BAR STANDARDS BOARD

REGULATING BARRISTERS

THE BAR STANDARDS BOARD
CENTRAL EXAMINATIONS BOARD
CHAIR'S REPORT

Bar Training & BPTC
December 2021 Sitting

EXECUTIVE SUMMARY

The new vocational training component (hereinafter referred to as 'the Bar Training Course', or 'BTC'') is the successor to the Bar Professional Training Course (BPTC). The Bar Training Course saw its first intake of students across at a number 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 fourth iteration of examinations attempted by Bar Training Course candidates in December 2021, the confirmed post-intervention outcomes for which are as follows:

	December 2021	August 2021	April 2021	December 2020
Civil Litigation				
Number of Candidates	818	738	989	407
Passing Rate	53.8%	41.3%	55.5%	55.8%

	December 2021	August 2021	April 2021	December 2020
Criminal Litigation				
Number of candidates	824	825	1104	383
Passing Rate	56%	42.4%	46.2%	59.8%

In comparing results across the four 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 18 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 (i.e. candidates who had previously failed an assessment without extenuating circumstances). See further on this at 1.5, below.

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, Remedies[1] & 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 (i.e., 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

---

[1] NB Remedies was later removed from the syllabus

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 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). Unless otherwise specified, cohort performance data analysed in this report, and any assessment reliability analysis is based on the results achieved by BPTC 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 compromised 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 – typically between 5 and 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 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]

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

---

[2] BPTC candidates do not attempt the Civil 1 or Civil 2 papers but will continue to attempt a post-2017 BPTC format Civil Litigation assessment until BPTC examinations are phased out. The final BPTC Civil Litigation assessment will take place in spring 2022.

[3] From 2022, a more comprehensive assessment of Professional Ethics than that required by the vocational component of Bar Training will be undertaken during pupillage by those called to the Bar following successful completion of the Bar Training course. This work-based learning assessment of Professional Ethics will be administered on behalf of the BSB by the CEB.

AETO). Hence a candidate commencing a course in April, may attempt the centralised assessments for the first time in the Summer sit. Additionally, an AETO offering a 'Part 1-Part 2' structured programme may offer preparation for 'Part 1' on-line only. Current details of the range of provision across AETOs can be found here:

https://www.barstandardsboard.org.uk/uploads/assets/908eecec-f9d3-4f60-a2ca5eb1b05f04f0/2021-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.
- 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	December 2020 sit	April 2021 sit	August 2021 sit	December 2021 Sit	Total to date
BBP Birmingham	28	31	28	40	127
BBP Bristol	19	16	14	19	68
BPP Leeds	27	32	20	35	114
BPP London	151	179	150	260	740
BPP Manchester	58	54	35	89	236
Cardiff	51	39	15	60	165
City	22	208	132	58	420
ICCA	28	34	5	56	123
MMU	23	9	11	24	67
Northumbria	N/A	64	36	14	114
NTU	N/A	50	37	23	110
Ulaw Birmingham	N/A	34	41	17	92
Ulaw Bristol	N/A	13	4	1	18
Ulaw Leeds	N/A	22	17	7	46
Ulaw London	N/A	89	106	65	260
Ulaw Manchester	N/A	19	18	7	44
Ulaw Nottingham	N/A	7	1	2	10
UWE	N/A	89	68	41	198
Total	407	989	738	818	2952

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 accounted for over 31% of the Civil Litigation candidate entries for the December 2021 sit, and over 25% of the total number of candidate entries across the four sittings offered thus far. As noted above, 4 AETOs have cohort numbers in single figures for the December 2021 sit, a factor that can impact significantly on the comparison of cohort data.

1.5.5 Candidate numbers by AETO centre Criminal Litigation

AETO	December 2020 sit	April 2021 sit	August 2021 sit	December 2021 Sit	Total to date
BBP Birmingham	28	30	29	43	130
BBP Bristol	20	16	13	26	75
BPP Leeds	20	25	24	35	104
BPP London	137	202	174	270	783
BPP Manchester	52	62	47	91	252
Cardiff	54	37	19	19	129
City	20	247	154	77	498
ICCA	32	31	7	56	126
MMU	20	14	11	20	65
Northumbria	N/A	40	25	13	78
NTU	N/A	51	36	23	110
Ulaw Birmingham	N/A	46	49	20	115
Ulaw Bristol	N/A	15	2	N/A	17
Ulaw Leeds	N/A	38	20	8	66
Ulaw London	N/A	107	127	73	307
Ulaw Manchester	N/A	23	19	7	49
Ulaw Nottingham	N/A	5	1	2	8
UWE	N/A	115	68	41	224
Total	**383**	**1104**	**825**	**824**	**3136**

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 2021 sit, and 25% of the total number of candidate entries across the four sittings of Criminal Litigation offered thus far. Also as noted above, 3 AETOs had cohort numbers in single figures for the December 2021 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 Examiners for each subject), 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/dde209b7-529d-4354-bbbfd992577685f9/20201117-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 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 (for example, public transport strikes, bomb alerts, fire alarms, building noise) 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 August 2021 Bar Training exam dates were as follows:

> Criminal Litigation: Thursday 02 December 14:00
> Civil Litigation (Paper 1): Tuesday 07 December 14:00
> Civil Litigation (Paper 2): Thursday 09 December 14:00

2.4 Marking

2.4.1 Over 80% of Bar Training candidates for the August 2021 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 formulas 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.
- 'Manhattan diagrams' (pentile histograms) which rank candidates into 20% bands based on their performance in respect of each question in each exam. For each exam question, the first bar of the Manhattan diagram shows the top 20% of candidates and the proportion who answered the question correctly. A decrease in correct answers going down through the bands indicates a good discrimination between strong and weak candidates.
- statistical analysis by the psychometrician.
- the Chief Examiner's commentary on the assessment process.
- 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/336cf93a-9ff4-4571-965a91e757d5ab4d/b151a369-e120-436f-9d7340798fda3092/centralisedassessments-policygoverningstudentreview.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 2021 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 are 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 2021 Criminal Litigation assessment comments were received in relation to 27/75 questions. Hence 36% of questions generated some level of AETO feedback. Typically, responses from AETO's raised issues such as the possibility of there being more than one 'best' answer; syllabus coverage; 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, 15 questions had only 1 item of feedback, and there were 7 questions where 2 AETOs responded. Only one question, question 36, generated 4 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.

3.1.5 The exam board considered the results for both the Bar Training Cohort and the BPTC cohort (results set out at section 7, below) when reviewing the case for intervention in respect of the examination papers as both cohorts attempted the same paper.

3.1.6 Summary of exam board deliberations

| Item	Number of AETOs responding	Exam board decision and rationale
Q2	1	This was an MCQ requiring candidates to identify a single correct answer. 77% of candidates selected the correct answer and discrimination exceeded the acceptable threshold. AETO feedback suggested that the correct answer was not consistent with 'ordinary practice' as described in the BCP because the prosecution might not tell defence counsel in advance that they would be raising relevant evidence in their opening speech and that, as a result, options [B] and [D] should also be credited. The Chief Examiner noted that the fact pattern stated that the prosecution had given defence counsel a copy of their opening speech raising the relevant evidence in advance. The feedback was noted but the conclusion was that the question and answers were sound. *The Board decided there was no reason for intervention*
Q5	1	This was an MCQ requiring candidates to identify a single correct answer. 90% (BT) 94% (BPTC) of candidates selected the correct answer. Discrimination was low due to the high passing rate. AETO feedback that the legal test for what amounts to a defence of insanity was not on the syllabus. The Board noted that the item did not test the legal test for insanity, but the procedure to be followed when the issue of insanity was raised which was on syllabus. *The Board decided there was no reason for intervention*
Q9	3	This was an MCQ requiring candidates to identify a single correct answer. 68% (BT) 63% (BPTC) of candidates selected the correct answer and discrimination exceeded the acceptable threshold. AETO feedback was to the effect that the fact pattern did not specify that the interview of the juvenile in the fact set up was authorised by a Superintendent, and therefore option [A] should also be credited. The Board noted that, even without explicitly mentioning the authorisation, there was enough detail in the fact pattern to lead candidates to option [B]. It was also noted that the word 'must' in option [A] made it incorrect. However, it was agreed that, if the question was

Item	Number of AETOs responding	Exam board decision and rationale
		to be used again, there was merit to editing the fact pattern to make it more explicit that standard procedure had been followed. *The Board decided there was no reason for intervention*
Q18	2	This question required a 'single best answer' response from candidates. 44% (BT) and 45% (BPTC) of candidates chose the intended best answer [B]. Discrimination was very low. The question sought to test candidates' understanding of the appropriate course of action to take when a witness became distressed in response to sustained cross-examination. AETO feedback suggested that candidates would have found it difficult to distinguish between the options, particularly as the course of action suggested in the correct answer was not specifically contained as an example in Blackstone's Criminal Practice (BCP). The examining team considered this when the question was set, and added an explanation to the best answer (to allow the witness to give her "best evidence") so as to assist candidates when identifying the best option. The statistical analysis of candidate performance indicated poor discrimination and the intended "best" answer [B] had a lower positive correlation than option [C], which indicated that stronger candidates preferred [C] to the intended best answer. For comparison, in relation to BPTC candidates, there was low discrimination on option [B] and a positive correlation on option [C]. After discussion at the Subject Board, the examination team agreed that both options [B] and [C] were potential courses of action. While a practitioner would understand why option [B] was a better solution, (based on the fact that the cross-examination, whilst distressing, was necessary to put the case), it would be more difficult for a Bar Training/BPTC candidate to distinguish the two options and therefore it was agreed that option [C] should also be credited as a correct answer. **Intervention: The Board agreed to crediting option [C] in addition to intended best answer [B].**
Q30	1	This was an MCQ requiring candidates to identify a single correct answer. 57% (BT) and 46% (BPTC) of candidates selected the correct answer and discrimination exceeded the acceptable threshold. AETO feedback was to the effect that candidates should not be expected to remember a particular criminal offence and which elements each party had a duty to prove. The Board

Item	Number of AETOs responding	Exam board decision and rationale
		noted candidates were expected to know the rules relating to the burden and standard of proof, and some common exceptions which are set out in the syllabus. *The Board decided there was no reason for intervention*
Q36	4	This question required a 'single best answer' response from candidates. 45% (BT) and 42% (BPTC) of candidates chose the intended best answer [A]. Discrimination was very poor. The question required candidates to select the best argument to use when excluding confession evidence. AETO feedback in relation to the difficulty of distinguishing between options [A] and [C], which were both strong bases for an application, resonated with the examining team when reviewing the question. The question had poor discrimination, with a stronger positive correlation on option [C] (which 44% of candidates selected as the best answer) than the correct answer [A]. There was a low positive correlation on the intended best answer and a very low positive correlation on option [C] for the BPTC candidates. Bearing in mind the feedback, and the statistics, the examining team recommend crediting candidates selecting option [C] in addition to intended best answer [A]. Although [A] (oppression) was a stronger argument on the facts in the question, it was, on reflection, accepted that option [C] (unreliability) would also succeed in practice. This would make it hard for a candidate to distinguish between the two. A better approach would have been to have both limbs in the one answer and a different distractor. The exam board noted that the question would need to be amended before being used again. **Intervention: The Board agreed to crediting option [C] in addition to intended best answer [A]**
Q54	3	This question required a 'single best answer' response from candidates. 15% (BT) and 10% (BPTC) of candidates chose the intended best answer [D]. Discrimination was weak. The question related to the disorderly conduct of a defendant during trial. This question tested the candidate's ability to identify the best course of action to be taken when a defendant disrupted proceedings while a witness was giving evidence. There were AETO comments suggesting that candidates would find it hard to distinguish between the intended best answer [D] and option [C] based on the reading in BCP. The question had poor discrimination with a positive

Item	Number of AETOs responding	Exam board decision and rationale
		correlation on options [C] & [D] for Bar Training candidates, and a low positive correlation on options [A], [C] and [D] for BPTC candidates. The examining team concluded that option [C] was a possible course of action, albeit not as good as intended best answer [D] in practice. The team acknowledged that this would have been a hard decision for a candidate to make given that the reading in BCP was not absolute on the point. BCP 2021 stated (at D15.86) "*In practice, the judge would warn the accused before taking the extreme step of barring from court*", but this was the second paragraph of the reading and the beginning of this section first stated that the accused should be removed from court and the trial continue in their absence in such circumstances. On reflection the examining team felt that a clearer gap was needed between options [D] and [C]. **Intervention: The Board agreed to crediting option [C] in addition to intended best answer [D].**

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 2021 Criminal Litigation examination (following any agreed interventions explained at 3.1.6).

BT Criminal Litigation December 2021 Post Intervention MCQ all AETO question by question pass rate %
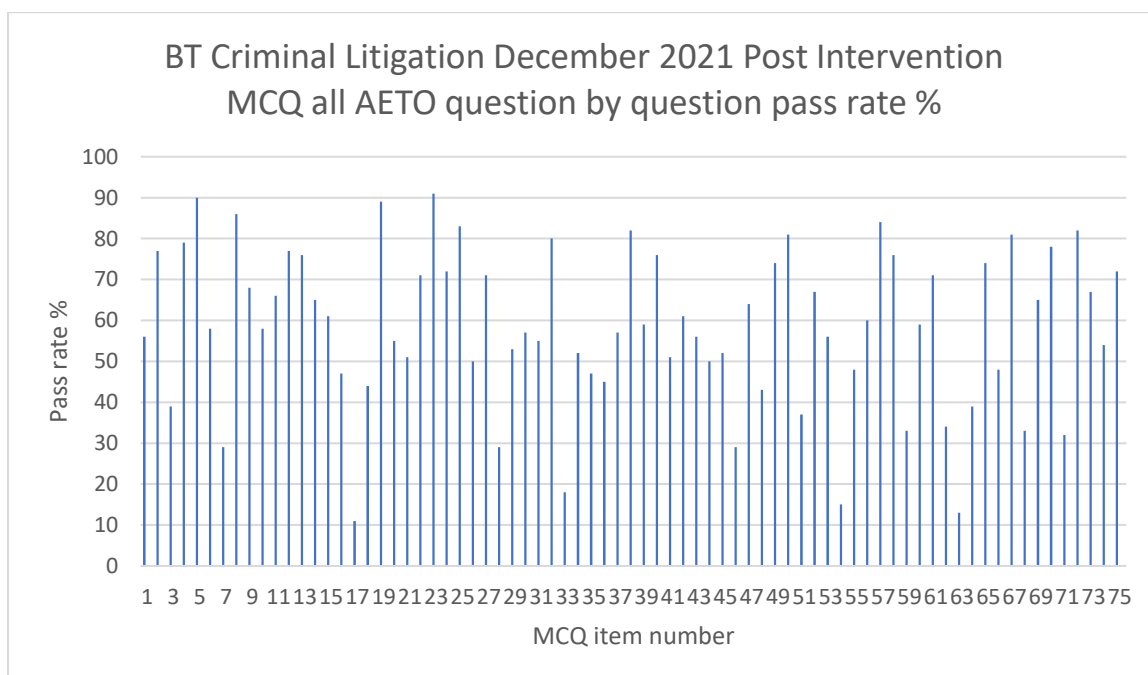
The post-intervention data shows 14 MCQs with an all-AETO cohort pass rate below 40% (compared to 12 for the August 2021 sit). There is some evidence to suggest a

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 63.8%, across MCQs 26 to 50 it was 55.2%, and across MCQs 51 to 75 it rose again to 55%. It should be noted, however, that 5 of the first 25 MCQs recorded passing rates in excess of 80%, compared to 3 in each of the other terciles.

3.3 Standard setting and reliability of the assessment

3.3.1 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. The pass standard recommended to the final exam board was 44 out of 75 (rounded) and the final exam board saw no basis for not accepting this recommendation.

3.3.2 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.

|	**Dec 2020**	**April 2021**	**August 2021**	**Dec 2021**
No. of candidates	382	1104	825	824
No. of scored items	75	75	75	75
Pass standard	43 (57.3%)	41 (54.7%)	46 (61.3%)	44 (58.7%)
No. passing	229 (59.9%)	510 (46.2%)	354 (42.9%)	461 (55.9%)
Mean score	45.99 (61.32%)	40.39 (53.86%)	43.60 (58.14%)	44.72 (59.62%)
Standard Deviation	11.28 (15.04%)	9.41 (12.55%)	9.29 (12.38%)	9.77 (13.03%)
Range of scores	17 to 69	5 to 69	7 to 68	13 to 70
Reliability (KR-20)	0.89	0.84	0.82	0.85
Reliability for equivalent 90-item test	0.91	0.86	0.85	0.87
Standard error of measurement	3.73 (4.98%)	3.81 (5.07%)	3.94 (5.25%)	3.80 (5.06%)

3.4 Independent Observer confirmation

The Independent Observer confirmed that the Board's decisions were fair and that he was pleased to see the Board using all the available information to thoroughly examine each question. He commented on the emphasis that was put on the AETO feedback and confirmed that all AETO comments were considered in their entirety ahead of the Board, and appropriately at the final Board meeting.

3.5 Criminal Litigation post-intervention pass rate December 2021

Criminal Litigation	December 2021	August 2021	April 2021	December 2020
Number of candidates	824	825	1104	383
Passing Rate	56%	42.40%	46.20%	59.80%

The table above shows the all-AETO December 2021 post-intervention Bar Training cohort pass rate of 56% 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 on a par with the previous December 2020 sit although there were 441 more candidates attempting in December 2021 compared to December 2020. As mentioned elsewhere, the December 2020 cohort would, of necessity, have been comprised of first sit candidates (that being the first iteration of the Bar Training assessment). The raw data available for the December 2021 sitting does not distinguish between first sit candidates and those referred or deferred from earlier sittings.
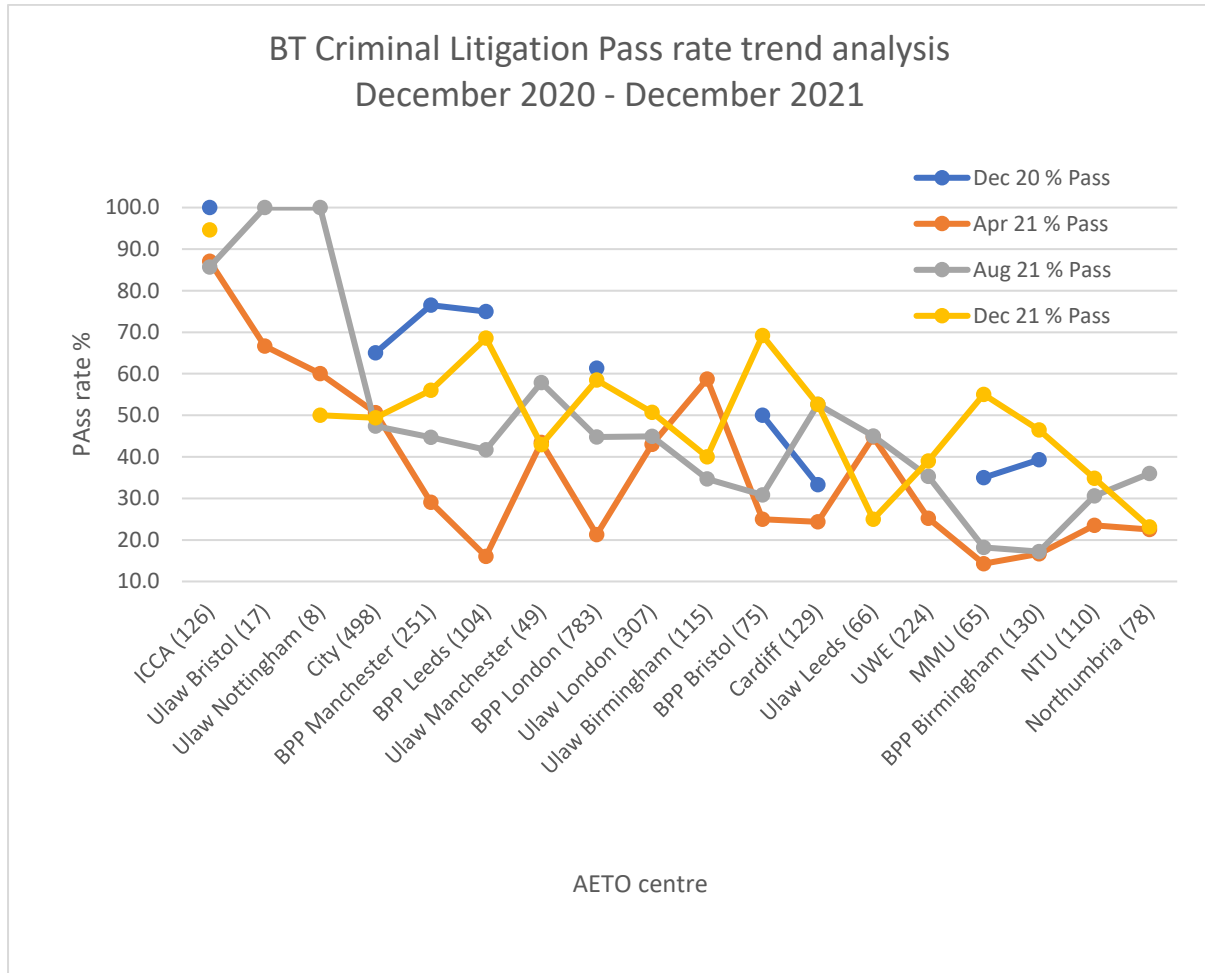
3.6 December 2021 Criminal Litigation pass rates by AETO
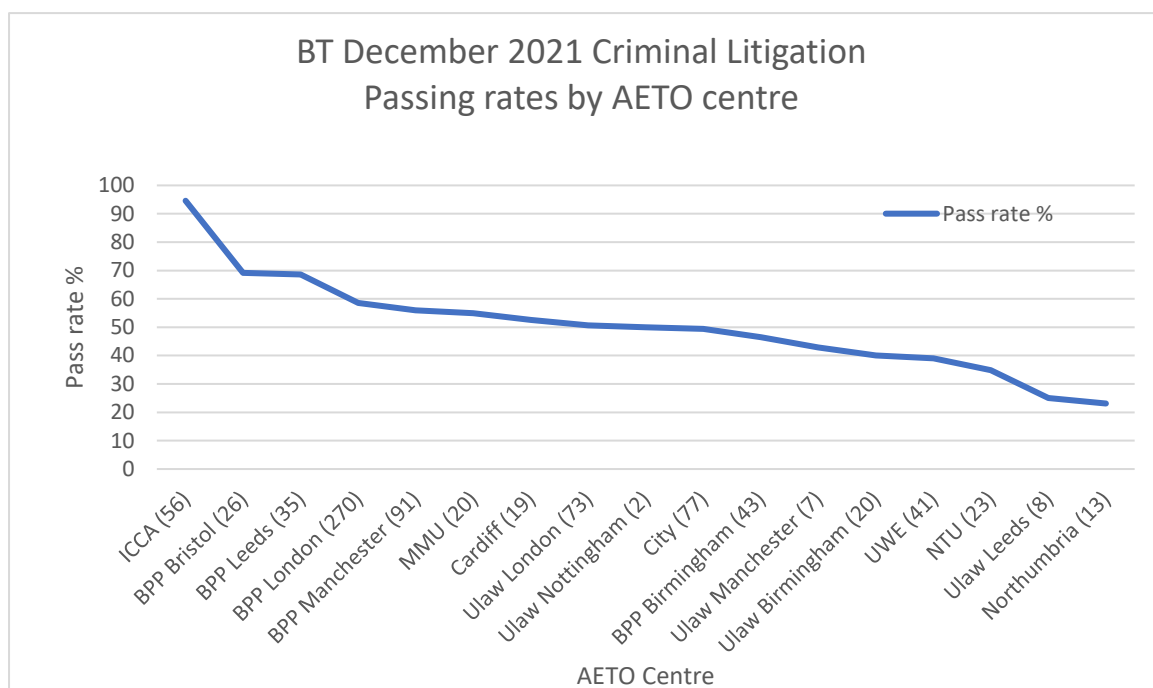
BT December 2021 Criminal Litigation
Passing rates by AETO centre

AETO centre cohorts are ranged left to right in order of their December 2021 pass rates in the Criminal Litigation assessment. Hence, ICCA had the highest December 2021 pass rate at 94.6% and Northumbria the lowest at 23.1% — a range of over 72%, suggesting that the assessment operated effectively in identifying stronger and weaker cohorts. The data needs to be read in the context of cohort sizes (ULaw Nottingham had only 2 candidates) and other factors outlined at 1.5.3 (above). Note

that ULaw Bristol did not enter any candidates for the December 2021 Criminal Litigation assessment.

3.7   Trend data – how AETO cohorts performed over the 4 sits to date

3.7.1 AETO centre cohorts are ranged left to right in order of the average of their passing rates across the 4 sittings of the Bar Training centralised assessments since December 2020. Note that only 9 AETO centres entered cohorts for the December 2020 sit, and ULaw Bristol did not enter any candidates for the December 2021 Criminal Litigation assessment. The calculation of AETO centre averages have been adjusted to reflect this. The data shows that ICCA has achieved the highest average passing rate (91.8%), and Northumbria the lowest at 27.2%

3.7.2 Comparing cohort performance in December 2021 with August 2021 BPP Bristol register the biggest improvement with a rise in their passing rate of 38.4% (on fairly small cohort numbers), although the improvement in MMU cohort performance is also eye-catching (up 36.8%).

3.7.3 In making any comparisons it should be borne in mind that a number of AETOs adopting a 'Part 1/Part 2' model for the Bar Training Course have multiple entry points – hence some of the candidates attempting in the December 2021 sit will have been making their first attempt and some may have been referred or deferred from an earlier sitting. Analysis is further complicated by significant volatility in cohort numbers at each AETO across the various sittings.

3.7.4 An alternative way of assessing the success of each AETO across the 4 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 Criminal Litigation - Dec 2021 - Dec 2020			
AETO	**Total number of attempts**	**Total number of passes**	**Overall pass %**
ICCA	126	118	93.7
Ulaw Bristol	17	12	70.6
Ulaw Nottingham	8	5	62.5
BPP Manchester	252	129	51.2
BPP Leeds	104	53	51.0
City	498	249	50.0
Ulaw Manchester	49	24	49.0
BPP Bristol	75	36	48.0
BPP London	783	363	46.4
Ulaw London	307	140	45.6
Ulaw Birmingham	115	52	45.2
Ulaw Leeds	66	28	42.4
Cardiff	129	47	36.4
MMU	65	22	33.8
BPP Birmingham	130	41	31.5
UWE	224	69	30.8
NTU	110	31	28.2
Northumbria	78	21	26.9

Total	**3136**	**1440**	**45.92**

As can be seen from the above table, 1440 candidates have passed Bar Training Criminal Litigation assessments since the first sitting in December 2021, based on

3136 attempts – thus the aggregate passing rate to date is 45.92%. There are 9 AETOs failing to achieve this average thus far, with a 66.7% range in cumulative passing rates between the strongest and weakest AETO centre cohorts. There is a slight re-ordering of AETO centres when the cumulative data is presented this way compared with the simple averaging of passing rates used at 3.7. In particular, BPP Bristol rise 3 places with a cumulative passing rate of 46.36% compared to an average of its passing rates which is 43.8%.

4. BAR TRAINING CIVIL LITIGATION RESULTS DECEMBER 2021

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 are 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 by 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 2021 Civil Litigation assessment, comments were received in relation to 39/90 questions (25/50 questions on paper 1, and 14/40 question on Paper 2). Hence 43% of questions generated some level of AETO feedback. Typically, responses from AETO's 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 this sitting, in respect of those questions where there was some AETO feedback, 30 questions across the 2 papers had only 1 item of feedback, and there were 6 questions where 2 AETOs responded. Only question 25 on Paper 1 generated 4 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 Q5	3	This question required a 'single best answer' response from candidates. 42% of candidates chose the intended best answer [D], but 44% chose option [B] as their responses. Discrimination was poor. It was discussed whether answer [B] should also be credited. After lengthy discussions the board agreed that [D] was the best answer. [B] could not be credited as it gave the incorrect advice to the client. The board noted the AETO feedback and the statistics presented before deciding that no intervention should be applied._ The Board decided not to intervene._
Paper 1 Q25	4	This question required a 'single best answer' response from candidates. 31% of candidates chose the intended best answer [C]. Discrimination exceeded the acceptable threshold. AETO feedback was considered alongside the statistics provided by the Psychometrician. 41% of candidates selected option [A], although there was a weak negative correlation on [A]. After lengthy discussions, the Board agreed that the facts presented in the intended best answer [C] were defensible as the best answer, although there was merit in option [A]. The examining team agreed that candidates may have faced difficulty in distinguishing between the [A] and [C] and that the supporting reasoning given in [A] had sufficient merit to justify crediting those candidates who selected it. It was also agreed that the question would require amendment for future use._ **The Board decided to intervene and credit [A] as well as the intended correct answer [C]**
Paper 1 Q31	3	This was an MCQ requiring candidates to identify a single correct answer. 59% of candidates selected the correct

|		
		answer and discrimination exceeded the acceptable threshold. The Board considered the AETO feedback but concluded that it was not relevant to the validity of the question. *The Board decided not to intervene.*
Paper 2 Q5	1	This was an MCQ requiring candidates to identify a single correct answer. 58% of candidates selected the correct answer and discrimination exceeded the acceptable threshold. Feedback from an AETO suggested that there was more than one correct answer. The examining team noted that, whilst the intended single correct answer [B] was the only correct answer due to relevant rule being in the White Book, and that candidates should have been able to find this, the wording in the stem of the question also gave rise to a reasonable argument that option [C] was also a correct answer, as the wording of the question could lead it to being construed as an SBA when the question was in fact intended as an MCQ. **The Board decided to intervene and credit [C] as well as the intended correct answer [B]**
Paper 2 Q34	2	This was an MCQ requiring candidates to identify a single correct answer. 55% of candidates selected the correct answer but discrimination was very poor. Whilst [B] was the intended single correct answer, feedback from AETO's was to the effect that that option [A] could have also been a correct answer. The Chief Examiner advised the Board that this feedback had no merit as the correct answer was in the commentary in the White Book, although it did require some close reading to ascertain it. *The Board decided not to intervene.*

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 2021 Civil Litigation examination (following any agreed interventions explained at 4.1.5).

4.2.1   Civil Litigation Paper 1

BT Civil Litigation December 2021 Paper 1 Post Intervention MCQ all AETO question by question pass rate %
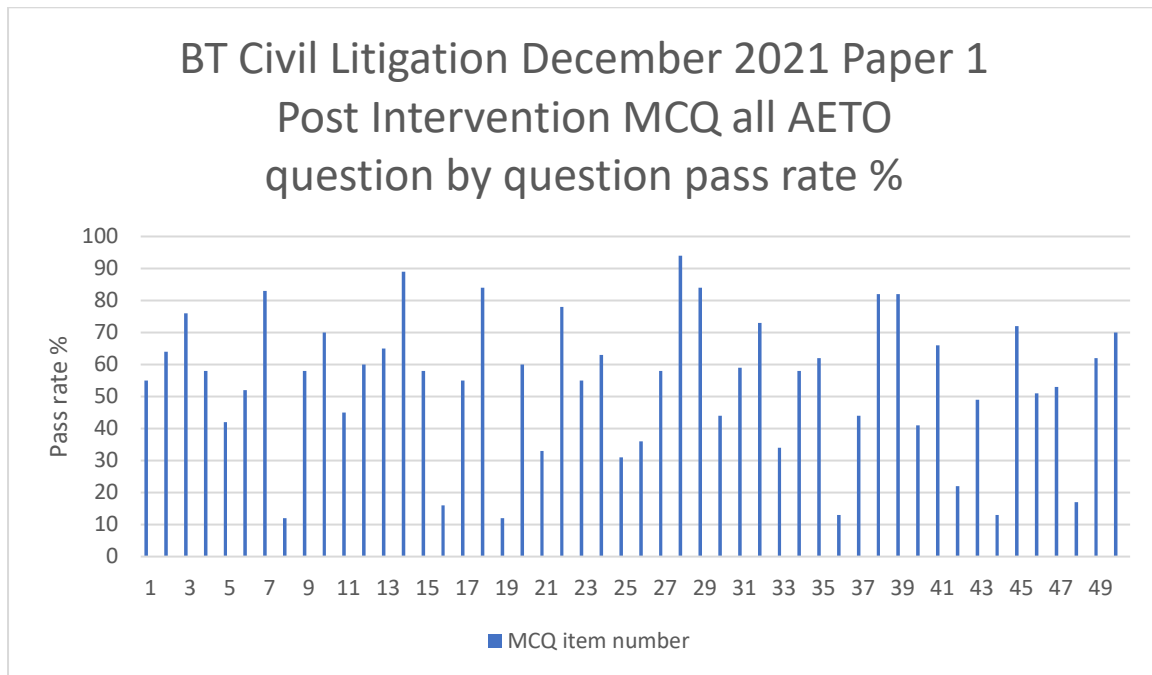
For Civil Litigation Paper 1 the post-intervention data shows 11 MCQs with an all-AETO cohort pass rate below 40% (compared to 12 for the August 2021 sit). Assuming candidates attempted the questions in the order presented there is little evidence of candidate fatigue being a factor. On the contrary, the average passing rate across the first 25 MCQs was 55%, compared with 53.6% across MCQs 26 to 50.

4.2.2 Civil Litigation Paper 2

BT Civil Litigation December 2021
Paper 2 Post Intervention MCQ all AETO
question by question pass rate %
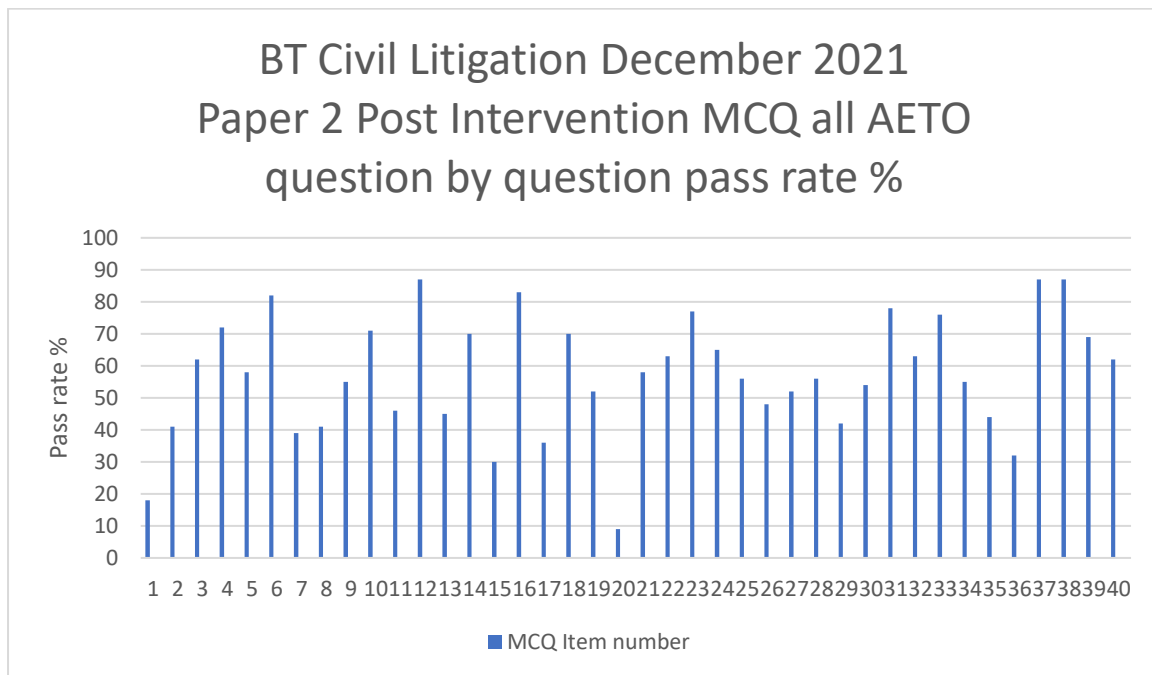
For Civil Litigation Paper 2 the post-intervention data shows 6 MCQs with an all-AETO cohort pass rate below 40% (compared to 8 for the August 2021 sit). Assuming candidates attempted the questions in the order presented there is no evidence of candidate fatigue being a factor. On the contrary, the average passing rate across the first 20 MCQs was 53.4%, compared with 61.2% across MCQs 21 to 40. The average passing rate for the five stand-alone questions was 50.2% - lower than the average passing rate for any of the 5 rolling case scenario ('RCS') style questions, three of which achieved average passing rates in excess of 60%. This outcome is somewhat counter-intuitive to the extent that the stand-alone questions might be thought to present less of a challenge in an open book assessment than the compared to the RCS questions.

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. The pass standard recommended to the final exam board was 50 out of 90 (rounded) and the final exam board saw no basis for not accepting this recommendation.

	December 2020	April 2021	August 2021	December 2021
No of candidates	395	989	738	818
No of scored items	88	89	89	90
Pass standard	50 (56.8%)	52 (58.4%)	50 (56.2%)	50 (55.6%)
No passing	227 (57.5%)	548 (55.4%)	305 (41.3%)	440 (53.8%)
Mean score	52.48 (59.63%)	53.71 (60.35%)	48.17 (54.13%)	50.60 (56.23%)
Standard Deviation	13.06 (14.84%)	13.45 (15.12%)	12.13 (13.63%)	12.22 (13.57%)
Range of scores	19 to 78	15 to 83	11 to 83	21 to 83
Reliability (KR-20)	0.91	0.90	0.88	0.89
Reliability for equivalent 90-item test	0.91	0.90	0.88	0.89
Standard error of measurement	3.97 (4.52%)	4.17 (4.68%)	4.28 (4.75%)	4.12 (4.58%)

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.

4.4 Independent Observer confirmation

The Independent Observer confirmed that the Board's decisions were fair and that he was pleased to see the Board using all the available information to thoroughly examine each question. He commented on the emphasis that was put on the AETO feedback and confirmed that all AETO comments were considered in their entirety ahead of the Board, and appropriately at the final Board meeting.

4.5 Civil Litigation post-intervention pass rate December 2021

Civil Litigation	December 2021	August 2021	April 2021	December 2020
Number of candidates	818	738	989	407
Passing Rate	53.8%	41.3%	55.5%	55.8%

The table above shows the all-AETO December 2021 post-intervention Bar Training cohort pass rate of 56% for Civil Litigation, based on a passing standard recommended to the Final Board (post standard setting processes) of 50/90. The final passing rate is on a par with the previous December 2020 sit although there were 411 more candidates attempting in December 2021 compared to December

2020. As mentioned elsewhere, the December 2020 cohort would, of necessity, have been comprised of first sit candidates (that being the first iteration of the Bar Training assessment). The raw data available for the December 2021 sitting does not distinguish between first sit candidates and those referred or deferred from earlier sittings.

4.6 December 2021 Civil Litigation pass rates by AETO
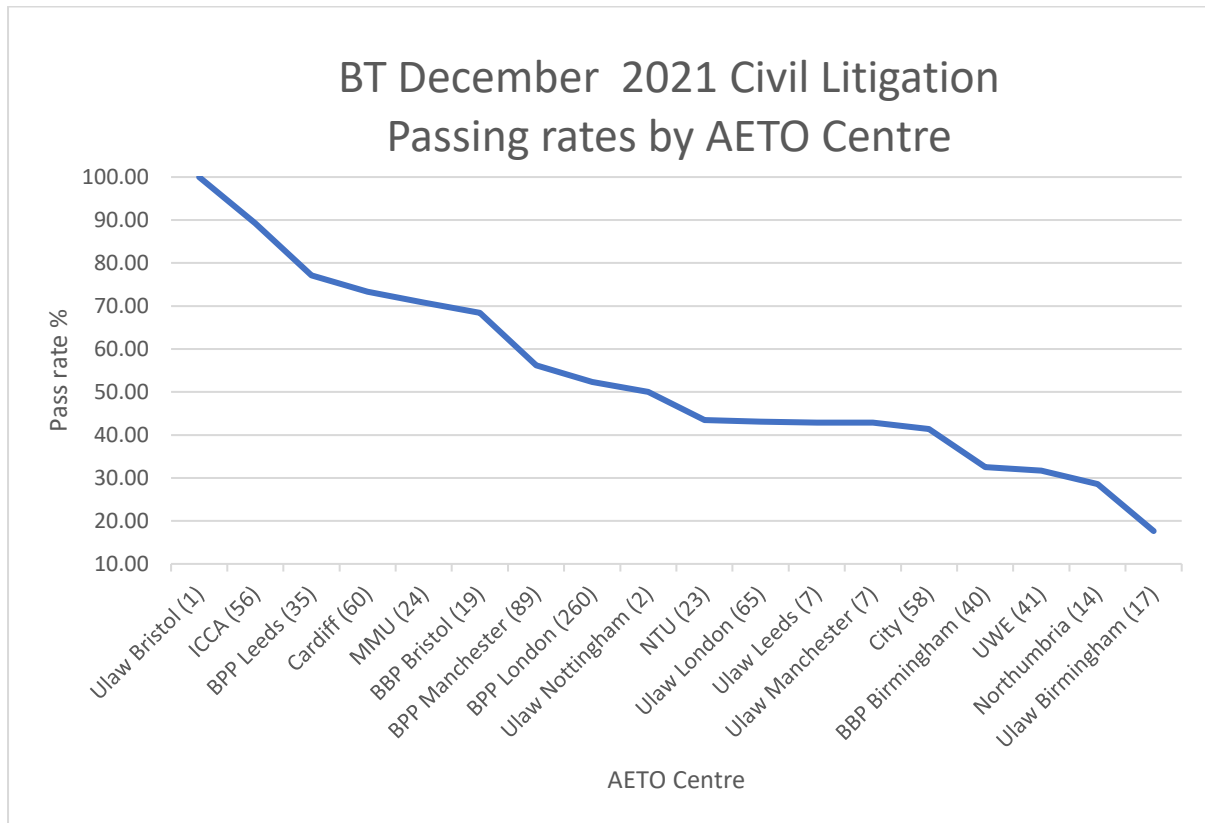
AETO centre cohorts are ranged left to right in order of their December 2021 pass rates in the Civil Litigation assessment. Hence Ulaw Bristol had the highest December 2021 pass rate at 100% (albeit with 1 candidate) and ICCA was ranked second with a passing rate of 89.3% based on 56 candidates. Ulaw Birmingham had the lowest ranking cohort for Civil Litigation at this sitting, with only 17.6% passing, — a range (excluding the Ulaw Bristol score) of over 72%, suggesting that the assessment operated effectively in identifying stronger and weaker cohorts. The data needs to be read in the context of cohort sizes (three AETOs having cohorts in single figures) and other factors outlined at 1.5.3 (above).

4.7 Trend data – how AETO cohorts performed over the 4 sits to date

BT Civil Litigation Pass Rates Trend Analysis
December 2020 - December 2021
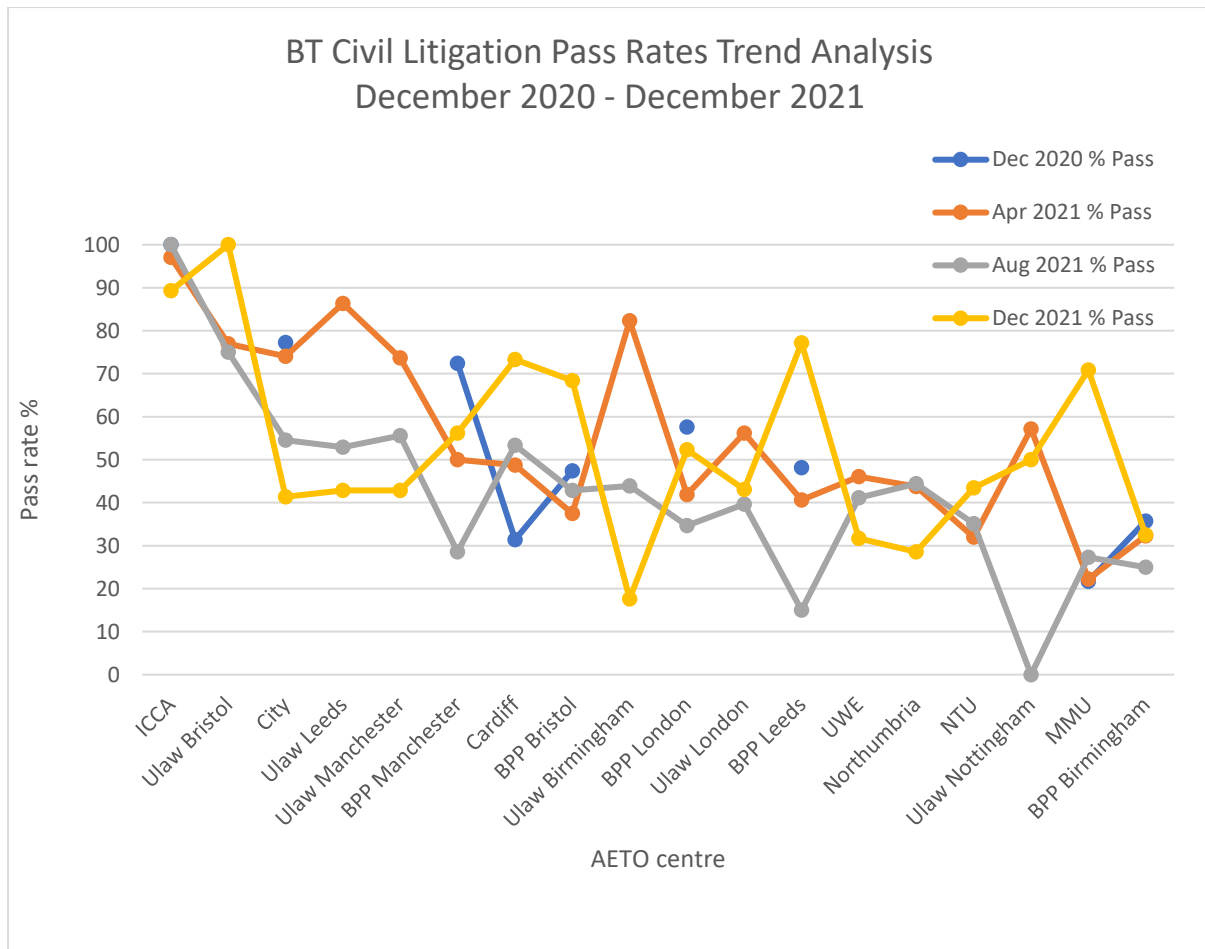
4.7.1   AETO centre cohorts are ranged left to right in order of the average of their passing rates across the 4 sittings of the Bar Training centralised assessments since December 2020. Note that only 9 AETO centres entered cohorts for the December 2020 sit. The calculation of AETO centre averages have been adjusted to reflect this. The data shows that ICCA has achieved the highest average passing rate (96.6%), and BPP Birmingham the lowest at 31.45%

4.7.2   Comparing cohort performance in December 2021 with August 2021 BPP Leeds registers the biggest improvement with a passing rate of 77.1% (up from 15%), although the striking improvement in MMU cohort performance is also eye-catching (up from 27.3% to 70.8%). Three AETOs (City, Ulaw Leeds, and Ulaw Manchester) record a declining cohort passing rate across every sitting where they have entered candidates to date. By contrast, Cardiff and MMU record a year-on-year rise in their cohort passing rate across every sitting where they have entered candidates.

4.7.3   In making any comparisons it should be borne in mind that a number of AETOs adopting a 'Part 1/Part 2' model for the Bar Training Course have multiple

entry points – hence some of the candidates attempting in the December 2021 sit will have been making their first attempt and some may have been referred or deferred from an earlier sitting. Analysis is further complicated by significant volatility in cohort numbers at each AETO across the various sittings.

4.7.4 An alternative way of assessing the success of each AETO across the 4 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 - Dec 2021 - Dec 2020			
Provider	**Total number of attempts**	**Total number of passes**	**Overall pass %**
ICCA	123	116	94.31
Ulaw Bristol	18	13	72.22
Ulaw Leeds	46	30	65.22
City	420	257	61.19
Ulaw Manchester	44	25	56.82
BPP Manchester	236	130	55.08
Ulaw Birmingham	92	49	53.26
Cardiff	165	87	52.73
Ulaw Nottingham	10	5	50.00
BPP Leeds	114	56	49.12
BPP Bristol	68	33	48.53
BPP London	740	343	46.35
Ulaw London	260	112	43.08
Northumbria	114	48	42.11
MMU	67	27	40.30
UWE	198	78	39.39
NTU	110	38	34.55
BPP Birmingham	127	39	30.71
Total	**2952**	**1486**	**50.34%**

As can be seen from the above table 1486 candidates have passed Bar Training Civil Litigation since the first sitting in December 2021, based on 2952 attempts – thus the aggregate passing rate to date is 50.34%. There are 10 AETOs failing to achieve this average thus far, with a 63% range in cumulative passing rates between the strongest and weakest cohorts. There is some re-ordering of AETO centres when the cumulative data is presented this way compared with the simple averaging of passing rates used at 3.7. In particular, Ulaw Nottingham rises 7 places with a cumulative passing rate of 50% compared to an average of its passing rates which is 37.5%, the variation being a result of very small cohort numbers creating volatility in

passing rates from one sitting to another. BPP Bristol and UWE both drop 3 places when the cumulative passing rates are used.

5. FURTHER COMPARATIVE ANALYSIS

5.1   Comparing performance in Criminal and Civil Litigation examinations

The December 2021 overall post-intervention cohort passing rate for Civil Litigation was significantly higher than that achieved in the August 2021 sitting, and in line with April 2021 and December 2020. The December 2021 passing rates for the centrally assessed litigation subjects were within 3% of each other. The Final Board was advised that there were 586 Bar Training candidates who took both litigation subjects in December 2021 sit and cross-tabulated the outcomes, as follows:

	Fail Criminal	Pass Criminal	Sum
Fail Civil	206	84	290
Pass Civil	35	261	296
Sum	241	345	

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 2021 does not raise issues in this respect.

5.2   Centralised assessment post-intervention pass rates compared December 2020 to December 2021

All AETO Post-intervention	Dec-21		Aug-21		Apr-21		Dec-21	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of candidates	824	818	825	738	1104	989	383	407
Passing rate	56%	53.80%	42.40%	41.30%	46.20%	55.50%	59.80%	55.80%
Confirmed passing standard	44/75	50/90	46/75	50/89	41/75	52/89	43/75	50/88
Reported reliability score	0.85	0.89	0.82	0.9	0.84	0.9	0.89	0.91

Candidate numbers for December 2021 were on a par with August 2021 (and significantly above December 2020 with more AETO centres entering candidates). Passing rates for December 2021 are largely in line with December 2020.

5.3   December 2021 post-intervention pass rates for both Criminal Litigation and Civil Litigation by AETO

December 2021 post-intervention pass rates Criminal and Civil Litigation by AETO
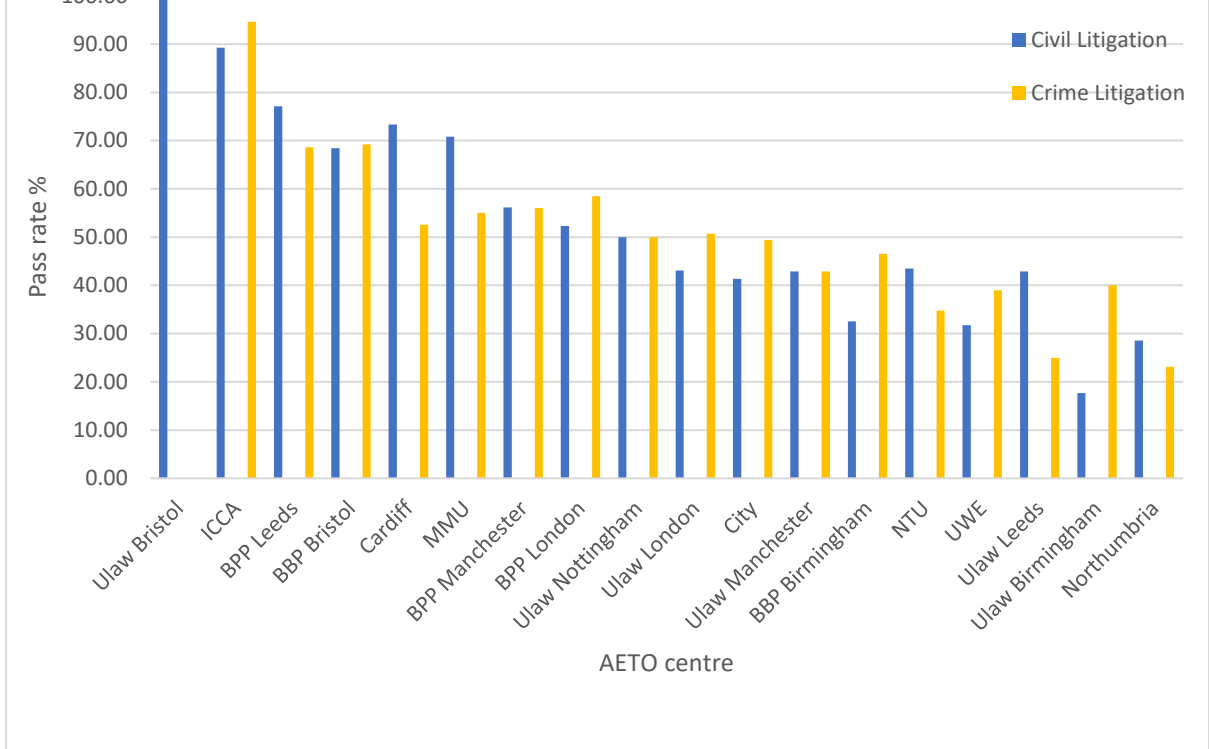
AETO cohorts are ranged left to right according to the average of their pass rates across both the Criminal and Civil Litigation examinations in the April 2021 sit (note that Ulaw Bristol did not enter any candidates for Criminal Litigation and only had 1 candidate for Civil Litigation). ICCA therefore had the highest average passing rate for those AETOs entering candidates in both assessments (91.9%) and Northumbria the lowest (25.8%). Overall, 6 AETO centres failed to achieve an average passing rate of 40% taking both litigation subjects together.

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 Bar Training Course examination sittings to date (adjusted to allow for the fact that some AETOs have entered candidates for only 2 of the 3 sittings) shows the following:

BT Civil and Criminal Litigation December 2020 - December 2021 average pass rates
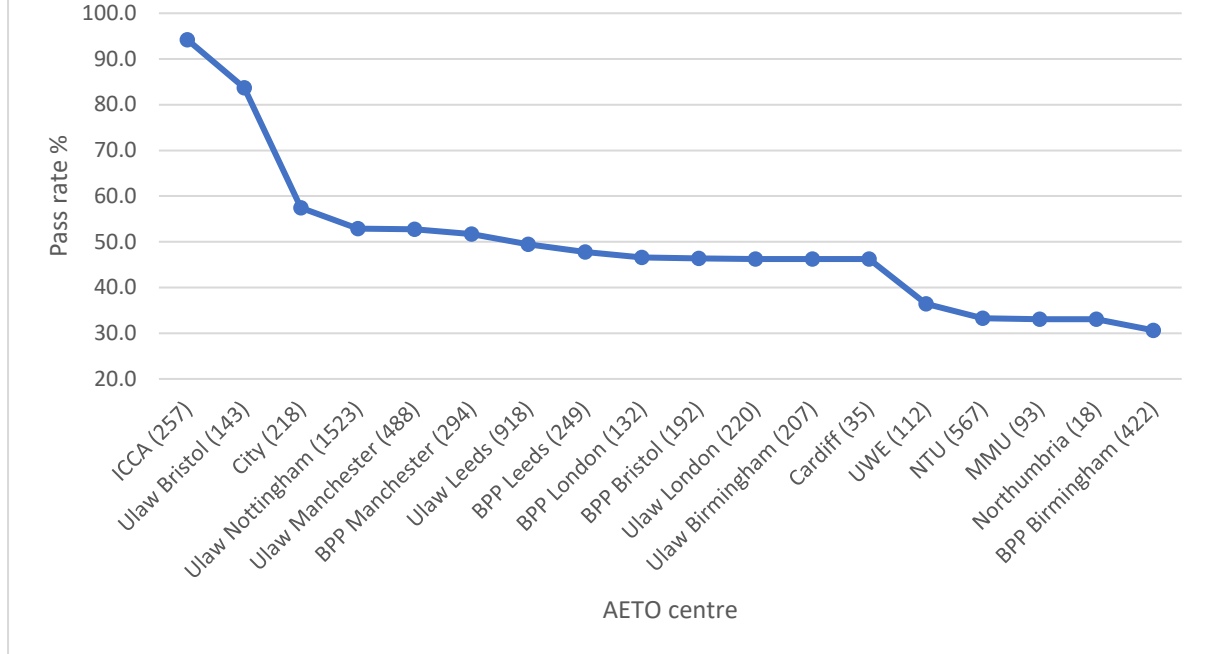
ICCA has the highest average passing rate across both litigation subjects and all sittings to date at 94.2%, and BPP Birmingham the lowest at 30.6%. ICCA and second placed ULaw Bristol are, thus far, some way ahead of the other AETO centres in terms of cohort performance, the gap between ULaw Bristol and third placed City being over 26%. 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 2021

5.5.1 Cumulative passing rate disaggregated by AETO centre – 4 sittings to date

AETO	Total number of attempts	Total number of pass	% Pass
ICCA	249	234	93.98%
Ulaw Bristol	35	25	71.43%
Ulaw Nottingham	18	10	55.56%
City	918	506	55.12%
BPP Manchester	488	259	53.07%
Ulaw Manchester	93	49	52.69%
Ulaw Leeds	112	58	51.79%
BPP Leeds	218	109	50.00%
Ulaw Birmingham	207	101	48.79%
BPP Bristol	143	69	48.25%
BPP London	1523	706	46.36%
Cardiff	294	134	45.58%
Ulaw London	567	252	44.44%
MMU	132	49	37.12%
Northumbria	192	69	35.94%
UWE	422	147	34.83%
NTU	220	69	31.36%
BPP Birmingham	257	80	31.13%
Total	**6088**	**2926**	**48.06%**

This table aggregates all the attempts by candidates at both the Criminal Litigation and Civil Litigation across all 4 sittings from December 2020 to December 2021. In total there have been 6,088 Bar Training candidate entries, of which 2,926 have been successful (48.06%). As can be seen, 8 AETO centres fall below this overall figure.

5.5.2 Cumulative passing rate disaggregated by AETO – 4 sittings to date

The table below takes the data used for table 5.4.1 but aggregates the cumulative totals for the 6 University of Law centres and the 5 BPP centres, to produce an aggregate cumulative score for each of those AETOs across all their centres.

AETO/group	Total number of attempts	Total number of pass	% Pass
ICCA	249	234	93.98%
City	918	506	55.12%
Ulaw group	1032	495	47.97%
BPP group	2629	1223	46.52%
Cardiff	294	134	45.58%
MMU	132	49	37.12%
Northumbria	192	69	35.94%
UWE	422	147	34.83%
NTU	220	69	31.36%
Total	**6088**	**2926**	**48.06%**

As can be seen the aggregated score for the University of Law centres is very marginally ahead of that for the BPP centres, but neither AETO achieves the average of 48.06% passing rate, partly because of the variance in passing rates across their centres (larger centres not doing as well as smaller centres), and partly because of the effect of a very large single centre AETO (City) achieving a relatively strong passing rate overall.

6. BAR TRANSFER TEST RESULTS DECEMBER 2021

The results for Bar Transfer test ('BTT') candidates attempting the December 2021 BTT assessments were considered by the Subject Exam Boards and the Final Board. For the December 2021 sit, all BTT candidates attempted the same centrally assessed exam papers as the Bar Training Course candidates.

Civil Litigation		
Year	Number of BTT Candidates	Passing rate
December 2021	69	44.9
August 2021	78	46.2
April 2021	85	52.9
Summer 2020 (December Sitting)	57	35.1
Summer 2019	43	46.7
Summer 2018	34	38.2
Average		**44.00**

Criminal Litigation		
Year	Number of BTT Candidates	Passing rate
December 2021	85	46
August 2021	94	45.7
April 2021	88	29.5
Summer 2020 (December Sitting)	59	37.3
Summer 2019	47	44.7
Summer 2018	33	57.6
Average		**43.47**

December 2021 BTT cohort passing rates significantly below that for the BT cohort but consistent across the two litigation papers and largely in line with the average passing rates for BTT cohorts over the last 6 sittings.

7. BPTC

7.1 BPTC results December 2021

7.1.1   The BPTC assessments are now being wound down and the final opportunity to take an 'old style' BPTC 75 MCQ Civil litigation paper will be 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 2021 sitting BPTC candidates were only offered the opportunity to attempt the Criminal Litigation assessment (the same Criminal Litigation assessment as the Bar Training candidates). See 3.1 to 3.4 above for details of the Final Exam board deliberations, agreed interventions, and sign off by the Board.

**7.1.4**   As the table below indicates, the December 2021 BPTC passing rate is within the range of previous results.

BPTC Criminal Litigation	December 2021	August 2021	April 2021	December 2020
Number of candidates	168	158	101	516
Passing Rate	39%	47.4%	21.1%	43%

7.2 Histogram of BPTC candidate performance December 2021 question by question

BPTC Criminal Litigation December 2021 Post Intervention MCQ all AETO question by question pass rate %
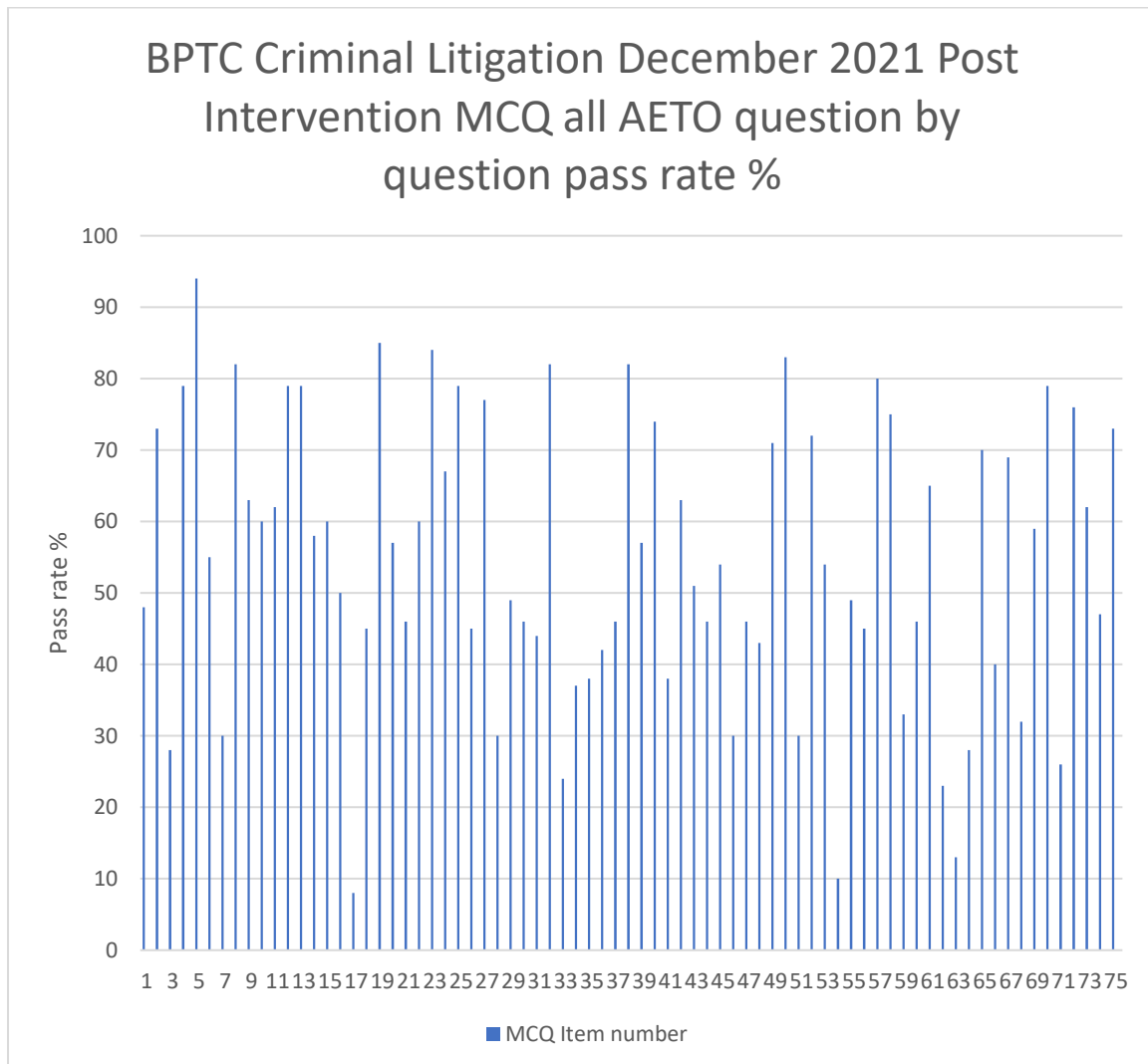
7.2.1 The post-intervention data shows 17 MCQs with an all-AETO cohort pass rate below 40% (compared to 14 for the Bar Training cohort). As with the BT cohort there is some evidence to suggest a fall-off in candidate performance during the examination (assuming most candidates attempted the 75 MCQs in the order presented). Across the first 25 MCQs the average pass rate was 61.2%, across MCQs 26 to 50 it was 51.9%, and across MCQs 51 to 75 it dropped further to 50.2%. It should be noted, however, that 4 of the first 25 MCQs recorded passing rates in excess of 80%, compared to in each of the other terciles. There were only 23 MCQs where the BPTC cohort passing rate exceeded that achieved by the BT cohort.

7.3 December 2021 BPTC Criminal passing rates at each AETO centre
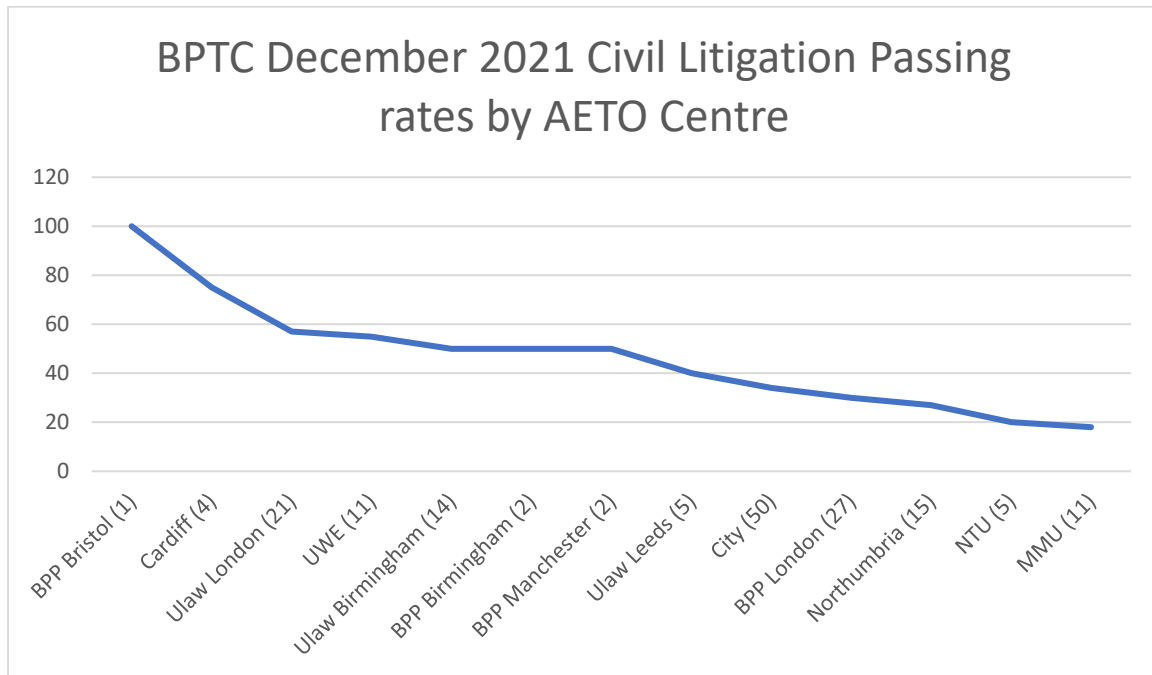
BPTC December 2021 Civil Litigation Passing rates by AETO Centre

AETO centre cohorts are ranged left to right in order of their December 2021 pass rates in the BPTC Criminal Litigation assessment. Hence, BPP Bristol had the highest December 2021 pass rate at 100%, but this was based on a single candidate passing. MMU had the lowest at 18%. Candidate numbers are too small and cohorts too variable to draw any strong conclusions from the data.

Professor Mike Molan
Chair of the Central Examination Board
9th May 2022