

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

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

**BPTC
Summer 2021 Sitting**

EXECUTIVE SUMMARY

The Central Examination Board ('CEB') has now completed its eleventh cycle of overseeing assessments in the knowledge areas of the Bar Professional Training Course ('BPTC'). The confirmed post-intervention outcomes of the Summer 2021 centralised assessments in Criminal Litigation and Civil Litigation following review of the BPTC cohort performance by the CEB are as follows:

	Summer 2021	Spring 2021	Summer 2019	Summer 2018	Summer 2017
Civil Litigation, Evidence, and Sentencing					
Number of Candidates	338	493	610	528	517
Passing MCQ	43.8%	57.4%	46.9%	51.3%	43.9%
Criminal Litigation, Evidence, and Sentencing					
Number of Candidates	354	478	638	357	290
Passing MCQ	47.5%	35.1%	45.4%	58.8%	47.2%

The overall passing rate in Civil Litigation for the Summer 2021 sitting was the lowest across the 5 cycles being compared, whilst the overall passing rate in Criminal Litigation was the second highest.

The Spring 2021 sit was the last opportunity for candidates to attempt the Professional Ethics examination as part of the BPTC programme. With the introduction of the Bar Training Course ('BTC') in September 2020, assessment of Professional Ethics is now conducted by Authorised Education and Training Organisations (AETOs) as part of their locally delivered BTC. Candidates progressing to pupillage will be required to pass a new centralised Professional Ethics examination in order to secure a Final Practising Certificate, the first pupillage stage examination being offered in April 2022.

BPTC candidates needing to attempt the Civil Litigation assessment will have one more opportunity to do so in the Spring 2022 sitting. From Summer 2022, if BPTC candidates have not successfully completed the Civil Litigation assessment, they will need to take the new format of centralised assessment for Civil Litigation which incorporates dispute resolution. The Criminal Litigation assessment for BPTC candidates is the same as that attempted by Bar Training Course candidates and BPTC candidates may attempt the Criminal Litigation examination in the Spring 2022 sitting or subsequent sittings (this is contingent on their number of attempts remaining and their maximum registration period); see further: <https://www.barstandardsboard.org.uk/training-qualification/becoming-a-barrister/transitional-arrangements.html>

Given that the BPTC course is being run out there are increasingly very few candidates entering for the examinations on a 'first sit' basis – hence most candidates for the Summer 2021 will have already attempted the assessments at a previous sitting. For this reason, the points of comparison used in this iteration of the Chair's report are the Spring 2021 BPTC sit (on the basis that BPTC candidates for that assessment were predominantly those resitting) and previous Summer sittings 2017 to 2019. The August 2020 sittings are not being used as a point of comparison as they were impacted by the Covid pandemic and the cohorts attempting were mainly composed of candidates sitting for the first time.

1. BACKGROUND AND CONTEXT

1.1 Why the Central Examinations Board was established

The 2010/11 academic year saw the first round of assessments under the BPTC regime (replacing the BVC) in the wake of the Wood Report (July 2008). For 2010/11, all AETOs 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 represent 25% of the BPTC (ie 30 credits out of 120). For 2010/11, the knowledge area assessments were set and marked by the higher education institutions offering the BPTC, formerly known as "Providers", now referred to as Authorised Education and Training Organisations ("AETOs."), the term adopted for the purposes of this report. 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 AETOs 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 a 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 AETO, 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 NB Remedies was later removed from the syllabus

1.3 The assessment formats from Spring 2017 onwards

- 1.3.1 Acting on the recommendations of the BSB's Education and Training Committee, from the Spring 2017 sitting, the CEB introduced significant changes to the format and marking processes for the centralised assessments on the BPTC. Both the Civil Litigation and Criminal Litigation assessments were modified to become three-hour papers comprising 75 MCQ and Single Best Answer (SBA) questions. This change meant that the answers for the entire paper in each subject could be marked electronically using Speedwell scanning technology. The assessment in Professional Ethics became a two-hour paper (increased to two hours and thirty minutes from the Spring 2018 sit) comprised of six SAQs, the marking being undertaken by a team of independent markers appointed by the BSB.
- 1.3.2 2017 was also the first year in which Bar Transfer Test (BTT) candidates had to take centralised assessments in the three knowledge areas rather than assessments set by BPP University, the institution appointed by the BSB to provide BTT training. For the Spring 2017 sitting, BTT candidates thus sat the same Civil Litigation and Criminal Litigation papers as the BPTC cohort on the same dates, and (for logistical reasons relating to the Spring 2017 assessment) a separate Professional Ethics paper. For the Spring 2018 sit, BTT candidates attempted the same Professional Ethics assessment as the BPTC candidates (see section 6 for BTT results). Unless otherwise specified, cohort performance data analysed in this report, and any assessment reliability analysis is based on the results achieved by BPTC candidates only. From Summer 2021, BTT candidates attempted the same examination papers as the Bar Training Course candidates.

1.4 Table of AETO centres and active dates (2016/17 onwards)

Table of AETO Centres and Active Dates					
AETO	16/17	17/18	18/19	19/20	20/21
BPP London	YES	YES	YES	YES	YES
BPP Leeds	YES	YES	YES	YES	YES
BPP Manchester	YES	YES	YES	YES	YES
BPP Birmingham	YES	YES	YES	YES	YES
BPP Bristol	NO	YES	YES	YES	YES
Cardiff University	YES	YES	YES	YES	YES
City University	YES	YES	YES	YES	YES
University of Law ('ULaw Birmingham')	YES	YES	YES	YES	YES
University of Law ('ULaw' London)	YES	YES	YES	YES	YES
University of Law ('ULaw' Leeds)	YES	YES	YES	YES	YES
University of the West of England ('UWE')	YES	YES	YES	YES	YES
University of Northumbria ('UNN')	YES	YES	YES	YES	YES
Manchester Metropolitan University ('MMU')	YES	YES	YES	YES	YES
Nottingham Trent University ('NTU')	YES	YES	YES	YES	YES

As indicated above, BPP started to deliver the BPTC in Bristol, for the first time, in the 2017/18 academic year. The University of Law Leeds centre had examination candidates for the first time in Spring 2017. Note that not all centres had candidates sitting both centrally set examinations in the Summer 2021 sit. Some current AETOs are not listed because they have never had a BPTC cohort, their first intakes being BTC candidates in the 2020-21 academic year.

1.5 Terms used in this report

- “All AETO” refers to the aggregated data bringing together cohort performance across all AETOs centres
- “By AETO” refers to data comparing the performance of each of the AETOs relative to each other

- “Spring sit” refers to the March/April/May exam cycle (this was deferred to August and October 2020 for the Spring 2020 sit – see above). Note that some candidates undertaking these examinations may be doing so on a referred or deferred basis.
- “Summer sit” refers to the August exam cycle (this was deferred to December 2020 for the Summer 2020 sit – see above). Some candidates undertaking these examinations may be doing so on a deferred basis (ie, for the first time).
- “Combined” refers to the pre-Spring 2017 assessment format where the result for a centrally assessed knowledge area was arrived at by aggregating a candidate’s MCQ and SAQ scores.

2. THE BPTC ASSESSMENT PROCESS SPRING 2017 ONWARDS

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

2.1 How examination papers are devised and approved

- 2.1.1 The bank of material used for compiling the centralised assessments is derived from a number of sources including: questions devised by specialist question writers commissioned by the BSB (some of whom are based at AETO institutions), questions devised by members of the central examining teams, and some questions adapted from material originally submitted by AETO institutions at the request of the BSB.
- 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. The outcome of this process is fed back to the Chief Examiner who makes the final decision on whether to alter any of the questions as a result. 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: Civil Litigation & Evidence, and Criminal Litigation, Evidence & Sentencing

Before candidates attempt the examinations for Civil Litigation and Criminal Litigation the papers are subjected to a standard setting process to determine a passing standard which will be recommended to the Final Examination Board. The method used for these two subjects is known as the Angoff Method, and it helps ensure that the standard required to achieve a pass mark is consistent from one sitting of the assessment to the next. Using standard setting, the number of MCQs a candidate needs to answer correctly in order to pass the assessment may go up or down from one sitting to the next depending on the level of challenge presented by the exam paper as determined by the standard setters. For a more detailed explanation of this process see: <https://www.barstandardsboard.org.uk/uploads/assets/dde209b7-529d-4354-bbbfd992577685f9/20201117-Standard-setting.pdf>

2.3 How the exams are conducted

- 2.3.1 Candidates across all AETO centres normally attempt the centralised assessments in each of the knowledge areas on the same dates. In any case where a AETO identifies candidates as having special assessment 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 AETOs are given guidance on examination arrangements by the BSB. Exam invigilation reports are submitted by AETOs, detailing any issues they believe may have had a material bearing on the conduct of the examination itself at their assessment centres (for example, public transport strikes, bomb alerts, fire alarms, building noise), and these reports will be 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. Summer 2021 exam dates were as follows:

BPTC Civil Litigation
BPTC Criminal Litigation

Tuesday 17 August 2021 at 2pm
Friday 20 August 2021 at 2pm

2.4 Marking

2.4.1 Over 65% of BPTC candidates for the Summer 2021 sit attempted the examination papers using a computer-based testing ('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.

2.4.11 For both of 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

2.6.1 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 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.

2.6.2 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. Once the Subject Board agrees what its recommendation to the Final Board will be in respect of the passing standard to be applied, the Subject Board reviews the raw data on cohort performance in relation to the assessment as a whole (overall pass rate and AETO centre cohort pass rates) and the results for each component question (or part-question) making up the assessment. The key data presented to the Subject Board (reflecting the recommended passing standard) will also include:

- overall pre-and post-intervention pass rates and AETO centre pass rates for the current and previous two cycles of assessment.
- data showing the pass rate for each MCQ achieved at each of the AETO centres cross-referenced to the representations made in the assessment pro-formas returned by the AETOs – thus flagging up any correlation of AETO criticisms and concerns with systemic poor performance by candidates.
- 'Manhattan diagrams' (pentile histograms) which rank candidates into 20% bands based on their performance in an exam. For each exam question, the first bar of the Manhattan diagram shows the top 20% of candidates and the proportion who answered the question correctly. A

decrease in correct answers going down through the bands indicates a good discrimination between strong and weak candidates.

- statistical analysis by the Psychometrician.
- the Chief Examiner's commentary on the assessment process.
- Invigilator reports detailing evidence of issues that may have impacted on the conduct of the examination itself at any AETO centre.

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

2.6.4 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 at an AETO or matters related to the conduct of the assessment that can be dealt with through an AETO's extenuation processes.

2.6.5 The Final Examination Board considers the recommendations of the Subject Boards in respect of the AETO cohort performances in the three 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/SAQ 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 AETOs. The process for challenging marks confirmed by the CEB is outlined on the BSB website:

<https://www.barstandardsboard.org.uk/uploads/assets/336cf93a-9ff4-4571-965a91e757d5ab4d/b151a369-e120-436f->

2.7 Reporting results to AETOs

- 2.7.1 Once the CEB has confirmed the centralised assessment marks for each cohort of candidates at each AETO centre, the marks are distributed to the AETOs where they feed into the individual BPTC candidate profiles considered at the AETO Award and Progression Examination Boards. The actual scores achieved by candidates need to be aligned with a 60% pass 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.
- 2.7.2 It is at the AETO BPTC examination boards that issues relating to individual candidates such as extenuating circumstances or academic misconduct are considered.

2.8 Grade boundary allocations

- 2.8.1 In addition to receiving a % score for each of the centrally assessed subjects, BPTC candidates are also allocated to one of four grade groups (Outstanding, Very Competent, Competent, and Not Competent) depending on their performance in each assessment. The CEB does not exercise any discretion in respect of these gradings – they are a product of the score achieved by the candidate. Prior to the introduction of standard setting to determine the passing standard for centralised assessments, the 60% to 100% range used for the awarding of passing grades was apportioned as follows:
- 10% of the 60 to 100 range (60-69%) for “Competent” (ie, 25% of the available range from 60% to 100%).
 - 15% of the 60 to 100 range (70-84%) for “Very Competent” (ie, 37.5% of the available range from 60% to 100%); and
 - 15% of the 60 to 100 range (85-100%) for “Outstanding” (ie, 37.5% of the available range from 60% to 100%),

This was effectively a 2:3:3 allocation ratio across the three passing grades.

- 2.8.2 At its June 2017 meeting, the CEB Final Examination Board reviewed the options in respect of the approach to be adopted to the allocation of grade boundaries in the light of the introduction of standard setting (where the mark equating to the passing standard can vary from one assessment to the next). Two options were considered: the “2:3:3” ratio methodology and a norm-referencing approach. Norm-referencing takes data from previous cycles as an indication of what a typical cohort performance might be expected to look like.

2.8.3 On the basis of the four Spring assessment cycles from 2012/13 to 2015/16 the averages for each of the centrally assessed subjects were:

Professional Ethics	Outstanding	Very Competent	Competent	Not Competent
2012/13	20.2	54.5	11.6	13.7
2013/14	8.2	34.9	18.6	40.3
2014/15	8.8	35.4	12.5	43.3
2015/16	16.3	47	6.9	29.8
Average 4 cycles	13.1	43.0	12.2	31.8

Criminal Litigation	Outstanding	Very Competent	Competent	Not Competent
2012/13	14.0	42.8	11.3	31.8
2013/14	16.8	39.2	16.8	28.2
2014/15	18.5	33.6	11.5	38.5
2015/16	20.7	36.1	13.3	29.7
Average 4 cycles	18.3	38.9	13.2	31.6

Civil Litigation	Outstanding	Very Competent	Competent	Not Competent
2012/13	8.4	31.8	18.0	43.8
2013/14	8.6	32.8	18.6	42.6
2014/15	13.0	31.6	13.4	42.0
2015/16	16.1	31.3	14.8	38.8
Average 4 cycles	11.0	31.9	15.7	41.6

2.8.4 Taking Professional Ethics as the example, on average over those four assessment cycles, 13% of candidates achieved “Outstanding”, 43% “Very Competent”, and 12% “Competent”, the remainder being “Not Competent”. Taking those that passed as a group the ratio of the three passing grades was roughly 23:59:18. Using the same methodology, the ratios were approximately 26:55:19 for Criminal Litigation and approximately 19:54:27 for Civil Litigation.

2.8.5 Applying the “2:3:3” ratio methodology, if the standard setting process produced passing standards of 45/75 (60%) for both the Civil and Criminal Litigation papers the grade boundary points would be as follows (applying the 25%; 37.5%, and 37.5% proportions above):

Mark Thresholds			
	Raw	Scaled	Scale Factor
Competent	45	60	1.33
Very Competent	53	70	1.32
Outstanding	64	85	1.33
Max mark	75	100	1.33

2.8.6 Similarly, for Professional Ethics (where a score of 36/60 would be 60%) the grade boundary points would be:

Mark Thresholds			
	Raw	Scaled	Scale Factor
Competent	36	60	1.67
Very Competent	42	70	1.67
Outstanding	51	85	1.67
Max mark	60	100	1.67

2.8.7 Where, however, the standard setting process recommends a passing standard that deviates from 45/75 or 36/60 the grade boundaries need to be recalibrated to maintain the 2:3:3 ratio (as explained at above at 2.8.3). For example, if the Civil Litigation passing standard was determined to be 50/75 (reflecting a view by the standard setters that the paper was less challenging) the grade boundaries (using the methodology outlined above) would be as follows:

Mark Thresholds			
	Raw	Scaled	Scale Factor
Competent	50	60	1.20
Very Competent	56	70	1.24
Outstanding	66	85	1.30
Max mark	75	100	1.33

Hence, with a passing standard of 50/75, a candidate would have to correctly answer at least 66/75 MCQs to be classified as “Outstanding” instead of 64/75 if the passing standard had been 45/75.

2.8.8 Similarly, if, for example, in Professional Ethics the standard setting process produced a passing standard of 24/60 the grade boundaries (using the methodology outlined above) would be as follows:

Mark Thresholds			
	Raw	Scaled	Scale Factor
Competent	24	60	2.50
Very Competent	33	70	2.12
Outstanding	47	85	1.83
Max mark	60	100	1.67

Hence, a candidate would only have to achieve 47/75 to be classified as “Outstanding” instead of 51/75 if the passing standard had been 36/60.

2.8.9 The Spring 2017 Final Examination Board was unanimous in its view that the “2:3:3” ratio methodology was to be preferred as a more objective approach to allocating candidates to the grade boundary framework on the basis that it was neither transparent nor best practice to adopt a quota-based approach to grade boundaries, and such an approach was not reflected in any other aspect of the CEB’s work. The CEB has always taken the view that the percentage of candidates falling within any particular grade boundary was a product of the examination process and not something that was in any way engineered by the CEB as a desirable or acceptable outcome.

2.8.10 Note that where a candidate’s standard setting adjusted % score falls between two whole numbers a rounding up methodology is applied, hence a candidate with a post standard setting score of 69.5% is reported as “Very Competent” as the 69.5% is treated, for the purposes of grade boundary allocation, as 70%.

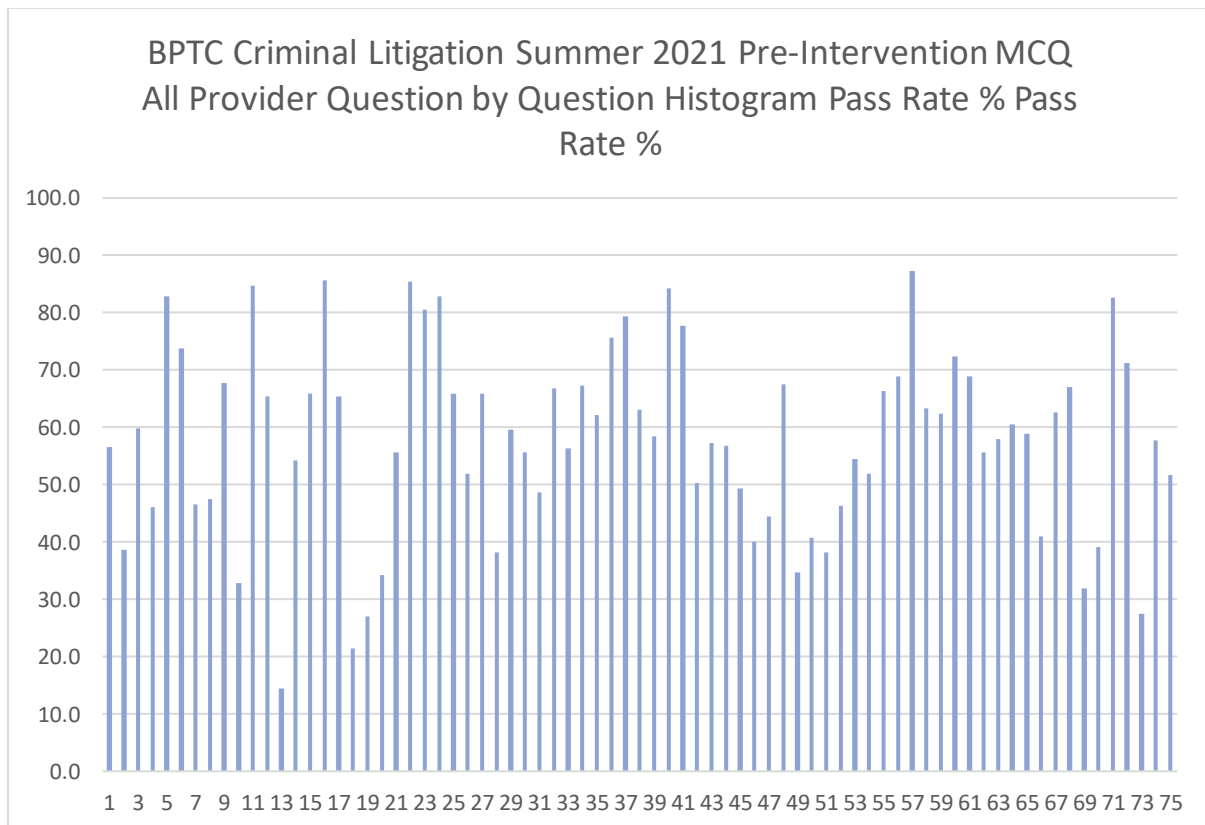
3. SUMMER 2021 CRIMINAL LITIGATION RESULTS

3.1 Criminal Litigation pre-intervention pass rates – all AETOs Summer 2017 to Summer 2021

	Summer 2021	Spring 2021	Summer 2019	Summer 2018	Summer 2017
Criminal Litigation All Provider Pre-Intervention					
MCQ Passing Rate	47.5%	16.9%	19.0%	58.8%	45.9%

The table above shows the all-AETO Summer 2021 provisional pre-intervention cohort passing rate of 47.5% for Criminal Litigation, based on a pass standard recommended to the Subject Board (as a result of the standard setting process) of 46/75. After two very poor pre-intervention sets of passing rates, figures for Summer 2021 are comparable with those for corresponding sits in 2018 and 2017.

3.2 Pre-intervention histogram of MCQs



The pre-intervention data shows 12 MCQs with an all-AETO cohort passing rate below 40% (compared to 25 in the Spring 2021 sit, and 26 in the Summer 2019 sit). There was no evidence of candidate performance fall-off when comparing passing rates across the paper. The average pre-intervention passing rate for MCQs 1-25 was 57.6%, for MCQs 26-50 58.1%, and for MCQs 51 to 75 it was 57.8%.

3.3 Details of Subject Board discussions and interventions

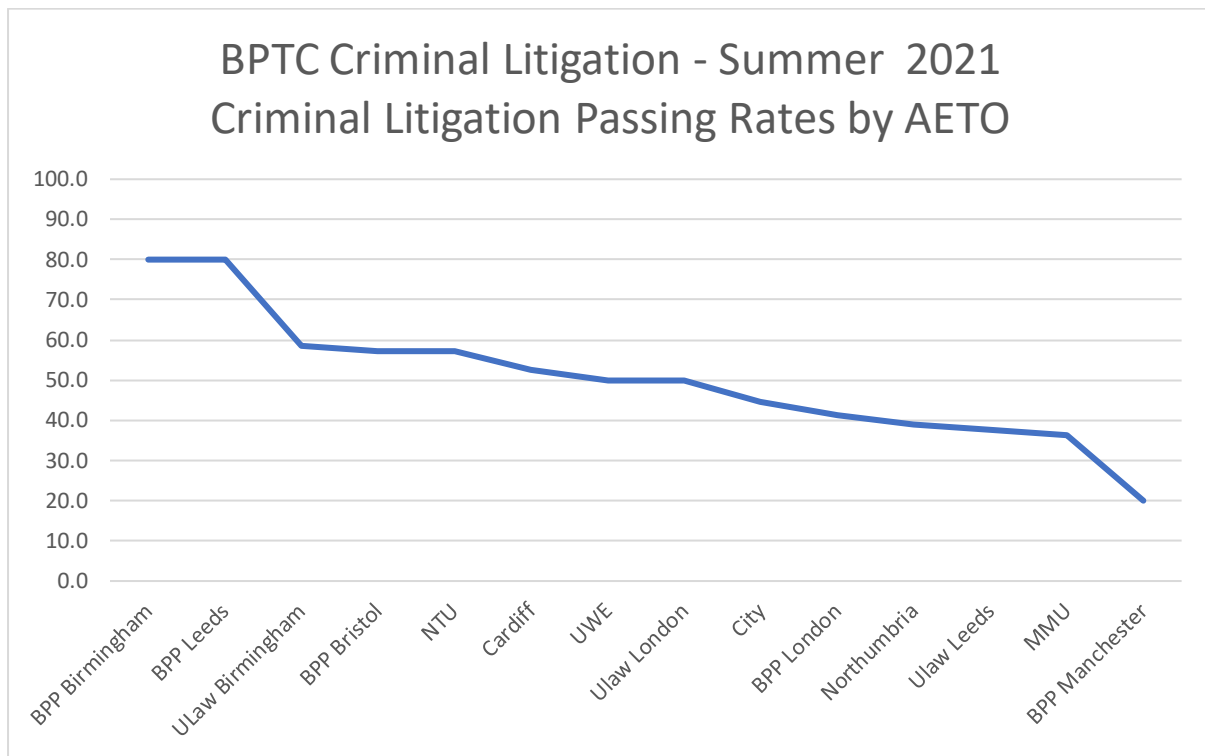
The total number of BPTC candidates sitting was 354. The Final Board accepted the recommendation of the Subject Board to the effect that no interventions were required. The proposed pass standard of 46/75 was endorsed by the Final Board. The Psychometrician advised the Board that the pre-intervention exam reliability score for this assessment, using the Kruder Richardson scale, was 0.82 (and that the same value adjusted for a 90-item test would have been 0.88). The Psychometrician observed that he was content with the way in which the assessment had operated and saw nothing in the data analysis to raise any concerns. The Independent Observer endorsed the proceedings of the Subject Board.

3.4 Criminal Litigation post-intervention pass rates – all AETOs Summer 2017 to Summer 2021

	Summer 2021	Spring 2021	Summer 2019	Summer 2018	Summer 2017
Criminal Litigation All Provider Post-Intervention					
MCQ Passing Rate	47.50%	35.1%	45.5%	63.6%	47.2%%

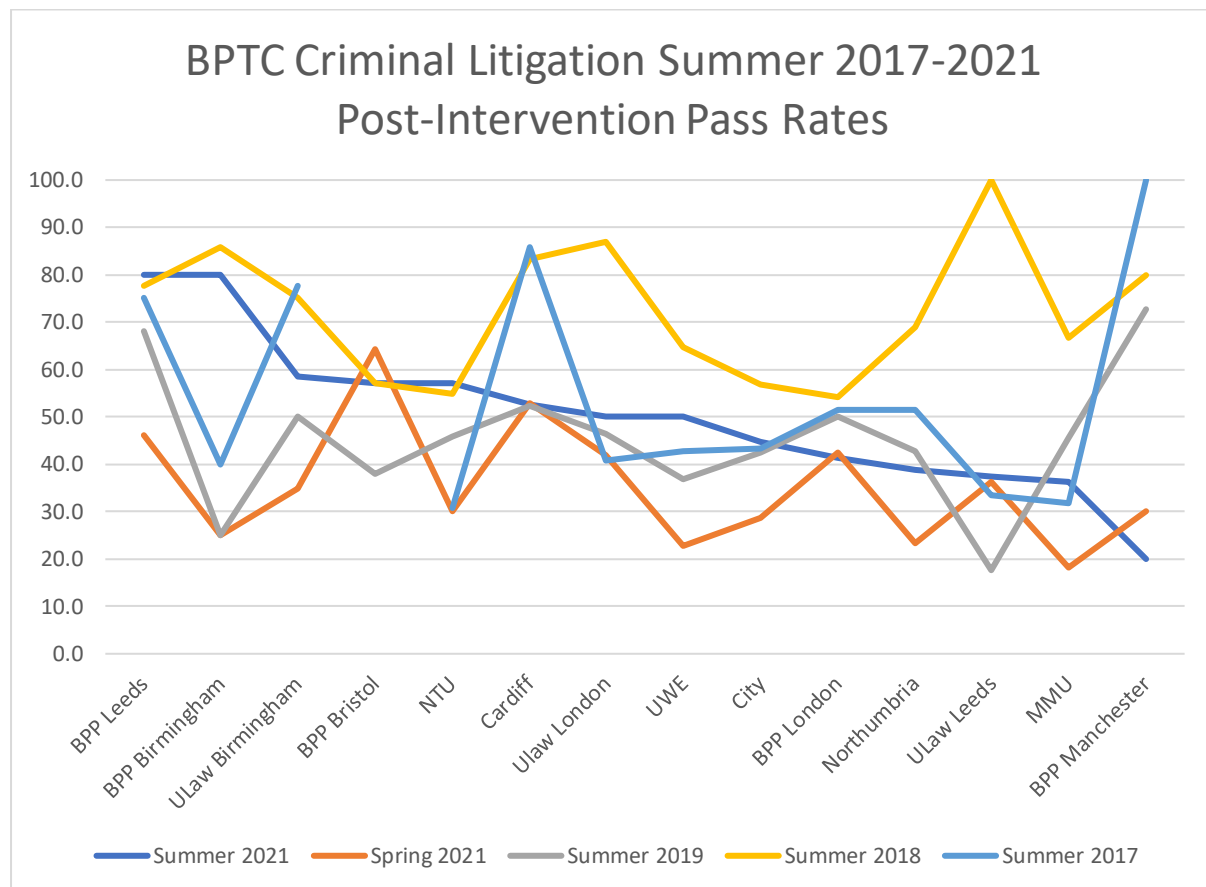
The Spring 2021 all-AETO BPTC post-intervention passing rate was 47.5%, up over 12% on Spring 2021 and the second highest across the 5 cycles shown.

3.5 Summer 2021 post-intervention passing rates by AETO



AETOs are ranged left to right in order of their Summer 2021 post-intervention passing rates. Hence BPP Birmingham and BPP Leeds had the highest Summer 2021 post intervention passing rates at 80%, and BPP Manchester the lowest at 20% - a range of 60%. There were no candidates entered by the following AETOs: ICCA, ULaw Bristol, ULaw Manchester, and ULaw Nottingham.

3.6 Criminal Litigation Summer 2017 to Summer 2021 post-intervention pass rates



3.6.1 AETOs are ranged left to right in order of their Summer 2021 passing rates, and the data shows their passing rates across five cycles (Summer 2021, Spring 2021, and the Summer sits for 2017-2019). As noted above the Spring 2021 BPTC cohorts are being compared with previous Summer sits because of the make up of the AETO cohorts. As the BPTC course runs down the majority of candidates remaining have already had previous attempts at the assessments – hence the Spring 2021 BPTC cohort profile more closely resembles that of a previous Summer sit rather than a Spring sit. BPP Bristol did not have candidates for the Summer 2017 sit.

3.6.2 The data shows that BPP Leeds has delivered the strongest post-intervention cohort performance in BPTC Criminal Litigation across all five Summer sit assessment cycles from which the data is drawn, with an average cohort passing rate across those four cycles of 69.4%. Cardiff has the second highest average passing rate over the same period at just over 65.4%. MMU has the lowest average passing rate at 39.8%.

3.6.3 Only 4 out of the 14 AETOs reported a decline in passing rates when comparing Summer 2021 with Spring 2021, the average change across all AETO centres being a 14.8% improvement. Small cohort numbers introduce a degree of volatility, however, with 5 AETO centres having fewer than 10

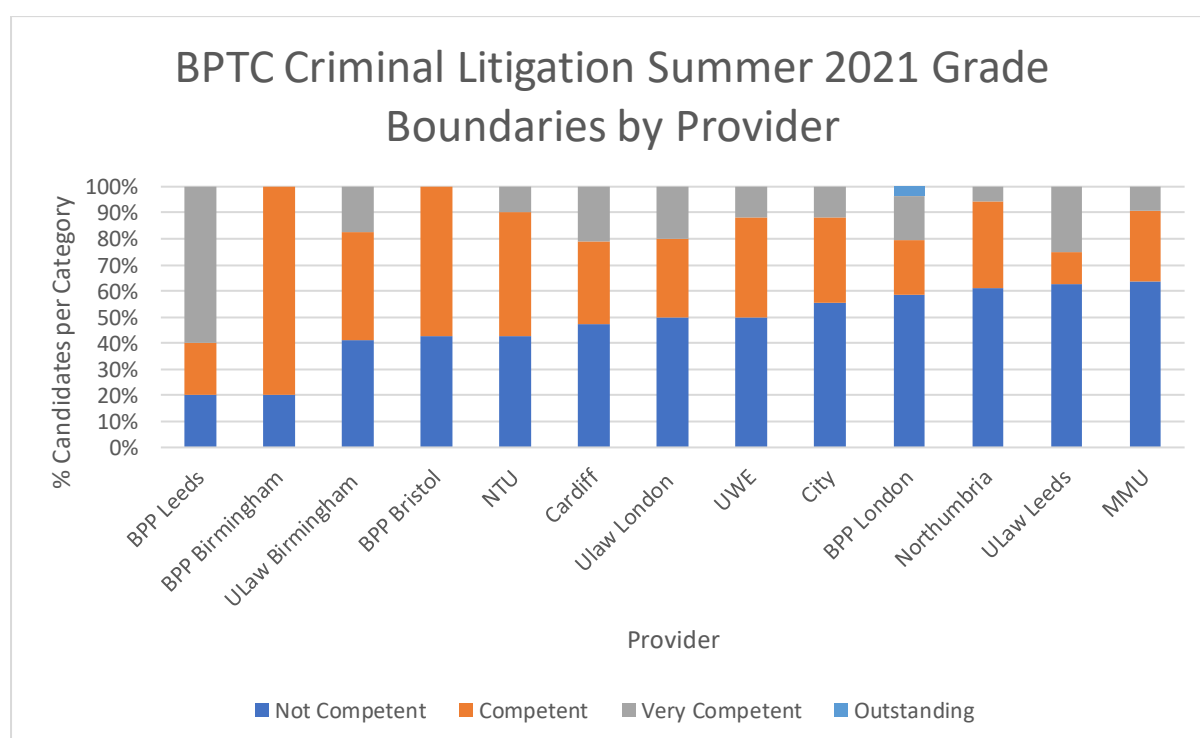
candidates sitting. Hence BPP Birmingham sees a 55% increase in its passing rate but had only 5 candidates. Similarly, BPP Leeds sees a 33% improvement but only had 5 candidates.

3.7 Overall grade boundary distribution

All Provider Grade Boundary Distribution			
Not Competent	Competent	Very Competent	Outstanding
52.5%	32.8%	14.1%	0.6%

The standard setting process determines where the “Not competent”/ “Competent” boundary lies, and grade boundaries are then calculated accordingly to ensure that the passing grades are allocated proportionately across the “Competent / Very Competent / Outstanding” classifications. As explained above at 2.8, for an assessment comprising 75 MCQs a passing standard of 45/75 equates to a passing score of 60%, thus mirroring the fixed pass mark used in centrally assessed exams prior to Spring 2017. Under the 60% fixed pass mark regime candidates awarded marks of 60% to 69% were graded “Competent”; those awarded marks of 70% to 84% were graded “Very Competent”; and awarded marks between 85% and 100% were graded “Outstanding”. From Spring 2017 onwards, where the passing standard is identified as being below 45/75, the range of “Competent / Very Competent / Outstanding” classifications is stretched to cover a broader range of scores. Conversely where the passing standard is identified as being above 45/75 the range of “Competent / Very Competent / Outstanding” classifications becomes compressed. The Summer 2021 all-AETO cohort results for BPTC Criminal Litigation show that there were very few (2) candidates achieving the “Outstanding” classification.

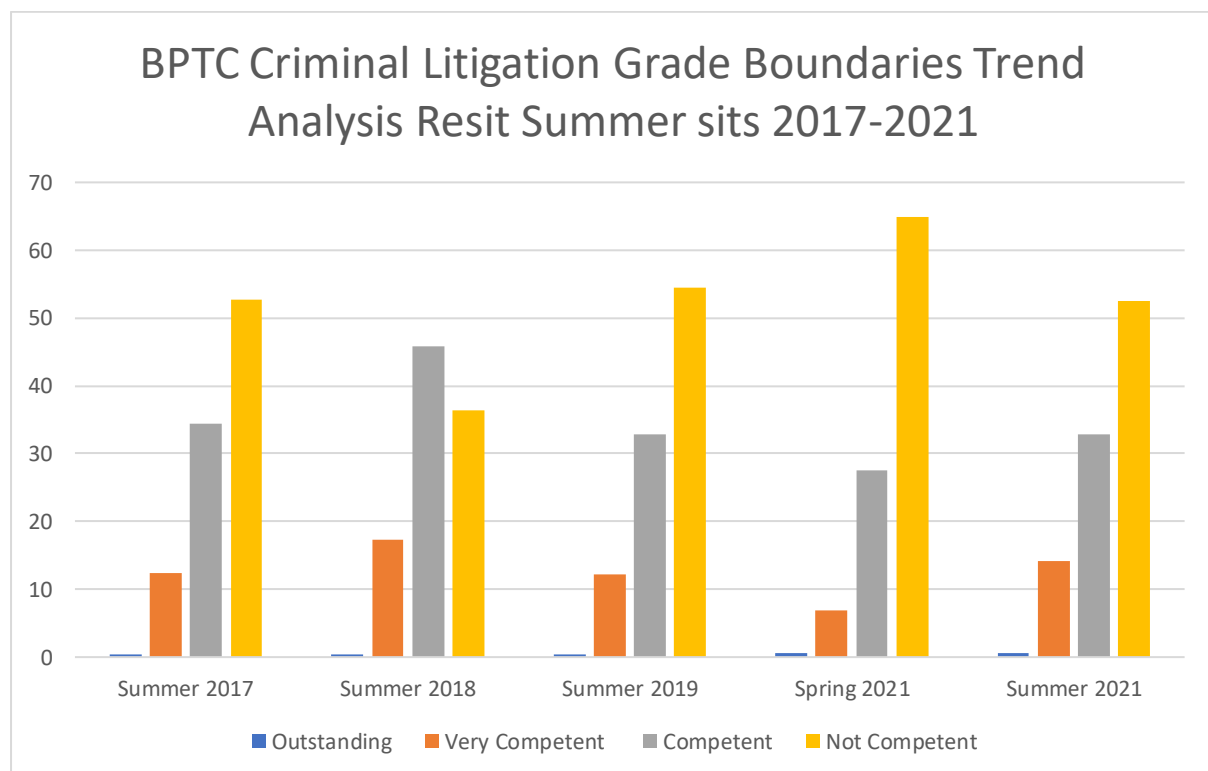
3.8 Summer 2021 grade boundaries by AETO



AETO centres are ranged from left to right in declining order of their Summer 2021 post intervention passing rates, hence the “Not Competent” grouping also rises from left to right, mapping the increasing failure rate across the weaker AETO cohorts. With only 2 candidates graded “Outstanding” the distribution of those grades is not very meaningful (although both were in the BPP London cohort). The usual caveats regarding small cohort numbers at some AETO centres apply equally here.

3.9 All AETO Summer 2017 to Summer 2021 grade boundaries trend analysis

The number of summer sit candidates achieving “Outstanding” in the summer sit has been negligible for some time (it has not exceeded 1% in any of the five cycles from which the trend data is derived). The Summer 2021 sit sees a slight recovery in the “Very Competent” grade which is the second highest across the five cycles under review.



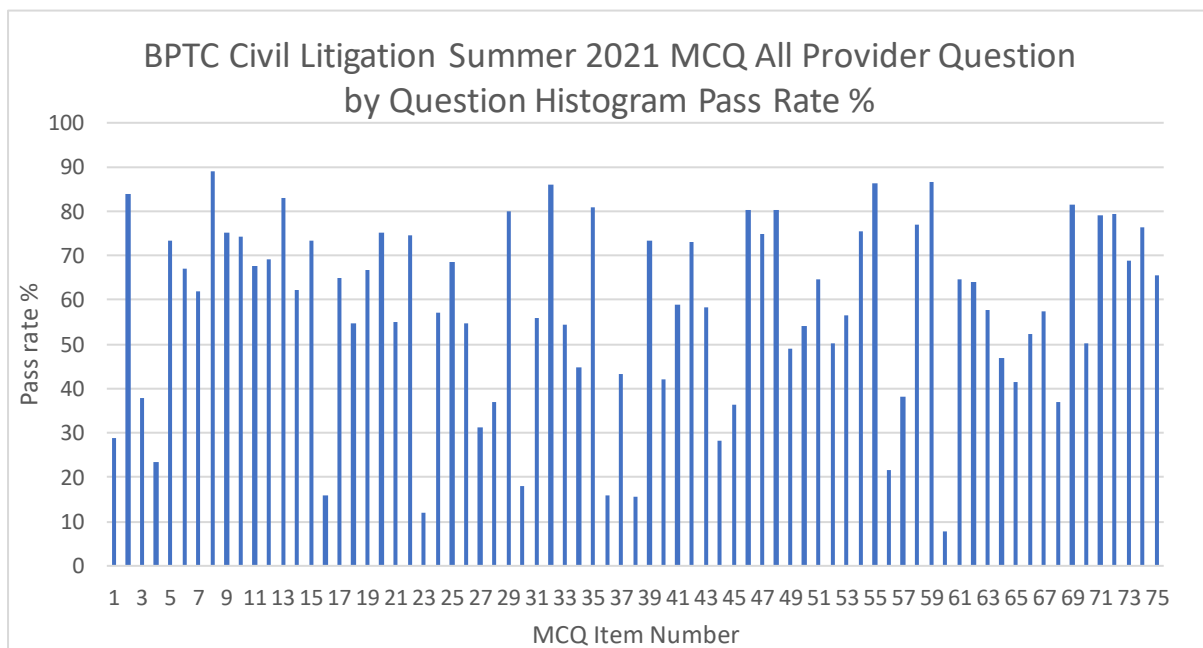
4. SUMMER 2021 CIVIL LITIGATION RESULTS

4.1 Civil Litigation pre-intervention pass rates – all AETOs Summer 2017 to Summer 2021

Civil Litigation All Provider Pre-Intervention	Summer 2021	Spring 2021	Summer 2019	Summer 2018	Summer 2017
Passing Rate	43.5%	57.4%	48.5%	50.2%	33.8%

The table above shows the all-AETO Summer 2021 provisional pre-intervention cohort passing rate as being 43.5% for BPTC Civil Litigation, based on a provisional pass standard recommended to the Subject Board (as a result of the standard setting process) of 45 out of 75. The resulting provisional pre-intervention cohort passing rate is broadly in line with the range for previous cycles, albeit the second lowest across the 5 cycles compared.

4.2 Pre-intervention histogram of 75 MCQs



The pre-intervention data shows 16 MCQs with an all-AETO cohort passing rate below 40% (up from 8 in the Spring 2021 sit). Candidate performance showed some evidence of drop off between the first 25 MCQs (61% average passing rate) compared to the performance across MCQs 26-50 (53% average passing rate) with a recovery in the last third (MCQs 51-75 59% average passing rate).

4.3 Details of Subject Board discussions and interventions

4.3.1 The Final Board noted that this Civil Litigation examination was attempted by BPTC candidates only, the total number of candidates being 338.

4.3.2 Interventions agreed by the Final Board

Q.16	<p>The Board noted that the question was intended to assess the candidates' knowledge of the appropriate allocation to track. The question had been used on the BTC examination in the December 2020 sit without issue but, on this occasion, two AETOs challenged the question as being fatally flawed. It was suggested that examiners had not done enough to clarify that there was one single claim to be considered, as opposed to two separate claims, and that the wording used in three of the options (ie, "will not take into account") may have been confusing for candidates. The question tested the application of CPR 26.8 and the relevant Practice Direction. The Board was advised that the question had not operated as intended. The performance data showed that the intended correct option only attracted 16% of candidates (which was the least popular of all four options) with positive discrimination on the most popular option D, which attracted 43% of candidates. After full discussion, it was decided that there was a possibility that the fact pattern may have misled the candidates resulting in the selection of an incorrect answer. The Chief Examiner advised the Board that there was no room to manoeuvre to credit any of the other options and the Board concluded that the only appropriate and fair way to proceed was to suppress the question. It was agreed that, for future use, the fact pattern and options would be clarified.</p>
Q.74	<p>The Board noted that this was a single best answer question intended to assess the candidates' knowledge of the circumstances in which a party may amend their statement of case. The Chief Examiner advised the Board that the item should be suppressed on the following basis. Although the question did not appear to have confused the candidates, (76% identified option [B] as the option that examiners had intended as the best answer), the discrimination was poor. The question had been used previously and, similarly, had performed well with 85.5% of candidates selecting the option designated as the best answer. AETOs had, however, fed back on this occasion that the question had no correct answer as option [B], contained the word "must" instead of "should". It was accepted by the Examiners that, in circumstances where the nature of the amendment sought had not been particularised, it was inaccurate to state that "the court's permission must be sought for the amendment". Whilst in certain instances, the court's permission would be required, in other instances, the other party's consent to the amendment would suffice (failing which, an application might be made to the court for permission). Therefore, as the fact pattern did not reveal the nature of the amendment nor did it make clear that the defendant would not consent to the amendment, an alternative to seeking the court's permission was available in principle. As (on the facts of the question as presented to candidates) the CMC has been listed, it might have been arguable that time would be wasted in attempting to seek the defendant's consent and it would have been</p>

	easier simply to make an application for the court's permission as provided for in option [B], but this reasoning would be based on assumption which had not clearly been provided for on the facts. That being so, the examiners accepted that they could not confirm [B] as the “best advice” as the defendant’s consent could be sought first and, if not forthcoming, the court’s permission sought. None of the other options provided a suitable alternative. The Board accepted the recommendation that Q.74 should be suppressed.
--	---

4.3.3 The Psychometrician reported that the reliability score for this assessment using the Kuder Richardson scale, was 0.8 (against an accepted benchmark reliability score of 0.80) and the Board confirmed the amended pass standard (following the suppression of questions 16 and 74) of 44/73

4.3.4 The Independent Observer confirmed that the decisions made in respect of the Civil litigation assessment had been robust and that issues had been discussed thoroughly and due process followed.

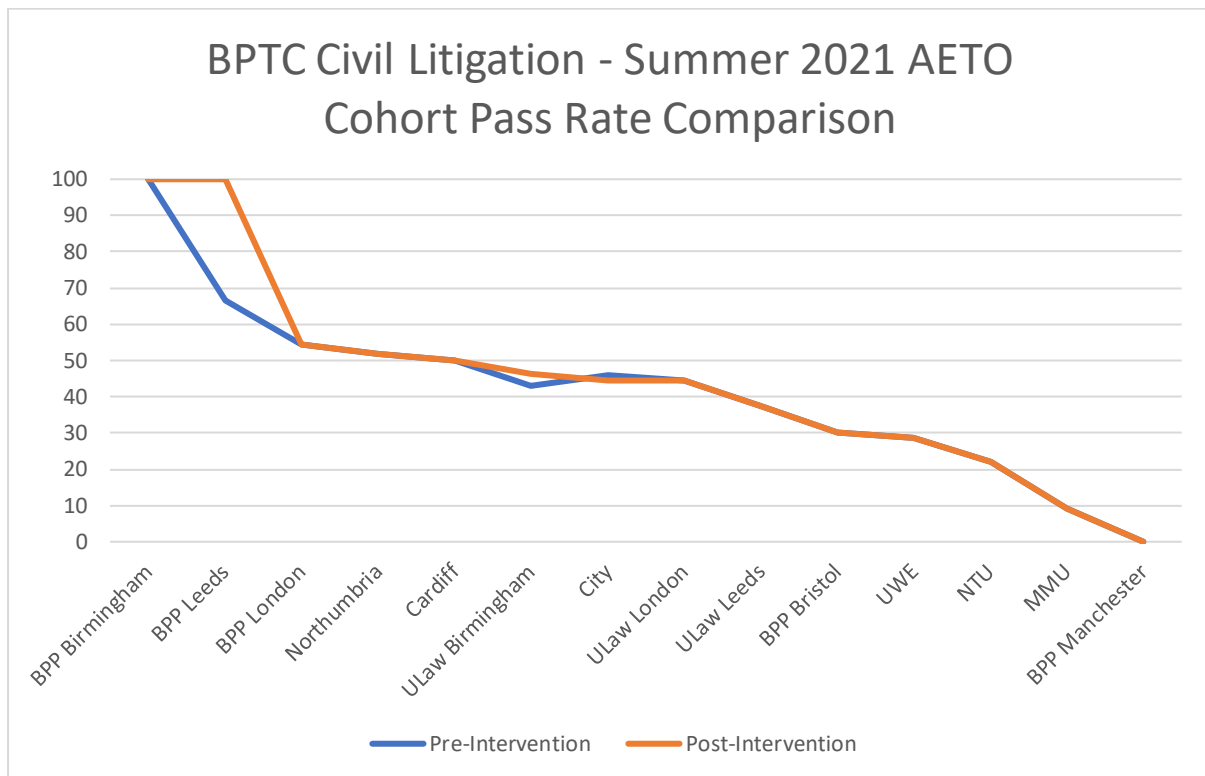
4.4 Civil Litigation post-intervention pass rates – all AETOs Summer 2017 to Summer 2021

Civil Litigation All Provider Post-Intervention	Summer 2021	Spring 2021	Summer 2019	Summer 2018	Summer 2017
Passing Rate	43.8%	57.4%	46.9%	51.3%	43.9%

4.4.1 The Summer 2021 passing rate shows a very marginal improvement as a result of the agreed interventions, rising by 0.3%. Nevertheless, it is the lowest passing rate across the 5 cycles used as points of comparison in the above table, a factor that may be driven by a declining number of first-sit candidates given the run-out of the BPTC assessments.

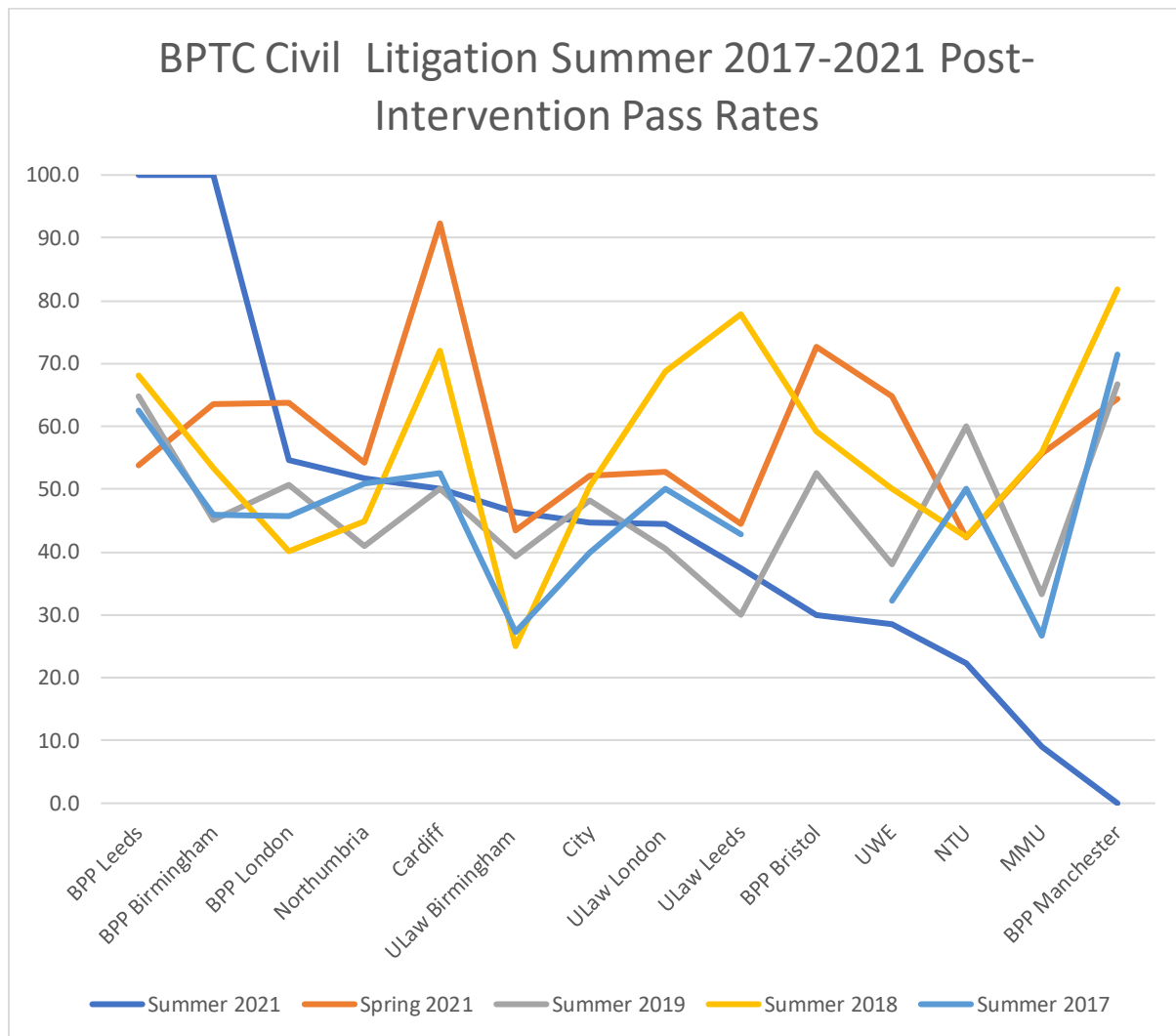
4.4.2 Approximately 50% of the candidates for both Criminal and Civil Litigation attempted both examinations (170 BPTC candidates). Of those candidates attempting both papers, 75% had the same result in both (37/170 passing both and 88/170 failing both), hence there were relatively few instances of a candidate passing Civil and failing Crime (32/170) and even fewer instances of a candidate passing Civil but failing Crime 13/170). Taken together, this data suggests a satisfactory correlation in terms of the results for BPTC candidates attempting both papers and no indication that the Civil Litigation assessment was disproportionately harder than the Criminal Litigation assessment.

4.5 Passing rates by AETO Summer 2021



AETOs are ranged left to right in order of their Summer 2021 passing rates. Hence BPP Birmingham and BPP Leeds had the highest Summer 2021 passing rate (both at 100%) and BPP Manchester the lowest, with no passes. The numbers involved, at these AETOs are, however, very low - BPP Birmingham (2 candidates), BPP Leeds (3 candidates) BPP Manchester (4 candidates). Most AETO cohorts saw no change in their passing rates because of the interventions, apart from City (down 1.2%), and ULaw Birmingham and BPP Leeds (up 3.5% and 33.3% respectively). BPP Leeds had only 3 candidates, hence the huge impact of the interventions on the passing rate for that cohort.

4.6 Civil Litigation Summer 2017 to Summer 2021 post-intervention pass rates



4.6.1 AETO centres are ranged left to right in order of their Summer 2021 BPTC post-intervention passing rates. The data shows that BPP Leeds has delivered the strongest post-intervention cohort performance in Civil Litigation across all five BPTC cycles from which the data is drawn, with an average cohort passing rate of 69.8%. Cardiff has the second highest average passing rate over the same period at 63.4%. MMU has the lowest average passing rate at across the 5 cycles, at 36.1%.

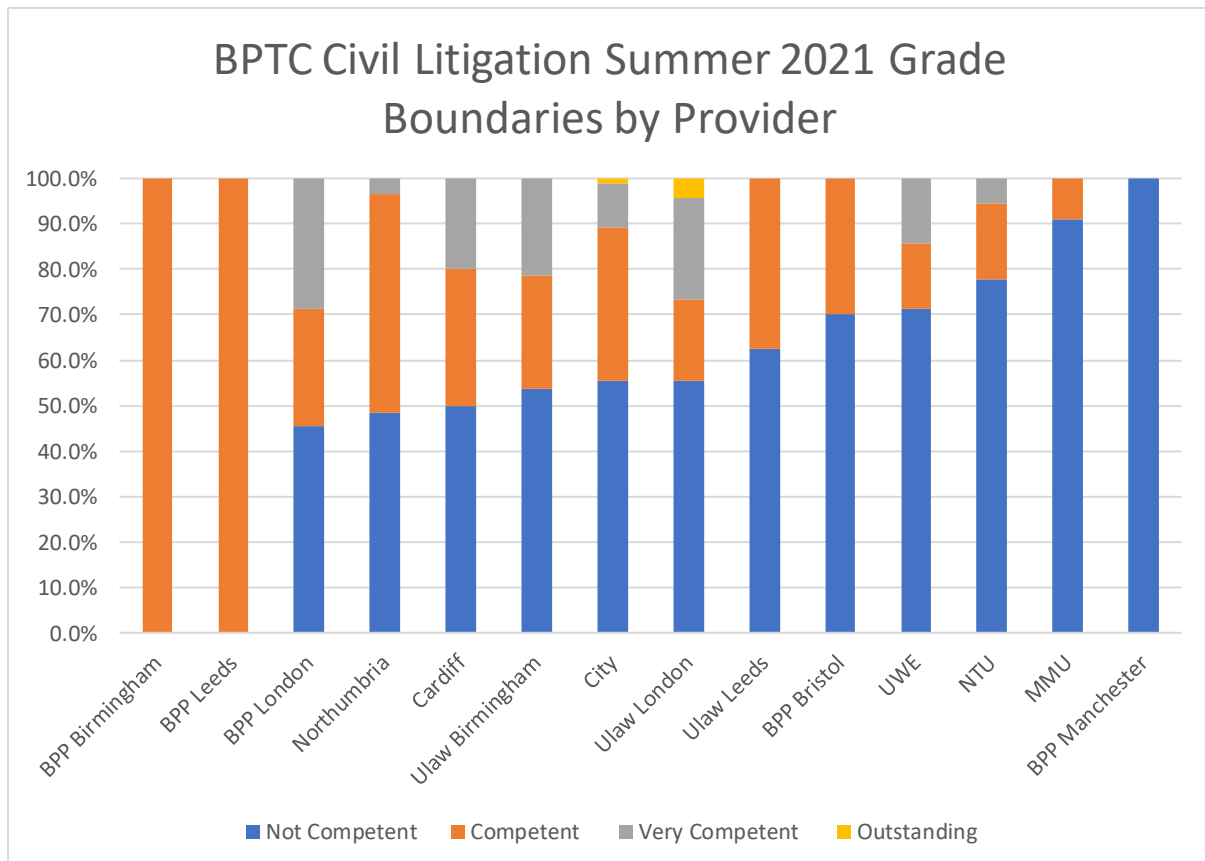
4.6.2 Only 3 AETOs reported a rise in passing rates compared to the Spring 2021 sit – the average decline in passing rates being 14.3%. Because of the small numbers of candidates in some cohorts there is huge volatility in the data – for example, BPP Manchester reporting a decline of over 64% between Spring and Summer 2021 passing rates but only had 4 candidates entered for the Summer 2021 sit.

4.7 Overall grade boundary distribution

All Provider Grade Boundary Distribution			
Not Competent	Competent	Very Competent	Outstanding
56.2%	28.1%	14.7%	0.8%

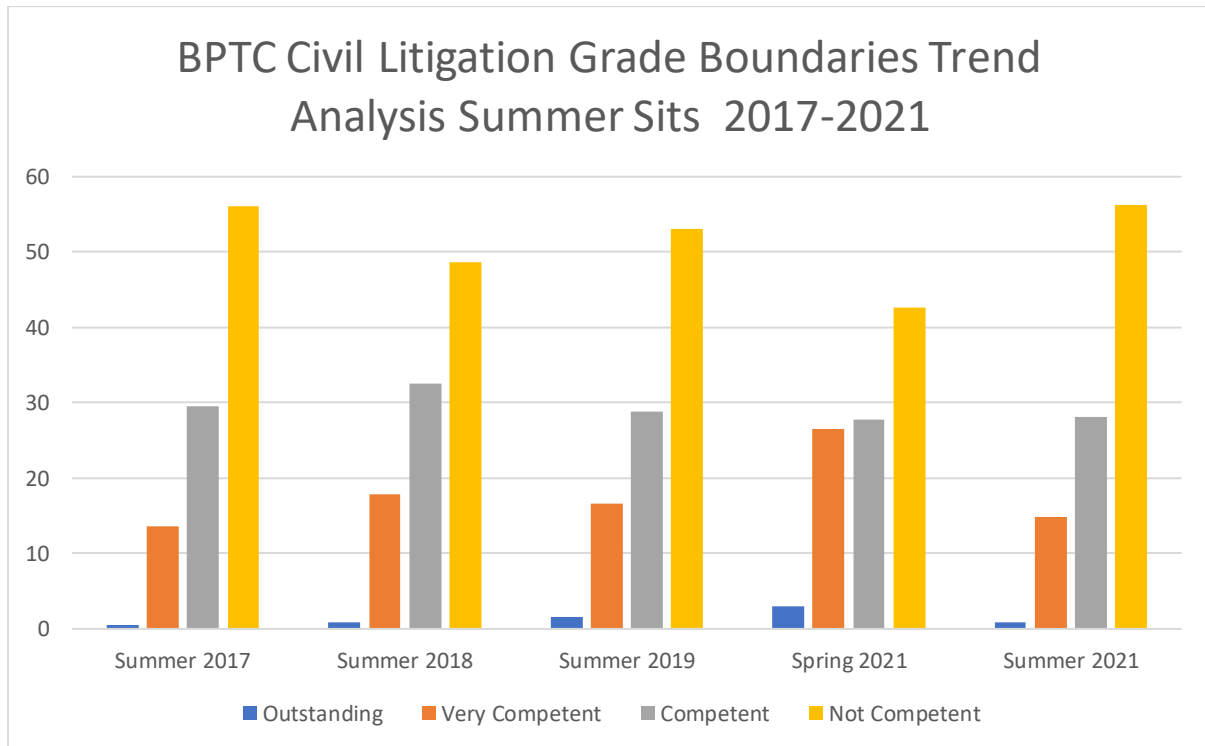
The standard setting process determines where the “Not competent”/ “Competent” boundary lies, and grade boundaries are then calculated accordingly to ensure that the passing grades are allocated proportionately across the “Competent / Very Competent / Outstanding” classifications. As explained above at 2.8, for an assessment comprising 75 MCQs a passing standard of 45/75 equates to a passing score of 60%, thus mirroring the fixed pass mark used in centrally assessed exams prior to Spring 2017. Under the 60% fixed pass mark regime candidates awarded marks of 60% to 69% were graded “Competent”; those awarded marks of 70% to 84% were graded “Very Competent”; and awarded marks between 85% and 100% were graded “Outstanding”. From Spring 2017 onwards, where the passing standard is identified as being below 45/75, the range of “Competent / Very Competent / Outstanding” classifications is stretched to cover a broader range of scores. Conversely where the passing standard is identified as being above 45/75 the range of “Competent / Very Competent / Outstanding” classifications becomes compressed. Perhaps not surprisingly, given the likely number of resitting candidates, the Summer 2021 all-AETO cohort results for Civil Litigation show a hardly any candidates achieving an “Outstanding” classification.

4.8 Summer 2021 Civil Litigation grade boundaries by AETO



AETOs are ranged from left to right in declining order of Summer 2021 post intervention passing rates, hence the “Not Competent” grouping also rises from left to right, mapping the increasing failure rate across the weaker AETO cohorts. As can be seen the distribution of the 3 candidates graded as “Outstanding” does not neatly align with the cohort passing rate – only 2 AETOs having candidates achieving that grade. Again, very small cohort numbers do tend to result in extreme outcomes at the margins (top 2 and last placed AETOs).

4.9 All-AETO Summer 2017 to Summer 20201 grade boundaries trend analysis



Significant increase in “Not Competent” gradings in Summer 2021 compared to Spring 2021, but otherwise largely consistent with other Summer sittings across 2017-2019.

5. COMPARING POST-INTERVENTION PASSING RATES ACROSS SUBJECT AREAS SUMMER 2017 TO SUMMER 2021

5.1 Centralised assessment post-intervention passing rates compared Summer 2021 BPTC candidates

	Summer 2021
Civil Litigation, Evidence, and Sentencing	
Number of Candidates	338
Passing MCQ	43.8%
Criminal Litigation, Evidence, and Sentencing	
Number of Candidates	354
Passing MCQ	47.5%

This table shows the post intervention passing rates for BPTC candidates in the two centralised assessments for the Summer 2021 sit.

5.2 Centralised assessment grade boundaries compared Summer 2021

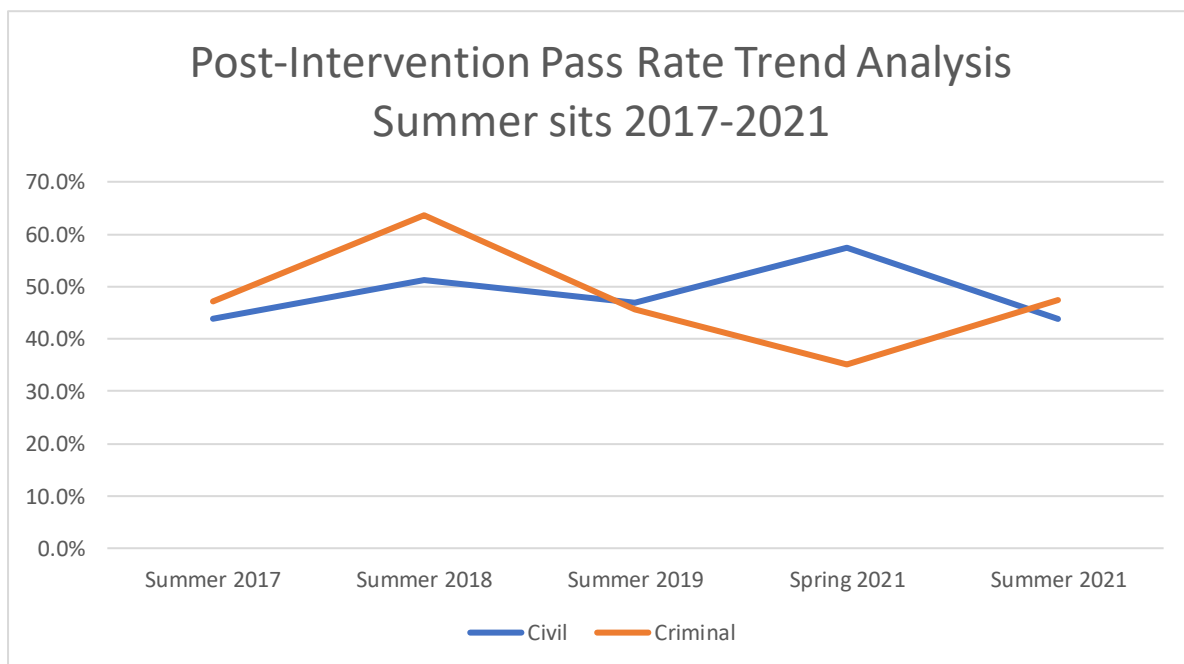
	Civil Summer 2021	Criminal Summer 2021
Outstanding	0.9%	0.6%
Very Competent	14.8%	14.1%
Competent	28.1%	32.8%
Not Competent	56.2%	52.5%

5.2.1 This table shows the percentage of candidates being awarded “Outstanding”, “Very Competent”, “Competent” and “Not Competent” across both centralised assessments for the Summer 2021 sit.

5.2.2 The table below shows how the total number of grades at each level were distributed across both centralised assessments. For example, across both centralised assessments there were a total of 211 instances of a candidate achieving the grade “Competent”. Just over 55% of these instances were achieved in Criminal Litigation even though Criminal Litigation only accounted for 51% of all instances of candidates attempting the centralised assessments in the Summer 2021 sit – meaning that Criminal Litigation candidates achieved a slightly disproportionate share of the “Competent” grades. Interestingly, the “Very Competent” grade was evenly distributed across both assessments.

	% of all instances	% of 'Not Competent' instances	% of 'Competent' instances	% of 'Very Competent' instances	% of 'Outstanding' instances
Criminal Litigation Summer 2021	51.2%	49.5%	55.0%	50.0%	40.0%
Civil Litigation Summer 2021	48.8%	50.5%	45.0%	50.0%	60.0%

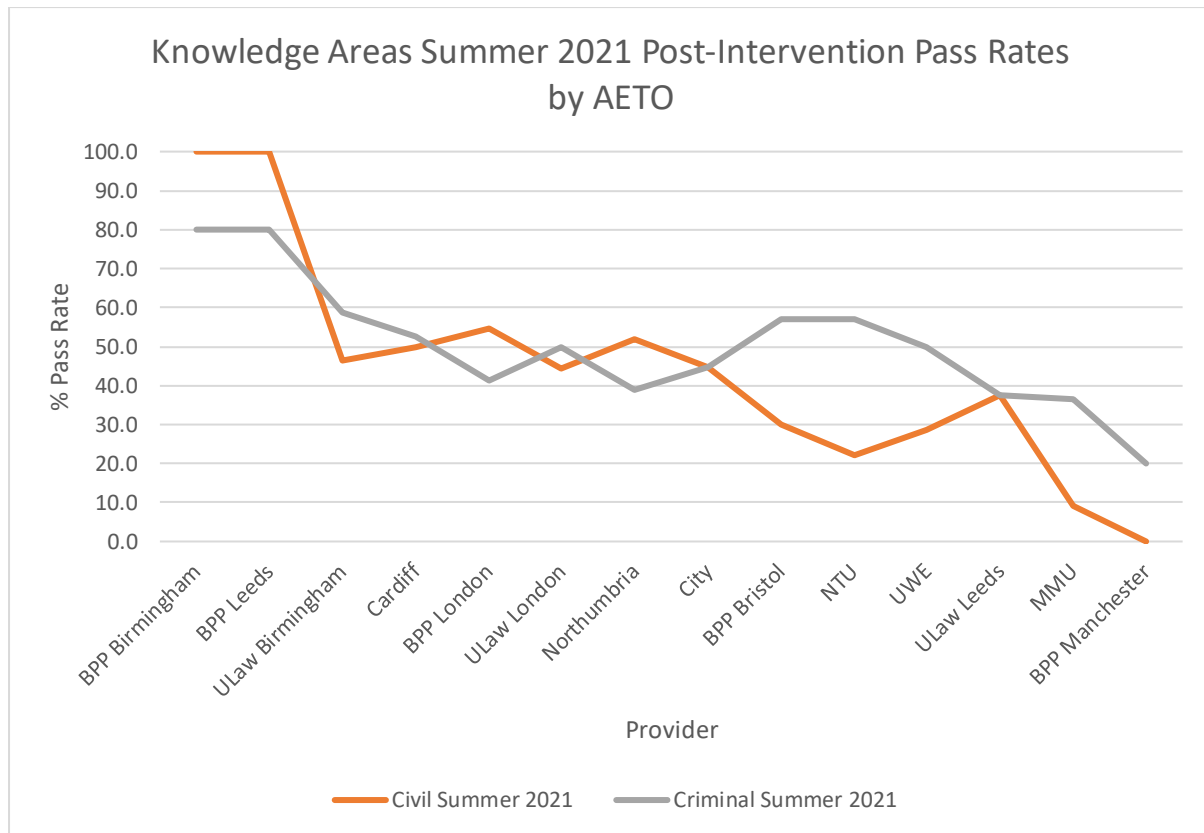
5.3 Centralised assessment post-intervention passing rate trends Summer 2017 to Summer 2021



Across the 5 cycles detailed in the above chart the two centrally assessed subjects produce remarkably close average passing rates: 48.7% for Civil litigation and 47.8% for Criminal Litigation, although that does mask some significant variations in some cycles, for example Spring 2021 where Criminal Litigation produced a passing rate 22% below that for Civil Litigation.

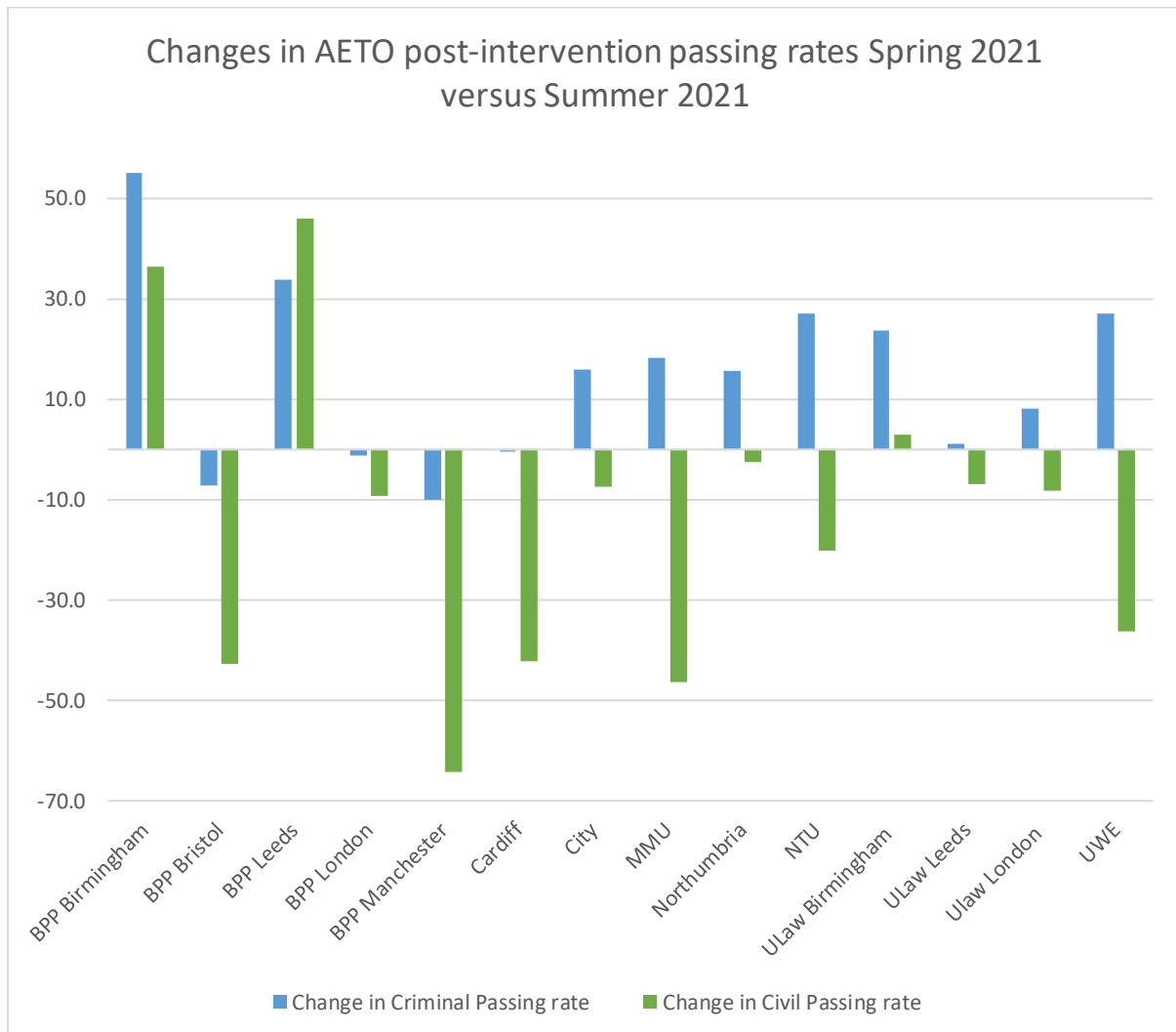
6. COMPARING SUMMER 2021 RESULTS ACROSS AETOs

6.1 Summer 2021 post-intervention passing rates by AETO



AETOs are ranked left to right according to the average post-intervention passing rate achieved by their cohorts across both subject areas in the Summer 2021 centralised assessments. BPP Birmingham and BPP Leeds share the position of highest performing cohorts across both centrally assessed subjects, with an average passing rate of 90%, and BPP Manchester the lowest at 10%. As noted above very small cohort numbers can result in passing rates at the extremes. The highest post-intervention cohort passing rate in any of the centrally examined subject areas was achieved by BPP Birmingham and BPP Leeds (100%) in respect of Civil Litigation. The worst AETO cohort performance across any centrally examined subject areas was achieved by BPP Manchester where no candidates passed Civil Litigation (although there were only 4 candidates attempting the examination at this AETO centre).

6.2 Changes in AETO post-intervention passing rates Spring 2021 versus Summer 2021



This table shows the change in post-intervention AETO cohort passing rates across both centrally assessed subject areas comparing the Spring 2021 and Summer 2021 results for BPTC candidates. The figures show that only three AETO centres managed to increase their cohort passing rates across both subject areas compared to their Spring 2021 results (BPP Birmingham, BPP Leeds, and ULaw Birmingham). The average change across the subject areas was: Civil Litigation down 14.4% and Criminal Litigation up 14.8%. Looking at the changes in post-intervention passing rates across both subjects at each AETO centre (ie, aggregating the rise and fall in passing rates) shows that six AETOs managed to achieve net rises in their aggregated passing rates compared to Spring 2021 (BPP Leeds showing the biggest improvement).

6.3 AETO performance by grouping

6.3.1 Aggregating Summer 2021 sit performance according to AETO grouping for Criminal Litigation shows the following:

	Criminal Summer 2021			
	Entered	Fail	Pass	Pass rate
BPP Centres	80	43	37	46.3%
Ulaw Centres	77	37	40	51.9%
Not for profit Universities	197	106	91	46.2%

6.3.3 For Civil Litigation:

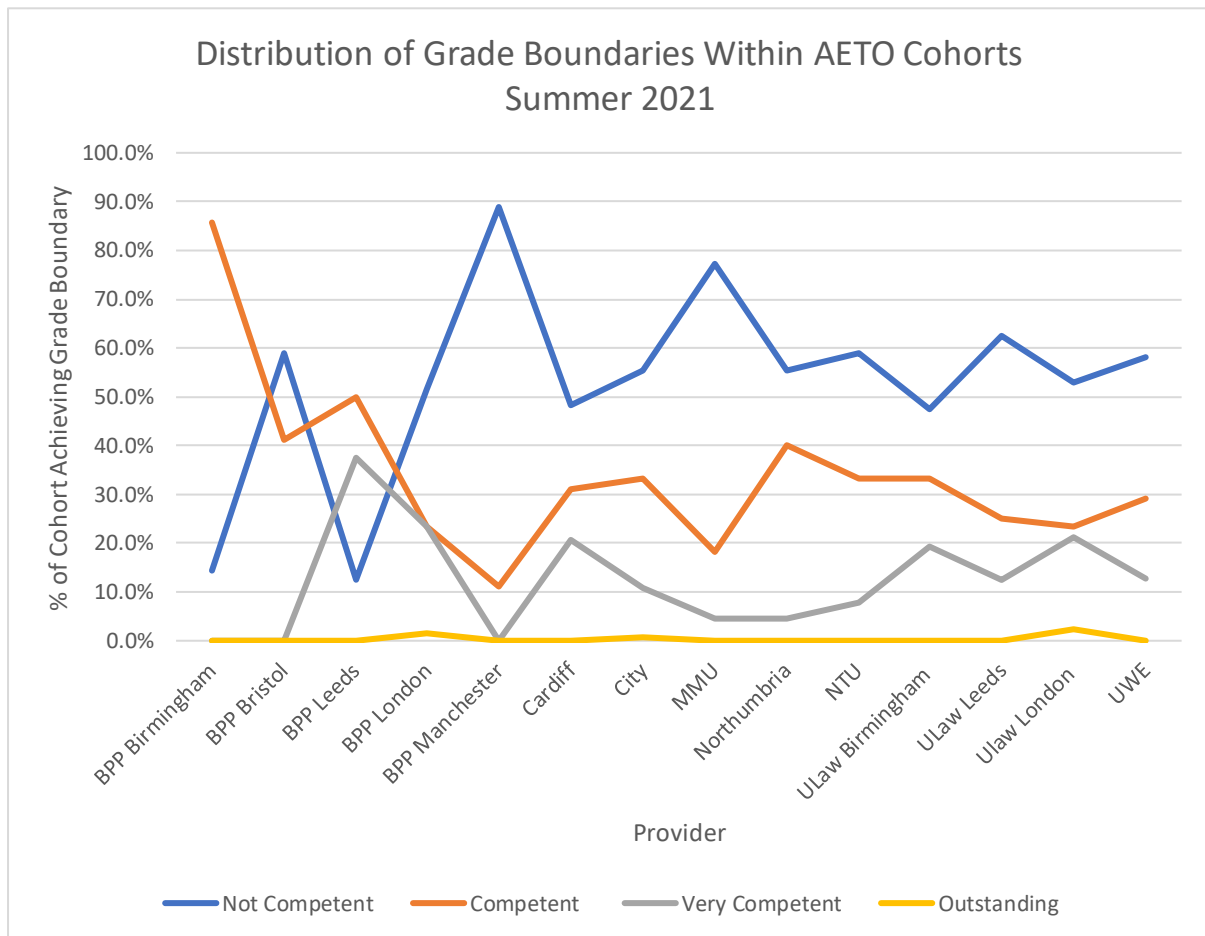
	Civil Summer 2021			
	Entered	Fail	Pass	Pass rate
BPP Centres	85	41	44	51.8%
Ulaw Centres	81	45	36	44.4%
Not for profit Universities	172	104	68	39.5%

6.3.4 Both subjects combined:

	Summer 2021 both subjects			
	Entered	Fail	Pass	Pass rate
BPP Centres	165	84	81	49.1%
Ulaw Centres	158	82	76	48.1%
Not for profit Universities	369	210	159	43.1%

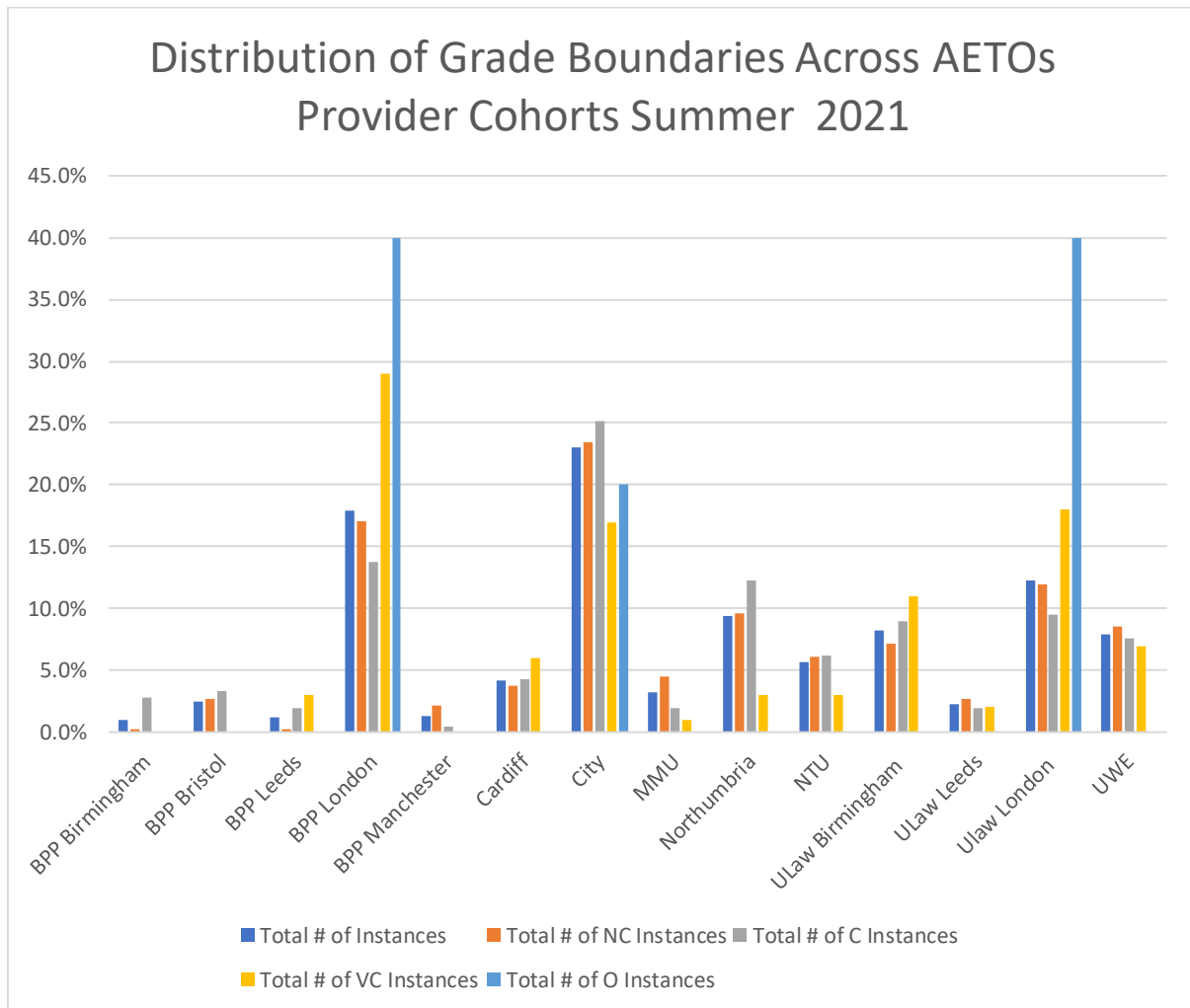
6.3.5 Hence the ULaw centres overall had the strongest cohorts in Criminal Litigation and the BPP centres were strongest in Civil Litigation. Combining all candidates entered across both subjects by AETO group shows BPP centres, collectively, marginally stronger than ULaw. Clearly, within each grouping there are individual AETO centres with passing rates well above these averages.

6.4 Analysis of grade boundary distribution within each AETO cohort Summer 2021



The data in the above table shows the spread of candidates at each AETO centre achieving a grade of “Outstanding”, “Very Competent”, “Competent” or “Not Competent” across both centralised assessments in the Summer 2021 sit. The ‘spikes’ in the data often reflect small cohort numbers.

6.5 Analysis of grade boundary distribution across each AETO cohort Summer 2021



6.5.1 The above table indicates the performance of each AETO centre, as regards the candidates grade boundary ratings achieved by its candidates, relative to the size of its cohort. By way of example, if an AETO had 60 candidates and each candidate attempted both centralised assessments there would be 120 instances of candidates attempting the centralised assessments at that AETO. If, across both centralised assessments there were 24 instances at that AETO of candidates achieving a “Very Competent” grade, the data would show the rate at that AETO centre as being 20%. That could then be compared with the percentage of instances of candidates attempting the assessments across all AETO centres. If that latter figure were, say, 600, then the AETO centre with 120 instances would be contributing 20% of all total instances. On a ‘flat line’ basis that AETO centre might be expected to achieve 20% of the grades within each grade boundary. If it in fact contributed 40% of the “Outstanding” grades it would be disproportionately contributing to the overall number of “Outstanding” grades.

6.5.2 Looked at on this basis, for most AETO centres, within most grade boundaries, there is a reasonably close correlation between each AETO

centre's proportion of overall instances, and the proportion of each grade achieved (allowing for the volatility introduced by small cohort numbers in some cases). Taking a larger AETO centre as an example, City accounted for 23% of all assessment instances, 23.4% of all "Not Competent" grades, 25.1% of all "Competent" grades, 17% of all "Very Competent" grades, and 20% of all "Outstanding" grades, hence a fairly balanced performance.

6.5.3 The AETO with the largest positive variance for "Very Competent" grades, relative to its percentage of total instances is BPP London at +11.1%. The distribution of "Not Competent" grades is almost exactly in line with the proportion of instances at each AETO.

Professor Mike Molan
Chair of the Central Examination Board
25 November 2021