

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

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

**Bar Training, BTT & BPTC
December 2022 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 nine 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 seventh iteration of examinations attempted by Bar Training Course candidates in December 2022, 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	Aug-22	Dec-22
Civil Litigation							
No. of candidates	407	989	738	823	1517	790	929
Passing rate	55.8%	55.5%	41.3%	53.6%	59.6%	46.2%	56.4%
Criminal Litigation							
No. of candidates	383	1104	827	824	1653	802	594
Passing rate	59.8%	46.2%	42.4%	55.9%	63.7%	52.5%	49.8%

In comparing results across the seven 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 December 2022 sitting saw the first cohorts entered by the University of Hertfordshire. As can be seen, the passing rate for Civil Litigation in December 2022 was the second highest across the seven sittings of Bar Training centralised assessments to date, whilst the overall passing rate for Criminal Litigation was the third lowest. It is notable that the cohort entering for the Civil Litigation assessment was significantly bigger than the Criminal Litigation cohort. This was largely a reflection of Bar Training course structure at some larger AETOs where candidates were entered for the Civil Litigation assessment but not the Criminal Litigation assessment. See further on candidate numbers at 1.5.4 and 1.5.5, 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). For 2010/11, all BPTC Providers were required to assess candidates in Professional Ethics; Civil Litigation, Remedies¹ & Evidence ('Civil Litigation'); and Criminal Litigation, Evidence & Sentencing ('Criminal Litigation') (often referred to as the 'knowledge areas') by means of multiple-choice questions (MCQs) and short answer questions (SAQs). Together these three subjects represented 25% of the BPTC (ie 30 credits out of 120). For 2010/11, the knowledge area assessments were set and marked by the BPTC Providers. Centralising these 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 for the knowledge areas on the BPTC. No changes were made to the format of assessment, but the setting of the assessments was undertaken independently of the Providers by a team of CEB examiners appointed by the BSB.

1.2 The 2011/12 to 2015/16 assessment formats

From the 2011/12 academic year, up to and including the 2015/16 academic year, candidates in each of the three centrally assessed subjects were required to attempt an MCQ test, and an SAQ test. The Civil and Criminal Litigation assessments each comprised a paper requiring candidates to attempt 40 MCQs and five SAQs in three hours. The Professional Ethics assessment required candidates to attempt 20 MCQs and three SAQs in two hours. All questions in all papers were compulsory and the pass mark in each part of each paper was fixed at 60%. All MCQ papers were marked electronically using Speedwell scanning technology. All SAQ papers were marked by teaching staff at the relevant BPTC Provider institution, with marks being remitted to the CEB for processing. The marks for the MCQ and SAQ elements of each of the papers were aggregated to provide each candidate with a combined mark for each subject. Candidates were required to achieve the pass mark of 60% in both elements of each assessment, there being no scope for the aggregation of marks below 60% between MCQ and SAQ scores to achieve the minimum 60% pass mark overall.

1.3 The assessment formats for BPTC candidates from Spring 2017

1.3.1 Acting on the recommendations of the BSB's Education and Training Committee, from the Spring 2017 sitting, the CEB introduced significant changes to the format and marking processes for the centralised assessments on the BPTC. Both the Civil Litigation and Criminal Litigation assessments were modified to become three-hour papers comprising 75 MCQ and Single Best Answer (SBA) questions. This change meant that the answers for the entire paper in each subject could be marked electronically using Speedwell scanning technology. The assessment in Professional Ethics

¹ NB Remedies was later removed from the syllabus

became a two-hour paper (increased to two hours and thirty minutes from the Spring 2018 sit) comprised of six SAQs, the marking being undertaken by a team of independent markers appointed by the BSB.

- 1.3.2 2017 was also the first year in which Bar Transfer Test (BTT) candidates had to take centralised assessments in the three knowledge areas rather than assessments set by BPP University, the institution appointed by the BSB to provide BTT training. For the Spring 2017 sitting, BTT candidates thus sat the same Civil Litigation and Criminal Litigation papers as the BPTC cohort on the same dates, and (for logistical reasons relating to the Spring 2017 assessment) a separate Professional Ethics paper. For the Spring 2018 sit, BTT candidates attempted the same Professional Ethics assessment as the BPTC candidates (see section 6 for BTT results). From August 2021 onwards, BTT candidates have attempted the same centralised assessments as BTC candidates. Unless otherwise specified, cohort performance data analysed in this report, and any assessment reliability analysis is based on the results achieved by BTC candidates only.

1.4 Future Bar Training

- 1.4.1 As part of the Future Bar Training reforms of the vocational stage of qualification as a barrister, a new vocational training component, Bar Training, was introduced to replace the BPTC for the start of the 2020/21 academic year. As was the case with the BPTC, the tuition is delivered by Authorised Education and Training Organisations ('AETOs'). Criminal Litigation and Civil Litigation (including dispute resolution) are centrally examined, under the auspices of the CEB, by the BSB. The Criminal Litigation assessment takes the form of a closed book three-hour paper comprising 75 MCQ and SBA questions. 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 5 are stand-alone MCQ and/or SBA questions, and the remaining 35 take the form of rolling case scenarios – each with 7 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 2.²
- 1.4.2 Professional Ethics is no longer centrally assessed as part of the vocational component Bar Training Course. A grounding in Professional Ethics is provided by each AETO as an element of its Bar Training course and is assessed locally.³

² BPTC candidates did not attempt the Civil 1 or Civil 2 papers but continued to attempt a post-2017 BPTC format Civil Litigation assessment until BPTC examinations were phased out, the final BPTC Civil Litigation assessment taking place in spring 2022.

³ From 2022, a more comprehensive assessment of Professional Ethics than that required by the vocational component of Bar Training has been undertaken during pupillage by those called to the

1.5 Candidates have three opportunities a year to attempt the centralised Bar Training Course examinations: December ('Winter sit'), April ('Spring sit'), and August ('Summer sit').

1.5.1 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 sittings, 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.

1.5.2 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/uploads/assets/4cd5c577-4668-4e46-944a3fa11f84a9bc/2022-AETO-Factsheet-for-Vocational-Component.pdf>

1.5.3 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 taken into account:

- 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 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.

Bar following successful completion of the Bar Training course. This work-based learning assessment of Professional Ethics is administered on behalf of the BSB by the CEB.

- 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.

1.5.4 Candidate numbers by AETO centre: Civil Litigation

AETO	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22	Aug-22	Dec-22	Total to date
BPP Birmingham	28	31	28	40	47	32	56	262
BPP Bristol	19	16	14	19	7	9	8	92
BPP Leeds	27	32	20	35	16	5	16	151
BPP London	151	179	150	262	274	173	260	1449
BPP Manchester	58	54	35	89	49	37	73	395
Cardiff	51	39	15	60	35	14	72	286
City	22	208	132	59	378	136	75	1010
Hertfordshire	N/A	N/A	N/A	N/A	N/A	N/A	13	13
ICCA	28	34	5	56	33	14	89	259
MMU	23	9	11	24	7	8	23	105
Northumbria	N/A	64	36	15	64	36	14	229
NTU	N/A	50	37	23	53	34	24	221
ULaw Birmingham	N/A	34	41	18	82	51	30	256
ULaw Bristol	N/A	13	4	1	18	5	3	44
ULaw Leeds	N/A	22	17	7	43	25	12	126
ULaw Liverpool	N/A	N/A	N/A	N/A	16	5	2	23
ULaw London	N/A	89	106	65	216	137	101	714
ULaw Manchester	N/A	19	18	7	54	20	7	125
ULaw Nottingham	N/A	7	1	2	16	7	6	39
UWE	N/A	89	68	41	109	42	45	394
TOTAL	407	989	738	823	1517	790	929	6193

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, BPP London has the largest cohort, accounting for just under 28% of the Civil Litigation candidate entries for the December 2022 sit, and just over 23% of the total number of candidate entries across the seven sittings offered thus far. As noted above, five AETOs have cohort numbers in single figures for the December 2022 sit, a factor that can impact significantly on the comparison of cohort data.

1.5.5 Candidate numbers by AETO centre: Criminal Litigation

AETO	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22	Aug-22	Dec-22	Total to date
BPP Birmingham	28	30	29	43	64	22	36	252
BPP Bristol	20	16	13	26	5	7	N/A	87
BPP Leeds	20	25	24	35	20	7	5	136
BPP London	137	202	174	270	261	199	120	1363
BPP Manchester	52	62	47	91	60	34	35	381
Cardiff	54	37	19	19	70	21	20	240
City	20	247	154	77	425	141	61	1125
Hertfordshire	N/A	N/A	N/A	N/A	N/A	N/A	15	15
ICCA	32	31	7	56	31	13	92	262
MMU	20	14	11	20	11	7	24	107
Northumbria	N/A	40	25	13	64	24	14	180
NTU	N/A	51	36	23	55	32	24	221
ULaw Birmingham	N/A	46	49	20	88	56	18	277
ULaw Bristol	N/A	15	2	N/A	18	5	2	42
ULaw Leeds	N/A	38	20	8	47	25	8	146
ULaw Liverpool	N/A	N/A	N/A	N/A	17	2	2	21
ULaw London	N/A	107	127	73	234	129	76	746
ULaw Manchester	N/A	23	19	7	61	9	3	122
ULaw Nottingham	N/A	5	1	2	14	3	3	28
UWE	N/A	115	70	41	108	66	36	436
TOTAL	383	1104	827	824	1653	802	594	6187

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. Again, BPP London had the largest cohort of the candidate entries for the Criminal Litigation December 2022 sit (just over 20%), and the most candidates overall to date at just over 22% of those attempting. As noted above, seven AETOs have cohort numbers in single figures (or no candidates) for the December 2022 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 or 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 both pen and paper exams (listing for example, public transport strikes, bomb alerts, fire alarms, building noise), and Computer Based Testing (CBT) delivery (listing technical issues, proctor alerts), 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 2022 Bar Training exam dates were as follows:

Criminal Litigation: Thursday 1 December 2022 at 14:00
Civil Litigation (Paper 1): Monday 5 December 2022 at 14:00
Civil Litigation (Paper 2): Thursday 7 December 2022 at 14:00

2.4 Marking

- 2.4.1 Just over 73% of Bar Training candidates for the December 2022 sit attempted the examination papers using a CBT platform. Their answers were submitted to the BSB in excel format. Correct answers were credited using formulae and checks were conducted to ensure formulae were working correctly. Where interventions were agreed by the Final Board, these were applied to the mark scheme, which was reflected in the candidates' marking, and checks were conducted to ensure they were applied correctly. Answers from candidates sitting pen and paper exams were captured via the scanning software but processed with those from CBT candidates.

2.4.2 For both the centrally assessed knowledge areas, once the marking is completed, statistical data is generated (based on candidates' marks) and presented at a series of Examination Boards.

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, the independent psychometrician, 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 is advised by the independent psychometrician in respect of 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 assessment pro-formas returned by the AETOs – thus flagging up any correlation of AETO criticisms and concerns with systemic poor performance by candidates.
- statistical analysis by the psychometrician, including facility values, point biserials, and a measure of discrimination for each distractor.
- 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 advised by the independent psychometrician, 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 (e.g., 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. 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 2022 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 2022 Criminal Litigation assessment, comments were received in relation to 31/75 questions. Hence 41.3% of questions generated some level of AETO feedback (although many of these comments related to possible improvements if the question were to be re-used, rather than substantive requests for intervention by the Exam Board). Typically, responses from AETOs raised issues such as the possibility of there being more than one 'best' answer; 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. Even where feedback is received, it is rare to have more than a handful of AETOs responding in respect of a specific question. For this sitting, in respect of those questions where there

was some AETO feedback, 23 questions had only one item of feedback, seven had two AETO responses, and only 1 had 3 AETO responses.

3.1.5 Summary of Exam Board deliberations

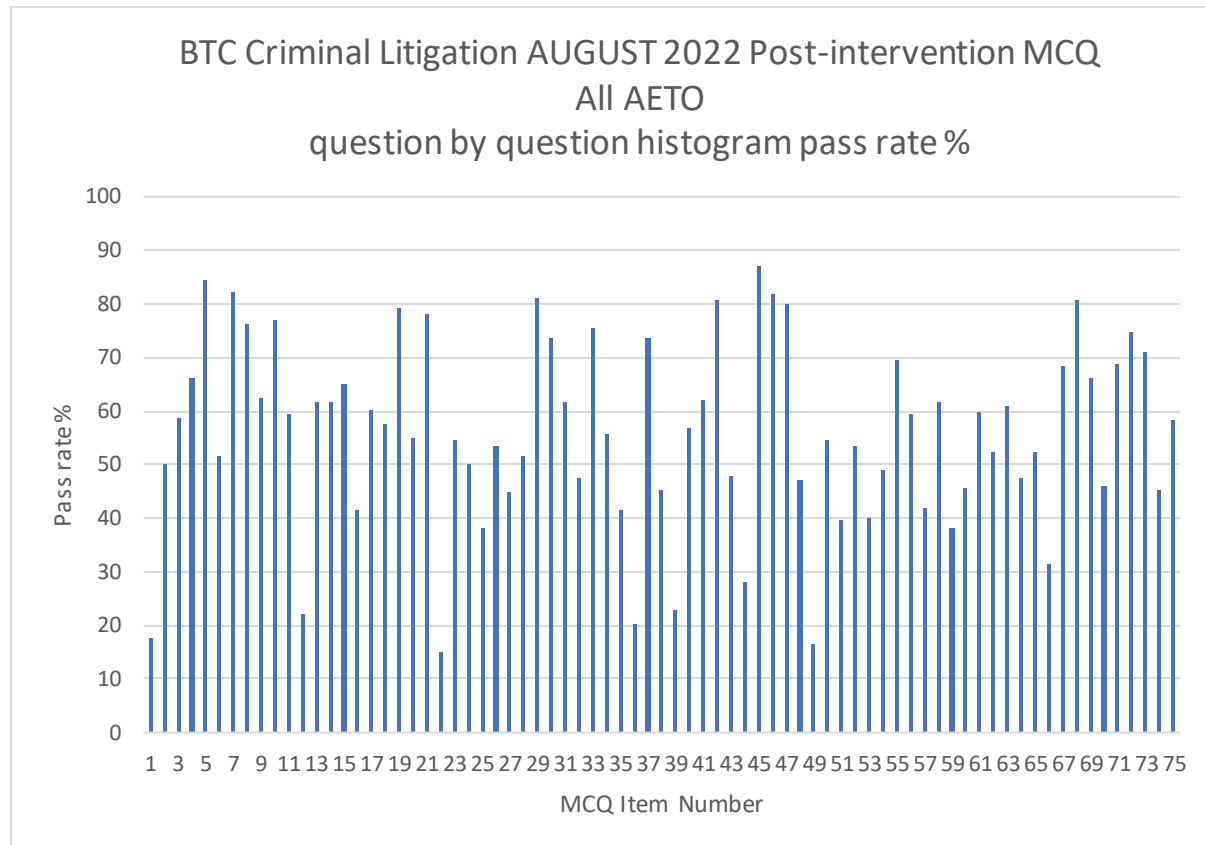
The table below provides a summary of the Exam Board deliberations where interventions (if any) were agreed, and instances where, although no intervention was agreed, points for future reference were raised in the Board's deliberations.

Item	Number of AETOs responding	Exam Board decision and rationale
Q.5	2	<p>Passing rate 49%. Very good discrimination.</p> <p>AETO feedback commented that distractor [A] should also have been credited as a correct answer. The Chief Examiner disagreed with this on the basis of the law and because the statistics supported this conclusion. <i>The Board decided not to intervene.</i></p>
Q.50	2	<p>Passing rate 46%. Very good discrimination.</p> <p>AETO feedback suggested that the correct answer was not clear. The Chief Examiner commented that they disagreed with the feedback and that the answer was in fact discernible from the fact pattern of the question. <i>The Board decided not to intervene.</i></p>
Q.54	1	<p>Passing rate 62%. Very good discrimination.</p> <p>AETO feedback suggested that the question had an unfair emphasis on strategy and also that the correct answer should have been a hybrid of distractors [B] and [D]. The Chief Examiner advised that the assessment was fair and that [B] was not as good advice as [D]. The Chief examiner also commented that the statistics supported this conclusion and if the question were to be used again the team would not feel the need to revise it. <i>The Board decided not to intervene.</i></p>
Q.57	1	<p>Passing rate 42%. Very poor discrimination</p> <p>It was noted that there was a slight positive correlation on distractor [C]. AETO feedback suggested that distractor [C] should have been credited as well as correct answer [D]. The Chief Examiner commented that the question accurately reflected the law and that the team would struggle to credit [C] as it was not hearsay. It was noted</p>

Item	Number of AETOs responding	Exam Board decision and rationale
		that it was a hard question and that the team would consider possible revisions before it was reused. <i>The Board decided not to intervene.</i>
Q.61	2	<p>Passing rate 32%. Very good discrimination.</p> <p>AETO feedback suggested that all distractors should have been credited as correct answers. The Chief Examiner disagreed with this and commented that the question was a reasonable one and that it was testing a relevant point. It was noted that the question would be used again in its current form. <i>The Board decided not to intervene.</i></p>
Q.63	2	<p>Passing rate 16%. Good discrimination.</p> <p>It was noted that there was a slight positive correlation on distractor [C]. AETO feedback suggested that the question could be improved. The Chief Examiner commented that the team were happy with the question and the correct answer. <i>The Board decided not to intervene.</i></p>
Q.75	1	<p>Passing rate 40%. Good Discrimination.</p> <p>AETO feedback suggested that the use of the word 'compendious' was unfair, as it was inaccessible language. The Chief Examiner commented that the word came from the practitioner reading and that candidates should be familiar with this. The Chief Examiner commented that the team saw no reason to amend this question prior to reuse. <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 2022 Criminal Litigation examination.



The post-intervention data shows 14 MCQs with an all-AETO cohort pass rate below 40% (compared to 12 for the August 2022 sit). There is very slight 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 62%, across MCQs 26 to 50 down slightly at 59%, and across MCQs 51 to 75 it dropped further to 58%. The word count of the assessment was not felt by the Final Board to have been an issue, given that it was lower than for any of the 3 preceding sits.

3.3 Standard setting and reliability of the assessment

3.3.1 The Exam Board received a report on the standard setting process confirming that the recommended passing rate was 44/75. The total number of standard setters who submitted their scores was 11. Those new to the process had received individual training prior to undertaking the exercise. Data was made available on the performance of some previously used questions showing how the borderline candidates had actually performed and, after full discussion of the relevant questions flagged for discussion, that data was introduced as an additional point of reference. Standard setters were given the opportunity to

amend their ratings following sight of the correct answers. At the standard setting meeting, all questions with a standard deviation of 1.5 or greater were discussed. The range of deviation was 1.5 to 2.1 (only Q.47 exceeding the 2.0 threshold). The Chair of the standard setting meeting confirmed to the Final Board that the objective of the exercise was understood by all standard setters, that the process was undertaken with a borderline candidate in mind, and that a thorough enquiry of the data was undertaken and that, following discussion, no scores gave rise to any concern as to the integrity of the passing standard.

3.3.2 Data supplied to the Final Exam Board by the psychometrician indicated that, with a KR-20 Estimate of Reliability of 0.88, 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-21	Aug-21	Dec-21	Apr-22	Aug-22	Dec-22
No. of Candidates	1104	827	824	1653	802	594
No. of Scored Items	75	75	75	75	75	75
Pass Standard	41 (54.7%)	46 (61.3%)	44 (58.7%)	44 (58.7%)	42 (56.0%)	44 (58.7%)
No. Passing	510 (46.2%)	351 (42.4%)	461 (55.9%)	1053 (63.7%)	421 (52.5%)	296 (49.8%)
Mean Score	40.39 (53.86%)	43.60 (58.14%)	44.72 (59.62%)	46.62 (62.16%)	42.02 (56.03%)	44.18 (58.91%)
Standard Deviation	9.41 (12.55%)	9.29 (12.38%)	9.77 (13.03%)	10.35 (13.79%)	9.44 (12.58%)	10.81 (14.42%)
Range of Scores	5 to 69	7 to 68	13 to 70	5 to 71	15 to 70	15 to 72
Reliability (KR-20)	0.84	0.82	0.85	0.87	0.83	0.88
Reliability for Equivalent 90-item Test	0.86	0.85	0.87	0.89	0.85	0.89
Standard Error of Measurement	3.81 (5.07%)	3.94 (5.25%)	3.80 (5.06%)	3.71 (4.95%)	3.91 (5.21%)	3.82 (5.09%)

3.4 Chief Examiner's Report

The Chief Examiner for Criminal Litigation confirmed that comments on the paper from AETOs were very positive overall, with the paper being assessed as fair and of an appropriate standard by the majority of AETOs who commented.

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 2022

All-AETO Post-Intervention	Criminal Litigation April 2021	Criminal Litigation August 2021	Criminal Litigation December 2021	Criminal Litigation April 2022	Criminal Litigation August 2022	Criminal Litigation December 2022
Number of Candidates	1104	827	824	1653	802	594
Passing Rate	46.2%	42.4%	55.9%	63.7%	52.5%	49.8%

The table above shows the all-AETO December 2022 post-intervention Bar Training cohort pass rate of 49.8% for Criminal Litigation, based on a passing standard recommended to the Final Board (as a result of the standard setting process) of 44/75. The final passing rate is the third lowest across the last six cycles, but comfortably ahead of the August 2021 sitting. Data presented to the exam boards for the December 2022 sitting showing the split between first sit and resit candidates for Criminal Litigation revealed that 44% 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 56% as resit candidates (ie candidates who had previously failed the examination without mitigating circumstances having been submitted or accepted). The fact that a preponderance of candidates were resitters may have been a factor in depressing the overall passing rate (the passing rate for first sit candidates in Criminal Litigation was 62% compared to 40% for resitting candidates).

3.7 December 2022 Criminal Litigation pass rates by AETO centre



3.7.1 In the above graph AETO centre cohorts are ranged left to right in declining order of their December 2022 pass rates in the Criminal Litigation assessment. Whilst the ICCA had the highest December 2022 pass rate at 89.1%, none of the candidates entered for the assessment at ULaw centres in

Bristol, Liverpool, Manchester or Nottingham secured a pass. These outcomes have to be seen, however, in the context of cohort size and make up. For each of these four ULaw centres the number of candidates (and within that number, the count of first sit candidates), was as follows: Bristol (2 candidates, 0 first sitters), Liverpool (2 candidates, 0 first sitters), Manchester (3 candidates, 1 first sitters), and Nottingham (3 candidates, 0 first sitters). Hence, overall, across those four centres ULaw had 11 candidates of whom only 1 was a first sit candidate. BPP Bristol are excluded from the above histogram as that AETO centre did not submit any candidates for the December 2022 Criminal Litigation assessment. Across all the AETO centres there were 261 (44%) candidates classified as first sitters, and 332 (56%) classified as resitters for the December 2022 Criminal Litigation assessment. The passing rate for first sit candidates was 62%, compared with 40% for resitting candidates, which again goes some way to explaining the absence of passes across the four ULaw centres highlighted above.

3.7.2 Distribution of first sit candidates across the AETO centres for Criminal Litigation December 2022 sitting

AETOs Ranked by % of cohort first sitting CRIMINAL LITIGATION			
AETO	Cohort Size	No. First Sitting	%First Sit
Hertfordshire	15	15	100.0%
ICCA	92	92	100.0%
MMU	24	24	100.0%
Cardiff	20	12	60.0%
BPP Manchester	35	17	48.6%
ULaw London	76	27	35.5%
ULaw Manchester	3	1	33.3%
UWE	36	11	30.6%
BPP London	120	34	28.3%
BPP Birmingham	36	9	25.0%
ULaw Leeds	8	2	25.0%
City	61	13	21.3%
BPP Leeds	5	1	20.0%
NTU	24	2	8.3%
ULaw Birmingham	18	1	5.6%
Northumbria	14	0	0.0%
ULaw Bristol	2	0	0.0%
ULaw Liverpool	2	0	0.0%
ULaw Nottingham	3	0	0.0%
BPP Bristol	0	N/A	N/A
OVERALL	594	261	43.9%

As noted previously, Hertfordshire had a 100% first sit cohort as December 2022 was the AETOs first entry for the centralised assessments. Apart from

the first 4 AETO centres listed all others had a preponderance of resit candidates (apart from BPP Bristol which had no candidates at all).

3.7.3 Comparison of first sit and resit candidate passing rates at each AETO for Criminal Litigation December 2022 sitting

First Sit Pass Rates and Resit Pass Rates CRIMINAL LITIGATION		
AETO	First Sit % Pass	Resit % Pass
BPP Birmingham	66.7%	48.1%
BPP Bristol	N/A	N/A
BPP Leeds	100.0%	50.0%
BPP London	41.2%	41.9%
BPP Manchester	52.9%	38.9%
Cardiff	75.0%	37.5%
City	23.1%	50.0%
Hertfordshire	20.0%	N/A
ICCA	89.1%	N/A
MMU	58.3%	N/A
Northumbria	N/A	57.1%
NTU	0.0%	40.9%
ULaw Birmingham	100.0%	35.3%
ULaw Bristol	N/A	0.0%
ULaw Leeds	100.0%	66.7%
ULaw Liverpool	N/A	0.0%
ULaw London	63.0%	28.6%
ULaw Manchester	0.0%	0.0%
ULaw Nottingham	N/A	0.0%
UWE	18.2%	28.0%
OVERALL	62.5%	39.9%

Of the 12 AETO centres with both first sit and resit candidates attempting the December 2022 Criminal Litigation assessment, only 3 reported higher passing rates for their resit cohorts compared to their first sit cohorts.

**3.7.4 Passing rates of first sit cohorts at each AETO for Criminal Litigation
December 2022 sitting**

AETOs ranked by First Sit Pass Rate CRIMINAL LITIGATION	
AETO	First Sit % Pass
BPP Leeds	100.0%
ULaw Birmingham	100.0%
ULaw Leeds	100.0%
ICCA	89.1%
Cardiff	75.0%
BPP Birmingham	66.7%
ULaw London	63.0%
MMU	58.3%
BPP Manchester	52.9%
BPP London	41.2%
City	23.1%
Hertfordshire	20.0%
UWE	18.2%
NTU	0.0%
ULaw Manchester	0.0%
BPP Bristol	N/A
Northumbria	N/A
ULaw Bristol	N/A
ULaw Liverpool	N/A
ULaw Nottingham	N/A

6 AETO centres failed to pass more than 50% of their first sit candidates in the December 2022 Criminal Litigation assessment, although in some cases cohort numbers were very small.

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

	Apr 21 % Pass	Aug 21 % Pass	Dec 21 % Pass	Apr 22 % Pass	Aug 22 % Pass	Dec 22 % Pass	Average over 6 sits
ICCA	90.3	85.7	94.6	87.1	100.0	89.1	91.1
Ulaw Leeds	68.4	45.0	25.0	78.7	60.0	75.0	58.7
Ulaw Bristol	80.0	100.0		66.7	40.0	0.0	57.3
Ulaw Nottingham	80.0	100.0	50.0	71.4	33.3	0.0	55.8
City	60.3	47.4	49.4	71.1	51.1	44.3	53.9
Cardiff	35.1	52.6	52.6	74.3	47.6	60.0	53.7
Ulaw London	56.1	44.9	50.7	73.9	53.5	40.8	53.3
BPP Manchester	33.9	44.7	56.0	53.3	58.8	45.7	48.7
Ulaw Birmingham	69.6	34.7	40.0	70.5	35.7	38.9	48.2
BPP Leeds	20.0	41.7	68.6	45.0	42.9	60.0	46.3
BPP London	29.2	44.8	58.5	40.6	61.3	41.7	46.0
Ulaw Manchester	52.2	57.9	42.9	78.7	44.4	0.0	46.0
BPP Bristol	31.3	30.8	69.2	40.0	57.1		45.7
Northumbria	40.0	36.0	23.1	64.1	37.5	57.1	43.0
MMU	21.4	18.2	55.0	54.5	42.9	58.3	41.7
UWE	33.0	35.7	39.0	57.4	57.6	25.0	41.3
Ulaw Liverpool				70.6	50.0	0.0	40.2
BPP Birmingham	20.0	17.2	46.5	50.0	40.9	52.8	37.9
NTU	41.2	30.6	34.8	50.9	18.8	37.5	35.6
Hertfordshire						20.0	20.0

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. 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 (91.1%), and Hertfordshire the lowest at 20% (albeit with a small first cohort). The ICCA cohort has achieved the highest passing rate in 5 of the 6 sittings.

3.8.2 An alternative way of assessing the success of each AETO across all the sittings to date (ie 7 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 2022 (7 sits)			
AETO	Total Number of Attempts	Total Number of Passes	% Pass
ICCA	262	241	92.0%
ULaw Bristol	42	28	66.7%
ULaw Leeds	146	95	65.1%
ULaw Manchester	122	78	63.9%
ULaw Liverpool	21	13	61.9%
ULaw Nottingham	28	17	60.7%
City	1125	674	59.9%
ULaw London	746	427	57.2%
ULaw Birmingham	277	146	52.7%
BPP Manchester	381	200	52.5%
Cardiff	240	125	52.1%
BPP Leeds	136	69	50.7%
BPP Bristol	87	43	49.4%
BPP London	1363	657	48.2%
Northumbria	180	86	47.8%
UWE	436	188	43.1%
MMU	107	46	43.0%
BPP Birmingham	252	102	40.5%
NTU	221	83	37.6%
Hertfordshire	15	3	20.0%
TOTAL	6187	3321	53.7%

As can be seen from the above table 3,321 candidates have passed Bar Training Criminal Litigation assessments since the first sitting in December 2020, based on 6187 attempts – thus the aggregate passing rate to date is 53.7%. There are 12 AETOs failing to achieve this average thus far, with a 72% range in cumulative passing rates between the strongest and weakest AETO centre cohorts.

4. BAR TRAINING CIVIL LITIGATION RESULTS DECEMBER 2022

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 2022 Civil Litigation assessment comments were received in relation to 43/90 questions (24/50 questions on paper 1, and 19/40 question on Paper 2). Hence, 47% of questions generated some level of AETO feedback, although only 19% of responses sought some form of intervention by the Exam Board. Typically, responses from AETOs raised issues such as the possibility of there being more than one 'best' answer; syllabus coverage; the level of challenge offered by the question; possible typographical errors; and whether the question was one that it was fair to ask candidates at this stage in their training. Even where feedback is received, it is rare to have more than a handful of AETOs responding in respect of a specific question. For the December 2022 sitting, in respect of those questions where there was some AETO feedback, 34 questions across the two papers had only one item

of feedback, eight questions had two AETOs responses, and only one question attracted three AETO responses. The table below provides a summary of the Exam Board deliberations where interventions were agreed, and where, although no intervention was agreed, points for future reference were raised in the Board's deliberations.

4.1.5 Summary of Exam Board deliberations

Item	Number of AETOs responding	Exam Board decision and rationale
Paper 1 Q11	1	<p>Passing rate 16%. Poor discrimination.</p> <p>The AETO feedback suggested this question should be removed. [D] was the intended correct answer but there was a positive correlation for incorrect answer option [A], which was chosen by 8% of candidates. There was a negative correlation for incorrect answer option [C] but it was chosen by 69% of candidates. The Board discussed the question at length and agreed that answer options [A] and [B] were incorrect, however, in the light of the wording of the stem, the board decided this question should have been classified as an SBA and on that basis the board agreed to credit both the preferred answer option [D] and the equally credit answer option [C]. The Board did not feel answer [C] was sufficiently distinct from the preferred answer [D] and it was supported in that decision by the candidate performance data.</p> <p><i>The Board decided to credit answer [C] in addition to correct answer [D]. It was agreed that the question should be amended before being re-used.</i></p>
Paper 1 Q22	2	<p>Passing rate 80%. Poor discrimination.</p> <p>The AETO feedback was noted but it was agreed that it was not relevant to the validity of the question. [B] was the intended correct answer but there was a slightly positive correlation for incorrect answer option [C], which was chosen by 3% of candidates. The Board discussed the question and agreed that answer option [B] was not the best answer.</p> <p><i>The Board decided not to intervene.</i></p>
Paper 1 Q39	0	<p>Passing rate 21%. Very good discrimination.</p> <p>No comments from AETOs. [A] was the intended correct answer but there was a slightly positive correlation for incorrect answer option [B], which was chosen by 42%</p>

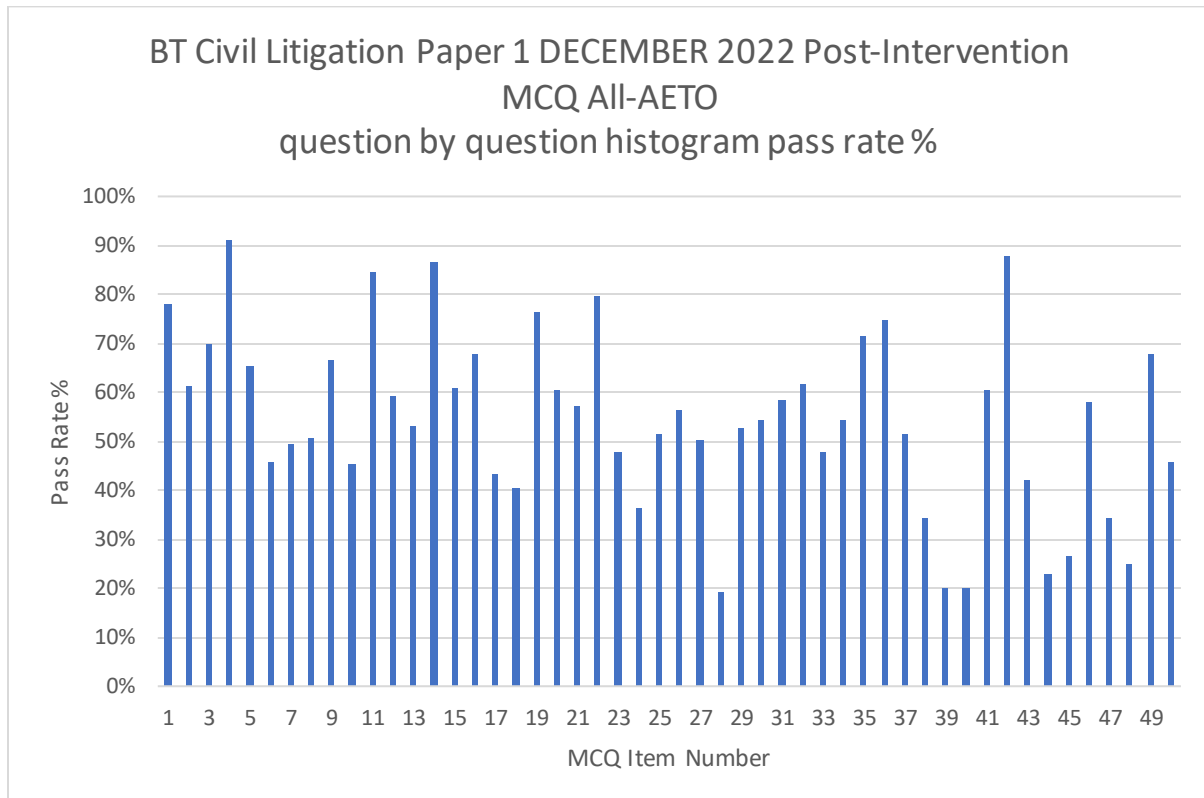
Item	Number of AETOs responding	Exam Board decision and rationale
		<p>of candidates. The Board discussed option [B] and agreed that option [B] was definitely wrong.</p> <p><i>The Board decided not to intervene.</i></p>
Paper 1 Q40	2	<p>Passing rate 20%. Poor discrimination.</p> <p>The AETO feedback was noted but it was agreed that it was not relevant to the validity of the question. [B] was the intended correct answer but 66% of candidates selected option [A] with a zero correlation. The Board discussed option [A] and agreed that option [A] was definitely wrong. The Board agreed this question was incorrectly flagged as an SBA. The Board noted the question should be flagged as an MCQ before being reused.</p> <p><i>The Board decided not to intervene.</i></p>
Paper 1 Q44	0	<p>Passing rate 23%. Poor discrimination.</p> <p>No comments from AETOs. [D] was the intended correct answer but there was a positive correlation for incorrect answer option [A], which was chosen by 34% of candidates. The Board discussed option [A] and agreed that option [A] was definitely wrong.</p> <p><i>The Board decided not to intervene.</i></p>
Paper 1 Q48	0	<p>Passing rate 25%. Very poor discrimination.</p> <p>No comments from AETOs. [C] was the intended correct answer but there was a stronger positive correlation for incorrect answer option [B], which was chosen by 63% of candidates. The Board discussed option [B] and agreed that option [B] was definitely wrong. The Board suggested that before being reused, the question should be amended to start with wording along the lines of "Proceedings were issued against". The Board noted the question should be amended before being reused.</p> <p><i>The Board decided not to intervene.</i></p>
Paper 2 Q12	1	<p>Passing rate 59%. Good discrimination.</p> <p>The AETO feedback suggested an additional/alternative answer should be credited. [D] was the intended correct</p>

Item	Number of AETOs responding	Exam Board decision and rationale
		<p>answer but it was discussed whether [B] could also be credited as an alternative answer as 26% of the candidates had selected this option. The board discussed and agreed that although this was an SBA, [B] could not be credited as a correct answer as [it did not represent a true Bullock order to recover costs. [B] was a reflection of the general cost rules. [D] was the best answer and reflected the approach of a Sanderson Order. The Board noted that the reference to cash flow problems in [B] should be reviewed before the item was used again but agreed that no intervention should be applied.</p> <p><i>The Board decided not to intervene.</i></p>
Paper 2 Q14	2	<p>Passing rate 70%. Good discrimination.</p> <p>The AETO feedback suggested that this question should be removed from the examination. The amended report was mentioned in brackets in the fact pattern to lead candidates to the correct answer [B] but the Board agreed that the answer explanation and the wording of distractor [A] should be amended before future use.</p> <p><i>The Board decided not to intervene.</i></p>
Paper 2 Q27	2	<p>Passing rate 69%. Poor discrimination.</p> <p>The AETO feedback suggested that additional or an alternative answer choice should be credited. 69% of candidates selected the intended correct answer [B] while 26% selected [D]. The Board discussed whether [D] could also be credited. The Board discussed and agreed that crediting [D] as candidates would not have recognised that a further step was required. The Board agreed that [B] was the only correct answer and that, on reflection, [D] was incorrect insofar as it suggested that the use of emails was not permissible. The Board further noted that, even if the question had been amended to become an SBA, [B] would still have been the best answer. The board agreed to amend distractor [B] to improve clarity for candidates for future use.</p> <p><i>The Board decided not to intervene.</i></p>

4.2 Post-intervention histogram of MCQs

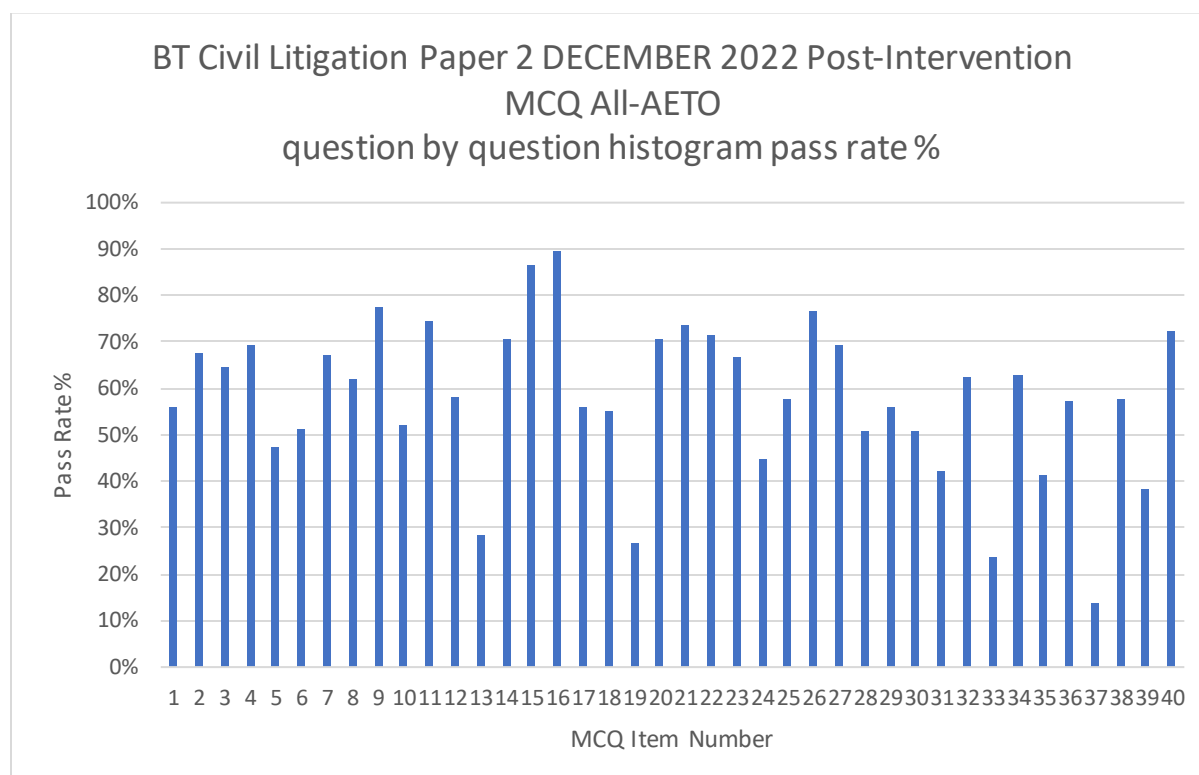
The histograms below show the facility scores (% of Bar Training candidates answering correctly) for each of the questions in the December 2022 Civil Litigation examination (following any agreed interventions detailed at 4.1.5).

4.2.1 Paper 1



For Civil Litigation Paper 1 the post-intervention data shows 10 MCQs with an all-AETO cohort pass rate below 40% (compared to 8 for the August 2022 sit). Assuming candidates attempted the questions in the order presented there is clear evidence of candidate fatigue being a factor. The average passing rate across the first 25 MCQs was 59%, compared with 48% 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 5 MCQs with an all-AETO cohort pass rate below 40% (compared to 13 for the April 2022 sit). Across the 90 questions as a whole there were, therefore 15 questions with a passing rate of 40% or below, compared to 21 in the August 2022 sitting. Assuming candidates attempted the questions in the order presented there is evidence of candidate fatigue being a factor. The average passing rate across the first 20 MCQs was 62%, compared with 55% across MCQs 21 to 40. The average passing rate for the five stand-alone questions was 61%, whilst the average passing rate for the items making up the fifth rolling case scenario (ie questions 84 to 90) dropped to 49%.

4.3 Standard setting and reliability of the assessment

4.3.1 The Exam Board noted that the examination paper had been standard set in the usual way, with the appropriate number of standard-setters present. The examination paper was presented to standard setters in the same random order as it would have been presented to candidates who sat the assessment in the traditional way. Data was made available on the performance of some previously used questions showing how the borderline candidates had actually performed and, after full discussion of the relevant questions flagged for discussion, that data was introduced as an additional point of reference. The pass standard produced by the standard setting process was 48.1 out of 90, rounded by exam board convention to 49/90. The Subject Board took account, however, of the overall increase in word count across the two papers (25,146 for December 2022, compared with a combined word count of 23,274 for the August 2022), an increase of approximately 8 minutes reading time for

candidates when compared to the last set of papers. In light of the cumulative increase of word count, the Subject Board recommended that the passing standard be rounded down to 48/90, a decision supported by both the Psychometrician and Independent Observer. The pass standard was, consequently, confirmed as a 48/90 by the Final board as being a reasonable and proportionate intervention to ensure fairness to candidates whilst maintaining appropriately high standards.

4.3.2 Data supplied to the final Exam Board by the psychometrician indicated that with a KR-20 Estimate of Reliability of 0.91, the assessment had exceeded the benchmark score for reliability of 0.80. The Exam Board noted that all other data suggested an assessment operating as expected.

	Apr-21	Aug-21	Dec-21	Apr-22	Aug-22	Dec-22
No. of Candidates	989	738	823	1517	790	929
No. of Scored Items	89	89	90	89	90	90
Pass Standard	52 (58.4%)	50 (56.2%)	50 (55.6%)	49 (55.1%)	52 (57.8%)	48 (53.3%)
No. Passing	549 (55.5%)	305 (41.3%)	441 (53.6%)	904 (59.6%)	365 (46.2%)	524 (56.4%)
Mean Score	53.71 (60.35%)	48.17 (54.13%)	50.60 (56.23%)	52.45 (58.93%)	50.16 (55.74%)	50.50 (56.11%)
Standard Deviation	13.45 (15.12%)	12.13 (13.63%)	12.22 (13.57%)	13.59 (15.27%)	10.94 (12.16%)	13.43 (14.92%)
Range of Scores	15 to 83	11 to 83	21 to 83	5 to 87	16 to 85	18 to 86
Reliability (KR-20)	0.90	0.88	0.89	0.90	0.85	0.91
Reliability for Equivalent 90-item Test	0.90	0.88	0.89	0.90	0.85	0.91
Standard Error of Measurement	4.17 (4.68%)	4.28 (4.75%)	4.12 (4.58%)	4.23 (4.75%)	4.29 (4.77%)	4.20 (4.67%)

4.4 Chief Examiner's Report

The Chief Examiner for Civil Litigation reported that the feedback from AETOs on the Civil Litigation papers was positive and encouraging with the majority broadly commenting that the papers were fair, well-balanced, sensible and interesting. The Chief Examiner for Civil Litigation noted that there were no requests for intervention based on perceived legal flaws in the questions set was pleased that the examining team had achieved such a high level of practical and procedural accuracy.

4.5 Independent Observer confirmation

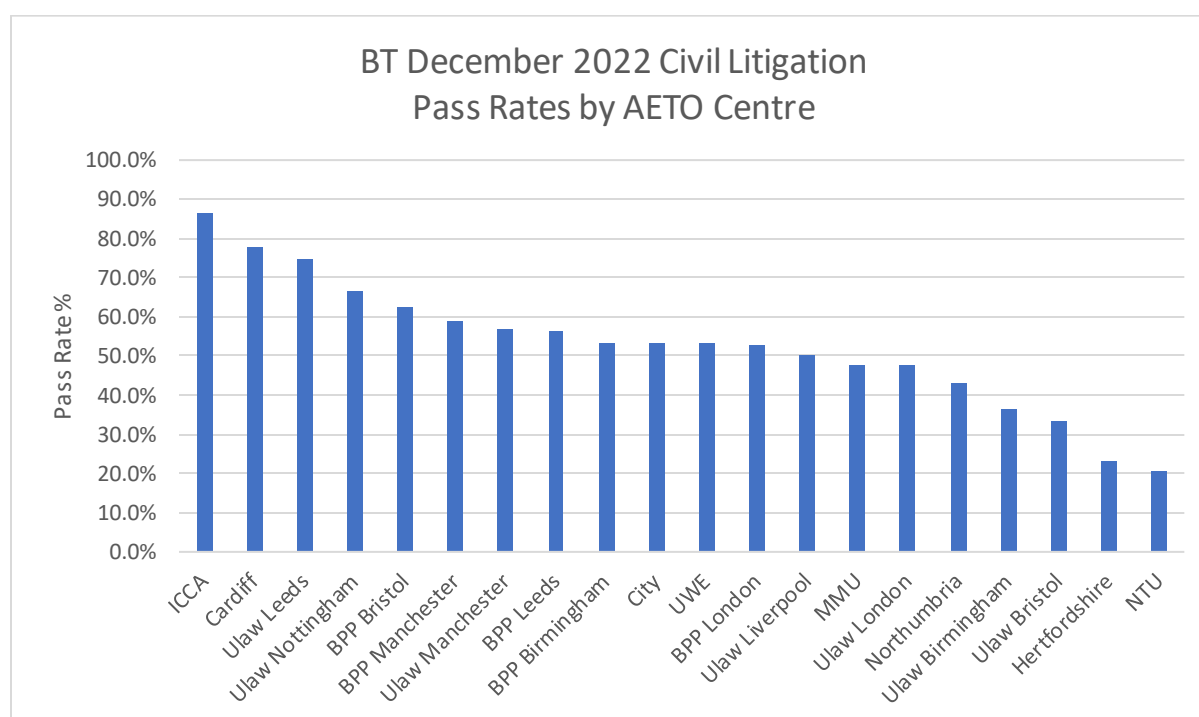
The Independent Observer endorsed the proceedings in respect to Civil Litigation.

4.6 Civil Litigation post-intervention pass rate December 2022

All-AETO Post-Intervention	Civil Litigation April 2021	Civil Litigation August 2021	Civil Litigation December 2021	Civil Litigation April 2022	Civil Litigation August 2022	Civil Litigation December 2022
Number of Candidates	989	738	823	1517	790	929
Passing Rate	55.5%	41.3%	53.6%	59.6%	46.2%	56.4%

The table above shows the all-AETO December 2022 post-intervention Bar Training cohort pass rate of 56.4% for Civil Litigation, based on a passing standard recommended to the Final Board (as a result of the standard setting process) of 48/90. The final passing rate is the second highest across the last six cycles, For the December 2022 sitting there was a slight preponderance of first sit candidates (ie first ever attempt at the examination, or previous attempts discounted on the basis of accepted extenuating circumstances), at 489/921, or 53%, versus 47% of candidates classified as resitters (ie candidates who had previously failed the examination without mitigating circumstances having been submitted or accepted). The passing rate for first sit candidates was 66.7% versus a passing rate for resitting candidates of 44.1%.

4.7 December 2022 Civil Litigation pass rates by AETO



4.7.1 The 20 AETO centre cohorts are ranged left to right in descending order of their December 2022 pass rates in the Civil Litigation assessment. Hence the ICCA had the highest December 2022 pass-rate at 86.5% and NTU the lowest at 20.8%, a range of over 69%, suggesting that the assessment operated effectively in identifying stronger and weaker cohorts. The data

needs to be read in the context of cohort sizes (five AETO centres having cohorts in single figures), and other factors outlined at 1.5.3 (above). First sit cohorts tend to be stronger than resit cohorts, and with this in mind it should be noted that, for the December 2022 Civil Litigation examination, Northumbria University, and ULaw centres in Bristol, Liverpool, Manchester or Nottingham, had no first sit candidates. ULaw Leeds had only 1, as did NTU and BPP Bristol. ULaw Birmingham had only 3 first sit candidates. Hertfordshire had 100% first sit candidates as it was entering candidates for the first time at the December 2022 sitting.

4.7.2 Distribution of first sit candidates across the AETO centres for Civil Litigation December 2022 sitting

AETOs Ranked by % of cohort first sitting CIVIL LITIGATION			
AETO	Cohort Size	No. First Sitting	%First Sit
Hertfordshire	13	13	100.0%
ICCA	89	87	97.8%
Cardiff	72	67	93.1%
MMU	23	20	87.0%
BPP Leeds	16	11	68.8%
BPP Manchester	73	50	68.5%
BPP Birmingham	56	32	57.1%
BPP London	260	144	55.4%
UWE	45	16	35.6%
ULaw London	101	29	28.7%
City	75	16	21.3%
BPP Bristol	8	1	12.5%
ULaw Birmingham	30	3	10.0%
ULaw Leeds	12	1	8.3%
NTU	24	1	4.2%
Northumbria	14	0	0.0%
ULaw Bristol	3	0	0.0%
ULaw Liverpool	2	0	0.0%
ULaw Manchester	7	0	0.0%
ULaw Nottingham	6	0	0.0%
OVERALL	929	491	52.9%

As noted previously, Hertfordshire had a 100% first sit cohort as December 2022 was the AETOs first entry for the centralised assessments. Twelve out of 20 of the AETO centres listed had a preponderance of resit candidates.

4.7.3 Comparison of first sit and resit candidate passing rates at each AETO for Civil Litigation December 2022 sitting

First Sit Pass Rates and Resit Pass Rates CIVIL LITIGATION		
AETO	First Sit % Pass	Resit % Pass
BPP Birmingham	62.5%	41.7%
BPP Bristol	100.0%	57.1%
BPP Leeds	72.7%	20.0%
BPP London	59.0%	44.8%
BPP Manchester	66.0%	43.5%
Cardiff	82.1%	20.0%
City	75.0%	47.5%
Hertfordshire	23.1%	N/A
ICCA	88.5%	50.0%
MMU	50.0%	33.3%
Northumbria	N/A	42.9%
NTU	0.0%	21.7%
ULaw Birmingham	33.3%	37.0%
ULaw Bristol	N/A	33.3%
ULaw Leeds	100.0%	72.7%
ULaw Liverpool	N/A	50.0%
ULaw London	62.1%	41.7%
ULaw Manchester	N/A	57.1%
ULaw Nottingham	N/A	66.7%
UWE	50.0%	55.2%
OVERALL	67.6%	44.1%

Of the 14 AETO centres with both first sit and resit candidates attempting the December 2022 Civil Litigation assessment, only three 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 2022 sitting**

AETOs ranked by First Sit Pass Rate CIVIL LITIGATION	
AETO	First Sit % Pass
BPP Bristol	100.0%
ULaw Leeds	100.0%
ICCA	88.5%
Cardiff	82.1%
City	75.0%
BPP Leeds	72.7%
BPP Manchester	66.0%
BPP Birmingham	62.5%
ULaw London	62.1%
BPP London	59.0%
MMU	50.0%
UWE	50.0%
ULaw Birmingham	33.3%
Hertfordshire	23.1%
NTU	0.0%
Northumbria	N/A
ULaw Bristol	N/A
ULaw Liverpool	N/A
ULaw Manchester	N/A
ULaw Nottingham	N/A

five AETO centres failed to pass more than 50% of their first sit candidates in the December 2022 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 21 % Pass	Aug 21 % Pass	Dec 21 % Pass	Apr 22 % Pass	Aug 22 % Pass	Dec 22 % Pass	Average over 6 sits
ICCA	97.1	100.0	89.3	81.8	92.9	86.5	91.3
Ulaw Bristol	76.9	75.0	100.0	61.1	40.0	33.3	64.4
Ulaw Leeds	86.4	52.9	42.9	69.8	56.0	75.0	63.8
Cardiff	48.7	53.3	73.3	71.4	28.6	77.8	58.9
Ulaw Liverpool				62.5	60.0	50.0	57.5
City	74.0	54.5	40.7	74.1	45.6	53.3	57.0
Ulaw Manchester	73.7	55.6	42.9	63.0	50.0	57.1	57.0
BPP Bristol	37.5	42.9	68.4	28.6	55.6	62.5	49.2
Ulaw London	56.2	39.6	43.1	65.7	40.1	47.5	48.7
BPP Manchester	50.0	28.6	56.2	51.0	45.9	58.9	48.4
BPP London	41.9	34.7	51.9	48.2	60.1	52.7	48.2
BPP Leeds	40.6	15.0	77.1	43.8	40.0	56.3	45.5
Ulaw Birmingham	82.4	43.9	22.2	50.0	29.4	36.7	44.1
UWE	46.1	41.2	31.7	52.3	38.1	53.3	43.8
Northumbria	43.8	44.4	26.7	51.6	44.4	42.9	42.3
Ulaw Nottingham	57.1	0.0	50.0	43.8	28.6	66.7	41.0
BPP Birmingham	32.3	25.0	32.5	36.2	50.0	53.6	38.2
MMU	22.2	27.3	70.8	28.6	25.0	47.8	37.0
NTU	32.0	35.1	43.5	41.5	20.6	20.8	32.3
Hertfordshire						23.1	23.1

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. 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 (91.3%), and Hertfordshire the lowest at 23.1% (albeit with a small first cohort). The ICCA cohort has achieved the highest passing rate in 5 of the 6 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 2022 (7 sits)			
AETO	Total Number of Attempts	Total Number of Passes	% Pass
ICCA	259	233	90.0%
Ulaw Leeds	126	84	66.7%
City	1010	649	64.3%
Ulaw Bristol	44	28	63.6%
Ulaw Liverpool	23	14	60.9%
Cardiff	286	172	60.1%
Ulaw Manchester	125	75	60.0%
BPP Manchester	395	214	54.2%
Ulaw London	714	365	51.1%
BPP Bristol	92	46	50.0%
BPP London	1449	723	49.9%
BPP Leeds	151	74	49.0%
Ulaw Nottingham	39	18	46.2%
Ulaw Birmingham	256	117	45.7%
UWE	394	179	45.4%
Northumbria	229	103	45.0%
MMU	105	42	40.0%
BPP Birmingham	262	103	39.3%
NTU	221	73	33.0%
Hertfordshire	13	3	23.1%
TOTAL	6193	3315	53.5%

As can be seen from the above table 3,315 candidates have passed Bar Training Civil Litigation since the first sitting in December 2020, based on 6,193 attempts – thus the aggregate passing rate to date is 53.5%. There are 12 AETOs failing to achieve this average thus far, with a 67% range in cumulative passing rates between the strongest and weakest cohorts.

5. FURTHER COMPARATIVE ANALYSIS

5.1 Comparing performance in Criminal and Civil Litigation examinations

The post-intervention passing rates for the December 2022 sits in Criminal Litigation and Civil Litigation were fairly close to each other, at 49.8% and 56.8%, respectively (bearing in mind that a preponderance of Criminal Litigation candidates were attempting the assessment as resit candidates). There were 311 Bar Training candidates who attempted both litigation assessments at the December 2022 sitting and the cross-tabulated outcomes, are as follows:

	Pass Crime	Fail Crime
Pass Civil	89	32
Fail Civil	36	155

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. The data for December 2022 suggest that the challenge offered by each of the examinations was comparable.

If candidates are further subdivided into those attempting both examinations as first sitters (76 in total) and those attempting both as resitters (186 in total), the outcomes are as follows:

First Sitting Candidates	Pass Crime	Fail Crime
Pass Civil	38	4
Fail Civil	4	30

Resitting Candidates	Pass Crime	Fail Crime
Pass Civil	36	19
Fail Civil	28	103

The total of these two groups (262 candidates) is lower than the overall figure of 311 candidates attempting both examinations as some candidates will have been attempting one examination as first sit candidates and the other as resit candidates. Again, this more granular data broadly supports the conclusion that the two Litigation assessments presented a similar level of challenge to candidates.

5.2 Centralised assessment post-intervention pass rates compared December 2020 to December 2022

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-22		Aug-22	
	Criminal Litigation	Civil Litigation	<i>Criminal Litigation</i>	<i>Civil Litigation</i>	<i>Criminal Litigation</i>	<i>Civil Litigation</i>
No of Candidates	594	929				
Passing Rate	49.8%	56.4%				
Pass Standard	44/75	48/90				
Reliability Score	0.89	0.91				

Criminal Litigation candidate numbers for December 2022 were lower than for the August 2022 sitting. The difference was largely due to the course structures at larger AETOs, resulting in there being significantly more candidates entered for Civil Litigation, compared to Criminal in December 2022. Overall passing rates across the seven cycles come out at 52.9% for Criminal Litigation, and (an almost identical) 52.6% for Civil Litigation. The passing rates for the December 2022 sitting are comfortably within the range of previous outcomes since December 2020.

5.3 December 2022 post-intervention pass rates for both Criminal Litigation and Civil Litigation by AETO

AETO	Civil Litigation	Criminal Litigation	AVERAGE
ICCA	86.5%	89.1%	87.8%
Ulaw Leeds	75.0%	75.0%	75.0%
Cardiff	77.8%	60.0%	68.9%
BPP Bristol	62.5%	N/A	62.5%
BPP Leeds	56.3%	60.0%	58.1%
BPP Birmingham	53.6%	52.8%	53.2%
MMU	47.8%	58.3%	53.1%
BPP Manchester	58.9%	45.7%	52.3%
Northumbria	42.9%	57.1%	50.0%
City	53.3%	44.3%	48.8%
BPP London	52.7%	41.7%	47.2%
Ulaw London	47.5%	40.8%	44.2%
UWE	53.3%	25.7%	39.5%
Ulaw Birmingham	36.7%	38.9%	37.8%
Ulaw Nottingham	66.7%	0.0%	33.3%
NTU	20.8%	37.5%	29.2%
Ulaw Manchester	57.1%	0.0%	28.6%
Ulaw Liverpool	50.0%	0.0%	25.0%
Hertfordshire	23.1%	20.0%	21.5%
Ulaw Bristol	33.3%	0.0%	16.7%

5.3.1 AETO cohorts listed in descending order of the average of their passing rates across the two December 2022 litigation examinations (BPP Bristol only has a passing rate for Civil Litigation as it did not enter candidates in Criminal Litigation). The ICCA therefore had the highest average passing rate (87.8%) and ULaw Bristol the lowest (16.7%). Overall, 11 AETO centres failed to achieve an average passing rate of 50%. These figures need to be viewed with caution, however, as they are distorted, to some extent, by low cohort numbers and the impact of 0% passing rates where small numbers of resit candidates are entered.

5.3.2 An alternative way of looking at the extent to which AETO centres were successful in supporting their candidates in the December 2022 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 22 Criminal Candidates	Dec 22 Civil Candidates	Total Dec 22 Instances of Assessment	Total Passing Criminal Dec 22	Total Passing Civil Dec 22	Total Dec 22 Candidates Passing an Exam	Overall % of Candidates Passing an Exam in Dec 22
ICCA	92	89	181	82	77	159	87.8%
Cardiff	20	72	92	12	54	66	71.7%
ULaw Leeds	8	12	20	6	7	13	65.0%
BPP Bristol	N/A	8	8	N/A	5	5	62.5%
BPP Leeds	5	16	21	3	9	12	57.1%
BPP Birmingham	36	56	92	19	29	48	52.2%
MMU	24	23	47	14	10	24	51.1%
BPP Manchester	35	73	108	16	39	55	50.9%
Northumbria	14	14	28	8	5	13	46.4%
City	61	75	136	27	34	61	44.9%
BPP London	120	260	380	50	119	169	44.5%
ULaw London	76	101	177	31	41	72	40.7%
ULaw Manchester	3	7	10	0	4	4	40.0%
UWE	36	45	81	9	22	31	38.3%
ULaw Birmingham	18	30	48	7	10	17	35.4%
ULaw Nottingham	3	6	9	0	3	3	33.3%
NTU	24	24	48	9	3	12	25.0%
ULaw Liverpool	2	2	4	0	1	1	25.0%
ULaw Bristol	2	3	5	0	1	1	20.0%
Hertfordshire	15	13	28	3	2	5	17.9%
TOTAL	594	929	1523	296	475	771	50.6%

As the table above shows, the ICCA was the most successful AETO in terms of the percentage of candidates entered for a December 2022 examination achieving a pass, with a figure of 87.8%. At the other extreme Hertfordshire only managed to get just under 18% of its candidates through. It is perhaps notable that only 8/20 AETO centres had a success rate above 50% calculated on this basis, 4 of the 8 being BPP centres. As noted elsewhere in this report, the outcomes for some of the less successful AETO centres listed above should be considered in the context of cohort sizes and the percentage of the cohort comprising resit candidates in the December 2022 sitting.

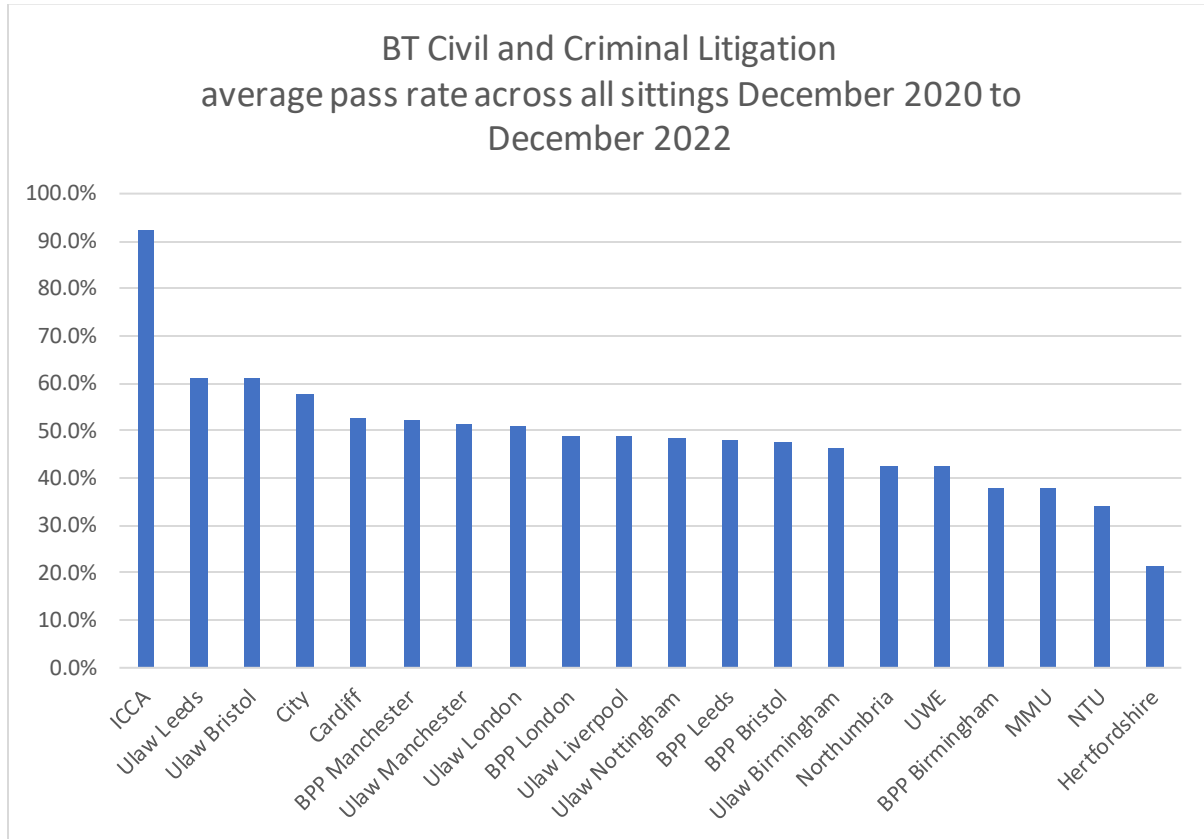
5.3.3 Looking across the last seven cycles of Bar Training centralised litigation assessments there is no compelling evidence to suggest AETO cohorts have found the Civil Litigation assessment more challenging than those in Criminal Litigation, although the outcomes for specific sittings are quite marked. The table below shows, for each AETO centre at each of the last seven sittings, the variance in passing rates between the two Litigation subjects. 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 ULaw Liverpool (positive variance in Civil of 17.3%), but there are comparatively small cohort numbers involved, hence greater volatility in passing rates.

	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22	Aug-22	Dec-22	Average
BPP Birmingham	-3.6%	12.3%	7.8%	-14.0%	-13.8%	9.1%	0.8%	-0.2%
BPP Bristol	-2.6%	6.3%	12.1%	-0.8%	-11.4%	-1.6%		0.3%
BPP Leeds	-26.9%	20.6%	-26.7%	8.6%	-1.3%	-2.9%	-3.8%	-4.6%
BPP London	-3.7%	12.7%	-10.2%	-6.6%	7.6%	-1.2%	11.0%	1.4%
BPP Manchester	-2.6%	16.1%	-16.1%	0.1%	-2.3%	-12.9%	13.2%	-0.6%
Cardiff	-2.0%	13.6%	0.7%	20.7%	-2.9%	-19.0%	17.8%	4.1%
City	12.3%	13.7%	7.1%	-8.7%	3.0%	-5.5%	9.1%	4.4%
Hertfordshire							3.1%	3.1%
ICCA	0.0%	6.7%	14.3%	-5.4%	-5.3%	-7.1%	-2.6%	0.1%
MMU	-13.3%	0.8%	9.1%	15.8%	-26.0%	-17.9%	-10.5%	-6.0%
Northumbria		3.8%	8.4%	3.6%	-12.5%	6.9%	-14.3%	-0.7%
NTU		-9.2%	4.6%	8.7%	-9.4%	1.8%	-16.7%	-3.4%
ULaw Birmingham		12.8%	9.2%	-17.8%	-20.5%	-6.3%	-2.2%	-4.1%
ULaw Bristol		-3.1%	-25.0%		-5.6%	0.0%	33.3%	-0.1%
ULaw Leeds		17.9%	7.9%	17.9%	-9.0%	-4.0%	0.0%	5.1%
ULaw Liverpool					-8.1%	10.0%	50.0%	17.3%
ULaw London		0.1%	-5.3%	-7.6%	-8.2%	-13.3%	6.7%	-4.6%
ULaw Manchester		21.5%	-2.3%	0.0%	-15.7%	5.6%	57.1%	11.0%
ULaw Nottingham		-22.9%	-100.0%	0.0%	-27.7%	-4.8%	66.7%	-14.8%
UWE		13.0%	5.5%	-7.3%	-5.1%	-19.5%	28.3%	2.5%
Average	-4.7%	7.6%	-5.5%	0.4%	-9.2%	-4.3%	13.0%	

In the April 2022 sitting all but two AETO cohorts performed more strongly in Criminal Litigation compared to Civil. In April 2021 the situation was almost the reverse. The December 2022 sitting shows a stronger performance in Civil Litigation, but as explained at 4.7.2, this may be due to the larger proportion of fist sit candidates attempting Civil Litigation at this sitting compared to Criminal 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 seven 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 92.5%, and Hertfordshire (entering candidates for the first time in the December 2022 sitting) with the lowest at 21.5%. 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 Leeds being over 31%. 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 1.5.3 when considering these results.

5.5 Overall passing rates across both subjects December 2020 to December 2022

5.5.1 Cumulative passing rate to date disaggregated by AETO centre

BT Civil and Criminal Litigation December 2020 to December 2022			
AETO	Total No. of Attempts	Total No. of Passes	% Pass
ICCA	521	474	91.0%
Ulaw Leeds	272	179	65.8%
Ulaw Bristol	86	56	65.1%
City	2135	1323	62.0%
Ulaw Manchester	247	153	61.9%
Ulaw Liverpool	44	27	61.4%
Cardiff	526	297	56.5%
Ulaw London	1460	792	54.2%
BPP Manchester	776	414	53.4%
Ulaw Nottingham	67	35	52.2%
BPP Leeds	287	143	49.8%
BPP Bristol	179	89	49.7%
Ulaw Birmingham	533	263	49.3%
BPP London	2812	1380	49.1%
Northumbria	409	189	46.2%
UWE	830	367	44.2%
MMU	212	88	41.5%
BPP Birmingham	514	205	39.9%
NTU	442	156	35.3%
Hertfordshire	28	6	21.4%
TOTAL	12380	6636	53.6%

This table aggregates all the attempts by candidates at both the Criminal Litigation and Civil Litigation examinations across all seven sittings from December 2020 to December 2022. In total there have been 12,380 Bar Training candidate entries, of which 6636 have been successful (53.6%). As can be seen, 12 AETO centres fall below this overall passing rate, with ten 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 – 7 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 December 2022			
AETO	Total No. of Attempts	Total No. of Passes	% Pass
ICCA	521	474	91.0%
City	2135	1323	62.0%
Cardiff	526	297	56.5%
ULaw Group	2709	1505	55.6%
BPP Group	4568	2231	48.8%
Northumbria	409	189	46.2%
UWE	830	367	44.2%
MMU	212	88	41.5%
NTU	442	156	35.3%
Hertfordshire	28	6	21.4%

Presenting the data this way shows that ICCA remains as the most successful AETO in terms of the percentage of candidates entering for a centralised assessment securing a pass, almost 30% ahead of the second placed AETO, City. Of the two largest AETOs, ULaw is comfortably ahead of BPP, although ULaw has not entered cohorts for all sittings. Only four AETO groups have managed to exceed the 50% success level for centralised litigation assessments.

6. BAR TRANSFER TEST RESULTS DECEMBER 2022

The results for Bar Transfer test ('BTT') candidates attempting the December 2022 BTT assessments were considered by the litigation Subject Exam Boards and the Final Board. For the December 2022 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.

6.1 BTT Passing rates April 2021 to December 2022

Bar Transfer Test Post-Intervention	Apr-21		Aug-21		Dec-21	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	88	85	94	78	85	69
Passing Rate	29.5%	52.9%	45.7%	46.2%	46.0%	44.9%
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%

As the above table shows, results in the two litigation subjects for the BTT cohort in December 2022 showed a marked divergence with previous sittings. The 29.3% passing rate in Criminal Litigation was the lowest across the last six cycles, and the 61.5% passing rate in Civil Litigation the highest. Somewhat counter-intuitively, over the last six sittings the BTT cohort performance in Civil Litigation has been stronger than in Criminal Litigation – the average passing rate being 7% higher. It is notable that the December 2022 BTT cohort performance in Civil Litigation (at 61.5%) was stronger than that of the combined Bar Training cohort (at 56.8%), but not as strong at the first sit only Bar Training cohort (at 68%).

7. BPTC RESULTS DECEMBER 2022

7.1 Unification of assessment regimes

- 7.1.1 There are no longer any discrete BPTC assessments, the final opportunity to take an 'old style' BPTC 75 MCQ Civil Litigation paper was in the April 2022 sit: see further <https://www.barstandardsBoard.org.uk/training-qualification/becoming-a-barrister/transitional-arrangements.html>
- 7.1.2 For background on arrangements for BPTC assessments (paper confirmation, standard setting, and grade boundaries) see previous Chair's Reports: <https://www.barstandardsBoard.org.uk/resources/2019-summer-ceb-chair-s-report-pdf.html>
- 7.1.3 For the December 2022 sitting BPTC candidates were, therefore, offered the opportunity to attempt the same Criminal Litigation and Civil Litigation assessments as the Bar Training candidates. See sections 3 and 4 (above) for details of the exam board discussion of interventions etc.

7.2 BPTC Passing rates April 2021 to December 2022

BPTC All-Provider Post-Intervention	Apr-21		Aug-21		Dec-21	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	478	493	354	338	168	N/A
Passing Rate	35.1%	57.4%	47.5%	43.8%	38.7%	N/A
BPTC All-Provider 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%

As the above table shows, the number of BPTC candidates still in the system is declining significantly hence comparison with previous sittings is not particularly illuminating. That said, candidate performance was largely on a par with the previous five sittings, and it is interesting to note that for Civil Litigation 20 of the 31 candidates were still entering for the examination on a first sit basis, compared to only 8/45 for Criminal Litigation.

Professor Mike Molan
Chair of the Central Examination Board
6 February 2023

ADDEDNDUM

Two candidates' Criminal Litigation responses were sent to the BSB late and after the conclusion of the Exam Boards and calculation of the Chair's Report data. These late responses are therefore not included in the statistics above, but will be included in the December 2022 figures presented in future Chair's Reports. One of these candidates sat at ULaw Birmingham and achieved a 'Not Yet Competent' score with regard to Criminal Litigation. The other sat at ULaw Leeds and achieved a 'Competent' score with regard to Criminal Litigation. Given the volatility in pass rates associated with low candidate numbers, the data and commentary on these two centres' Criminal Litigation results in this report should be considered in light of the omitted data.