

BAR
STANDARDS
BOARD

REGULATING BARRISTERS

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

**Bar Training, BTT & BPTC
April 2023 Sitting**

EXECUTIVE SUMMARY

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

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

In comparing results across the eight iterations of assessment it should be noted that for the December 2020 sit, only nine AETO centres presented cohorts of candidates for assessment. For April 2021 the figure was 19 AETO centres, which explains why there were significantly more candidates for that sitting compared to December 2020. From April 2021 onwards, sittings will have comprised a mix of first sit (new and deferred) and resitting candidates (ie candidates who had previously failed an assessment without extenuating circumstances). The April 2022 sitting saw the first cohorts entered by ULaw Liverpool, the December 2022 sitting the first cohorts entered by the University of Hertfordshire, and the April 2023 sitting the first candidates entered by ULaw Newcastle. For the April 2023 sitting, therefore, there were 21 AETO assessment centres providing candidate cohort results. As can be seen in the above table, the April 2023 passing rates for both Civil Litigation and Criminal Litigation were the highest across the 8 sittings of new-style Bar Training centralised assessments to date. The cohort for the Civil Litigation assessment was the largest to date, and that for the Criminal Litigation assessment the second largest to date. 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 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.

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 sits, depending on the assessment strategy adopted. Others may (alternatively, or additionally) offer a 'Part 1-Part 2' structured programme whereby candidates prepare for the centralised assessments in Part 1 before progressing to the examinations in the skills areas in Part 2. In such cases candidates commencing in September would normally be expected to attempt the centralised assessments for the first time in the December sit immediately following.

1.5.2 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.
- 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	Apr-23	Total to date
BPP Birmingham	28	31	28	40	47	32	56	42	304
BPP Bristol	19	16	14	19	7	9	8	9	101
BPP Leeds	27	32	20	35	16	5	16	18	169
BPP London	151	179	150	262	274	173	260	299	1748
BPP Manchester	58	54	35	89	49	37	73	73	468
Cardiff	51	39	15	60	35	14	72	25	311
City	22	208	132	59	378	136	75	397	1407
Hertfordshire	N/A	N/A	N/A	N/A	N/A	N/A	13	6	19
ICCA	28	34	5	56	33	14	89	38	297
MMU	23	9	11	24	7	8	23	12	117
Northumbria	N/A	64	36	15	64	36	14	69	298
NTU	N/A	50	37	23	53	34	24	74	295
ULaw Birmingham	N/A	34	41	18	82	51	30	89	345
ULaw Bristol	N/A	13	4	1	18	5	3	33	77
ULaw Leeds	N/A	22	17	7	43	25	12	60	186
ULaw Liverpool	N/A	N/A	N/A	N/A	16	5	2	56	79
ULaw London	N/A	89	106	65	216	137	101	197	911
ULaw Manchester	N/A	19	18	7	54	20	7	44	169
ULaw Newcastle	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9	9
ULaw Nottingham	N/A	7	1	2	16	7	6	12	51
UWE	N/A	89	68	41	109	42	45	109	503
TOTAL	407	989	738	823	1517	790	929	1671	7864

The December 2020 sit was the first opportunity for candidates to attempt the centralised assessments for the Bar Training Course, hence the lower volume of candidates. As can be seen, for the April 2023 sit, City University had the largest cohort, accounting for just under 24% of the Civil Litigation candidate entries, whilst BPP London has provided just over 23% of the total number of candidate entries across the eight sittings offered thus far. As noted above, three AETOs have cohort numbers in single figures for the April 2023 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	Apr-23	Total to date
BPP Birmingham	28	30	29	43	64	22	36	32	284
BPP Bristol	20	16	13	26	5	7	N/A	1	88
BPP Leeds	20	25	24	35	20	7	5	14	150
BPP London	137	202	174	270	261	199	120	184	1547
BPP Manchester	52	62	47	91	60	34	35	65	446
Cardiff	54	37	19	19	70	21	20	68	308
City	20	247	154	77	425	141	61	408	1533
Hertfordshire	N/A	N/A	N/A	N/A	N/A	N/A	15	9	24
ICCA	32	31	7	56	31	13	92	37	299
MMU	20	14	11	20	11	7	24	8	115
Northumbria	N/A	40	25	13	64	24	14	75	255
NTU	N/A	51	36	23	55	32	24	69	290
ULaw Birmingham	N/A	46	49	20	88	56	19	80	358
ULaw Bristol	N/A	15	2	N/A	18	5	2	32	74
ULaw Leeds	N/A	38	20	8	47	25	9	60	207
ULaw Liverpool	N/A	N/A	N/A	N/A	17	2	2	59	80
ULaw London	N/A	107	127	73	234	129	76	174	920
ULaw Manchester	N/A	23	19	7	61	9	3	43	165
ULaw Newcastle	N/A	N/A	N/A	N/A	N/A	N/A	N/A	9	9
ULaw Nottingham	N/A	5	1	2	14	3	3	13	41
UWE	N/A	115	70	41	108	66	36	143	579
TOTAL	383	1104	827	824	1653	802	596	1583	7772

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. City University had the largest cohort of candidate entries for the Criminal Litigation April 2023 sit (just under 26%), whilst BPP London leads the way in having provided just under 20% of the total number of candidate entries across the eight sittings offered thus far. As noted above, 4 AETOs have cohort numbers in single figures (or no candidates) for the April 2023 sit, a factor that can impact significantly on the comparison of cohort data.

2. BAR TRAINING COURSE CENTRALISED ASSESSMENT PROCEDURES

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

2.1 How examination papers are devised and approved

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

2.2 Standard setting

Before candidates attempt the examinations for Civil Litigation and Criminal Litigation the papers are subjected to a standard setting process to determine a passing standard which will be recommended to the Final Examination Board. The method used for these two subjects is known as the Angoff Method, and it helps ensure that the standard required to achieve a pass mark is consistent from one sitting of the assessment to the next. Using standard setting, the number of MCQs a candidate needs to answer correctly in order to pass the assessment may go up or down from one sitting to the next depending on the level of challenge presented by the exam paper as determined by the standard setters. For a more detailed explanation of this process see: <https://www.barstandardsboard.org.uk/uploads/assets/514638a6-383c-40b2-8fc2dd8b2fe83585/20220819-Standard-setting.pdf>

2.3 How the exams are conducted

- 2.3.1 Candidates across all AETO institutions normally attempt the centralised assessments in each of the knowledge areas on the same dates. In any case where an AETO identifies candidates as having reasonable or other adjustments arrangements necessitating a start time earlier than that of the main cohort, the relevant candidates are not allowed to leave their assessment area until the commencement of the main cohort assessment. Secure delivery and collection arrangements are put in place for all examination materials.
- 2.3.2 Candidates are allowed to attempt the assessments at locations overseas. The onus is placed on the candidates' AETO to ensure that a secure assessment centre is available, and the BSB normally requires the start time of the examination at the overseas centre to be the same as the UK start time (an earlier/later start time may be permitted provided there is an overlap and candidates are quarantined). To ensure the complete security of the examination papers, the BSB dispatches all examinations to the overseas contacts directly.
- 2.3.3 AETO institutions are given guidance on examination arrangements by the BSB. Exam invigilation reports for 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 April 2023 Bar Training exam dates were as follows:

Criminal Litigation:	Monday 24 April 2023 at 14:00
Civil Litigation (Paper 1):	Wednesday 26 April 2023 at 14:00
Civil Litigation (Paper 2):	Friday 28 April 2023 at 14:00

2.4 Marking

- 2.4.1 Just over 61% of Bar Training candidates for the April 2023 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.
 - 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 APRIL 2023 SIT

3.1 Exam Board decisions in relation to selected questions

- 3.1.1 The CEB invited AETOs to provide feedback on the examination paper as a whole and each question if there were issues that the AETO wished to bring to the attention of the Exam Board before it proceeded to confirm the results. Along with the statistical data available to the Exam Board (see 2.5.3 above), the feedback from the AETOs can be of material assistance to the Exam Board in determining whether or not any intervention is required in respect of any individual question.
- 3.1.2. The examining team is first asked to reflect on the AETO feedback without having sight of any of the statistical data revealing how candidates have performed in respect of a particular question. This enables the examining team to focus on the substantive points raised by the AETOs (in particular, questions of substantive law and procedure) without being influenced by evidence of actual cohort performance. Independently of this, the psychometrician advising the Exam Board, analyses the data on cohort performance and prepares a report on any apparent anomalies in terms of passing rates for individual questions, poor correlation, and low discrimination.
- 3.1.3 Discrimination refers to the extent to which candidates, who performed well in the examination as a whole, answered a specific question correctly, and the extent to which candidates who were weak overall answered the same specific question incorrectly. Where the statistical analysis shows poor discrimination, it can be evidence that candidates had to resort to guessing which answer was correct, suggesting that the question had not operated as expected. It is also the case that where the passing rate for an item is very high, the discrimination score can be low, simply because the vast majority of candidates (both weak overall and strong overall) will have answered the question correctly. Correlation is a similar measure. The Board expects to see a positive correlation figure in respect of the correct or intended best answer for any given question, and a negative correlation score in relation to a wrong, or 'not the best' answer. A positive correlation outcome for a wrong or 'not the best' answer suggests that the stronger candidates (in terms of performance across the examination as a whole) were attracted to that answer.
- 3.1.4 For the April 2023 Criminal Litigation assessment, comments were received in relation to 18/75 questions. Hence 24% 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, 14 questions had only one item of feedback, and four had

two AETO responses. General feedback on the paper was received from 6 AETO's.

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.

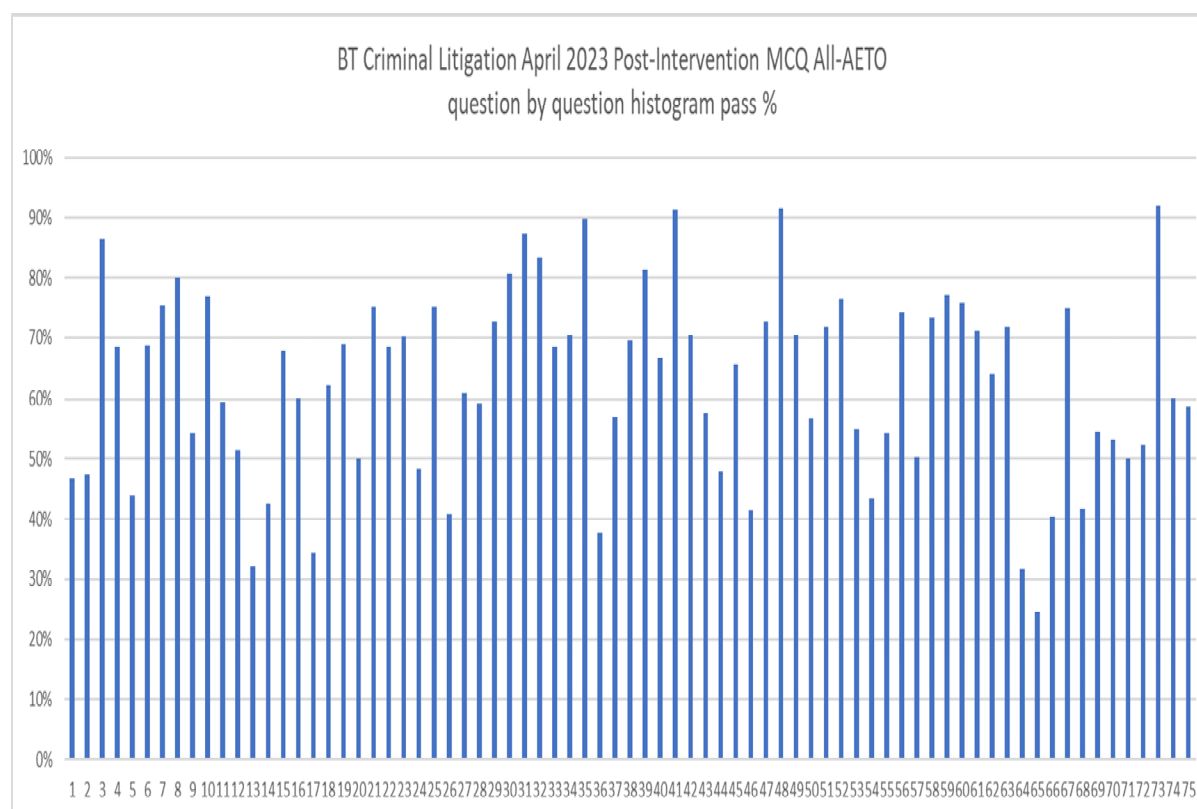
Item	Number of AETOs responding	Exam Board decision and rationale
Q.14	1	<p>Candidates achieved a passing rate of 44% in respect of this MCQ, which also recorded very good discrimination. There was slight positive correlation on incorrect option [D], although it was noted that this was the least chosen option (9%). The board disagreed with AETO feedback proposing crediting [C] in addition to [B].</p> <p><i>The board decided not to intervene.</i></p>
Q.16	1	<p>Candidates achieved a passing rate of 61% in respect of this MCQ, which also recorded good discrimination. AETO feedback proposed suppressing this question on the basis that it was off syllabus, but the examining team confirmed that it was not.</p> <p><i>The board decided not to intervene.</i></p>
Q.27	1	<p>Candidates achieved a passing rate of 62% in respect of this SBA, which also recorded very good discrimination. AETO feedback proposed crediting [C] and [D] in addition to best answer [A], but the board did not agree that there was justification to do so. The examining team acknowledged that the wording of the question could be improved before reuse but felt strongly that this did not undermine the integrity of the question. This was also supported by the statistics for this item.</p> <p><i>The board decided not to intervene.</i></p>
Q.33	1	<p>Candidates achieved a passing rate of 69% in respect of this SBA, which also recorded good discrimination. AETO feedback proposed suppressing this item. The board's view was that it was acceptable for all four options to be possible as this was an SBA, and that the indicated best answer was clearly the best answer in this instance.</p> <p><i>The board decided not to intervene.</i></p>

Item	Number of AETOs responding	Exam Board decision and rationale
Q.39	2	<p>Candidates achieved a passing rate of 81% in respect of this SBA, which also recorded acceptable discrimination and a very slight positive correlation on incorrect answer [A]. AETO feedback proposed crediting [A] but the examining team disagreed with the reasoning.</p> <p><i>The board decided not to intervene</i></p>
Q.44	1	<p>Candidates achieved a passing rate of 48% in respect of this MCQ, which also recorded good discrimination, but slight positive correlation on incorrect option [C]. AETO feedback proposed crediting correct option[B] and incorrect option [D], but the board determined that this was based on a misunderstanding of the question.</p> <p><i>The board decided not to intervene.</i></p>
Q.45	2	<p>Candidates achieved a passing rate of 66% in respect of this SBA, which also recorded good discrimination. AETO feedback proposed crediting incorrect option [B]. The board decided that there was no issue with the integrity of the question, but that it could be reworded before future use.</p> <p><i>The board decided not to intervene.</i></p>
Q.46	2	<p>Candidates achieved a passing rate of 42% in respect of this SBA, which also recorded adequate discrimination. The preferred best answer was option [A]. AETO comments proposed crediting [B]. This was discussed in detail among the examining team, particularly around what candidates might interpret 'a warning' to a disruptive defendant at trial to mean. The Chief Examiner's view was that, under the dictionary definition, the fact pattern was clear. The board agreed that the question was not flawed. However, the examining team considered whether the question should be reworded before reuse. The board ultimately decided that the question was enhanced by the nuance of the current wording. This decision was supported by the negative correlation on option [B].</p> <p><i>The board decided not to intervene.</i></p>
Q.57	1	<p>Candidates achieved a passing rate of 51% in respect of this SBA, which also recorded good discrimination. The preferred best answer was option [D]. AETO comments proposed crediting option [C]. This was discussed by the examining team who unanimously agreed that there was no case for intervention. Strong negative correlation on [C] supported this decision.</p>

Item	Number of AETOs responding	Exam Board decision and rationale
		<i>The board decided not to intervene.</i>
Q.75	1	<p>Candidates achieved a passing rate of 60% in respect of this SBA, which also recorded good discrimination. The preferred best answer was option [C]. AETO comment proposed also crediting [option D], but the board disagreed as the best argument in seeking a Lucas direction is the 'real danger' test and not 'substantial unfairness'.</p> <p><i>The board decided not to intervene.</i></p>

3.2 Post-intervention histogram of MCQs

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



The post-intervention data shows 4 MCQs with an all-AETO cohort pass rate below 40% (compared to 14 for the December 2022 sit). There is no clear 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%, across MCQs 26 to 50 it rose to 68%, and across MCQs 51 to 75 it reverted to 61%. The word count of the assessment was not felt by the Final Board to have been an issue.

3.3 Standard setting and reliability of the assessment

3.3.1 The Exam Board received a report on the standard setting process confirming that the recommended pass standard was 43/75. The total number of standard setters who submitted their scores was 12. 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 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 1.9 (no items 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 Reliability score of 0.89, the assessment had exceeded the benchmark KR-20 Reliability of 0.8. The Exam Board noted that all other data suggested an assessment operating as expected.

	Apr-21	Aug-21	Dec-21	Apr-22	Aug-22	Dec-22	Apr-23
No. of Candidates	1104	827	824	1653	802	594	1583
No. of Scored Items	75	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%)	43 (57.3%)
No. Passing	510 (46.2%)	351 (42.4%)	461 (55.9%)	1053 (63.7%)	421 (52.5%)	296 (49.8%)	1039 (65.6%)
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%)	47.0 (62.7%)
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%)	11.2 (14.9%)
Range of Scores	5 to 69	7 to 68	13 to 70	5 to 71	15 to 70	15 to 72	11 to 74
Reliability (KR-20)	0.84	0.82	0.85	0.87	0.83	0.88	0.89
Reliability for Equivalent 90-item Test	0.86	0.85	0.87	0.89	0.85	0.89	0.90
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%)	3.7 (5.0%)

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.

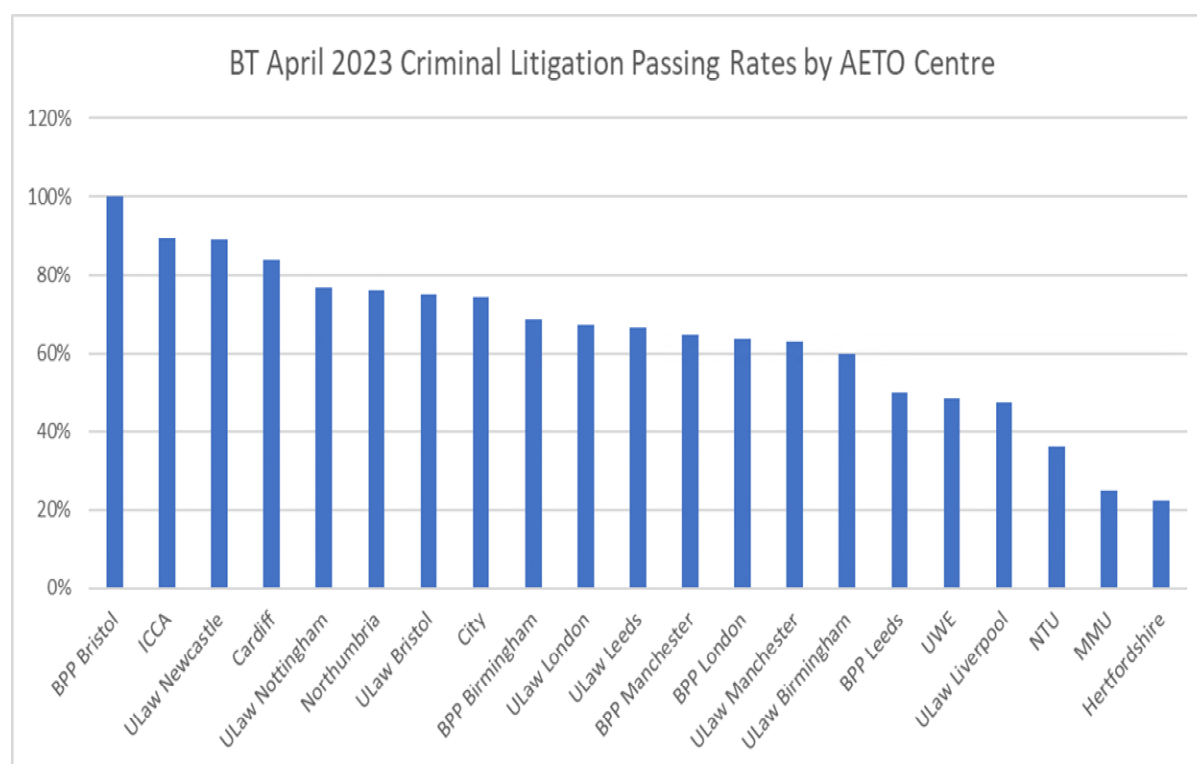
3.6 Criminal Litigation post-intervention pass rate April 2023

All-AETO Post-Intervention	Criminal Litigation August 2021	Criminal Litigation December 2021	Criminal Litigation April 2022	Criminal Litigation August 2022	Criminal Litigation December 2022	Criminal Litigation April 2023
Number of Candidates	827	824	1653	802	594	1583
Passing Rate	42.4%	55.9%	63.7%	52.5%	49.8%	65.6%

The table above shows the all-AETO April 2023 post-intervention Bar Training cohort pass rate of 65.6% for Criminal Litigation, based on a passing standard recommended to the Final Board (as a result of the standard setting process) of 43/75. The final passing rate is the highest across the last six cycles. Data presented to the exam boards for the April 2023 sitting showing the split between first sit and resit candidates for Criminal Litigation revealed that 85% 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 15% 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 first sitters may have been a factor in driving up the overall passing rate (the passing rate for first candidates in Criminal Litigation was 69% compared to 46% for resitting candidates).

3.7 April 2023 Criminal Litigation pass rates by AETO centre



3.7.1 In the above graph the 21 AETO centre cohorts are ranged left to right in declining order of their April 2023 pass rates in the Criminal Litigation assessment. Whilst BPP Bristol had the highest April 2023 pass rate at 100%, it only had 1 (first sitting) candidate. Second ranked, the ICCA had a passing rate of 89.2% based on 37 candidates (both first sitters and resitters). Across all the AETO centres there were 1,350 (85%) candidates classified as first sitters, and 233 (15%) classified as resitters for the April 2023 Criminal Litigation assessment. The passing rate for first sit candidates was 69%, compared with 46% for resitting candidates.

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

AETOs Ranked by % of cohort first sitting			
AETO	Cohort Size	No. First Sitting	%First Sit
BPP Bristol	1	1	100.0%
ULaw Newcastle	9	9	100.0%
ULaw Liverpool	59	58	98.0%
ULaw Leeds	60	58	97.0%
Northumbria	75	71	95.0%
ULaw Bristol	32	30	94.0%
Cardiff	68	63	93.0%
City	408	377	92.0%
ULaw Manchester	43	39	91.0%
ICCA	37	32	86.0%
ULaw London	174	149	86.0%
ULaw Nottingham	13	11	85.0%
BPP Birmingham	32	27	84.0%
UWE	143	119	83.0%
ULaw Birmingham	80	66	83.0%
NTU	69	55	80.0%
BPP Leeds	14	11	79.0%
BPP Manchester	65	47	72.0%
BPP London	184	124	67.0%
MMU	8	3	38.0%
Hertfordshire	9	0	0.0%
OVERALL	1583	1350	85.0%

Only 2 AETO centres entering candidates for the April 2023 Criminal Litigation assessment had a preponderance of resitting candidates.

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

First Sit Pass Rates and Resit Pass Rates CRIMINAL LITIGATION		
AETO	First Sit % Pass	Resit % Pass
BPP Birmingham	70.0%	60.0%
BPP Bristol	100.0%	n/a
BPP Leeds	64.0%	0.0%
BPP London	65.0%	60.0%
BPP Manchester	77.0%	33.0%
Cardiff	87.0%	40.0%
City	76.0%	58.0%
Hertfordshire	n/a	22.0%
ICCA	91.0%	80.0%
MMU	33.0%	20.0%
Northumbria	77.0%	50.0%
NTU	42.0%	14.0%
ULaw Birmingham	65.0%	36.0%
ULaw Bristol	77.0%	50.0%
ULaw Leeds	69.0%	0.0%
ULaw Liverpool	48.0%	0.0%
ULaw London	71.0%	44.0%
ULaw Manchester	64.0%	50.0%
ULaw Newcastle	89.0%	n/a
ULaw Nottingham	73.0%	100.0%
UWE	50.0%	42.0%
OVERALL	69.0%	46.0%

Of the 18 AETO centres with both first sit and resit candidates attempting the April 2023 Criminal Litigation assessment, only ULaw Nottingham reported a higher passing rate for its resit cohort (2 candidates) compared to its first sit cohort (11 candidates).

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

AETOs Ranked by First Sit Pass Rate CRIMINAL LITIGATION	
AETO	First Sit % Pass
BPP Bristol	100%
ICCA	91%
ULaw Newcastle	89%
Cardiff	87%
Northumbria	77%
ULaw Bristol	77%
BPP Manchester	77%
City	76%
ULaw Nottingham	73%
ULaw London	71%
BPP Birmingham	70%
ULaw Leeds	69%
BPP London	65%
ULaw Birmingham	65%
ULaw Manchester	64%
BPP Leeds	64%
UWE	50%
ULaw Liverpool	48%
NTU	42%
MMU	33%
Hertfordshire	n/a

Three AETO centres failed to pass more than 50% of their first sit candidates in the April 2023 Criminal Litigation assessment. All University of Hertfordshire candidates were resitting.

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

	Aug 21 % Pass	Dec 21 % Pass	Apr 22 % Pass	Aug 22 % Pass	Dec 22 % Pass	Apr 23 % Pass	Average over 6 sits
ICCA	85.7	94.6	87.1	100.0	89.1	89.2	91.0
ULaw Newcastle						88.9	88.9
Cardiff	52.6	52.6	74.3	47.6	60.0	83.8	61.8
BPP Bristol	30.8	69.2	40.0	57.1		100.0	59.4
Ulaw Leeds	45.0	25.0	78.7	60.0	77.8	66.7	58.9
Ulaw Bristol	100.0		66.7	40.0	0.0	75.0	56.3
City	47.4	49.4	71.1	51.1	44.3	74.3	56.2
Ulaw Nottingham	100.0	50.0	71.4	33.3	0.0	76.9	55.3
Ulaw London	44.9	50.7	73.9	53.5	40.8	67.2	55.2
BPP Manchester	44.7	56.0	53.3	58.8	45.7	64.6	53.9
BPP London	44.8	58.5	40.6	61.3	41.7	63.6	51.8
BPP Leeds	41.7	68.6	45.0	42.9	60.0	50.0	51.3
Northumbria	36.0	23.1	64.1	37.5	57.1	76.0	49.0
Ulaw Manchester	57.9	42.9	78.7	44.4	0.0	62.8	47.8
Ulaw Birmingham	34.7	40.0	70.5	35.7	36.8	60.0	46.3
BPP Birmingham	17.2	46.5	50.0	40.9	52.8	68.8	46.0
UWE	35.7	39.0	57.4	57.6	25.0	48.3	43.8
MMU	18.2	55.0	54.5	42.9	58.3	25.0	42.3
Ulaw Liverpool			70.6	50.0	0.0	47.5	42.0
NTU	30.6	34.8	50.9	18.8	37.5	36.2	34.8
Hertfordshire					20.0	22.2	21.1

3.8.1 AETO centre cohorts are listed in order of the average of their Criminal Litigation passing rates across the last six sittings of the Bar Training centralised assessments. Note that Hertfordshire entered candidates for the first time in the December 2022 sit, and ULaw Newcastle for the first time in April 2023. Greyed out cells indicate other instances in the table above where an AETO centre did not enter any candidates. The calculation of AETO centre averages have been adjusted to reflect this. The data shows that the ICCA has achieved the highest average passing rate (91%), and Hertfordshire the lowest at 21.1% (albeit with a small first cohort, and a second cohort comprised entirely of resit candidates). The ICCA cohort has achieved the highest passing rate in 4 of the 6 sittings.

3.8.2 An alternative way of assessing the success of each AETO across all the sittings to date (ie 8 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 April 2023 (8 sits)			
AETO	Total Number of Attempts	Total Number of Passes	% Pass
ICCA	299	274	91.6%
ULaw Newcastle	9	8	88.9%
ULaw Bristol	74	52	70.3%
ULaw Nottingham	41	27	65.9%
ULaw Leeds	207	136	65.7%
City	1533	977	63.7%
ULaw Manchester	165	105	63.6%
ULaw London	920	544	59.1%
Cardiff	308	182	59.1%
Northumbria	255	143	56.1%
BPP Manchester	446	242	54.3%
ULaw Birmingham	358	194	54.2%
ULaw Liverpool	80	41	51.3%
BPP Leeds	150	76	50.7%
BPP London	1547	774	50.0%
BPP Bristol	88	44	50.0%
UWE	579	257	44.4%
BPP Birmingham	284	124	43.7%
MMU	115	48	41.7%
NTU	290	108	37.2%
Hertfordshire	24	5	20.8%
TOTAL	7772	4361	56.1%

As can be seen from the above table 4,361 candidates have passed Bar Training Criminal Litigation assessments since the first sitting in December 2020, based on 7,772 attempts – thus the aggregate passing rate to date is 56.1%. There are 11 AETOs failing to achieve this average thus far, with a 71% range in cumulative passing rates between the strongest and weakest AETO centre cohorts. Five AETO centres are failing to progress at least 50% of their candidates in Criminal Litigation.

4. BAR TRAINING CIVIL LITIGATION RESULTS APRIL 2023 SIT

4.1 Exam Board decisions in relation to selected questions

- 4.1.1 The CEB invited AETOs to provide feedback on the examination paper as a whole and each question if there were issues that the AETO wished to bring to the attention of the Exam Board before it proceeded to confirm the results. Along with the statistical data available to the Exam Board (see 2.5.3 above), the feedback from the AETOs can be of material assistance to the Exam Board in determining whether or not any intervention is required in respect of any individual question.
- 4.1.2 The examining team is first asked to reflect on the AETO feedback without having sight of any of the statistical data revealing how candidates have performed in respect of a particular question. This enables the examining team to focus on the substantive points raised by the AETOs (in particular, questions of substantive law and procedure) without being influenced by evidence of actual cohort performance. Independently of this, the psychometrician advising the Exam Board analyses the data on cohort performance and prepares a report on any apparent anomalies in terms of passing rates for individual questions, poor correlation, and low discrimination.
- 4.1.3 Discrimination refers to the extent to which candidates, who performed well in the examination as a whole, answered a specific question correctly, and the extent to which candidates who were weak overall answered the same specific question incorrectly. Where the statistical analysis shows poor discrimination, it can be evidence that candidates had to resort to guessing which answer was correct, suggesting that the question had not operated as expected. It is also the case that where the passing rate for an item is very high, the discrimination score can be low, simply because the vast majority of candidates (both weak overall and strong overall) will have answered the question correctly. Correlation is a similar measure. The Board expects to see a positive correlation figure in respect of the correct or intended best answer for any given question, and a negative correlation score in relation to a wrong, or 'not the best' answer. A positive correlation outcome for a wrong or 'not the best' answer suggests that the stronger candidates (in terms of performance across the examination as a whole) were attracted to that answer.
- 4.1.4 For the April 2023 Civil Litigation assessment comments were received in relation to 33/90 questions (15/50 questions on paper 1, and 18/40 question on Paper 2). Hence 37% of questions generated some level of AETO feedback, although AETOs only sought some form of intervention in respect of 14/90 items across both papers. 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 April 2023 sitting, in respect of those questions where there was some AETO feedback, 24 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

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

Item	Number of AETOs responding	Exam Board decision and rationale
Paper 1		
Q.3	1	<p>Candidates achieved a passing rate of 43% in respect of this MCQ, which also recorded adequate discrimination. The AETO feedback suggested option [A] should be credited alongside the intended correct answer [B]. There was negative correlation on [A] with strong positive correlation on [B]. The Chief Examiner advised that [B] could be the only correct answer but noted that the fact pattern could be amended before the question was reused, to give a clearer reasoning for withholding inspection.</p> <p><i>The Board decided not to intervene.</i></p>
Q.4	1	<p>Candidates achieved a passing rate of 28% in respect of this new MCQ, which also recorded good discrimination. The board acknowledged that this was a tough question. [B] was the intended correct answer but [C] had a weak/non-existent positive correlation (0.00). However, the word "must" in distractor [C] made it the incorrect answer.</p> <p><i>The Board decided not to intervene.</i></p>
Q.16	1	<p>Candidates achieved a passing rate of 52% in respect of this SBA which also recorded adequate discrimination. AETO feedback suggested that option [A] should also be credited in addition to the intended best answer [C]. After discussion, it was agreed that [A] could not be credited as it was opposing the instructions in [C], which was the correct answer. It was noted that the examiner team had acknowledged that this would be a difficult question during paper setting.</p> <p><i>The Board decided not to intervene.</i></p>

Item	Number of AETOs responding	Exam Board decision and rationale
Q.45	1	<p>Candidates achieved a passing rate of 48% in respect of this MCQ, which also recorded low discrimination.</p> <p>This question was intended to assess the candidates' knowledge and understanding of litigation privilege and specifically that relating to the dominant purpose of a document.</p> <p>[D] was the intended correct answer. Identification of correct option [D] was dependent on candidates identifying from the fact pattern that a letter, brought into existence by a Trade Union, responding to a member making an inquiry about funding of a prospective claim, did not attract litigation privilege as the dominant purpose of the letter was to respond to that inquiry rather to provide legal advice, or be used in evidence in any proceedings.</p> <p>There were challenges from two AETOs that it had been unfair to expect candidates to differentiate between options [A] and [D], given the scope of the syllabus reading, and that it was reasonable on the facts for candidates to have concluded that the purpose of the letter was to aid in the conduct of litigation.</p> <p>Although in practice it was highly unlikely that such a letter would attract litigation privilege, the Civil Litigation Subject Board did have some sympathy with the view that candidates may have concluded from the facts that the Trade Union's refusal to provide funding could lead to a reasonable inference about the prospective claim's lack of legal merit and, therefore, might attract litigation privilege.</p> <p>The data showed that 48% of candidates selected the correct [D] but with low positive discrimination of 0.09, and that 40% of candidates selected option [A] with slightly better positive discrimination of 0.10. The board felt that it could reasonably be concluded that candidates had struggled to distinguish between those two options.</p> <p>The question was intended to operate as an MCQ with only [D] being the correct answer. [A] and [D] were stated in opposite terms in respect of inspection.</p> <p>In light of the feedback, the data, and the presented facts, the Civil Litigation Subject Board concluded that the</p>

Item	Number of AETOs responding	Exam Board decision and rationale
		<p>question might more appropriately be seen to operate as an SBA on the basis that while [D] was the best answer, the distinction between [A] and [D] was too fine, in a closed book examination, for candidates to reasonably have been expected to have made that selection.</p> <p>Therefore, to ensure fairness to the candidates, the board agreed to credit option [A] in addition to option [D].</p>
Q.46	1	<p>Candidates achieved a passing rate of 75% in respect of this MCQ, which also recorded low discrimination. The AETO feedback was noted but it was agreed that it was not relevant to the validity of the question.</p> <p><i>The Board decided not to intervene.</i></p>
Q.50	1	<p>Candidates achieved a passing rate of 58% in respect of this MCQ, which also recorded low discrimination. The AETO feedback was noted but it was agreed that it was not relevant to the validity of the question.</p> <p><i>The Board decided not to intervene.</i></p>
Paper 2		
Q.2	1	<p>Candidates achieved a passing rate of 55% in respect of this MCQ, which also recorded low discrimination. AETO feedback was to credit distractors [C], [D] and correct answer [B] or suppress the question. The Chief Examiner disagreed with this feedback and commented that everything that was needed for candidates to answer the question correctly was in the fact pattern of the question.</p> <p><i>The Board decided not to intervene.</i></p>
Q.5	1	<p>Candidates achieved a passing rate of 35% in respect of this MCQ, which also recorded very poor discrimination. AETO feedback was to the effect that distractor [D] should be credited along with correct answer [C]. The Chief Examiner disagreed this and advised the board that distractor [D] was completely wrong.</p> <p><i>The Board decided not to intervene.</i></p>
Q.8	1	<p>Candidates achieved a passing rate of 56% in respect of this SBA which also recorded very poor discrimination. AETO feedback was that distractor [C] should have been credited along with correct answer [D]. It was noted that there was positive correlation on distractor [C]. The Chief Examiner disagreed with the AETO feedback, advising</p>

Item	Number of AETOs responding	Exam Board decision and rationale
		<p>the Board that the answer was clear in the relevant practice direction.</p> <p><i>The Board decided not to intervene.</i></p>
Q.9	1	<p>Candidates achieved a passing rate of 59% in respect of this SBA, which also recorded poor discrimination. AETO feedback was that distractor [C] should have been credited along with correct answer [B]. It was noted that there was positive correlation on distractor [C]. The Chief Examiner disagreed with the AETO feedback, advising the Board that the statistics showed that question had performed as expected.</p> <p><i>The Board decided not to intervene.</i></p>
Q.10	2	<p>Candidates achieved a passing rate of 18% in respect of this SBA, which also recorded negative discrimination.</p> <p>This question was intended to assess the candidates' knowledge and understanding about securing evidence to be brought before the court in a way which was most advantageous to the defence, and which would ensure that the evidence was given the greatest weight.</p> <p>Option [C] was the intended best answer. Identification of the best advice to response to the client's query as to the best way to proceed depended on candidates appreciating that a witness summons should be issued at an early stage which would be binding upon the witness to secure his attendance at the trial and give his evidence directly to the court (in accordance with the "best evidence" principle).</p> <p>One AETO fed back that option [D] should also be credited (to have the witness give evidence by deposition). The Civil Litigation Subject Board considered that there was some merit to crediting [D] as an additional answer as considerations of both advantage and weight might have confused the candidates and, on the facts, led candidates to consider that there may have been an appreciable risk to the client in issuing a witness summons if the witness was then disinclined to give advantageous oral evidence as a result.</p> <p>The data showed that the designated best answer [C] attracted only 18% of the candidates with negative discrimination of -0.02 whereas option [D] attracted 67% of the candidates with positive discrimination of 0.21.</p>

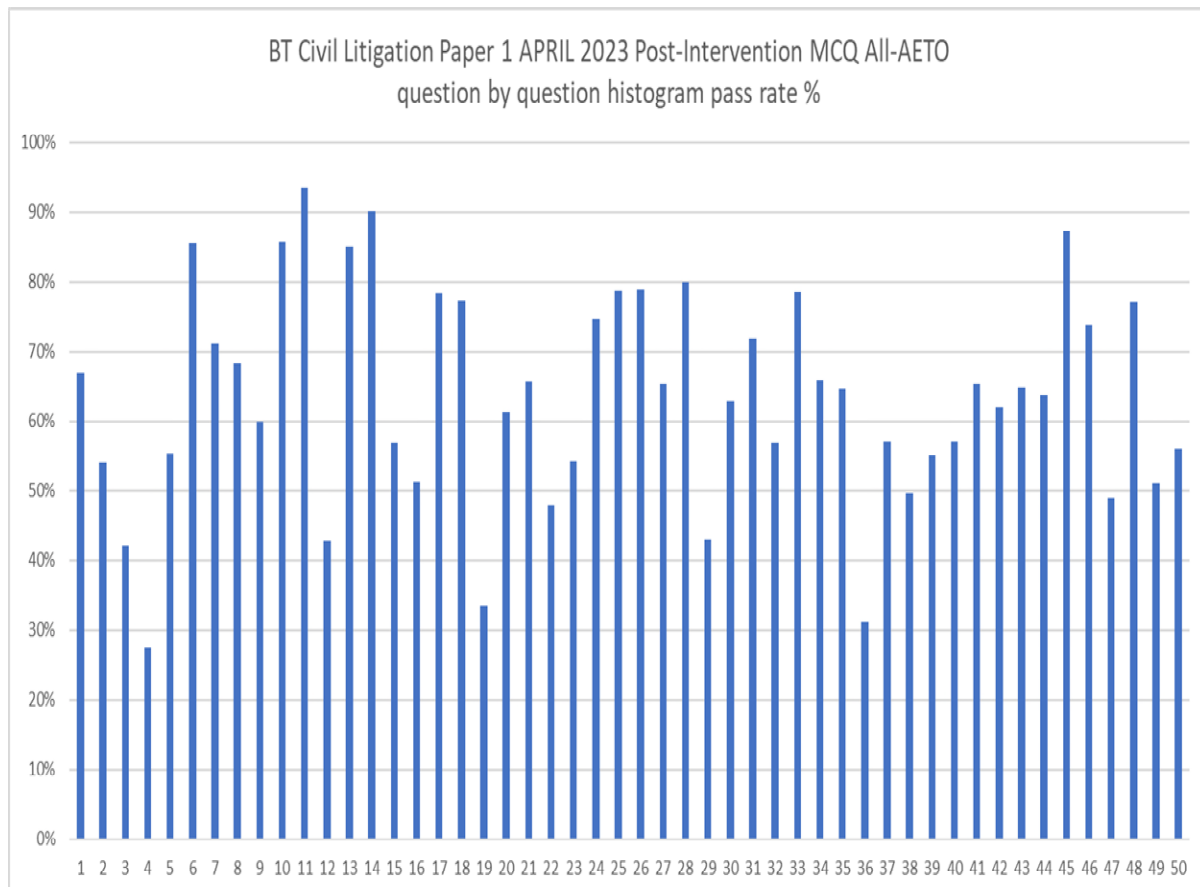
Item	Number of AETOs responding	Exam Board decision and rationale
		<p>The Board concluded that, although great care had been taken to present the facts in such a way that candidates ought to have been able to distinguish between the most suitable way to proceed, the distinction between options [C] and [D] had been too fine. The AETO feedback and the statistical data relating to candidate performance lent strong support to crediting option [D], as an additional answer and it was determined that, to ensure fairness for the candidates, option [D] should be credited in addition to option [C].</p>
Q.35	1	<p>Candidates achieved a passing rate of 18% in respect of this SBA, which also recorded poor discrimination. AETO feedback suggested that distractor [D] should have been credited along with preferred best answer [B]. The Chief Examiner disagreed with the feedback and advised the Board that there was a material distinction between distractor [D] and the preferred best answer [B]. The board accepted this advice and noted that the examining team would review the question again before using.</p> <p><i>The Board decided not to intervene.</i></p>
Q.39	1	<p>Candidates achieved a passing rate of 49% in respect of this MCQ, which also recorded low discrimination. This question was intended to assess the candidates' knowledge and understanding about the acceptance of a claimant's Part 36 offer within the relevant period where the claimant is a minor. It was expected that candidates would identify option [C] as the correct answer as it set out the requirement for the court to approve the settlement and the cost consequences which would flow. Unfortunately, there was an error presented in [C] which set out that, upon approval, "GFK would be liable to pay Kelly's costs up to the date on which the notice of acceptance was served on GFK...". Although the paper had been seen by many pairs of eyes, only one AETO spotted that the second reference to GFK should in fact have read "Kelly", by whom the offer was being made.</p> <p>The examining team considered the potential for this error to have created confusion amongst the candidates who may, as a result, have resisted selecting [C] and chosen a different option instead.</p> <p>The data showed that although 49% of candidates did select [C], with positive discrimination of 0.21, 21%</p>

Item	Number of AETOs responding	Exam Board decision and rationale
		<p>selected [A], with positive discrimination of 0.01, and 26% selected [B], albeit with negative discrimination of -0.19. Only 4% of candidates selected [D] with negative discrimination of -0.14.</p> <p>The Civil Litigation Subject Board recommended that the question should be suppressed on the grounds that it contained an error which may have had an adverse effect on the candidates of indeterminate extent.</p> <p>Therefore, to ensure fairness for the candidates, the Board agreed that the only appropriate course of action was to suppress the question.</p>

4.2 Post-intervention histogram of MCQs

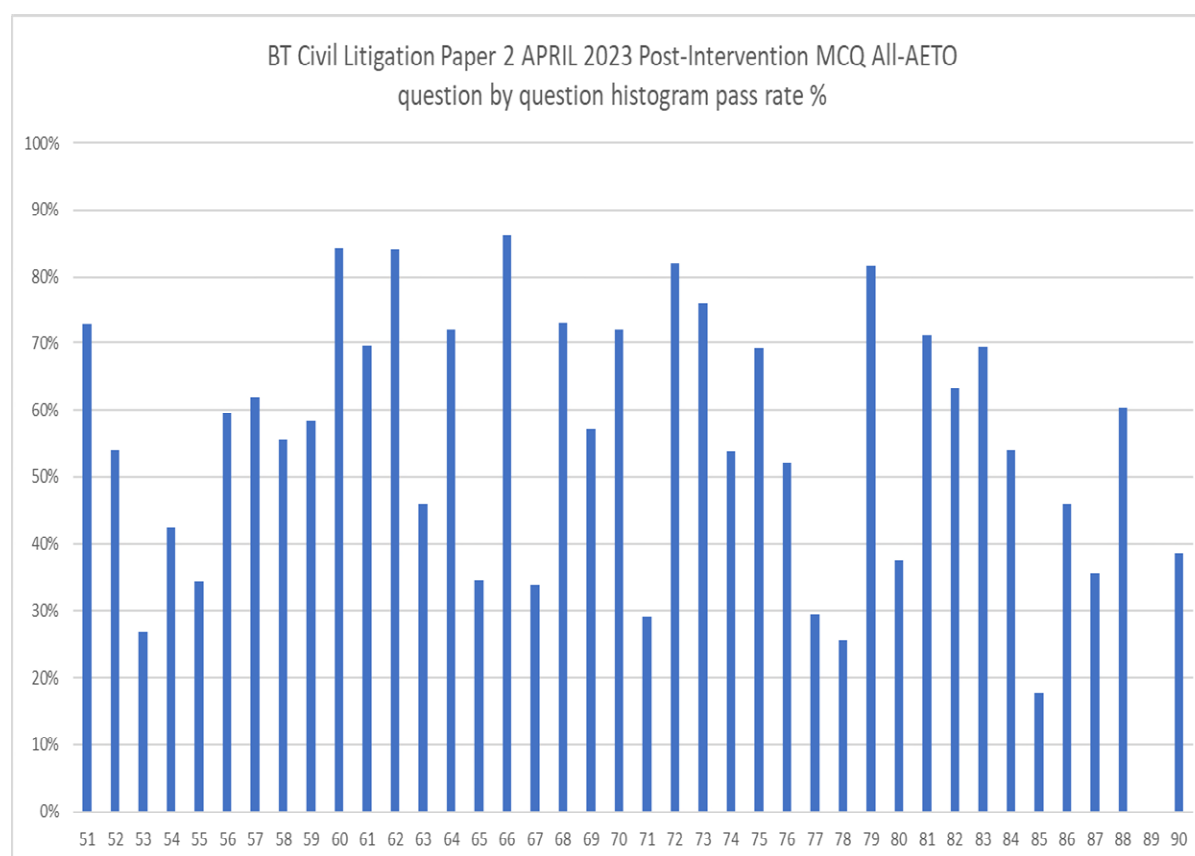
The histograms below show the facility scores (% of Bar Training candidates answering correctly) for each of the questions in the April 2023 Civil Litigation examination (following any agreed interventions detailed at 4.1.5).

4.2.1 Paper 1



For Civil Litigation Paper 1 the post-intervention data shows 3 MCQs with an all-AETO cohort pass rate below 40% (compared to 10 for the December 2022 sit). Assuming candidates attempted the questions in the order presented there is only slight evidence of candidate fatigue being a factor. The average passing rate across the first 25 MCQs was 65%, compared with 62% 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 8 MCQs with an all-AETO cohort pass rate below 40% (compared to 5 for the December 2022 sit). Note that item 89 was suppressed following the exam board decision in response to AETO feedback. Across both papers 1 & 2 (89 questions) there were, therefore 11 questions with a passing rate of 40% or below, compared to 15 in the December 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 in paper 2 was 56%, compared with 53% across MCQs 21 to 40 (including item 89 for these purposes). It is notable, however, that the average passing rate for the first five stand-alone questions on Paper 2 was just 47%, lower than that for any of the subsequent rolling case scenarios, apart from whilst the fifth rolling case scenario where the average passing rate dropped to 43% (with the suppression of item 89).

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 51.3 out of 90, rounded by exam board convention to 52/90. As a result of the Final Board's decision to suppress question 39 on Paper 2, however, the pass standard was recalculated and consequently confirmed by the Final Board as being 51/89.

- 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.

	Aug-21	Dec-21	Apr-22	Aug-22	Dec-22	Apr-23
No. of Candidates	738	823	1517	790	929	1671
No. of Scored Items	89	90	89	90	90	89
Pass Standard	50 (56.2%)	50 (55.6%)	49 (55.1%)	52 (57.8%)	48 (53.3%)	51 (57.3%)
No. Passing	305 (41.3%)	441 (53.6%)	904 (59.6%)	365 (46.2%)	524 (56.4%)	1000 (59.8%)
Mean Score	48.17 (54.13%)	50.60 (56.23%)	52.45 (58.93%)	50.16 (55.74%)	50.50 (56.11%)	53.7 (60.4%)
Standard Deviation	12.13 (13.63%)	12.22 (13.57%)	13.59 (15.27%)	10.94 (12.16%)	13.43 (14.92%)	13.2 (14.9%)
Range of Scores	11 to 83	21 to 83	5 to 87	16 to 85	18 to 86	15 to 87
Reliability (KR-20)	0.88	0.89	0.90	0.85	0.90	0.90
Reliability for Equivalent 90-item Test	0.88	0.89	0.90	0.85	0.90	0.90
Standard Error of Measurement	4.28 (4.75%)	4.12 (4.58%)	4.23 (4.75%)	4.29 (4.77%)	4.20 (4.67%)	4.10 (4.6%)

4.4 Chief Examiner's Report

The Chief Examiner for Civil Litigation reported that: (i) the feedback from AETOs on the Civil Litigation papers was positive and with the majority broadly commenting that the papers were fairly pitched, effective, well-balanced and coherent; (ii) she was satisfied that the assessment had been fair to candidates and allowed them to demonstrate their competence to the required threshold.

4.5 Independent Observer confirmation

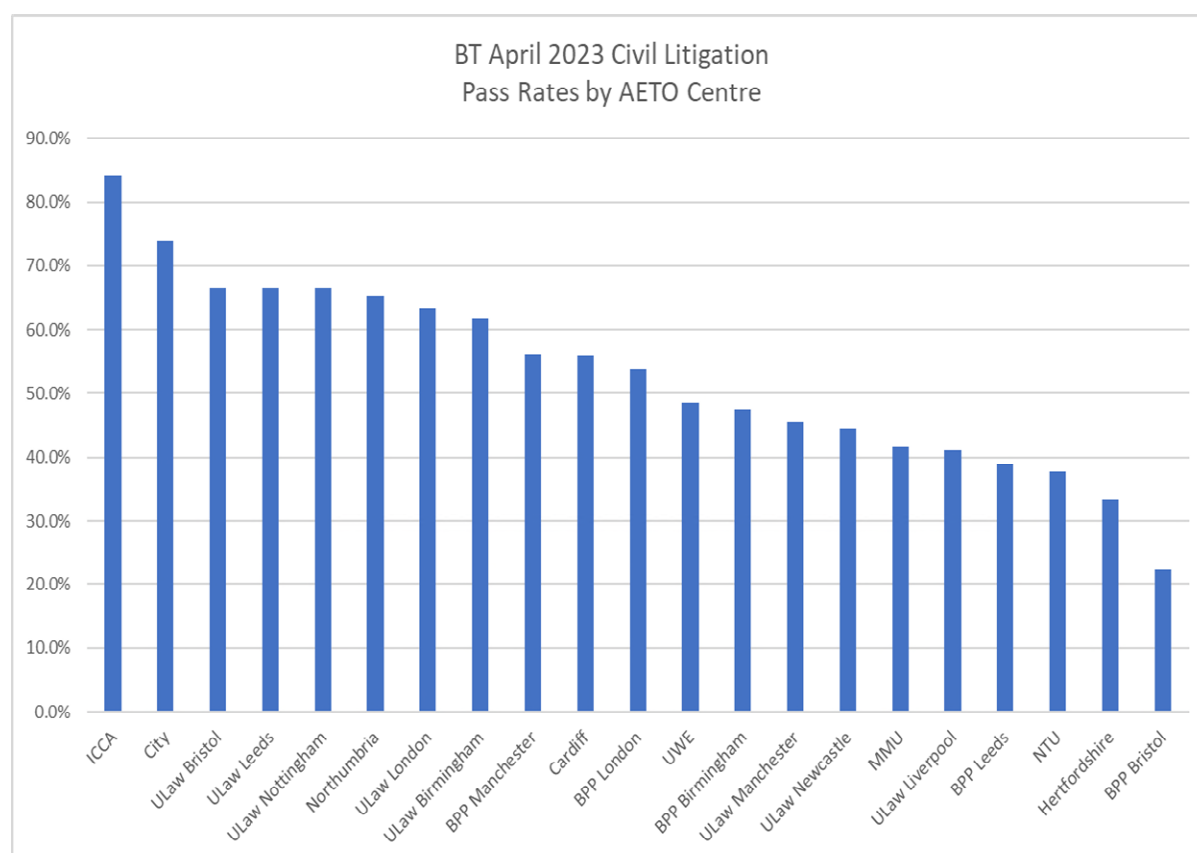
The Independent Observer endorsed the proceedings in respect to Civil Litigation.

4.6 Civil Litigation post-intervention pass rate April 2023

All-AETO Post-Intervention	Civil Litigation August 2021	Civil Litigation December 2021	Civil Litigation April 2022	Civil Litigation August 2022	Civil Litigation December 2022	Civil Litigation April 2023
Number of Candidates	738	823	1517	790	929	1671
Passing Rate	41.3%	53.6%	59.6%	46.2%	56.4%	59.8%

The table above shows the all-AETO April 2023 post-intervention Bar Training cohort pass rate of 59.8% for Civil Litigation, based on a passing standard recommended to the Final Board (as a result of the standard setting process) of 51/89. The post-intervention passing rate is the highest across the last six cycles. For the April 2023 sitting over 82% of candidates were attempting the assessment on a first sit basis, and 18% 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 62% versus a passing rate for resitting candidates of 48%.

4.7 April 2023 Civil Litigation pass rates by AETO



4.7.1 The 21 AETO centre cohorts are ranged left to right in descending order of their April 2023 pass rates in the Civil Litigation assessment. Hence the ICCA had the highest April 2023 pass-rate at 84.2% and BPP Bristol the lowest at

22.2%. The data needs to be read in the context of cohort sizes (three AETO centres having cohorts in single figures - BPP Bristol had only 9 candidates), and other factors outlined at 1.5.3 (above).

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

AETOs Ranked by % First Sit			
AETO	Cohort Size	No. First Sitting	% First Sit
BPP Bristol	9	9	100%
ULaw Newcastle	9	9	100%
ULaw Liverpool	56	55	98%
ULaw Leeds	60	57	95%
BPP Leeds	18	16	89%
ULaw Bristol	33	31	94%
City	397	364	92%
ULaw Nottingham	12	11	92%
ULaw Manchester	44	40	91%
Northumbria	69	62	90%
ULaw Birmingham	89	77	87%
UWE	109	92	84%
ICCA	38	32	84%
ULaw London	197	162	82%
BPP London	299	213	71%
NTU	74	52	70%
BPP Birmingham	42	28	67%
BPP Manchester	73	46	63%
Cardiff	25	13	52%
MMU	12	4	33%
Hertfordshire	6	0	0%

First sit cohorts tend to be stronger than resit cohorts, and with this in mind it should be noted that, for the April 2023 Criminal Litigation examination, only MMU and the University of Hertfordshire had more resitters than first sit candidates (the University of Hertfordshire cohort comprising only resit candidates).

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

First Sit Pass Rates and Resit Pass Rates CIVIL LITIGATION		
AETO	First Sit % Pass	Resit % Pass
BPP Birmingham	57.1%	28.6%
BPP Bristol	22.2%	N/A
BPP Leeds	37.5%	50.0%
BPP London	54.9%	51.2%
BPP Manchester	50.0%	66.7%
Cardiff	53.8%	58.3%
City	75.8%	51.5%
Hertfordshire	N/A	33.3%
ICCA	87.5%	66.7%
MMU	75.0%	25.0%
Northumbria	66.1%	57.1%
NTU	40.4%	31.8%
ULaw Birmingham	64.9%	41.7%
ULaw Bristol	71.0%	0.0%
ULaw Leeds	66.7%	66.7%
ULaw Liverpool	41.8%	0.0%
ULaw London	66.0%	51.4%
ULaw Manchester	45.0%	50.0%
ULaw Newcastle	44.4%	N/A
ULaw Nottingham	63.6%	100.0%
UWE	51.6%	33.3%
OVERALL	62.4%	48.2%

Of the 18 AETO centres with both first sit and resit candidates attempting the April 2023 Civil Litigation assessment, 5 reported higher passing rates for their resit cohorts compared to their first sit cohorts, albeit some cohorts were very small, hence variances can be misleading.

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

AETOs ranked by First Sit Pass Rate CIVIL LITIGATION	
AETO	First Sit % Pass
ICCA	87.5%
City	75.8%
MMU	75.0%
ULaw Bristol	71.0%
ULaw Leeds	66.7%
Northumbria	66.1%
ULaw London	66.0%
ULaw Birmingham	64.9%
ULaw Nottingham	63.6%
BPP Birmingham	57.1%
BPP London	54.9%
Cardiff	53.8%
UWE	51.6%
BPP Manchester	50.0%
ULaw Manchester	45.0%
ULaw Newcastle	44.4%
ULaw Liverpool	41.8%
NTU	40.4%
BPP Leeds	37.5%
BPP Bristol	22.2%
Hertfordshire	N/A

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

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

	Aug 21 % Pass	Dec 21 % Pass	Apr 22 % Pass	Aug 22 % Pass	Dec 22 % Pass	Apr 23 % Pass	Average over 6 sits
ICCA	100.0	89.3	81.8	92.9	86.5	84.2	89.1
Ulaw Bristol	75.0	100.0	61.1	40.0	33.3	66.7	62.7
Ulaw Leeds	52.9	42.9	69.8	56.0	75.0	66.7	60.5
Cardiff	53.3	73.3	71.4	28.6	77.8	56.0	60.1
City	54.5	40.7	74.1	45.6	53.3	73.8	57.0
Ulaw Liverpool			62.5	60.0	50.0	41.1	53.4
Ulaw Manchester	55.6	42.9	63.0	50.0	57.1	45.5	52.3
BPP London	34.7	51.9	48.2	60.1	52.7	53.8	50.2
Ulaw London	39.6	43.1	65.7	40.1	47.5	63.5	49.9
BPP Manchester	28.6	56.2	51.0	45.9	58.9	56.2	49.5
BPP Bristol	42.9	68.4	28.6	55.6	62.5	22.2	46.7
Northumbria	44.4	26.7	51.6	44.4	42.9	65.2	45.9
BPP Leeds	15.0	77.1	43.8	40.0	56.3	38.9	45.2
Ulaw Newcastle						44.4	44.4
UWE	41.2	31.7	52.3	38.1	53.3	48.6	44.2
Ulaw Nottingham	0.0	50.0	43.8	28.6	66.7	66.7	42.6
BPP Birmingham	25.0	32.5	36.2	50.0	53.6	47.6	40.8
Ulaw Birmingham	43.9	22.2	50.0	29.4	36.7	61.8	40.7
MMU	27.3	70.8	28.6	25.0	47.8	41.7	40.2
NTU	35.1	43.5	41.5	20.6	20.8	37.8	33.2
Hertfordshire					23.1	33.3	28.2

4.8.1 AETO centre cohorts are listed in order of the average of their Civil Litigation passing rates across the last six sittings of the Bar Training centralised assessments. Note that Hertfordshire entered candidates for the first time in the December 2022 sit, and ULaw Newcastle for the first time in April 2023. Greyed out cells indicate other instances in the table above where an AETO centre did not enter any candidates. The calculation of AETO centre averages have been adjusted to reflect this. The data shows that the ICCA has achieved the highest average passing rate (89.1%), and Hertfordshire the lowest at 28.2% (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 April 2023 (8 sits)			
AETO	Total Number of Attempts	Total Number of Passes	% Pass
ICCA	297	265	89.2%
City	1407	942	67.0%
Ulaw Leeds	186	124	66.7%
Ulaw Bristol	77	50	64.9%
Cardiff	311	186	59.8%
Ulaw Manchester	169	95	56.2%
BPP Manchester	468	255	54.5%
Ulaw London	911	490	53.8%
Ulaw Nottingham	51	26	51.0%
BPP London	1748	884	50.6%
Ulaw Birmingham	345	172	49.9%
Northumbria	298	148	49.7%
BPP Leeds	169	81	47.9%
BPP Bristol	101	48	47.5%
Ulaw Liverpool	79	37	46.8%
UWE	503	232	46.1%
ULaw Newcastle	9	4	44.4%
BPP Birmingham	304	123	40.5%
MMU	117	47	40.2%
NTU	295	101	34.2%
Hertfordshire	19	5	26.3%
TOTAL	7864	4315	54.9%

As can be seen from the above table 4,315 candidates have passed Bar Training Civil Litigation since the first sitting in December 2020, based on 7,864 attempts – thus the aggregate passing rate to date is 54.9%. There are 15 AETOs failing to achieve this average thus far, with a 63% range in cumulative passing rates between the strongest and weakest cohorts. Eleven AETO centres are failing to progress at least 50% of their candidates in Civil Litigation.

5. FURTHER COMPARATIVE ANALYSIS

5.1 Comparing performance in Criminal and Civil Litigation examinations

The post-intervention passing rates for the April 2023 sits in Criminal Litigation and Civil Litigation were fairly close to each other, at 59.8% and 65.6% respectively, with the Civil Litigation cohort having a slightly higher percentage of resitting candidates (18% vs 15%). There were 629 Bar Training candidates who attempted both Litigation assessments at the April 2023 sitting and the cross-tabulated outcomes, are as follows:

(a) All candidates attempting both papers:

	Pass Crime	Fail Crime
Pass Civil	529	58
Fail Civil	100	322

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

First Sitting Candidates	Pass Crime	Fail Crime
Pass Civil	490	45
Fail Civil	79	233

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

Resitting Candidates	Pass Crime	Fail Crime
Pass Civil	24	8
Fail Civil	14	62

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.

Although that all-candidate data (a) shows a wider discrepancy between the numbers in the shaded cells, given the diverse nature of the candidate group the data at (b) – all first sit candidates – is probably the most reliable indicator out of the three data sets. The discrepancy between the shaded cells in that data set is within acceptable bounds, allowing for the factors outlined above, including the differing assessment formats for Civil Litigation as compared to Criminal Litigation.

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

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

Criminal Litigation candidate numbers for April 2023 were comparable to April 2022, and it now appears that a pattern is emerging that the April sitting is the one that will have both the largest cohort numbers across the yearly cycle, and the highest proportion of first sit candidates. The variations in cohort size tends to reflect the course structures adopted by AETOs, which in turn determines when most candidates will be attempting each of the centralised assessments for the first time. Cohort numbers are also impacted by the approval of additional AETOs and AETO centres, 3 having been added since the first sitting of the current form of the centralised Litigation assessments in December 2020. Overall passing rates across the eight cycles are 54.5% for Criminal Litigation, and (an almost identical) 53.5% for Civil Litigation. The passing rates for the April 2023 sitting are the highest so far recorded for the current format of centralised Litigation assessments. The lowest passing rate for either subject was recorded in respect of the same cohort, sitting, in August 2021. To date, April sittings have produced the highest average passing rates when outcomes for both Litigation subjects are combined (58.4%), followed by the December sittings (55.21%) and the August sitting (45.61%).

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

AETO	Civil Litigation	Criminal Litigation	AVERAGE
ICCA	84.2%	89.2%	86.7%
City	73.8%	74.3%	74.1%
ULaw Nottingham	66.7%	76.9%	71.8%
ULaw Bristol	66.7%	75.0%	70.8%
Northumbria	65.2%	76.0%	70.6%
Cardiff	56.0%	83.8%	69.9%
ULaw Leeds	66.7%	66.7%	66.7%
ULaw Newcastle	44.4%	88.9%	66.7%
ULaw London	63.5%	67.2%	65.3%
BPP Bristol	22.2%	100.0%	61.1%
ULaw Birmingham	61.8%	60.0%	60.9%
BPP Manchester	56.2%	64.6%	60.4%
BPP London	53.8%	63.6%	58.7%
BPP Birmingham	47.6%	68.8%	58.2%
ULaw Manchester	45.5%	62.8%	54.1%
UWE	48.6%	48.3%	48.5%
BPP Leeds	38.9%	50.0%	44.4%
ULaw Liverpool	41.1%	47.5%	44.3%
NTU	37.8%	36.2%	37.0%
MMU	41.7%	25.0%	33.3%
Hertfordshire	33.3%	22.2%	27.8%

5.3.1 AETO cohorts are listed in descending order of the average of their passing rates across the two April 2023 Litigation examinations. The ICCA therefore had the highest average passing rate (86.7%) and the University of Hertfordshire the lowest (27.8%). Overall, 6 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 in some cases.

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

AETO	Apr-23 Criminal Candidates	Apr-23 Civil Candidates	Total Apr-23 Instances of Assessment	Total Passing Criminal Apr-23	Total Passing Civil Apr-23	Total Apr-23 Candidates Passing an Exam	Overall % of Candidates Passing an Exam in Apr-23
ICCA	37	38	75	33	32	65	86.7%
Cardiff	68	25	93	57	14	71	76.3%
City	408	397	805	303	293	596	74.0%
ULaw Nottingham	13	12	25	10	8	18	72.0%
Northumbria	75	69	144	57	45	102	70.8%
ULaw Bristol	32	33	65	24	22	46	70.8%
ULaw Leeds	60	60	120	40	40	80	66.7%
ULaw Newcastle	9	9	18	8	4	12	66.7%
ULaw London	174	197	371	117	125	242	65.2%
ULaw Birmingham	80	89	169	48	55	103	60.9%
BPP Manchester	65	73	138	42	41	83	60.1%
BPP London	184	299	483	117	161	278	57.6%
BPP Birmingham	32	42	74	22	20	42	56.8%
ULaw Manchester	43	44	87	27	20	47	54.0%
UWE	143	109	252	69	53	122	48.4%
ULaw Liverpool	59	56	115	28	23	51	44.3%
BPP Leeds	14	18	32	7	7	14	43.8%
NTU	69	74	143	25	28	53	37.1%
MMU	8	12	20	2	5	7	35.0%
BPP Bristol	1	9	10	1	2	3	30.0%
Hertfordshire	9	6	15	2	2	4	26.7%
TOTAL	1583	1671	3254	1039	1000	2039	62.7%

As the table above shows, the ICCA was the most successful AETO in terms of the percentage of candidates entered for any of the April 2023 examinations achieving a pass, in either examination, with a figure of 86.7%. At the other extreme the University of Hertfordshire only managed to get 26.7% of its candidates through either exam. Out of 21 AETO centres, 7 failed to achieve a 50% progression rate calculated on this basis. The extent to which these outcomes reflect the impact of resitting candidates remains, to some extent, a matter of conjecture. In respect of the University of Hertfordshire (100% resit cohort) and MMU (65% resit cohort) it may have played a part. In other cases, especially where cohort numbers were very small (ULaw Liverpool and BPP Bristol) it is perhaps unwise to place more weight on the data than it can reasonably be expected to bear.

5.3.3 Looking across the last eight 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.

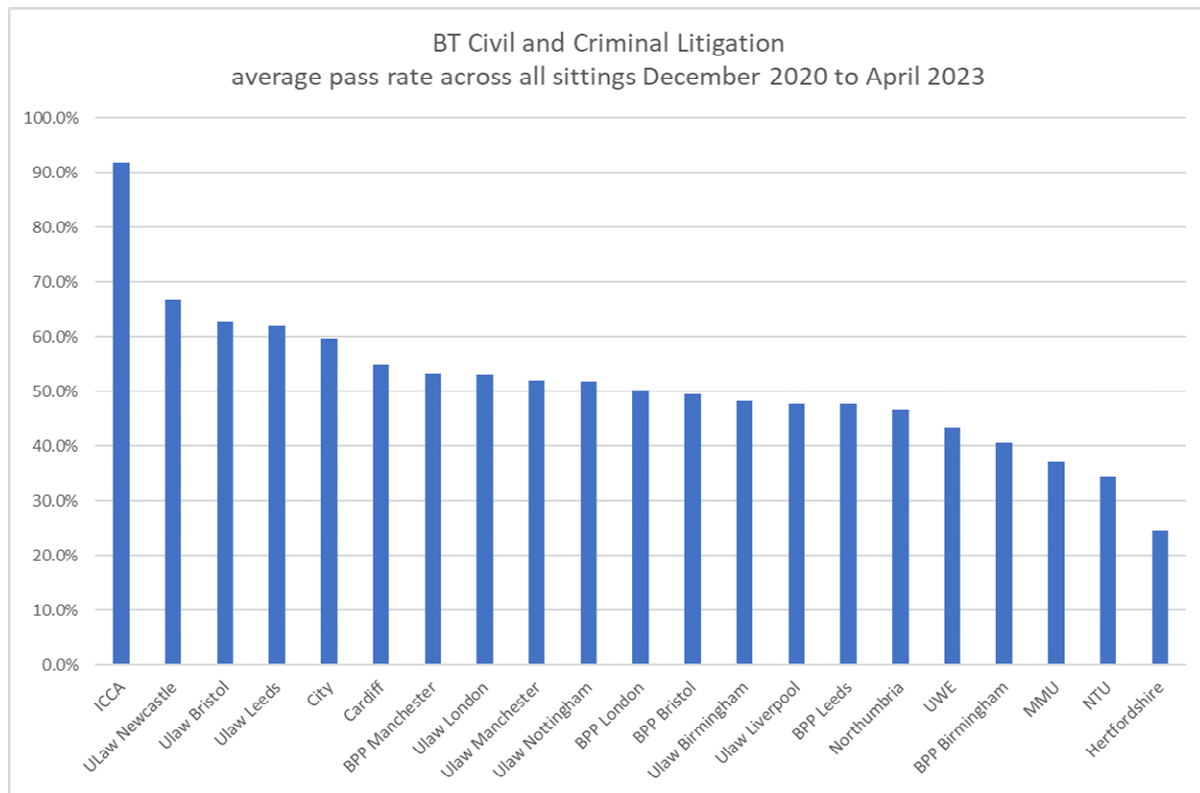
Discarding the ULaw Newcastle figure (as April 2023 was the first cohort entry), the biggest average differential is recorded by ULaw Liverpool (positive variance in Civil of 11.4%), but there are comparatively small cohort numbers involved, hence greater volatility in passing rates.

	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22	Aug-22	Dec-22	Apr-23	Average
BPP Birmingham	-3.6%	12.3%	7.8%	-14.0%	-13.8%	9.1%	0.8%	-21.2%	-2.8%
BPP Bristol	-2.6%	6.3%	12.1%	-0.8%	-11.4%	-1.6%		-77.8%	-10.8%
BPP Leeds	-26.9%	20.6%	-26.7%	8.6%	-1.3%	-2.9%	-3.8%	-11.1%	-5.4%
BPP London	-3.7%	12.7%	-10.2%	-6.6%	7.6%	-1.2%	11.0%	-9.8%	0.0%
BPP Manchester	-2.6%	16.1%	-16.1%	0.1%	-2.3%	-12.9%	13.2%	-8.4%	-1.6%
Cardiff	-2.0%	13.6%	0.7%	20.7%	-2.9%	-19.0%	17.8%	-27.8%	0.1%
City	12.3%	13.7%	7.1%	-8.7%	3.0%	-5.5%	9.1%	-0.5%	3.8%
Hertfordshire							3.1%	11.1%	7.1%
ICCA	0.0%	6.7%	14.3%	-5.4%	-5.3%	-7.1%	-2.6%	-5.0%	-0.5%
MMU	-13.3%	0.8%	9.1%	15.8%	-26.0%	-17.9%	-10.5%	16.7%	-3.2%
Northumbria		3.8%	8.4%	3.6%	-12.5%	6.9%	-14.3%	-10.8%	-2.1%
NTU		-9.2%	4.6%	8.7%	-9.4%	1.8%	-16.7%	1.6%	-2.6%
ULaw Birmingham		12.8%	9.2%	-17.8%	-20.5%	-6.3%	-2.2%	1.8%	-3.3%
ULaw Bristol		-3.1%	-25.0%		-5.6%	0.0%	33.3%	-8.3%	-1.4%
ULaw Leeds		17.9%	7.9%	17.9%	-9.0%	-4.0%	0.0%	0.0%	4.4%
ULaw Liverpool					-8.1%	10.0%	50.0%	-6.4%	11.4%
ULaw London		0.1%	-5.3%	-7.6%	-8.2%	-13.3%	6.7%	-3.7%	-4.5%
ULaw Manchester		21.5%	-2.3%	0.0%	-15.7%	5.6%	57.1%	-17.3%	7.0%
ULaw Newcastle								-44.5%	-44.5%
ULaw Nottingham		-22.9%	-100.0%	0.0%	-27.7%	-4.8%	66.7%	-10.2%	-14.1%
UWE		13.0%	5.5%	-7.3%	-5.1%	-19.5%	28.3%	0.3%	2.2%
Average	-4.7%	7.6%	-5.5%	0.4%	-9.2%	-4.3%	13.0%	-11.0%	

In the April 2023 sitting all but five AETO cohorts performed more strongly in Criminal Litigation compared to Civil. In December 2022 the situation was almost the reverse with a stronger performance in Civil Litigation, but this may have been due to the larger proportion of fist sit candidates attempting Civil Litigation at that particular 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 91.7%, and Hertfordshire (entering candidates for the first time in the December 2022 sitting) the lowest at 24.7%. The ICCA is, thus far, some way ahead of the other AETO centres in terms of cohort performance, the gap between it and second placed ULaw Newcastle being over 25% (the ULaw Newcastle figure itself needs to be seen in the context of this being that AETO cohorts first sitting of these assessments). There are 10 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 April 2023

5.5.1 Cumulative passing rate to date disaggregated by AETO centre

BT Civil and Criminal Litigation December 2020 to April 2023			
AETO	Total No. of Attempts	Total No. of Passes	% Pass
ICCA	596	539	90.4%
Ulaw Bristol	151	102	67.5%
ULaw Newcastle	18	12	66.7%
Ulaw Leeds	393	260	66.2%
City	2940	1919	65.3%
Ulaw Manchester	334	200	59.9%
Cardiff	619	368	59.5%
Ulaw Nottingham	92	53	57.6%
Ulaw London	1831	1034	56.5%
BPP Manchester	914	497	54.4%
Northumbria	553	291	52.6%
Ulaw Birmingham	703	366	52.1%
BPP London	3295	1658	50.3%
BPP Leeds	319	157	49.2%
Ulaw Liverpool	159	78	49.1%
BPP Bristol	189	92	48.7%
UWE	1082	489	45.2%
BPP Birmingham	588	247	42.0%
MMU	232	95	40.9%
NTU	585	209	35.7%
Hertfordshire	43	10	23.3%
TOTAL	15636	8676	55.5%

This table aggregates all the attempts by candidates at both the Criminal Litigation and Civil Litigation examinations across all eight sittings from December 2020 to April 2023. In total there have been 15,636 Bar Training candidate entries, of which 8,776 have been successful (55.5%). As can be seen, 12 AETO centres fall below this overall passing rate, with 8 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 – 8 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 April 2023			
AETO	Total No. of Attempts	Total No. of Passes	% Pass
ICCA	596	539	90.4%
City	2940	1919	65.3%
Cardiff	619	368	59.5%
ULaw Group	3681	2105	57.2%
Northumbria	553	291	52.6%
BPP Group	5305	2651	50.0%
UWE	1082	489	45.2%
MMU	232	95	40.9%
NTU	585	209	35.7%
Hertfordshire	43	10	23.3%

Presenting the data this way shows that the ICCA remains the most successful AETO in terms of the percentage of candidates entering for a centralised assessment securing a pass, 25% 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. Four AETO groups have not, to date, managed to exceed the 50% overall success level for centralised Litigation assessments candidates (NB. The University of Hertfordshire entered its first cohort in December 2022).

6. BAR TRANSFER TEST RESULTS APRIL 2023

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

6.1 BTT Passing rates August 2021 to April 2023

Bar Transfer Test Post-Intervention	Aug-21		Dec-21		Apr-22	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	94	78	85	69	70	62
Passing Rate	45.7%	46.2%	46.0%	44.9%	43.0%	45.2%
Bar Transfer Test Post-Intervention	Aug-22		Dec-22		Apr-23	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	65	51	41	39	24	18
Passing Rate	38.5%	33.3%	29.3%	61.5%	50.0%	44.4%

For the April 2023 sitting the BTT candidate cohort achieved its highest passing rate since the introduction of the current format of assessment for these candidates in the August 2021 sitting. This outcome is consistent with that for the main Bar Training cohort overall. The outcome for the Civil Litigation BTT candidates is not as strong, over 5% lower, and well down on the 61.5% achieved in the previous sitting. 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 3.5% higher.

7. BPTC RESULTS APRIL 2023

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 April 2023 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 April 2023

BPTC All-Provider Post-Intervention	Aug-21		Dec-21		Apr-22	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	354	338	168	N/A	167	229
Passing Rate	47.5%	43.8%	38.7%	N/A	48.5%	31.0%
BPTC All-Provider Post-Intervention	Aug-22		Dec-22		Apr-23	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	70	43	45	31	36	57
Passing Rate	44.3%	25.6%	40.0%	45.2%	42.0%	53.0%

As the above table shows, the number of BPTC candidates is steadily declining, although overall there were 17 more BPTC candidate entries across the two Litigation assessments for April 2023 compared to December 2022. That said, the total is a far cry from the 692 BPTC candidate entries registered for August 2021. Understandably, given the cohort composition and possible distance in time between the delivery of tuition and attempting the assessment, the BPTC outcomes do not compare favourably with those for the main Bar Training cohort, passing rates being 23% lower in Criminal Litigation, albeit only 7% lower in respect of Civil Litigation. The outcome in respect of Civil Litigation was in fact the strongest for the BPTC cohort across the last 6 cycles.

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