCA	0.0%	6.7%	14.3%	-5.4%	-5.3%	
MMU	-13.3%	0.8%	9.1%	15.8%	-26.0%	
Northumbria		3.8%	8.4%	3.6%	-12.5%	
NTU		-9.2%	4.6%	8.7%	-9.4%	
ULaw Birmingham		12.8%	9.2%	-17.8%	-20.5%	
ULaw Bristol		-3.1%	-25.0%		-5.6%	
ULaw Leeds		17.9%	7.9%	17.9%	-9.0%	
ULaw Liverpool					-8.1%	
ULaw London		0.1%	-5.3%	-7.6%	-8.2%	
ULaw Manchester		21.5%	-2.3%	0.0%	-15.7%	
ULaw Newcastle						
ULaw Nottingham		-22.9%	-100.0%	0.0%	-27.7%	
UWE		13.0%	5.5%	-7.3%	-5.1%	
Average	-4.7%	7.6%	-5.5%	0.4%	-9.2%	
	Aug-22	Dec-22	Apr-23	Aug-23	Dec-23	Average
BPP Birmingham	9.1%	0.8%	-21.2%	-18.8%	-3.1%	-4.5%
BPP Bristol	-1.6%		-77.8%	22.2%	15%	-4.3%
BPP Leeds	-2.9%	-3.8%	-11.1%	-15.6%	-5.8%	-6.5%
BPP London	-1.2%	11.0%	-9.8%	0.8%	-1.1%	0.0%
BPP Manchester	-12.9%	13.2%	-8.4%	-5.0%	-1.6%	-1.9%
Cardiff	-19.0%	17.8%	-27.8%	-22.6%	-8.0%	-2.9%
City	-5.5%	9.1%	-0.5%	11.9%	-9.1%	3.3%
Hertfordshire		3.1%	11.1%	14.3%	0%	7.1%
ICCA	-7.1%	-2.6%	-5.0%	0.8%	-0.9%	-0.4%
MMU	-17.9%	-10.5%	16.7%	14.3%	5%	-0.5%
Northumbria	6.9%	-14.3%	-10.8%	18.5%	6%	1.0%
NTU	1.8%	-16.7%	1.6%	11.3%	10%	0.3%
ULaw Birmingham	-6.3%	-2.2%	1.8%	4.1%	8%	-1.2%
ULaw Bristol	0.0%	33.3%	-8.3%	23.8%		2.2%
ULaw Leeds	-4.0%	0.0%	0.0%	7.8%	-3.0%	4.0%
ULaw Liverpool	10.0%	50.0%	-6.4%	7.6%	-10.4%	7.1%
ULaw London	-13.3%	6.7%	-3.7%	10.2%	-11.2%	-3.6%
ULaw Manchester	5.6%	57.1%	-17.3%	22.6%	-12.7%	6.5%
ULaw Newcastle			-44.5%	-20.0%		-32.2%
ULaw Nottingham	-4.8%	66.7%	-10.2%	0.0%		-12.4%
UWE	-19.5%	28.3%	0.3%	14.3%	-3.6%	2.9%
Average	-4.3%	13.0%	-11.0%	9.9%	-1.5%	

Despite the overall passing rates in both litigation subjects being quite close in the December 2023 sitting, there were 11 AETO cohorts that performed more strongly in Criminal Litigation compared to Civil Litigation.

5.4 AETO average passing rates since December 2020

An analysis of passing rates achieved by each AETO cohort in both Litigation subjects across all ten Bar Training Course examination sittings to date (adjusted to allow for the fact that some AETOs may not have had candidates for some sittings) shows the following:



The ICCA has the highest average passing rate across both Litigation subjects and all sittings to date at 90.3%, and NTU (entering candidates for the first time in the December 2022 sitting) the lowest at 34.3%. The ICCA is, thus far, some way ahead of the other AETO centres in terms of cohort performance, the gap between it and second placed ULaw Newcastle being 12% (the ULaw Newcastle figure itself needs to be seen in the context of this AETO having only entered 2 cohorts to date) There are 12 AETO centres where the average passing rate across both Litigation subjects and all sittings to date is below 50%. Again, it is important to bear in mind the caveats flagged at 1.2.6 when considering these results.

5.5 Overall passing rates across both subjects December 2020 to December 2023

5.5.1 Cumulative passing rate to date disaggregated by AETO centre

BT Civil and Criminal Litigation December 2020 to August 2023			
AETO	Total No. of Attempts	Total No. of Passes	% Pass
ICCA	865	781	90.3%
ULaw Newcastle	24	17	70.8%
Ulaw Bristol	167	111	66.5%
Ulaw Leeds	474	300	63.3%
City	3278	2070	63.1%
Cardiff	752	465	61.8%
Ulaw Nottingham	98	59	60.2%
Ulaw Manchester	386	222	57.5%
Ulaw London	2141	1194	55.8%
BPP Manchester	1182	633	53.6%
Northumbria	610	318	52.1%
Ulaw Birmingham	813	407	50.1%
BPP Leeds	377	188	49.9%
BPP London	4220	1992	47.2%
Ulaw Liverpool	227	106	46.7%
BPP Bristol	213	98	46.0%
BPP Birmingham	771	340	44.1%
UWE	1297	571	44.0%
MMU	318	134	42.1%
NTU	717	253	35.3%
Hertfordshire	62	13	21.0%
TOTAL	18992	10272	54.1%

This table aggregates all the attempts by candidates at both the Criminal Litigation and Civil Litigation examinations across all ten sittings from December 2020 to December 2023. In total there have been 18,992 Bar Training candidate entries, of which 10,272 have been successful (54.1%). As can be seen, 12 AETO centres fall below this overall passing rate, with nine AETO centres failing to achieve a 50% passing rate overall in the centralised assessments since the introduction of the Bar Training course in 2020. Overall pass rates (derived by dividing the total number of passes by the total number of attempts) are not the same as the simple average of pass rates shown at 5.4, the data in the above table arguably giving a more accurate picture of how successful each AETO centre has been in supporting its candidates to pass the centralised Litigation assessments.

5.5.2 Cumulative passing rate disaggregated by AETO group – 10 sittings to date

The table below takes the data used for table 5.5.1 but aggregates the cumulative totals for the six University of Law centres and the five BPP centres, to produce an aggregate cumulative score for each of those AETOs across all their centres.

BT Civil and Criminal Litigation December 2020 to August 2023			
AETO	Total No. of Attempts	Total No. of Passes	% Pass
ICCA	865	781	90.3%
City	3278	2070	63.1%
Cardiff	752	465	61.8%
ULaw Group	4330	2416	55.8%
Northumbria	610	318	52.1%
BPP Group	6763	3251	48.1%
UWE	1297	571	44.0%
MMU	318	134	42.1%
NTU	717	253	35.3%
Hertfordshire	62	13	21.0%

Presenting the data this way shows that the ICCA remains the most successful AETO in terms of the percentage of candidates entering for a centralised assessment securing a pass, 27% ahead of the second placed AETO, City. Of the two largest AETOs, ULaw is ahead of BPP, although ULaw has not entered cohorts for all sittings. Five AETO groups have not, to date, managed to exceed the 50% overall success level for centralised Litigation assessments candidates.

6. BAR TRAINING RESIT RESULTS DECEMBER 2023

For the December 2023 sitting the BSB decided to pilot a scheme to allow candidates, who commenced their Bar training from September 2020 onwards, to take further re-sits of the elements of assessment that are necessary to be Called to the Bar (which the BSB regulates), even if they have reached the maximum number of permitted re-sits for the academic award at their training provider such as a Postgraduate Diploma or LLM (which the BSB does not regulate). For the December 2023 pilot scheme this facility was made available for BPP students only, with a view to extending the facility to all students, subject to review of its operation. Candidates attempt the same assessments as other Bar Training and BTT candidates. The results for those candidates taking additional resits under this pilot scheme in December 2023 were as follows:

Bar Training Resit Post-Intervention	Dec-23	
	Criminal Litigation	Civil Litigation
No of Candidates	8	6
Passing Rate	50.0%	33.3%

7. BAR TRANSFER TEST RESULTS DECEMBER 2023

The results for Bar Transfer Test ('BTT') candidates attempting the December 2023 BTT assessments were considered by the Litigation Subject Exam Boards and the Final Board. For the December 2023 sit, all BTT candidates attempted the same centrally assessed exam papers as the Bar Training Course candidates. See sections 3 and 4 (above) for details of the exam board discussion of interventions etc.

7.1 BTT Passing rates December 2021 to December 2023

Bar Transfer Test Post-Intervention	Apr-22		Aug-22		Dec-22	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	70	62	65	51	41	39
Passing Rate	43.0%	45.2%	38.5%	33.3%	29.3%	61.5%
Bar Transfer Test Post-Intervention	Apr-23		Aug-23		Dec-23	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	24	18	42	54	40	33
Passing Rate	50.0%	44.4%	23.8%	39.0%	42.5%	45.5%

The BTT passing rates for both litigation subjects fall within the range of the last six sittings. For both Criminal Litigation and Civil Litigation, the December 2023 passing

rates are the second highest across the last six sittings, well above the six sitting averages of 38% and 44.8% for each respectively.

8. BPTC RESULTS DECEMBER 2023

8.1 Unification of assessment regimes

8.1.1 There are no longer any discrete BPTC assessments, the final opportunity to take an 'old style' BPTC 75 MCQ Civil Litigation paper was the April 2022 sit. See sections 3 and 4 (above) for details of the exam board discussion of interventions etc.

8.2 BPTC Passing rates December 2021 to December 2023

BPTC Post-Intervention	Apr-22		Aug-22		Dec-22	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	167	229	70	43	45	31
Passing Rate	48.5%	31.0%	44.3%	25.6%	40.0%	45.2%
BPTC Post-Intervention	Apr-23		Aug-23		Dec-23	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	36	57	29	37	15	12
Passing Rate	42.0%	53.0%	17.2%	30.0%	40.0%	25.0%

As the above table shows, the number of BPTC candidates is steadily declining, with a total of 27 candidate entries across the two Litigation assessments for the December 2023 sitting, compared with 66 for the August 2023 sitting. Understandably, given the cohort composition and distance in time between the delivery of tuition and attempting the assessment, the BPTC outcomes do not compare favourably with those for the main Bar Training cohort, passing rates being 15% lower in Criminal Litigation, and 27% lower in respect of Civil Litigation. The BPTC passing rate for Civil Litigation in December 2023 was the lowest across the last six sittings, and the passing rate for Criminal Litigation the second lowest across that period.

Professor Mike Molan
Chair of the Central Examination Board
26 February 2024