

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

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

**Bar Training BTT & BPTC
August 2022 Sitting**

EXECUTIVE SUMMARY

The new vocational training component (hereinafter referred to as ‘the Bar Training Course’, or ‘BTC’) is the successor to the Bar Professional Training Course (BPTC). The Bar Training Course saw its first intake of students across a number of 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 sixth iteration of examinations attempted by Bar Training Course candidates in August 2022, the confirmed post-intervention outcomes for which are as follows:

All providers (post-intervention) results	Aug 22	Apr 22	Dec 21	Aug 21	Apr 21	Dec 20
Civil Litigation						
No. of candidates	782	1,517	818	738	989	407
Passing rate	46.7%	59.6%	53.8%	41.3%	55.5%	55.8%
Criminal Litigation						
No. of candidates	802	1,653	824	825	1,104	383
Passing rate	52.5%	63.7%	56.0%	42.4%	46.2%	59.80%

In comparing results across the six 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 2022 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 August 2022 passing rates in both litigation subjects are lower than in the two preceding sits but are comparable to or better than the passing rates recorded in respect of the August 2021 sitting. In the absence of any detailed data regarding the composition of the August 2021 cohort (first sit vs resit candidates) it is dangerous to draw firm conclusions, but it may well be the case that there were a significant number of resitting candidates in the August 2021 cohort, and this impacted on passing rates for that sitting. More detailed analysis available to the Exam Board for the August 2022 sitting confirmed that a preponderance of the Bar Training candidates were resitters, rather than first sitters. See further on candidate numbers at 1.5.4 and 1.5.5, below.

1. BACKGROUND AND CONTEXT

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

The 2010/11 academic year saw the first round of assessments under the BPTC regime in the wake of the Wood Report (July 2008). For 2010/11, all BPTC Providers were required to assess candidates in Professional Ethics; Civil Litigation, 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 (i.e., 30 credits out of 120). For 2010/11, the knowledge area assessments were set and marked by the BPTC Providers. Centralising these assessments was a key recommendation of the Wood Report, and the CEB was established to oversee this change on behalf of the Bar Standards Board ('BSB'). 2011/12 was the first year of operation for the system of centralised examinations for the knowledge areas on the BPTC. No changes were made to the format of assessment, but the setting of the assessments was undertaken independently of the Providers by a team of CEB examiners appointed by the BSB.

1.2 The 2011/12 to 2015/16 assessment formats

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

1.3 The assessment formats for BPTC candidates from Spring 2017

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

¹ NB Remedies was later removed from the syllabus

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

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

1.4 Future Bar Training

- 1.4.1 As part of the Future Bar Training reforms of the vocational stage of qualification as a barrister, a new vocational training component, Bar Training, was introduced to replace the BPTC for the start of the 2020/21 academic year. As was the case with the BPTC, the tuition is delivered by Authorised Education and Training Organisations ('AETOs'). Criminal Litigation and Civil Litigation (including dispute resolution) are centrally examined, under the auspices of the CEB, by the BSB. The Criminal Litigation assessment takes the form of a closed book three-hour paper comprising 75 MCQ and SBA questions. Civil Litigation is assessed across two papers (Civil 1 and Civil 2). Civil paper 1 takes the form of a closed book two-hour paper comprised of 50 MCQ and SBA questions. For Civil paper 2, candidates have two and a half hours to attempt 40 questions, the first 5 are stand-alone MCQ and/or SBA questions, and the remaining 35 take the form of rolling case scenarios – each with 7 questions that track a developing narrative. Candidates are permitted access to the White Book for reference during the Civil 2 examination. Candidates attempting the Civil Litigation assessment simply need to achieve a pass mark across the 90 questions. There is no requirement to achieve a minimum number of marks on either Paper 1 or Paper 2.²
- 1.4.2 Professional Ethics is no longer centrally assessed as part of the vocational component Bar Training Course. A grounding in Professional Ethics is provided by each AETO as an element of its Bar Training course and is assessed locally.³

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

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

- 1.5 Candidates have three opportunities a year to attempt the centralised Bar Training Course examinations: December ('Winter sit'), April ('Spring sit'), and August ('Summer sit').
- 1.5.1 AETOs must meet the requirements of the Authorisation Framework; in doing so, they may structure their Bar Training Courses in various ways. Some will offer a traditional integrated programme where all subjects are studied in parallel. Full time candidates commencing such courses in September may be attempting the centralised assessments for the first time in either the December or April 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/908eecec-f9d3-4f60-a2ca5eb1b05f04f0/2021-AETO-Factsheet-for-Vocational-Component.pdf>

- 1.5.3 When reviewing the data contained in this report—and particularly when comparing the performance of AETO cohorts across a sitting and trend data showing performance over time—the following contextualisation should be taken into account:
- Candidate volumes at AETO centres can vary hugely from one sitting to the next, resulting in a high degree of volatility in the data.
 - AETO cohorts may comprise a mixture of first-sit candidates who have never attempted the assessment before; first sit candidates so designated because a previous attempt has been discounted (for example because of extenuating circumstances); and referred candidates who are attempting the examination for a second, or possibly a third time, because of previous failure.
 - An AETO with a consistently lower pass rate is likely to have far more repeating candidates than an AETO with a consistently higher pass rate.
 - A candidate who fails an assessment will not necessarily attempt it at the next opportunity.

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

- Whereas under the previous BPTC examinations it was reasonably safe to assume that, for the Spring sit, the vast majority of candidates were sitting for the first time, and that the majority of those attempting the Summer sit were referred or deferred candidates (hence enabling year on year comparison of Spring or Summer sit results) no such certainty exists in relation to the make-up of the cohorts attempting the Spring, Summer or Winter sits of the centralised examinations for the Bar Training Course.

1.5.4 Candidate numbers by AETO centre: Civil Litigation

AETO	December 2020 sit	April 2021 sit	August 2021 sit	December 2021 sit	April 2022 sit	August 2022 sit	Total to date
BPP Birmingham	28	31	28	40	47	32	206
BPP Bristol	19	16	14	19	7	9	84
BPP Leeds	27	32	20	35	16	5	135
BPP London	151	179	150	260	274	171	1185
BPP Manchester	58	54	35	89	49	37	322
Cardiff	51	39	15	60	35	14	214
City	22	208	132	58	378	135	933
ICCA	28	34	5	56	33	13	169
MMU	23	9	11	24	7	8	82
Northumbria	N/A	64	36	14	64	35	213
NTU	N/A	50	37	23	53	34	197
Ulaw Birmingham	N/A	34	41	17	82	50	224
Ulaw Bristol	N/A	13	4	1	18	5	41
Ulaw Leeds	N/A	22	17	7	43	25	114
Ulaw Liverpool	N/A	N/A	N/A	N/A	16	5	21
Ulaw London	N/A	89	106	65	216	135	611
Ulaw Manchester	N/A	19	18	7	54	20	118
Ulaw Nottingham	N/A	7	1	2	16	7	33
UWE	N/A	89	68	41	109	42	349
Total	407	989	738	818	1517	782	5251

The December 2020 sit was the first opportunity for candidates to attempt the centralised assessments for the Bar Training Course, hence the lower volume of candidates. As can be seen, BPP London has the largest cohort, accounting for just under 22% of the Civil Litigation candidate entries for the August 2022 sit, and just under 23% of the total number of candidate entries across the six sittings offered thus far. As noted above, six AETOs have cohort numbers in single figures for the August 2022 sit, a factor that can impact significantly on the comparison of cohort data.

1.5.5 Candidate numbers by AETO centre: Criminal Litigation

AETO	December 2020 sit	April 2021 sit	August 2021 sit	December 2021 sit	April 2022 sit	August 2022 sit	Total to date
BPP Birmingham	28	30	29	43	64	22	216
BPP Bristol	20	16	13	26	5	7	87
BPP Leeds	20	25	24	35	20	7	131
BPP London	137	202	174	270	261	199	1243
BPP Manchester	52	62	47	91	60	34	346
Cardiff	54	37	19	19	70	21	220
City	20	247	154	77	425	141	1064
ICCA	32	31	7	56	31	13	170
MMU	20	14	11	20	11	7	83
Northumbria	N/A	40	25	13	64	24	166
NTU	N/A	51	36	23	55	32	197
Ulaw Birmingham	N/A	46	49	20	88	56	259
Ulaw Bristol	N/A	15	2	N/A	18	5	40
Ulaw Leeds	N/A	38	20	8	47	25	138
Ulaw Liverpool	N/A	N/A	N/A	N/A	17	2	19
Ulaw London	N/A	107	127	73	234	129	670
Ulaw Manchester	N/A	23	19	7	61	9	119
Ulaw Nottingham	N/A	5	1	2	14	3	25
UWE	N/A	115	68	41	108	66	398
Total	383	1104	825	824	1653	802	5591

As with the data for Civil Litigation, the December 2020 sit was the first opportunity for candidates to attempt the centralised assessments for the Bar Training Course, hence the lower volume of candidates. Again, BPP London had the largest cohort of the candidate entries for the Criminal Litigation August 2022 sit (just under 25%), and the most candidates overall to date at just over 22% of those attempting. Also, as noted above, 7 AETOs had cohort numbers in single figures for the August 2022 sit, a factor that can impact significantly on the comparison of cohort data.

2. BAR TRAINING COURSE CENTRALISED ASSESSMENT PROCEDURES

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

2.1 How examination papers are devised and approved

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

2.2 Standard setting

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

2.3 How the exams are conducted

- 2.3.1 Candidates across all AETO institutions normally attempt the centralised assessments in each of the knowledge areas on the same dates. In any case where an AETO identifies candidates as having reasonable or other adjustments 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 2022 Bar Training exam dates were as follows:

Criminal Litigation: Monday 15 August 2022 at 14:00
Civil Litigation (Paper 1): Wednesday 17 August 2022 at 14:00
Civil Litigation (Paper 2): Friday 19 August 2022 at 14:00

2.4 Marking

- 2.4.1 Just under 72% of Bar Training candidates for the August 2022 sit attempted the examination papers using a CBT platform. Their answers were submitted to the BSB in excel format. Correct answers were credited using formulae and checks were conducted to ensure 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 AUGUST 2022 SIT

3.1 Exam Board decisions in relation to selected questions

- 3.1.1 The CEB invited AETOs to provide feedback on the examination paper as a whole and each question if there were issues that the AETO wished to bring to the attention of the Exam Board before it proceeded to confirm the results. Along with the statistical data available to the Exam Board (see 2.5.3 above), the feedback from the AETOs can be of material assistance to the Exam Board in determining whether or not any intervention is required in respect of any individual question.
- 3.1.2. The examining team is first asked to reflect on the AETO feedback without having sight of any of the statistical data revealing how candidates have performed in respect of a particular question. This enables the examining team to focus on the substantive points raised by the AETOs (in particular, questions of substantive law and procedure) without being influenced by evidence of actual cohort performance. Independently of this, the psychometrician advising the Exam Board, analyses the data on cohort performance and prepares a report on any apparent anomalies in terms of passing rates for individual questions, poor correlation, and low discrimination.
- 3.1.3 Discrimination refers to the extent to which candidates, who performed well in the examination as a whole, answered a specific question correctly, and the extent to which candidates who were weak overall answered the same specific question incorrectly. Where the statistical analysis shows poor discrimination, it can be evidence that candidates had to resort to guessing which answer was correct, suggesting that the question had not operated as expected. It is also the case that where the passing rate for an item is very high, the discrimination score can be low, simply because the vast majority of candidates (both weak overall and strong overall) will have answered the question correctly. Correlation is a similar measure. The Board expects to see a positive correlation figure in respect of the correct or intended best answer for any given question, and a negative correlation score in relation to a wrong, or 'not the best' answer. A positive correlation outcome for a wrong or 'not the best' answer suggests that the stronger candidates (in terms of performance across the examination as a whole) were attracted to that answer.
- 3.1.4 For the August 2022 Criminal Litigation assessment comments were received in relation to 34/75 questions. Hence 45% 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). 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, 24 questions had only one item of feedback, six had two AETO responses, and only 4 had 3 AETO responses.

3.1.5 Summary of Exam Board deliberations

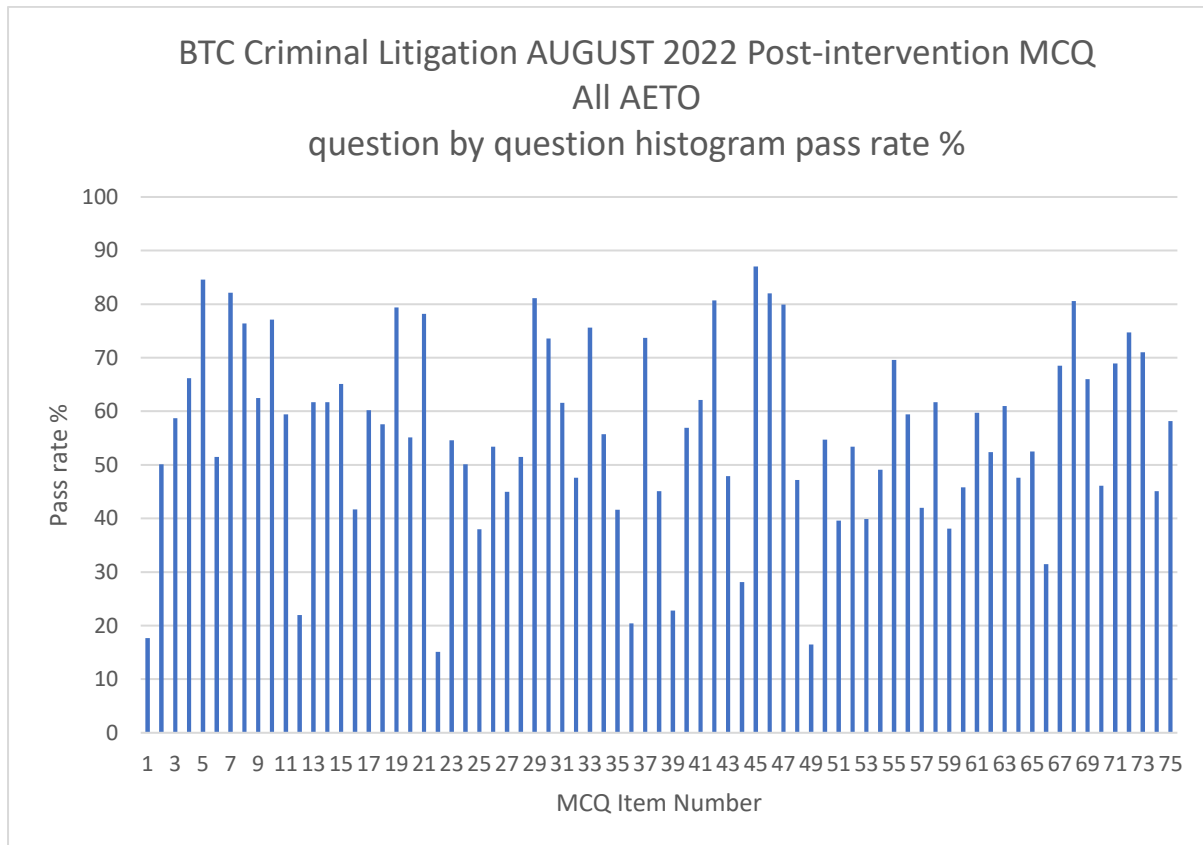
The table below provides a summary of the Exam Board deliberations where interventions (if any) were agreed, and where, although no intervention was agreed, points for future reference were raised in the Board's deliberations.

Item	Number of AETOs responding	Exam Board decision and rationale
Q2	3	<p>Pass rate: 50%; Good discrimination.</p> <p>AETO feedback considered. Noted that there were comments from AETOs that the question was both too difficult and too easy. Strong negative correlation on option [D] hence no evidence for crediting it as additional answer.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q12	3	<p>Pass rate: 22%; Somewhat low discrimination but no issue with any distractors.</p> <p>AETO feedback considered. The board agreed that option [D] was wrong and there was no argument for crediting it. The Chief Examiner, whilst confirming that there was nuance in the question and that there was only one correct answer, conceded that the question may need to be reconsidered before further use in order to be better focused. It was agreed that the question should be simplified and redrafted before being used again.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q14	2	<p>Pass rate: 62%; Somewhat low discrimination but no issue with any distractors. AETO feedback noted.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q15	2	<p>Pass rate: 65%; Good discrimination. AETO feedback noted.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q16	2	<p>Pass rate: 42%; Good discrimination.</p> <p>AETO feedback considered. Option [C] was considered decisively to be the correct answer.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q27	3	<p>Pass rate: 45%; Somewhat low discrimination but no issue with any distractors.</p>

Item	Number of AETOs responding	Exam Board decision and rationale
		<p>AETO feedback considered. Options [C] and [D] were confirmed as being incorrect answers. Between options [A] and [B], [B] was the fundamental breach of the right to a fair trial and was therefore definitely the best answer.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q32	2	<p>Pass rate: 48%; Somewhat low discrimination but no issue with any distractors.</p> <p>AETO feedback considered. Statistics showed negative correlation on option [D] and the board agreed that option [C] was the best answer on the facts.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q46	2	<p>Pass rate: 27%; Poor discrimination and positive correlation on option [A].</p> <p>AETO feedback considered, which suggested crediting option [B], which was the most popular option (55%). The board considered that while option [C] was the best answer, AETO comments had merit due to wording in D11.34 and that a viable reading of the question might merit option [B] as a correct answer, given the level of knowledge of candidates. Option [A] was not deemed to be a viable best answer in any event.</p> <p>The board noted the need to change the offence in question from theft if the question were to be reused.</p> <p><i>The Board decided to credit [B] in addition to [C].</i></p>
Q62	2	<p>Pass rate: 52%; Very good discrimination. AETO feedback noted.</p> <p><i>The Board decided there was no reason for intervention.</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 August 2022 Criminal Litigation examination



The post-intervention data shows 12 MCQs with an all-AETO cohort pass rate below 40% (compared to 10 for the April 2022 sit). There is no evidence to suggest a fall-off in candidate performance during the examination (assuming most candidates attempted the 75 MCQs in the order presented). Across the first 25 MCQs the average pass rate was 57%, across MCQs 26 to 50 down slightly at 55%, and across MCQs 51 to 75 it stayed at 55%.

3.3 Standard setting and reliability of the assessment

3.3.1 The Exam Board received a report on the standard setting process confirming that the recommended passing rate was 42.3/75, rounded as per the board's convention to 43/75. It was noted that on this occasion there were 9 standard setters instead of the usual number of 10 on the panel, and that not having the optimal number of standard setters could impact on the pass standard being recommended. Further, it was noted that the exam paper had been presented to the standard setters in syllabus order, rather than randomised, as it would have been presented to the candidates during the exam. It was possible to argue that looking at an exam paper in syllabus order made the assessment appear slightly easier, in the sense that there would have been an expectation regarding the ordering and flow of topics

being assessed. Bearing these factors in mind, along with the need to resolve any substantive doubt in favour of the candidates, The Final Board recommended rounding the pass standard down on this occasion, 42.3 to 42/75.

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

	December 2020	April 2021	August 2021	December 2021	April 2022	August 2022
No of candidates	382	1104	825	824	1652	800
No of scored items	75	75	75	75	75	75
Pass standard	73 (57.3%)	41 (54.7%)	46 (61.3%)	44 (58.7%)	44 (58.7%)	42 (56.0%)
No passing	229 (59.9%)	510 (46.2%)	354 (42.9%)	461 (55.9%)	1053 (63.7%)	421 (52.6%)
Mean score	45.99 (61.32%)	40.39 (53.86%)	43.60 (58.14%)	44.72 (59.62%)	46.62 (62.16%)	42.02 (56.03%)
Standard Deviation	11.28 (15.04%)	9.41 (12.55)	9.29 (12.38%)	9.77 (13.03%)	10.35 (13.79%)	9.44 (12.58%)
Range of scores	17 to 69	5 to 69	7 to 68	13 to 70	5 to 71	15 to 70
Reliability (KR-20)	0.89	0.84	0.82	0.85	0.87	0.83
Reliability for equivalent 90-item test	0.91	0.86	0.85	0.87	0.89	0.85
Standard error of measurement	3.73 (4.98%)	3.81 (5.07%)	3.94 (5.25%)	3.80 (5.06%)	3.71 (4.95%)	3.91 (5.21%)

3.4 Chief Examiner's Report

The Chief Examiner for Criminal Litigation confirmed that comments on the paper from AETOs overall were positive, with the paper being assessed as fair and of an appropriate standard, although one AETO commented that some questions were harder than those in the April 2022 paper. One AETO requested that each question contain the sub-paragraph of the syllabus in the AETO marker copy, which will be addressed. The Chief Examiner for Criminal Litigation confirmed that she was satisfied that the assessment was fair to candidates and allowed them to demonstrate their competence to the required threshold.

3.5 Independent Observer confirmation

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

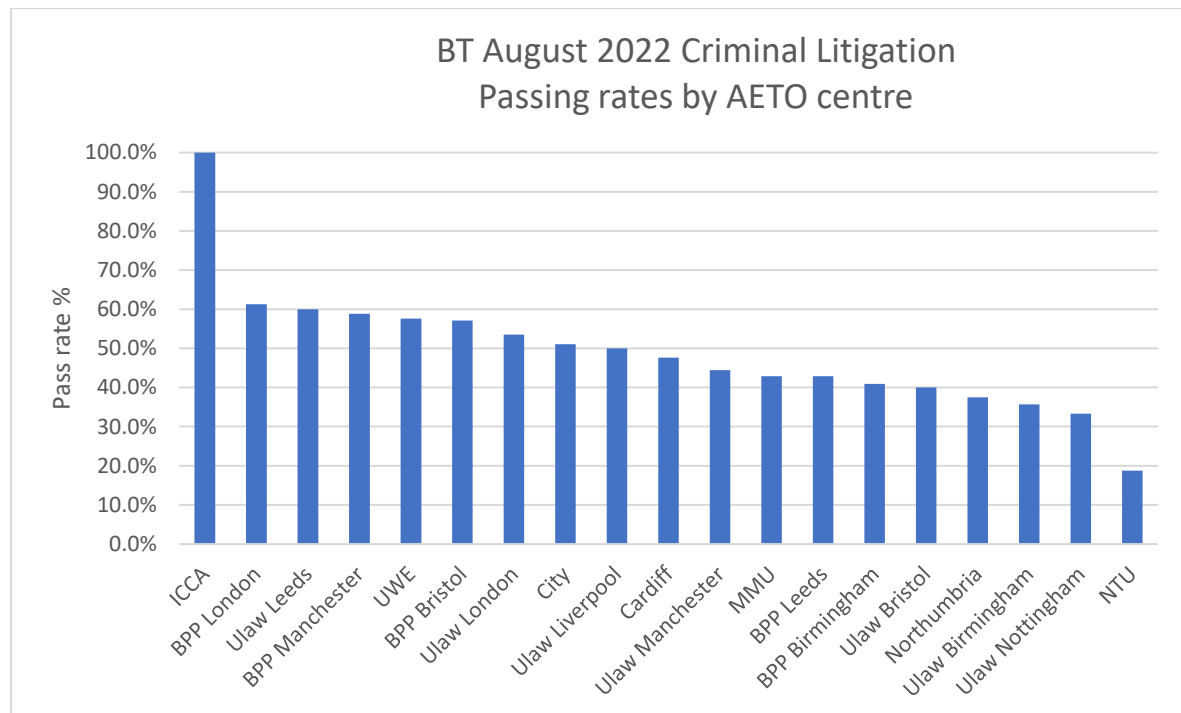
3.6 Criminal Litigation post-intervention pass rate August 2022

All Provider post-intervention	Criminal Litigation August 2022	Criminal Litigation April 2022	Criminal Litigation December 2021	Criminal Litigation August 2021	Criminal Litigation April 2021	Criminal Litigation December 2020
Number of candidates	802	1653	824	825	1104	382
Passing rate	52.5	63.7	56	42.4	46.2	59.9%

The table above shows the all-AETO August 2022 post-intervention Bar Training cohort pass rate of 52.5% for Criminal Litigation, based on a passing standard recommended to the Final Board (as a result of the standard setting process) of 42/75. The final passing rate is the third lowest across the six cycles to date, but comfortably ahead of the August 2021 sitting. As mentioned elsewhere, the December 2020 cohort would, of necessity, have been comprised of first sit candidates (that being the first iteration of the Bar Training assessment). For the first time the exam board had access to data showing the split between first sit and resit candidates, which revealed that 325 candidates were classified as first sitters (i.e.,

first ever attempt at the examination, or previous attempts discounted on the basis of accepted extenuating circumstances), and 477 candidates were classified as resitters (ie candidates who had previously failed the examination without mitigating circumstances having been submitted or accepted). The fact that a preponderance of candidates were resitters may have been a factor in the overall passing rate being lower than in previous sittings. The passing rate for first sit candidates was 57.3% against 44.4% for resitting candidates.

3.7 August 2022 Criminal Litigation pass rates by AETO



AETO centre cohorts are ranged left to right in order of their August 2022 pass rates in the Criminal Litigation assessment. Hence, the ICCA had the highest August 2022 pass rate at 100% and NTU the lowest at 18.8% — a range of over 81%, suggesting that the assessment operated effectively in identifying stronger and weaker cohorts. The data needs to be read in the context of cohort sizes – 7 AETO centres entered fewer than 10 candidates. Across all the AETO centres there were 325 (41%) candidates classified as first sitters, and 477 (59%) classified as resitters for the August 2022 Criminal Litigation assessment. A preponderance of resitting candidates in an AETO cohort does not necessarily result in a lower passing rate, but it is noticeable that across the 4 AETOs with the lowest passing rates for this assessment, the percentage of resit candidates in each cohort was: Northumbria (70%), ULaw Birmingham (46%), ULaw Nottingham (100% - 1 candidate), and NTU (84%).

3.8 Criminal Litigation trend data – how have AETO cohorts performed over the 6 sittings to date?

	Dec 20 % Pass	Apr 21 % Pass	Aug 21 % Pass	Dec 21 % Pass	Apr 22 % Pass	Aug 22 % Pass	Average over 6 sits
ICCA	100.0	90.3	85.7	94.6	87.1	100.0	93.0
Ulaw Bristol		80.0	100.0		66.7	40.0	71.7
Ulaw Nottingham		80.0	100.0	50.0	71.4	33.3	67.0
Ulaw Liverpool					70.6	50.0	60.3
City	65.0	60.3	47.4	49.4	71.1	51.1	57.4
Ulaw London		56.1	44.9	50.7	73.9	53.5	55.8
Ulaw Leeds		68.4	45.0	25.0	78.7	60.0	55.4
Ulaw Manchester		52.2	57.9	42.9	78.7	44.4	55.2
BPP Manchester	75.0	33.9	44.7	56.0	53.3	58.8	53.6
Ulaw Birmingham		69.6	34.7	40.0	70.5	35.7	50.1
BPP London	61.3	29.2	44.8	58.5	40.6	61.3	49.3
Cardiff	33.3	35.1	52.6	52.6	74.3	47.6	49.3
BPP Leeds	75.0	20.0	41.7	68.6	45.0	42.9	48.8
BPP Bristol	50.0	31.3	30.8	69.2	40.0	57.1	46.4
UWE		33.0	35.7	39.0	57.4	57.6	44.6
Northumbria		40.0	36.0	23.1	64.1	37.5	40.1
MMU	35.0	21.4	18.2	55.0	54.5	42.9	37.8
BPP Birmingham	39.3	20.0	17.2	46.5	50.0	40.9	35.7
NTU		41.2	30.6	34.8	50.9	18.8	35.2

3.8.1 AETO centre cohorts are listed in order of the average of their average Criminal Litigation passing rates across the six sittings of the Bar Training centralised assessments since December 2020. Note that only nine AETO centres entered cohorts for the December 2020 sit, and ULaw Bristol did not enter any candidates for the December 2021 Criminal Litigation assessment. ULaw Liverpool entered a cohort for the first time in April 2022. 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 (93%), and NTU the lowest at 35.2%. The ICCA cohort has achieved the highest passing rate in 5 of the 6 sittings. Whilst there is greater variation in terms of the AETO cohort recording the lowest passing rates, BPP Birmingham appears twice in that category, and, along with NTU, has yet to secure a passing rate for a sitting that exceeds 50%.

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

BT Criminal Litigation - December 2020 to August 2022 (6 sits)			
AETO	Total number of attempts	Total number of passes	% Pass
ICCA	170	159	93.5%
Ulaw Bristol	40	28	70.0%
Ulaw Liverpool	19	13	68.4%
Ulaw Nottingham	25	17	68.0%
Ulaw Manchester	119	78	65.5%
Ulaw Leeds	138	89	64.5%
City	1064	647	60.8%
Ulaw London	670	396	59.1%
Ulaw Birmingham	259	139	53.7%
BPP Manchester	346	184	53.2%
Cardiff	220	113	51.4%
BPP Leeds	131	66	50.4%
BPP Bristol	87	43	49.4%
BPP London	1243	607	48.8%
Northumbria	166	78	47.0%
UWE	400	179	44.8%
MMU	83	32	38.6%
BPP Birmingham	216	83	38.4%
NTU	197	74	37.6%
Total	5593	3025	54.1%

As can be seen from the above table 3,025 candidates have passed Bar Training Criminal Litigation assessments since the first sitting in December 2020, based on 5,593 attempts – thus the aggregate passing rate to date is 54.1%. There are 11 AETOs failing to achieve this average thus far, with a 56% range in cumulative passing rates between the strongest and weakest AETO centre cohorts.

4. BAR TRAINING CIVIL LITIGATION RESULTS AUGUST 2022

4.1 Exam Board decisions in relation to selected questions

- 4.1.1 The CEB invited AETOs to provide feedback on the examination paper as a whole and each question if there were issues that the AETO wished to bring to the attention of the Exam Board before it proceeded to confirm the results. Along with the statistical data available to the Exam Board (see 2.5.3 above), the feedback from the AETOs can be of material assistance to the Exam Board in determining whether or not any intervention is required in respect of any individual question.
- 4.1.2 The examining team is first asked to reflect on the AETO feedback without having sight of any of the statistical data revealing how candidates have performed in respect of a particular question. This enables the examining team to focus on the substantive points raised by the AETOs (in particular, questions of substantive law and procedure) without being influenced by evidence of actual cohort performance. Independently of this, the psychometrician advising the Exam Board analyses the data on cohort performance and prepares a report on any apparent anomalies in terms of passing rates for individual questions, poor correlation, and low discrimination.
- 4.1.3 Discrimination refers to the extent to which candidates, who performed well in the examination as a whole, answered a specific question correctly, and the extent to which candidates who were weak overall answered the same specific question incorrectly. Where the statistical analysis shows poor discrimination, it can be evidence that candidates had to resort to guessing which answer was correct, suggesting that the question had not operated as expected. It is also the case that where the passing rate for an item is very high, the discrimination score can be low, simply because the vast majority of candidates (both weak overall and strong overall) will have answered the question correctly. Correlation is a similar measure. The Board expects to see a positive correlation figure in respect of the correct or intended best answer for any given question, and a negative correlation score in relation to a wrong, or 'not the best' answer. A positive correlation outcome for a wrong or 'not the best' answer suggests that the stronger candidates (in terms of performance across the examination as a whole) were attracted to that answer.
- 4.1.4 For the August 2022 Civil Litigation assessment comments were received in relation to 36/90 questions (27/50 questions on paper 1, and 9/40 question on Paper 2). Hence 40% of questions generated some level of AETO feedback (the same as the April 2022 sitting. 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 this sitting, in respect of those questions where there was some AETO feedback, 31 questions across the two papers had only one item of feedback, three questions had two AETOs responses, and 2 had three

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

4.1.5 Summary of Exam Board deliberations

Item	Number of AETOs responding	Exam Board decision and rationale
Paper 1 Q24	2	<p>Passing rate 71%; Poor discrimination.</p> <p>One AETO commented that they thought distractor [A] was correct along with correct answer [C]. The Chief Examiner disagreed with the feedback as commentary in the White Book backed up the correct answer</p> <p><i>The Board decided not to intervene.</i></p>
Paper 1 Q31	2	<p>Passing rate 39%; Poor discrimination.</p> <p>The question was intended to serve as an MCQ and assess the candidates' knowledge of limitation and specifically whether a claim was statute-barred. Candidates were presented with four discrete options. Identification of the correct option was dependent upon the date upon which the claimant had the requisite knowledge that her injury was significant with reference to s.14 Limitation Act 1980. The designated correct answer, [C], was undoubtedly a correct answer. However, an AETO suggested that option [D] was also correct, on the basis that candidates could not be certain as to the date upon which the claimant had the requisite knowledge as to the significance of her injury in order to satisfy the statutory meaning.</p> <p>The examining team agreed that, although it was plain in the second sentence of the fact pattern that the claimant had "realised immediately" that she had sustained an injury to her back, the intention being to fix her date of knowledge at 1 June 2019, there was sufficient scope for a later date of knowledge to be credited. The basis for this conclusion was that the fact pattern provided that, on 14 August 2019, the claimant was advised by the consultant treating her for her back injury that she would suffer long term problems caused by the extent of the injury. The item was intended to operate as a straightforward question about date of knowledge but it was agreed that the omission in the</p>

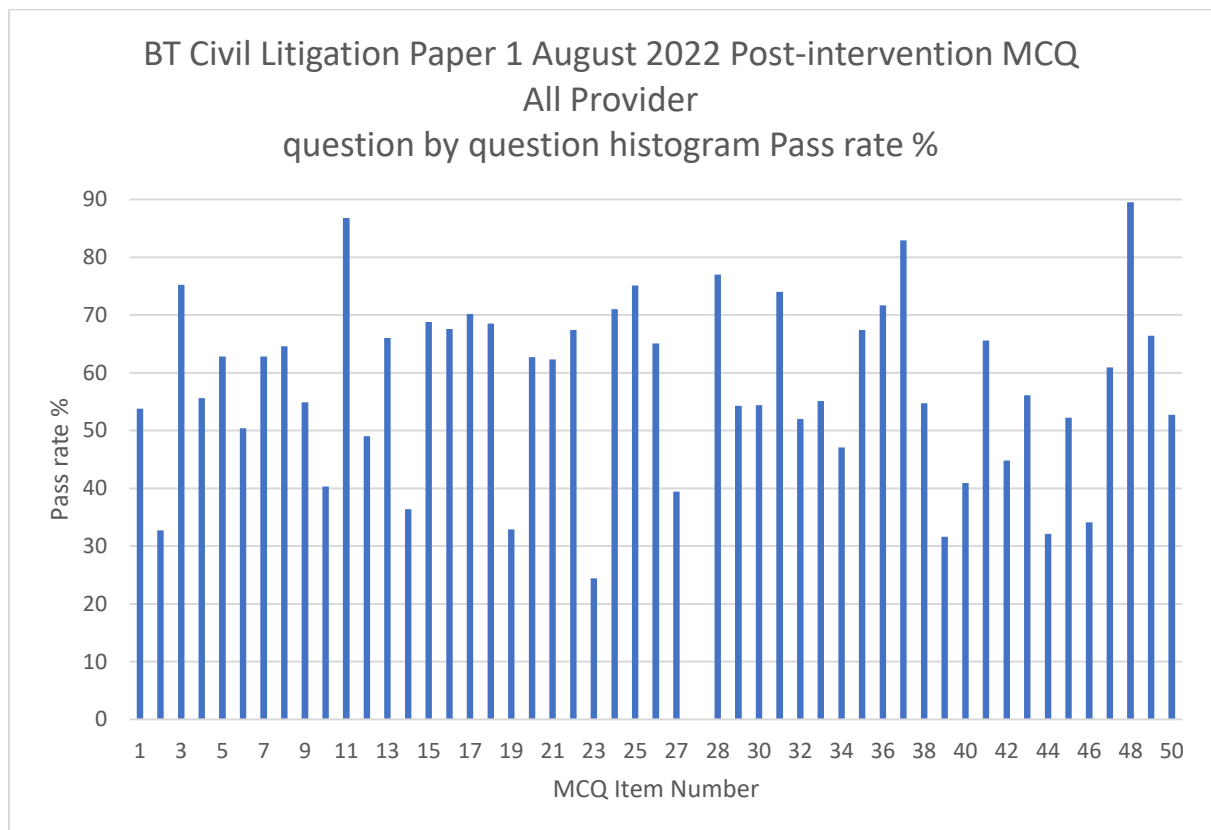
Item	Number of AETOs responding	Exam Board decision and rationale
		<p>facts of an appropriate descriptor as to the initial severity of the back injury left candidates in the invidious position of deciding between the intended date of knowledge (leading to the claim being statute-barred on 1 June 2022, option [C]) or a later date of knowledge (leading to the claim being statute barred on 14 August 2022, option [D]).</p> <p>It was considered that, had the word “serious” been used as a descriptor, no concern would have arisen as option [C] would have been wholly correct. However, the omission gave candidates sufficient justification to select option [D] as a correct answer. This view was supported to some extent by consideration of the data which showed that, although 39% of the cohort opted for the correct option, with a mildly positive discrimination of 0.13, 35% of the cohort opted for option [D] (albeit that discrimination was zero). Therefore, in order to be fair to the candidates, it was resolved by the team that option [D] should be credited in addition to the designated correct option [C].</p> <p><i>The Board confirmed the intervention to credit option [D] in addition to the designated correct answer [C]</i></p>
<p>Paper 2 Q3</p>	<p>3</p>	<p>Passing rate 26%; Poor discrimination.</p> <p>The AETO feedback suggested additional answer choices should be credited. Option [A] was the intended correct answer but there was a stronger positive correlation on incorrect answer option [D], which was chosen by 35% of candidates. The Board discussed the question at length. This was a single best answer question and, whilst answer [D] was correct, it went beyond the facts of the question and was therefore not the best answer. The Board agreed that answer [A] was the best answer. The Board noted the question should be amended before being reused.</p> <p><i>The Board decided not to intervene.</i></p>
<p>Paper 2 Q14</p>	<p>3</p>	<p>Passing rate 26%, Good discrimination.</p> <p>The AETO feedback suggested the question should be improved before re-use. This exact question was used in a previous examination and produced different statistics to this sit. The Board discussed the question and agreed that answer options [B], [C] and [D] were</p>

Item	Number of AETOs responding	Exam Board decision and rationale
		<p>definitely wrong and that answer [A] was definitely correct. The question turned on the 2nd clause in answer [A]. The Board noted answer option [A] should be amended before the question is reused.</p> <p><i>The Board decided not to intervene.</i></p>

4.2 Post-intervention histogram of MCQs

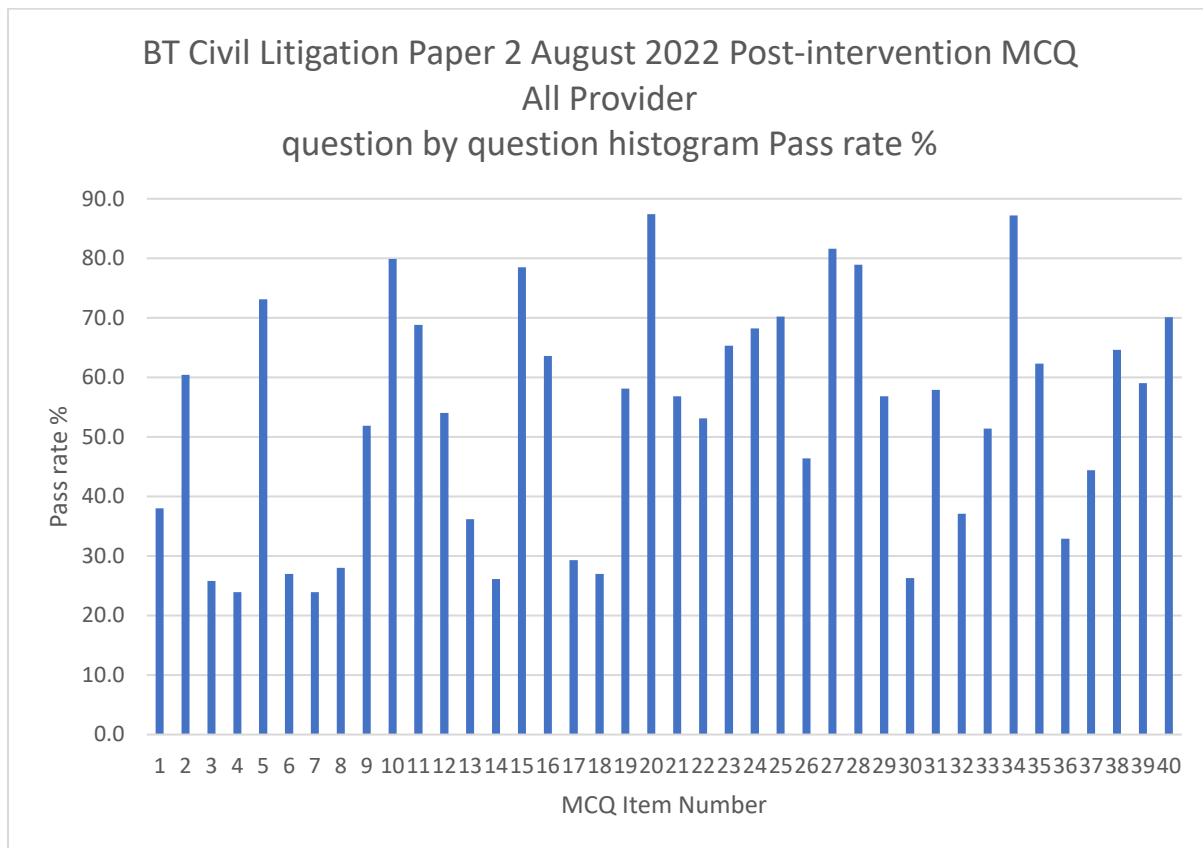
The histograms below show the facility scores (% of Bar Training candidates answering correctly) for each of the questions in the August 2022 Civil Litigation examination (following any agreed interventions detailed at 4.1.5).

4.2.1 Paper 1



For Civil Litigation Paper 1 the post-intervention data shows 8 MCQs with an all-AETO cohort pass rate below 40% (compared to 3 for the April 2022 sit). Assuming candidates attempted the questions in the order presented there is very slight evidence of candidate fatigue being a factor. The average passing rate across the first 25 MCQs was 58.5%, compared with 56.9% across MCQs 26 to 50.

4.2.2 Paper 2



For Civil Litigation Paper 2 the post-intervention data shows 13/39 MCQs with an all-AETO cohort pass rate below 40% (compared to 4/39 for the April 2022 sit). Assuming candidates attempted the questions in the order presented there is no evidence of candidate fatigue being a factor. The average passing rate across the first 20 MCQs was 48%, compared with 58.5% across MCQs 21 to 40. The average passing rate for the five stand-alone questions was 44.2% —lower than the average passing rate for any of the five rolling case scenario ('RCS') style questions.

4.3 Standard setting and reliability of the assessment

4.3.1 The Exam Board noted that the examination paper had been standard set in the usual way, with the appropriate number of standard-setters present. The examination paper was presented to standard setters in the same random order as it would have been presented to candidates who sat the assessment in the traditional way. The pass standard recommended to the Final Exam Board was 52 out of 90 and the Final Exam Board saw no basis for not accepting this recommendation.

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.

	December 2020	April 2021	August 2021	December 2021	April 2022	August 2022
No of candidates	395	989	738	818	1516	782
No of scored items	88	89	89	90	89	90
Pass standard	50 (56.8%)	52 (58.4%)	50 (56.2%)	50 (55.6%)	49 (55.1%)	52 (57.8%)
No passing	227 (57.5%)	548 (55.4%)	305 (41.3%)	440 (53.8%)	907 (59.8%)	365 (46.7%)
Mean score	52.48 (59.63%)	53.71 (60.35%)	48.17 (54.13%)	50.60 (56.23%)	52.45 (58.93%)	50.16 (55.74%)
Standard Deviation	13.06 (14.84%)	13.45 (15.12%)	12.13 (13.63%)	12.22 (13.57%)	13.59 (15.27%)	10.94 (12.16%)
Range of scores	19 to 78	15 to 83	11 to 83	21 to 83	5 to 87	16 to 85
Reliability (KR-20)	0.91	0.90	0.88	0.89	0.90	0.85
Reliability for equivalent 90-item test	0.91	0.90	0.88	0.89	0.90	0.85
Standard error of measurement	3.97 (4.52%)	4.17 (4.68%)	4.28 (4.75%)	4.12 (4.58%)	4.23 (4.75%)	4.29 (4.77%)

4.4 Chief Examiner's Report

The Chief Examiner for Civil Litigation reported that, overall, the AETO feedback on the examination was largely positive, bearing in the amount of new material in the assessment (which, in each paper, comprised well over half of the content). Paper 1 contained 28/50 new questions and Paper 2 contained 26/40. The Chief Examiner for Civil Litigation confirmed that she was satisfied that the assessment was fair to candidates and allowed them to demonstrate their competence to the required threshold.

4.5 Independent Observer confirmation

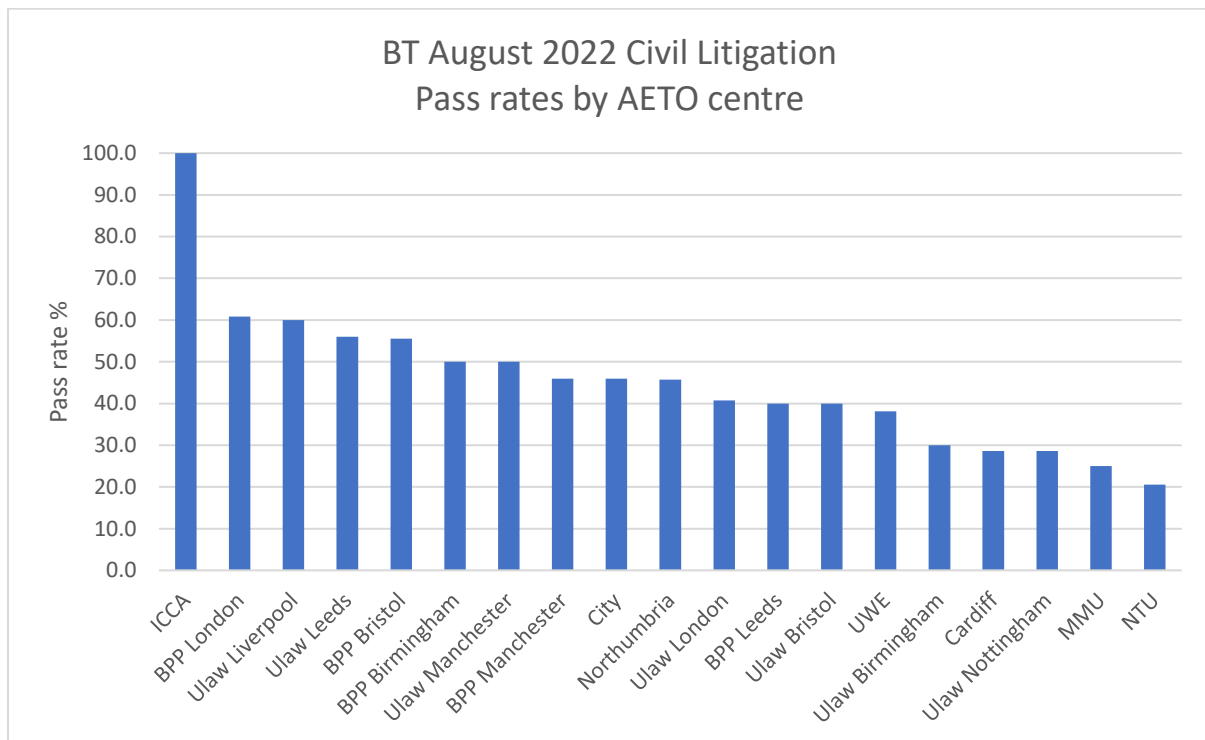
The Independent Observer endorsed the proceedings in respect to Civil Litigation.

4.6 Civil Litigation post-intervention pass rate August 2022

All Provider post-intervention	Civil Litigation August 2022	Civil Litigation April 2022	Civil Litigation December 2021	Civil Litigation August 2021	Civil Litigation April 2021	Civil Litigation December 2020
Number of candidates	782	1517	818	738	989	407
Passing rate	46.7	59.6	53.8	41.3	55.5	55.8%

The table above shows the all-AETO August 2022 post-intervention Bar Training cohort pass rate of 46.7% for Civil Litigation, based on a passing standard recommended to the Final Board (as a result of the standard setting process) of 52/90. The final passing rate is the second lowest across the six cycles to date, but ahead of the August 2021 sitting. As mentioned elsewhere, the December 2020 cohort would, of necessity, have been comprised of first sit candidates (that being the first iteration of the Bar Training assessment). For the first time the exam board had access to data showing the split between first sit and resit candidates, which revealed that 271 candidates were classified as first sitters (ie first ever attempt at the examination, or previous attempts discounted on the basis of accepted extenuating circumstances), and 411 candidates were classified as resitters (ie candidates who had previously failed the examination without mitigating circumstances having been submitted or accepted). The fact that a preponderance of candidates were resitters may have been a factor in the overall passing rate being lower than in previous sittings. The passing rate for first sit candidates was 50.2% against 38.7% for resitting candidates.

4.7 August 2022 Civil Litigation pass rates by AETO



AETO centre cohorts are ranged left to right in order of their August 2022 pass rates in the Civil Litigation assessment. Hence the ICCA had the highest August 2022 pass-rate at 100% and NTU the lowest at 20.6%, a range of over 79%, suggesting that the assessment operated effectively in identifying stronger and weaker cohorts. The data needs to be read in the context of cohort sizes (two AETOs having cohorts in single figures), and other factors outlined at 1.5.3 (above).

Across all the AETO centres there were 311 candidates classified as first sitters, and 467 (59%) classified as resitters for the August 2022 Civil Litigation assessment. A preponderance of resitting candidates in an AETO cohort does not necessarily result in a lower passing rate, but it is noticeable that across the 4 AETOs with the lowest passing rates for this assessment, the percentage of resit candidates in each cohort was: Cardiff (79%), ULaw Nottingham (85%), MMU (88%) and NTU (82%).

4.8 Trend data – how have AETO cohorts performed over the 6 sits to date?

	Dec 20 % Pass	Apr 21 % Pass	Aug 21 % Pass	Dec 21 % Pass	Apr 22 % Pass	Aug 22 % Pass	Average over 6 sits
ICCA	100.0	97.1	100.0	89.3	81.8	100.0	94.7
Ulaw Bristol		69.2	75.0	100.0	61.1	40.0	69.1
Ulaw Liverpool					62.5	60.0	61.3
Ulaw Leeds		81.8	52.9	42.9	69.8	56.0	60.7
City	77.3	71.6	50.8	41.4	74.1	45.9	60.2
Ulaw Manchester		68.4	50.0	42.9	63.0	50.0	54.8
Cardiff	33.3	46.2	53.3	73.3	71.4	28.6	51.0
BPP Manchester	75.9	50.0	25.7	56.2	51.0	45.9	50.8
BPP London	58.3	38.0	34.0	52.3	48.2	60.8	48.6
Ulaw London		49.4	37.7	43.1	65.7	40.7	47.3
BPP Bristol	47.4	37.5	35.7	68.4	28.6	55.6	45.5
Ulaw Birmingham		82.4	43.9	17.6	50.0	30.0	44.8
BPP Leeds	51.9	37.5	15.0	77.1	43.8	40.0	44.2
Northumbria		43.8	44.4	28.6	51.6	45.7	42.8
UWE		42.7	39.7	31.7	52.3	38.1	40.9
Ulaw Nottingham		57.1	0.0	50.0	43.8	28.6	35.9
BPP Birmingham	35.7	29.0	25.0	32.5	36.2	50.0	34.7
NTU		30.0	35.1	43.5	41.5	20.6	34.1
MMU	26.1	22.2	18.2	70.8	28.6	25.0	31.8

4.7.1 AETO centre cohorts are listed in order of the average of their average Civil Litigation passing rates across the six sittings of the Bar Training centralised assessments since December 2020. Note that only nine AETO centres entered cohorts for the December 2020 sit, and ULaw Bristol did not enter any candidates for the December 2021 Civil Litigation assessment. ULaw Liverpool entered a cohort for the first time in April 2022. 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 (94.6%), and MMU the lowest at 31.8%. The ICCA cohort has achieved the highest passing rate in 5 of the 6 sittings. Whilst there is greater variation in terms of the AETO cohort recording the lowest passing rates, MMU appears three times in that category. BPP Birmingham and NTU are both yet to secure a passing rate for a sitting that exceeds 50%.

4.7.2 An alternative way of assessing the success of each AETO centre across the six Civil Litigation 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 August 2022 (6 sits)			
AETO	Total number of attempts	Total number of passes	% Pass
ICCA	169	156	92.3%
Ulaw Leeds	114	74	64.9%
City	933	599	64.2%
Ulaw Bristol	41	26	63.4%
Ulaw Liverpool	21	13	61.9%
Ulaw Manchester	118	69	58.5%
Cardiff	214	116	54.2%
BPP Manchester	322	172	53.4%
Ulaw London	611	309	50.6%
BPP London	1185	579	48.9%
BPP Leeds	135	65	48.1%
BPP Bristol	84	40	47.6%
Ulaw Birmingham	224	105	46.9%
Northumbria	213	97	45.5%
UWE	349	151	43.3%
Ulaw Nottingham	33	14	42.4%
BPP Birmingham	206	72	35.0%
NTU	197	67	34.0%
MMU	82	31	37.8%
Total	5251	2755	52.5%

As can be seen from the above table 2,755 candidates have passed Bar Training Civil Litigation since the first sitting in December 2020, based on 5,251 attempts – thus the aggregate passing rate to date is 52.5%. There are 11 AETOs failing to achieve this average thus far, with a 54% range in cumulative passing rates between the strongest and weakest cohorts.

5. FURTHER COMPARATIVE ANALYSIS

5.1 Comparing performance in Criminal and Civil Litigation examinations

The post-intervention passing rates for the August 2022 sits in Criminal Litigation and Civil Litigation were fairly close to each other, at 52.5% and 46.7% respectively. The Final Board was advised that there were 486 Bar Training candidates who took both litigation subjects in August 2022 and cross-tabulated the outcomes, as follows:

	Pass Crime	Failed Crime	Sum
Pass Civil	157	30	187
Failed Civil	70	229	299
Sum	227	259	

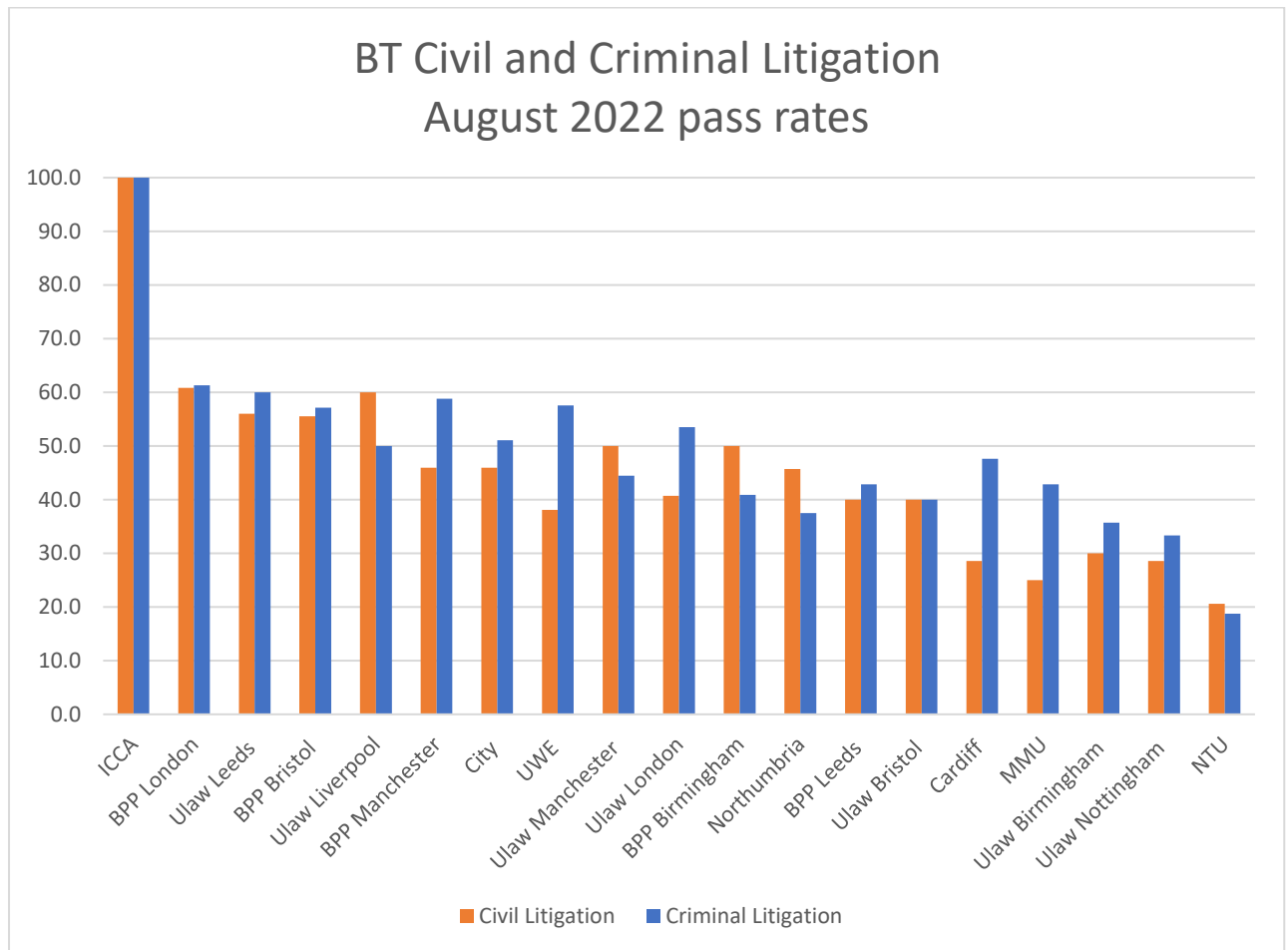
The key cells (on the shaded background) are those which show the number of candidates who passed one subject but failed the other. If the two subjects were equally difficult to pass (making allowances for the fact that the Bar Training examinations in Civil and Criminal Litigation now have rather different formats), the number of candidates in these two cells should be approximately equal. The data for August 2022 may suggest that candidates found the Civil Litigation examination more challenging – but again the difference in the format of the assessment may be a factor here.

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

All AETO Post-intervention	Dec-20		Aug-21		Apr-21	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of candidates	824	818	825	738	1104	989
Passing rate	56%	53.80%	42.40%	41.30%	46.20%	55.50%
Confirmed passing standard	44/75	50/90	46/75	50/89	41/75	52/89
Reported reliability score	0.85	0.89	0.82	0.9	0.84	0.9
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	383	407	1653	1517	800	782
Passing rate	59.80%	55.80%	63.70%	59.60%	52.60%	46.70%
Confirmed passing standard	43/75	50/88	44/75	49/89	42/75	52/90
Reported reliability score	0.89	0.91	0.87	0.9	0.83	0.85

Candidate numbers for August 2022 were comparable to August 2021. Passing rates across the six cycles average out at 53.45% for Criminal Litigation, and 52.12% for Civil Litigation. The passing rates for the August 2022 sitting are comfortably within the range of previous outcomes since December 2020.

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



5.3.1 AETO cohorts are ranged left to right according to the average of their pass rates across both the Criminal and Civil Litigation examinations in the August 2022 sit. The ICCA therefore had the highest average passing rate (100%) and NTU the lowest (19.7%). Overall, 13 AETO centres failed to achieve an average passing rate of 50% taking both litigation subjects together. Interestingly, only 5 AETO centres managed a higher passing rate in Civil Litigation compared to Criminal Litigation.

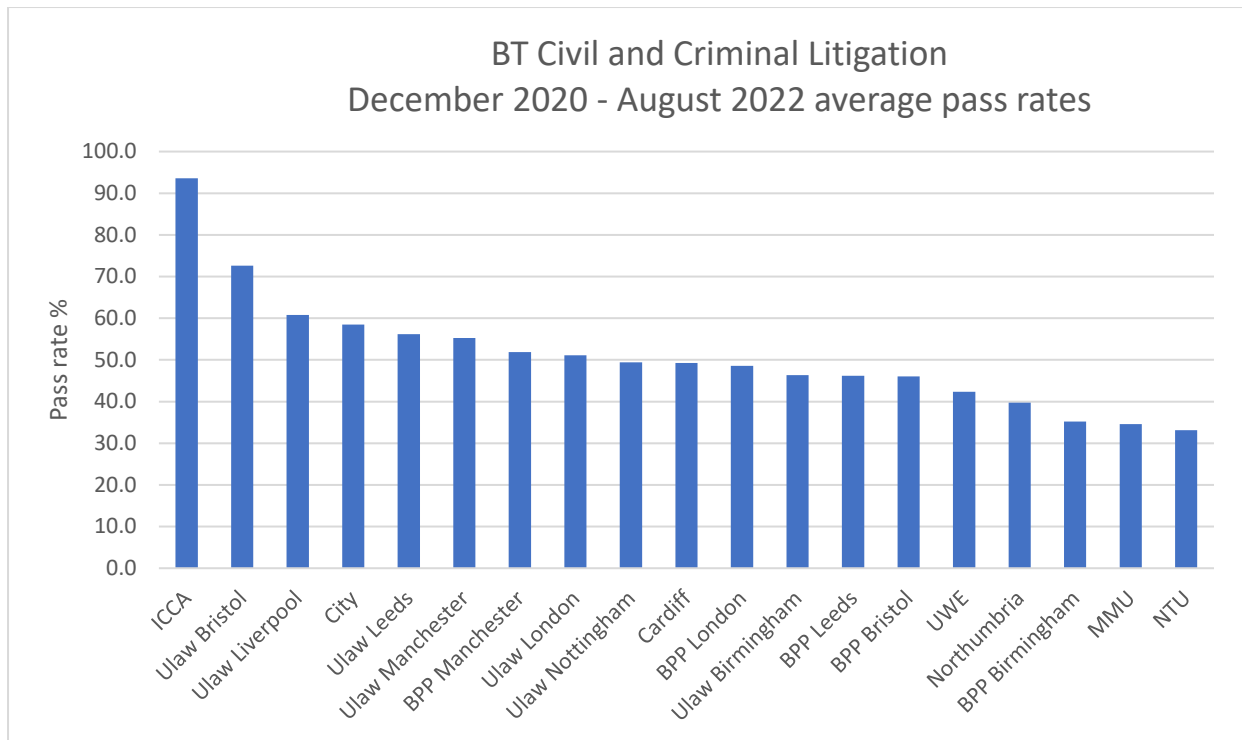
5.3.2 Looking across the six cycles there is evidence to suggest AETO cohorts have found the Civil Litigation assessment more challenging than Criminal Litigation.

	Crime vs Civil passing rate	Crime vs Civil passing rate	Crime vs Civil passing rate	Crime vs Civil passing rate	Crime vs Civil passing rate	Crime vs Civil passing rate
	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22	Aug-22
BPP Birmingham	-3.6	9.0	7.8	-14.0	-13.8	9.1
BPP Bristol	-2.6	6.3	4.9	-0.8	-11.4	-1.6
BPP Leeds	-23.1	17.5	-26.7	8.6	-1.3	-2.9
BPP London	-3.0	8.8	-10.8	-6.2	7.6	-0.5
BPP Manchester	0.9	16.1	-19.0	0.1	-2.3	-12.9
Cardiff	0.0	11.0	0.7	20.7	-2.9	-19.0
City	12.3	11.3	3.4	-8.0	3.0	-5.1
ICCA	0.0	6.7	14.3	-5.4	-5.3	0.0
MMU	-8.9	0.8	0.0	15.8	-26.0	-17.9
Northumbria	N/A	3.8	8.4	5.5	-12.5	8.2
NTU	N/A	-11.2	4.6	8.7	-9.4	1.8
Ulaw Birmingham	N/A	12.8	9.2	-22.4	-20.5	-5.7
Ulaw Bristol	N/A	-10.8	-25.0	N/A	-5.6	0.0
Ulaw Leeds	N/A	13.4	7.9	17.9	-9.0	-4.0
Ulaw Liverpool	N/A	N/A	N/A	N/A	-8.1	10.0
Ulaw London	N/A	-6.6	-7.1	-7.6	-8.2	-12.7
Ulaw Manchester	N/A	16.2	-7.9	0.0	-15.7	5.6
Ulaw Nottingham	N/A	-22.9	-100.0	0.0	-27.7	-4.8
UWE	N/A	9.7	4.0	-7.3	-5.1	-19.5

The table above shows, for each AETO centre at each of the last six sittings, the variance in passing rates between the two litigation subjects. AETOs without cohorts for a sitting are designated as 'N/A'. Hence, at BPP Birmingham in December 2020 the Civil litigation passing rate was 3.6% below that for Criminal Litigation. ULaw London has never achieved a higher passing in rate in Civil Litigation compared to Criminal Litigation across the six sittings. The biggest average differential is recorded by ULaw Nottingham (Civil 31% gap compared to Criminal), but there are comparatively small cohort numbers involved, hence greater volatility in passing rates.

5.4 AETO average passing rates since December 2020

An analysis of passing rates achieved by each AETO cohort in both litigation subjects across all Bar Training Course examination sittings to date (adjusted to allow for the fact that some AETOs 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 93.6%, and NTU the lowest at 33.1%. 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 Bristol being over 20%. There are 11 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 August 2022

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

BT Criminal and Civil Litigation - December 2020 to August 2022 (6 sits)			
AETO	Total number of attempts	Total number of passes	% Pass
ICCA	339	315	92.92%
Ulaw Bristol	81	54	66.67%
Ulaw Liverpool	40	26	65.00%
Ulaw Leeds	252	163	64.68%
City	1997	1246	62.39%
Ulaw Manchester	237	147	62.03%
Ulaw London	1281	705	55.04%
Ulaw Nottingham	58	31	53.45%
BPP Manchester	668	356	53.29%
Cardiff	434	229	52.76%
Ulaw Birmingham	483	244	50.52%
BPP Leeds	266	131	49.25%
BPP London	2428	1186	48.85%
BPP Bristol	171	83	48.54%
Northumbria	379	175	46.17%
UWE	749	330	44.06%
MMU	165	63	38.18%
BPP Birmingham	422	155	36.73%
NTU	394	141	35.79%
Total	10844	5780	53.30%

This table aggregates all the attempts by candidates at both the Criminal Litigation and Civil Litigation examinations across all six sittings from December 2020 to August 2022. In total there have been 10,844 Bar Training candidate entries, of which 5,780 have been successful (53.3%). As can be seen, 11 AETO centres fall below this overall passing rate, with eight 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

5.5.2 Cumulative passing rate disaggregated by AETO group – 6 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.

AETO	Total candidates at AETO	Total Candidates passing at AETO	Overall % pass rate both subjects
ICCA	339	315.0	92.9%
City	1997	1246.0	62.4%
Ulaw Group	2432	1370.0	59.6%
Cardiff	434	229.0	52.8%
BPP Group	3955	1911.0	47.3%
Northumbria	379	175.0	46.2%
UWE	749	330.0	44.1%
MMU	165	63.0	38.2%
NTU	394	141.0	35.8%

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

6. BAR TRANSFER TEST RESULTS AUGUST 2022

The results for Bar Transfer test ('BTT') candidates attempting the August 2022 BTT assessments were considered by the litigation Subject Exam Boards and the Final Board. For the August 2022 sit, all BTT candidates attempted the same centrally assessed exam papers as the Bar Training Course candidates.

	Civil Litigation	
Exam Sitting	Number of BTT Candidates	Passing rate
August 2022	51	33.3%
April 2022	62	45.2%
December 2021	69	44.9%
August 2021	78	46.2%
April 2021	85	52.9%
Average passing rate		44.5%
	Criminal Litigation	
Exam Sitting	Number of BTT Candidates	Passing rate
August 2022	65	38.5%
April 2022	70	43.0%
December 2021	85	46.0%
August 2021	94	45.7%
April 2021	88	29.5%
Average passing rate		40.5%

Results in the two litigation subjects for the BTT cohort in August 2022 were broadly consistent – within a 5% range, and largely in line with the outcomes for the previous sittings, although the passing rate for Civil Litigation was the lowest recorded across the last six cycles. Somewhat counter-intuitively, over the last six sittings the performance in Civil Litigation has been marginally stronger than in Criminal Litigation – the average passing rate being 4% higher.

7. BPTC RESULTS AUGUST 2022

7.1 Unification of assessment regimes

- 7.1.1 There are no longer any discrete BPTC assessments, the final opportunity to take an 'old style' BPTC 75 MCQ Civil litigation paper was in the April 2022 sit: see further <https://www.barstandardsBoard.org.uk/training-qualification/becoming-a-barrister/transitional-arrangements.html>
- 7.1.2 For background on arrangements for BPTC assessments (paper confirmation, standard setting, and grade boundaries) see previous Chair's Reports: <https://www.barstandardsBoard.org.uk/resources/2019-summer-ceb-chair-s-report-pdf.html>
- 7.1.3 For the August 2022 sitting BPTC candidates were, therefore, offered the opportunity to attempt the same Criminal Litigation and Civil Litigation assessments as the Bar Training candidates.
- 7.1.4 Given the diminishing number of BPTC candidates as the previous vocational stage format winds down, what follows is an outline of cohort performance at the August 2022 sitting. There are only 12 AETO centres entering candidates and, in only a handful of instances, are there candidate numbers at any AETO centre for either assessment reaching low double figures. Hence, detailed statistical analysis is not appropriate.

7.2 August 2022 BPTC Criminal Litigation

- 7.2.1 BPTC candidates attempted the same examination paper as the Bar Training candidates. See sections 3.1 to 3.5 above, for details of the exam board discussion of interventions etc.
- 7.2.2 Results for BPTC Criminal Litigation candidates across the last 6 sittings are as follows:

Criminal Litigation All-Provider Post-Intervention (BPTC)						
Exam Sitting	Aug-22	Apr-22	Dec-21	Aug-21	Apr-21	Dec-20
MCQ Passing Rate	44.3%	49.0%	38.7%	47.5%	35.1%	43.0%

The passing rate of 44.3% (based on a cohort of 70 candidates) is largely in line with recent BPTC sittings

7.2.3 Outcomes for each AETO cohort are as follows:

BPTC Criminal Litigation August 2022					
	Number sat	Number attaining proposed pass standard	% attaining	Number not attaining	% not attaining
BPP Bristol	1	0	0.0%	1	100.0%
BPP Leeds	2	2	100.0%	0	0.0%
BPP London	21	11	52.4%	10	47.6%
Cardiff	2	0	0.0%	2	100.0%
City	16	5	31.3%	11	68.8%
MMU	6	2	33.3%	4	66.7%
Northumbria	2	1	50.0%	1	50.0%
NTU	3	0	0.0%	3	100.0%
ULaw Birmingham	3	0	0.0%	3	100.0%
ULaw Leeds	1	1	100.0%	0	0.0%
ULaw London	10	7	70.0%	3	30.0%
UWE	3	2	66.7%	1	33.3%
OVERALL	70	31	44.3%	39	55.7%

As indicated above, the very small cohort numbers produce huge variations in passing rates. The overall passing rate for the BPTC cohort is 8% below that for the Bar Training cohort, but 6% above that for the BTT cohort.

7.2.4 The BPTC operated a system of grade boundaries so that passing candidates could be consistently described as having a pass that was classified as Outstanding (85-100%), Very Competent (70-84%) or Competent (60-69%). The classification depended not just on marks obtained, but whether the candidate passed particular elements on their first attempt. For the August 2022 sitting of BPTC Criminal Litigation examination the distribution of grade boundaries across the 12 AETOs entering candidates was as follows:

All Provider Grade Boundary Distribution			
Not Competent	Competent	Very Competent	Outstanding
55.7%	31.4%	11.4%	1.4%

7.3 August 2022 BPTC Civil Litigation

7.3.1 BPTC candidates attempted the same examination paper as the Bar Training candidates. See sections 4.1 to 4.5 above, for details of the exam board discussion of interventions etc.

7.3.2 Results for BPTC Civil Litigation candidates across the last 6 sittings are as follows:

Civil Litigation All-Provider Post-Intervention (BPTC)						
Exam Sitting	Aug-22	Apr-22	Aug-21	Apr-21	Dec-20	Aug-19
MCQ Passing Rate	27.9%	31.0%	48.8%	57.4%	52.6%	46.9%

The passing rate of 27.9% (based on a cohort of 43 candidates) follows a steady decline over the last 4 sittings which may indicate that it is, increasingly, weaker candidates who are left in the pool, coupled with the demands of a 2-paper Civil Litigation examination being attempted for the first time by BPTC candidates at the August 2022 sitting.

7.3.3 Outcomes for each AETO cohort are as follows:

BPTC Civil Litigation August 2022					
	Number sat	Number attaining proposed pass standard	% attaining	Number not attaining	% not attaining
BPP Bristol	2	0	0.0	0	0.0
BPP London	13	4	30.8	5	38.5
Cardiff	1	0	0.0	0	0.0
City	11	1	9.1	1	9.1
MMU	2	0	0.0	0	0.0
Northumbria	1	0	0.0	0	0.0
NTU	4	1	25.0	1	25.0
ULaw Birmingham	2	1	50.0	1	50.0
ULaw Leeds	1	1	100.0	1	100.0
ULaw London	5	2	40.0	2	40.0
UWE	1	1	100.0	1	100.0
OVERALL	43	11	25.6	12	27.9

As indicated above, the very small cohort numbers produce huge variations in passing rates. The overall passing rate for the BPTC cohort is 20% below that for the Bar Training cohort, and 8% below that for the BTT cohort.

7.3.4 The BPTC operated a system of grade boundaries so that passing candidates could be consistently described as having a pass that was classified as Outstanding (85-100%), Very Competent (70-84%) or Competent (60-69%). The classification depended not just on marks obtained, but whether the candidate passed particular elements on their first attempt. For the August 2022 sitting of BPTC Civil Litigation examination the distribution of grade boundaries across the 11 AETOs entering candidates was as follows

All Provider Grade Boundary Distribution			
Not Competent	Competent	Very Competent	Outstanding
72.1%	20.9%	7.0%	0.0%

Professor Mike Molan
Chair of the Central Examination Board
7 November 2022