

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

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

**Bar Training BTT & BPTC
April 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 fifth iteration of examinations attempted by Bar Training Course candidates in April 2022, the confirmed post-intervention outcomes for which are as follows:

	Apr-22	Dec-21	Aug-21	Apr-21	Dec-20
Civil Litigation					
Number of Candidates	1517	818	738	989	407
Passing Rate	59.60%	53.80%	41.30%	55.50%	55.80%
Criminal Litigation					
Number of candidates	1653	824	825	1104	383
Passing Rate	63.70%	56%	42.40%	46.20%	59.80%

The April 2022 passing rates in both litigation subjects are the highest recorded so far since the introduction of the BTC assessment in 2020. In comparing results across the five 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 (i.e., candidates who had previously failed an assessment without extenuating circumstances). See further on this at 1.5, below.

1. BACKGROUND AND CONTEXT

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

The 2010/11 academic year saw the first round of assessments under the BPTC regime in the wake of the Wood Report (July 2008). For 2010/11, all BPTC Providers were required to assess candidates in Professional Ethics; Civil Litigation, 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 – typically 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 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 do not attempt the Civil 1 or Civil 2 papers but will continue to attempt a post-2017 BPTC format Civil Litigation assessment until BPTC examinations are phased out. The final BPTC Civil Litigation assessment will take place in spring 2022.

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

- 1.5 Candidates have three opportunities a year to attempt the centralised Bar Training Course examinations: April ('Spring sit'), August ('Summer sit'), and December ('Winter sit').
- 1.5.1 AETOs must meet the requirements of the Authorisation Framework; in doing so, they may structure their Bar Training Courses in various ways. Some will offer a traditional integrated programme where all subjects are studied in parallel. Full time candidates commencing such courses in September may be attempting the centralised assessments for the first time in either the 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 examinations in the centralised assessments in Part 1 before progressing to the examinations in the skills areas in Part 2. In such cases candidates commencing in September would normally be expected to attempt the centralised assessments for the first time in the 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' on-line only. Current details of the range of provision across AETOs can be found here:

<https://www.barstandardsBoard.org.uk/uploads/assets/908eecec-f9d3-4f60-a2ca5eb1b05f04f0/2021-AETO-Factsheet-for-Vocational-Component.pdf>

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

comparison of Spring or Summer sit results) no such certainty exists in relation to the make-up of the cohorts attempting the Spring, Summer or Winter sittings 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	Total to date
BBP Birmingham	28	31	28	40	47	174
BBP Bristol	19	16	14	19	7	75
BPP Leeds	27	32	20	35	16	130
BPP London	151	179	150	260	274	1,014
BPP Manchester	58	54	35	89	49	285
Cardiff	51	39	15	60	35	200
City	22	208	132	58	378	798
ICCA	28	34	5	56	33	156
MMU	23	9	11	24	7	74
Northumbria	N/A	64	36	14	64	178
NTU	N/A	50	37	23	53	163
ULaw Birmingham	N/A	34	41	17	82	174
ULaw Bristol	N/A	13	4	1	18	36
ULaw Leeds	N/A	22	17	7	43	89
ULaw Liverpool	N/A	N/A	N/A	N/A	16	16
ULaw London	N/A	89	106	65	216	476
ULaw Manchester	N/A	19	18	7	54	98
ULaw Nottingham	N/A	7	1	2	16	26
UWE	N/A	89	68	41	109	307
Total	407	989	738	818	1,517	4,469

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, City accounted for just under 25% of the Civil Litigation candidate entries for the April 2022 sit, whilst BPP London has provided just under 23% of the total number of candidate entries across the five sittings offered thus far. As noted above, two AETOs have cohort numbers in single figures for the April 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	Total to date
BBP Birmingham	28	30	29	43	64	194
BBP Bristol	20	16	13	26	5	80
BPP Leeds	20	25	24	35	20	124
BPP London	137	202	174	270	261	1,044
BPP Manchester	52	62	47	91	60	312
Cardiff	54	37	19	19	70	199
City	20	247	154	77	425	923
ICCA	32	31	7	56	31	157
MMU	20	14	11	20	11	76
Northumbria	N/A	40	25	13	64	142
NTU	N/A	51	36	23	55	165
ULaw Birmingham	N/A	46	49	20	88	203
ULaw Bristol	N/A	15	2	N/A	18	35
ULaw Leeds	N/A	38	20	8	47	113
ULaw Liverpool	N/A	N/A	N/A	N/A	17	17
ULaw London	N/A	107	127	73	234	541
ULaw Manchester	N/A	23	19	7	61	110
ULaw Nottingham	N/A	5	1	2	14	22
UWE	N/A	115	68	41	108	332
Total	383	1104	825	824	1,653	4,789

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, City had the largest cohort of the candidate entries for the Criminal Litigation April 2022 sit (just under 26%), whilst BPP London has submitted the most candidates overall to date at just under 23% of those attempting. Also as noted above, one AETO had cohort numbers in single

figures for the April 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), an independent observer, an independent psychometrician and senior staff from the BSB. The Chair and the examiners contribute a mix of both academic and practitioner experience.

2.1 How examination papers are devised and approved

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

2.2 Standard setting

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

2.3 How the exams are conducted

- 2.3.1 Candidates across all AETO institutions normally attempt the centralised assessments in each of the knowledge areas on the same dates. In any case where an AETO identifies candidates as having reasonable or other adjustments arrangements necessitating a start time earlier than that of the main cohort, the relevant candidates are not allowed to leave their assessment area until the commencement of the main cohort assessment. Secure delivery and collection arrangements are put in place for all examination materials.
- 2.3.2 Candidates are allowed to attempt the assessments at locations overseas. The onus is placed on the candidates' AETO to ensure that a secure assessment centre is available, and the BSB normally requires the start time of the examination at the overseas centre to be the same as the UK start time (an earlier/later start time may be permitted provided there is an overlap and candidates are quarantined). To ensure the complete security of the examination papers, the BSB dispatches all examinations to the overseas contacts directly.
- 2.3.3 AETO institutions are given guidance on examination arrangements by the BSB. Exam invigilation reports 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 25 April 2022 at 14:00
Civil Litigation (Paper 1): Wednesday 27 April 2022 at 14:00
Civil Litigation (Paper 2): Friday 29 April 2022 at 14:00

2.4 Marking

- 2.4.1 Just under 75% of Bar Training candidates for the April 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/336cf93a-9ff4-4571-965a91e757d5ab4d/b151a369-e120-436f-9d7340798fda3092/centralisedassessments-policygoverningstudentreview.pdf>.

2.6 Reporting results to AETOs

- 2.6.1 Once the CEB has confirmed the centralised assessment marks for each cohort of candidates at each AETO the marks are distributed to the AETOs where they feed into their individual candidate profiles considered at the AETO award and progression examination Boards. The actual scores achieved by candidates need to be aligned with a 60% passing mark in order to best fit with the AETOs' systems. Hence if, for example, the passing standard for Criminal Litigation is 43/75 (in effect 57%), a candidate achieving 43/75 will be reported as having a score of 60% (the pass mark). All other candidate scores will be translated accordingly depending on the passing standard adopted.
- 2.6.2 It is at the AETO examination Boards that issues relating to individual candidates such as extenuating circumstances or academic misconduct are considered.

3. BAR TRAINING CRIMINAL LITIGATION RESULTS APRIL 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 April 2022 Criminal Litigation assessment comments were received in relation to 27/75 questions. Hence 36% of questions generated some level of AETO feedback. Typically, responses from AETOs raised issues such as the possibility of there being more than one 'best' answer; syllabus coverage; level of challenge offered by the question; and whether the question was one that it was fair to ask candidates at this stage in their training. Even where feedback is received, it is rare to have more than a handful of AETOs responding in respect of a specific question. For this sitting, in respect of those questions where there was some AETO feedback, 22 questions had only one item of feedback, and there were five questions where two AETOs responded. The table below provides a summary of the Exam Board deliberations where interventions were agreed, and where, although no

intervention was agreed, points for future reference were raised in the Board's deliberations.

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

3.1.6 Summary of Exam Board deliberations

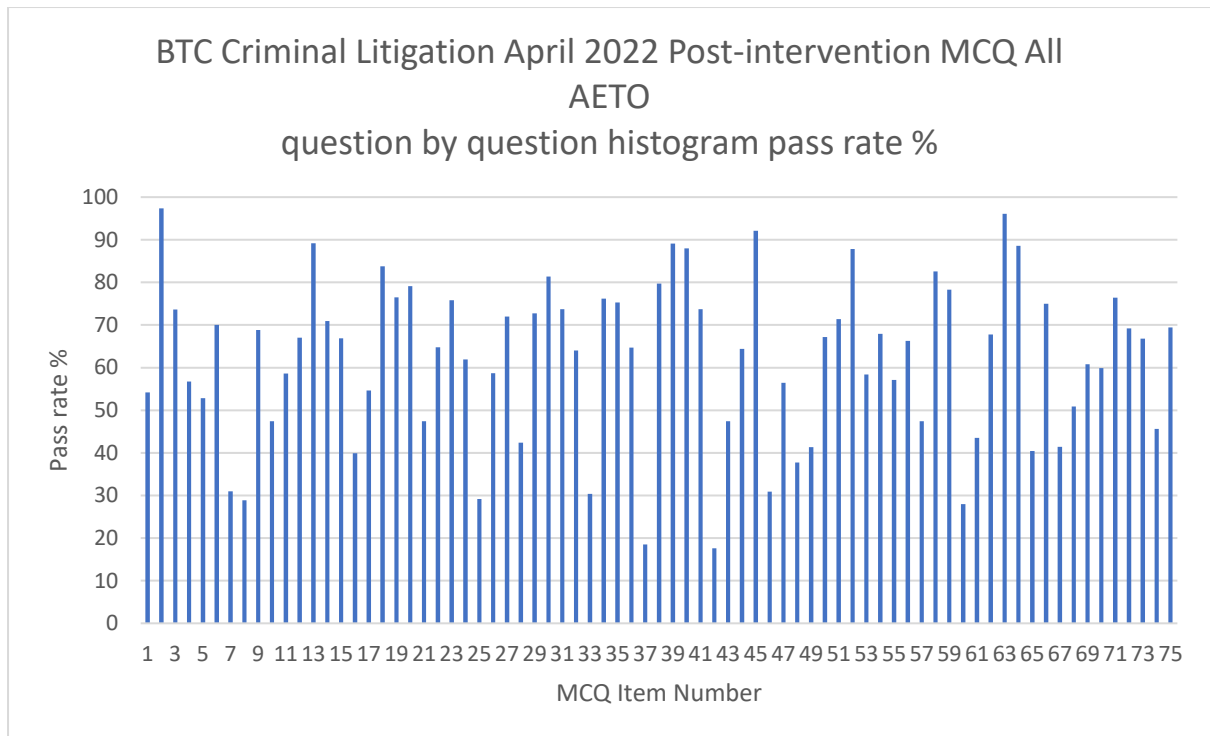
The Final Board concluded that no interventions were required in respect of any of the questions on the examination paper.

Item	Number of AETOs responding	Exam Board decision and rationale
Q.26	2	<p>Pass rate: BT 59%; BPTC 64% poor discrimination for both cohorts</p> <p>Weak positive correlation on option [A]. AETO comments for improvement of the question were acknowledged. The Chief Examiner confirmed that [A] was definitely not correct. However, the continued poor discrimination on this question was acknowledged. It was proposed that this question be reviewed before future use.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q.37	0	<p>Pass rate: 19% (BT); 16% (BPTC) – weak BPTC discrimination</p> <p>Low discrimination for BPTC cohort but no issue with distractors. The Chief Examiner confirmed that option [C] was incorrect, despite some positive correlation.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q.46	2	<p>Pass rate: 31% (BT); 35% (BPTC)- very low discrimination.</p> <p>The low correlation on all options was evidence that many candidates had guessed when choosing their answer. Most candidates opted for the incorrect distractor [C]. AETO comments were considered. The point was regarding whether the superintendent in the fact set up had supervised an interview was judged to involve excessive speculation on facts not presented. The examining team confirmed that this issue had been considered very carefully during paper confirmation.</p>

Item	Number of AETOs responding	Exam Board decision and rationale
		<p>While the statistics showed that this question was not very effective, the Board agreed that the question was not fatally flawed.</p> <p>In response to AETO feedback, the Chief Examiner also stressed that the examining team did frequently use multiple areas of the syllabus within one question, as would occur in practice, so this was not considered to be grounds for intervention.</p> <p>The Board proposed that this question should be reviewed before future use.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q.58	2	<p>Pass rate: 83%(BT); 74% (BPTC) – good discrimination</p> <p>AETO comments were considered but were judged to largely relate to unnecessary speculation on facts not presented. The Board noted that the statistics did not merit a case for intervention.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q.61	1	<p>Pass rate: 44% BT – good discrimination); 26% (BPTC – slightly sub-optimal discrimination)</p> <p>AETO feedback suggesting crediting an additional answer was considered. The feedback related to the question relying too much on practitioner knowledge. The opinion of the Board was that candidates should have enough knowledge to understand that option [A] was clearly wrong. It was noted that only the statistics for BPTC merited a review of option [A] as a creditable answer, and that the statistics for the BT cohort showed that the question performed well.</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 April 2022 Criminal Litigation examination



The post-intervention data shows 10 MCQs with an all-AETO cohort pass rate below 40% (compared to 14 for the December 2021 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 60.9%, across MCQs 26 to 50 it was 60.6%, and across MCQs 51 to 75 it rose to 63.9%.

3.3 Standard setting and reliability of the assessment

3.3.1 The Exam Board noted that the examination paper had been standard set in the usual way, with the appropriate number of standard-setters present. The examination paper was presented to standard setters in the same random order as it would have been presented to candidates who sat the assessment in the traditional way. The pass standard recommended to the final Exam Board was 44 out of 75 (rounded) and the Final Exam Board saw no basis for not accepting this recommendation.

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

	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22
No. of candidates	382	1104	825	824	1653
No. of scored items	75	75	75	75	75
Pass standard	43 (57.3%)	41 (54.7%)	46 (61.3%)	44 (58.7%)	44 (58.7%)
No. passing	229 (59.9%)	510 (46.2%)	354 (42.9%)	461 (55.9%)	1053 (63.7%)
Mean score	45.99 (61.32%)	40.39 (53.86%)	43.60 (58.14%)	44.72 (59.62%)	46.62 (62.16%)
Standard Deviation	11.28 (15.04%)	9.41 (12.55%)	9.29 (12.38%)	9.77 (13.03%)	10.35 (13.79%)
Range of scores	17 to 69	5 to 69	7 to 68	13 to 70	5 to 71
Reliability (KR-20)	0.89	0.84	0.82	0.85	0.87
Reliability for equivalent 90-item test	0.91	0.86	0.85	0.87	0.89
Standard error of measurement	3.73 (4.98%)	3.81 (5.07%)	3.94 (5.25%)	3.80 (5.06%)	3.71 (4.95%)

3.4 Independent Observer confirmation

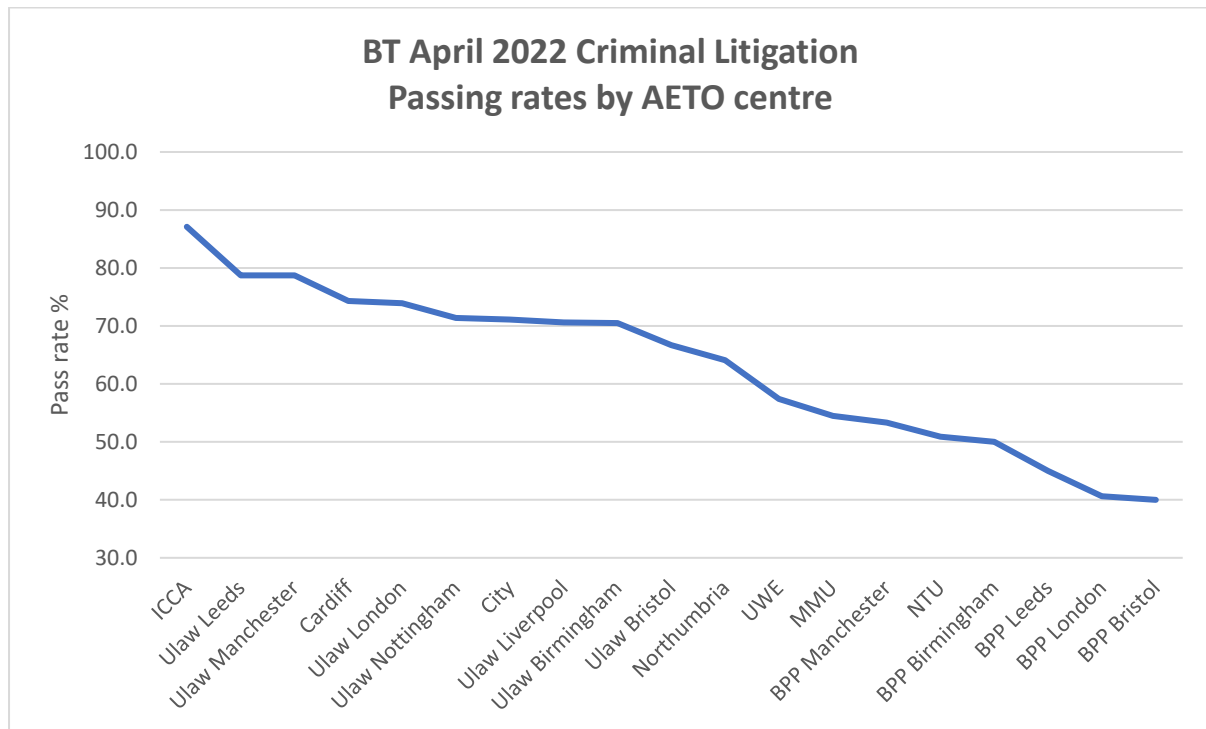
The Independent Observer endorsed the proceedings in respect of the Criminal Litigation assessment

3.5 Criminal Litigation post-intervention pass rate April 2022

All Provider pre-intervention	Criminal Litigation April 2022	Criminal Litigation December 2021	Criminal Litigation August 2021	Criminal Litigation April 2021	Criminal Litigation December 2020
Number of candidates	1653	824	825	1104	382
Passing rate	63.7	51	42.4	31.8	58.4

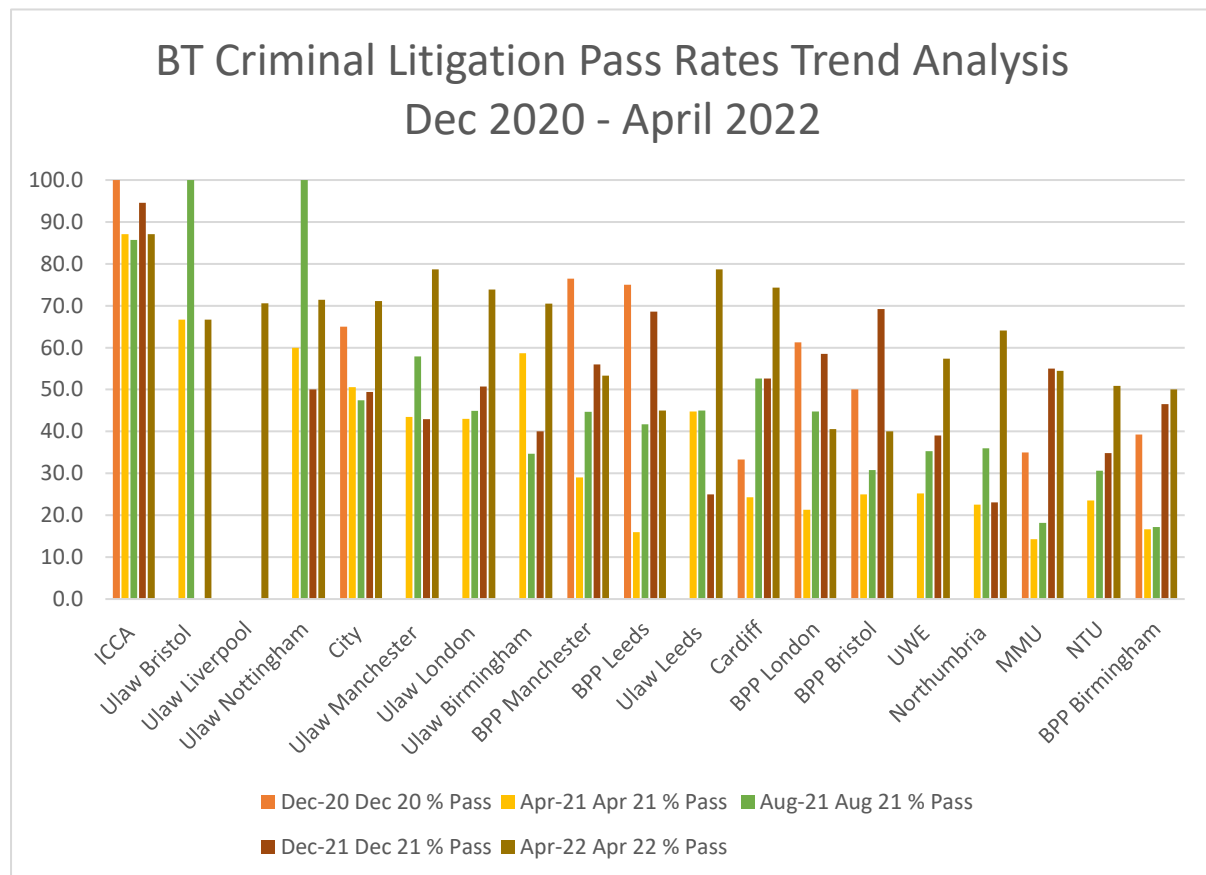
The table above shows the all-AETO April 2022 post-intervention Bar Training cohort pass rate of 63.7% for Criminal Litigation, based on a passing standard recommended to the Final Board (as a result of the standard setting process) of 44/75. The final passing rate is the highest across the five cycles to date, perhaps significantly based on the largest cohort to date as well. As mentioned elsewhere, the December 2020 cohort would, of necessity, have been comprised of first sit candidates (that being the first iteration of the Bar Training assessment). The raw data available for the April 2022 sitting does not distinguish between first sit candidates and those referred or deferred from earlier sittings.

3.6 April 2022 Criminal Litigation pass rates by AETO



AETO centre cohorts are ranged left to right in order of their April 2022 pass rates in the Criminal Litigation assessment. Hence, the ICCA had the highest April 2022 pass rate at 87.1% and BPP Bristol the lowest at 40% — a range of over 47%, suggesting that the assessment operated effectively in identifying stronger and weaker cohorts. The data needs to be read in the context of cohort sizes (BPP Bristol had only five candidates) and other factors outlined at 1.5.3 (above).

3.7 Trend data – how have AETO cohorts performed over the 5 sits to date?



3.7.1 AETO centre cohorts are ranged left to right in order of the average of their passing rates across the five 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. The calculation of AETO centre averages have been adjusted to reflect this. ULaw Liverpool entered a cohort for the first time in April 2022 – hence that AETO centre average is in fact the April 2022 passing rate. The data shows that the ICCA has achieved the highest average passing rate (90.9%), and BPP Birmingham the lowest at 33.9%

3.7.2 Comparing cohort performance in April 2022 with December 2021 (for those AETO centres having candidates in both sittings) shows ULaw Leeds having the biggest improvement, up 53% (on very small numbers in December 2021), and Northumbria improving by 41% (again from a small December 2021 cohort). BPP Bristol showed the biggest drop in passing rates compared to December 2021, but again the cohort numbers for April 2022 were very small.

3.7.3 In making any comparisons it should be borne in mind that a number of AETOs adopting a 'Part 1/Part 2' model for the Bar Training Course have multiple entry points – hence some of the candidates attempting in the April

2022 sit will have been making their first attempt and some may have been referred or deferred from an earlier sitting. Analysis is further complicated by significant volatility in cohort numbers at each AETO across the various sittings.

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

BT Criminal Litigation - Dec 2020 to April 2022 (5 sits)			
AETO	Total number of attempts	Total number of passes	% Pass
ICCA	157	145	92.36%
ULaw Liverpool	17	12	70.59%
ULaw Bristol	35	24	68.57%
ULaw Manchester	110	72	65.45%
ULaw Nottingham	22	14	63.64%
City	923	551	59.70%
ULaw London	541	313	57.86%
ULaw Leeds	113	65	57.52%
ULaw Birmingham	203	114	56.16%
BPP Manchester	312	161	51.60%
BPP Leeds	124	62	50.00%
Cardiff	199	99	49.75%
BPP Bristol	80	38	47.50%
BPP London	1,044	469	44.92%
Northumbria	142	62	43.66%
UWE	332	131	39.46%
BPP Birmingham	194	73	37.63%
MMU	76	28	36.84%
NTU	165	59	35.76%
Total	4,789	2,492	52.04%

As can be seen from the above table 2,492 candidates have passed Bar Training Criminal Litigation assessments since the first sitting in December 2020, based on 4,789 attempts – thus the aggregate passing rate to date is 52.04%. There are 10 AETOs failing to achieve this average thus far, with a 56% range in cumulative passing rates between the strongest and weakest AETO centre cohorts. There is a

slight re-ordering of AETO centres when the cumulative data is presented this way compared with the simple averaging of passing rates used at 3.7. In particular, BPP Birmingham rose two places from last position. The usual caveats apply, in particular that ULaw Liverpool entered a cohort for the first time in April 2022 – hence that AETO centre average is in fact the April 2022 passing rate.

4. BAR TRAINING CIVIL LITIGATION RESULTS APRIL 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 April 2022 Civil Litigation assessment comments were received in relation to 36/90 questions (21/50 questions on paper 1, and 15/40 question on Paper 2). Hence 40% of questions generated some level of AETO feedback (down from 43% at the December 2021 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, 23 questions across the two papers had only one item of feedback, and there were eight questions

where two AETOs responded. Question 36 on Paper 2 generated four responses, and question 20 (for reasons detailed below) attracted comment from all AETOs. 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 Q13	3	<p>Passing rate 60%. Good discrimination.</p> <p>AETOs commented that this was a lengthy and complex question where the listing of items in paragraph form was not easy to follow. The CEB examining team commented that it was intended that the list of items as presented would have assisted candidates. However, the question was intended as an MCQ, and it was clearly expecting very clear and precise recollection of the evidential requirements in support of an application for an interim payment. The Board agreed that the question could be improved for re-use and may serve better as a question on paper 2.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Paper 1 Q26	2	<p>Passing rate 64%. Low discrimination.</p> <p>[A] was the intended correct answer but there was weak positive correlation on incorrect answer option [C], which was chosen by 10% of candidates. The Board considered the case for crediting option [C] in addition to the designated correct answer based on the potential ambiguity in the meaning of the word "specific" (whether it could mean 'a specifically tailored sanction'). The Board accepted the submission (based on discussions occurring subsequent to the Subject Board with members of the examining team unable to attend the Subject Board) that option [C] was incorrect as worded, and that the question had been used without any significant issues being raised previously. The Chief Examiner advised the Final Board that there were "specific" sanctions listed at C1-007 (para16) in the PD on Pre-action Conduct. Whilst it might be in the discretion of the court to decide which if any or all of them are to be ordered, this did not mean that they were not "specific".</p> <p><i>The Board decided there was no reason for intervention.</i></p>

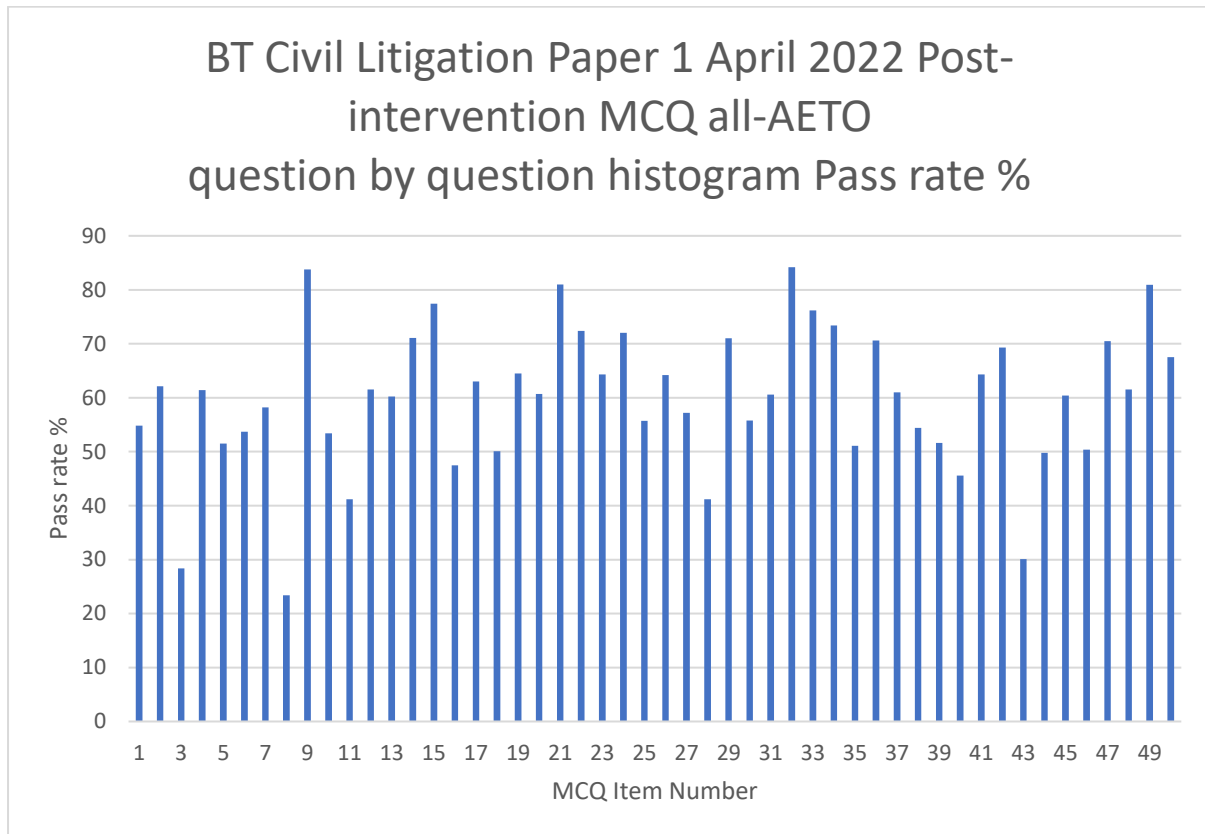
Item	Number of AETOs responding	Exam Board decision and rationale
Paper 1 Q43	3	<p>Passing rate 30%. Poor discrimination.</p> <p>The statistics showed that the better candidates were divided between the intended best answer [A], and [B]. The Chief Examiner confirmed that [A] was the best answer. [B] was wrong on legal and factual complexity. It was acknowledged to be a difficult question during paper confirmation but the question itself was not flawed. Answer options [A], [B] and [C] were all plausible but [A] remained the best answer.</p> <p>The Board decided not to intervene but agreed to amend the question for future use.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Paper 2 Q16	2	<p>Passing rate 75% Low discrimination</p> <p>AETO feedback suggested additional answer choices should be credited. The Board noted that the proposed additional answers were not correct or helpful advice to the client, and no privilege was attached to the report in question in light of when it was commissioned, and the reason for its having been commissioned.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Paper 2 Q17	2	<p>Passing rate 45%. Good discrimination</p> <p>AETO feedback was not relevant to the validity of the question.</p> <p>The Board reiterated that option [C] remained the best advice in making a tempting Part 36 offer which was protective of the Client's position, was reflective of the evidence presented, and within the range proposed by the Client's expert. The Board noted the question should be revisited before being reused to clarify the role interest plays in the offer.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Paper 2 Q20	9	<p>Passing rate 2%</p> <p>The Board considered the AETOs' feedback comments that the dates presented in the options proposed were wrong and no correct option was given. The Board</p>

Item	Number of AETOs responding	Exam Board decision and rationale
		<p>agreed that, due to the error in updating the question dates, the question was fatally flawed, as the dates presented did not reflect the date in the scenario. The Board proposed implementing an additional quality assurance step to ensure dates are updated correctly when reusing limitation questions.</p> <p><i>The Board decided to intervene and remove question 20. The pass standard was adjusted accordingly.</i></p>
Paper 2 Q34	2	<p>Passing rate 17%. Poor discrimination, with negative discrimination on correct answer [A] and better discrimination for option [C].</p> <p>The AETO comments suggested option [D] offered as correct an answer as proposed correct answer [A], including sensible suggestions under the protocol to mediate and a realistic time scale for response. The Board noted the question was of the SBA nature and that candidates at this stage of training might not have been able to make a clear distinction between the options presented in options [A] and [D]. The Board agreed question should be amended to make a clearer distinction between the two options.</p> <p><i>The Board decided to intervene and credit [D] alongside the intended correct answer [A]</i></p>
Paper 2 Q36	4	<p>Passing rate 48%. Low discrimination.</p> <p>The AETO comments suggested an additional correct answer should be credited. The Board noted the proposed correct answer [C] stated not only the rule but the exception to the rule, which was the intended application in the scenario provided. The Board agreed to reflect on the use of should/must on the question.</p> <p><i>The Board decided there was no reason for intervention.</i></p>

4.2 Post-intervention histogram of MCQs

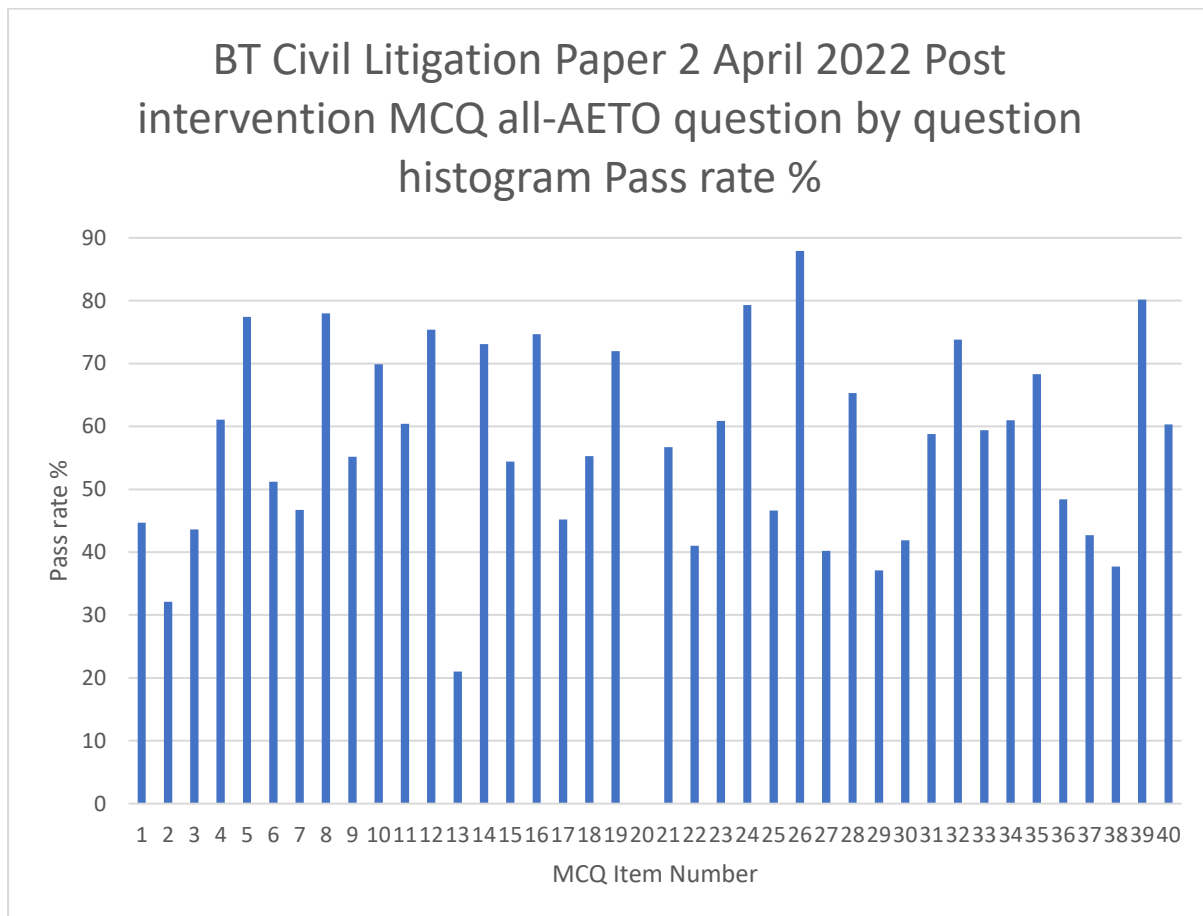
The histograms below show the facility scores (% of Bar Training candidates answering correctly) for each of the questions in the April 2022 Civil Litigation examination (following any agreed interventions explained at 4.1.5).

4.2.1 Paper 1



For Civil Litigation Paper 1 the post-intervention data shows three MCQs with an all-AETO cohort pass rate below 40% (compared to 14 for the December 2021 sit). Assuming candidates attempted the questions in the order presented there is little evidence of candidate fatigue being a factor. On the contrary, the average passing rate across the first 25 MCQs was 59%, compared with 61% across MCQs 26 to 50.

4.2.2 Paper 2



For Civil Litigation Paper 2 the post-intervention data shows 4/39 MCQs with an all-AETO cohort pass rate below 40% (compared to 6/40 for the December sit). Assuming candidates attempted the questions in the order presented there is no strong evidence of candidate fatigue being a factor. The average passing rate across the first 19 MCQs was 57%, compared with 55% across MCQs 21 to 40. The average passing rate for the five stand-alone questions was 52% - lower than the average passing rate for any of the 5 rolling case scenario ('RCS') style questions, with the exception of RCS 5 (51%).

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 49 out of 89 (rounded and adjusted to reflection the suppression of question 20 on Paper 2 and the Final Exam Board saw no basis for not accepting this recommendation).

	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22
No of candidates	395	989	738	818	1516
No of scored items	88	89	89	90	89
Pass standard	50 (56.8%)	52 (58.4%)	50 (56.2%)	50 (55.6%)	49 (55.1%)
No passing	227 (57.5%)	548 (55.4%)	305 (41.3%)	440 (53.8%)	907 (59.8%)
Mean score	52.48 (59.63%)	53.71 (60.35%)	48.17 (54.13%)	50.60 (56.23%)	52.45 (58.93%)
Standard Deviation	13.06 (14.84%)	13.45 (15.12%)	12.13 (13.63%)	12.22 (13.57%)	13.59 (15.27%)
Range of scores	19 to 78	15 to 83	11 to 83	21 to 83	5 to 87
Reliability (KR-20)	0.91	0.90	0.88	0.89	0.9
Reliability for equivalent 90-item test	0.91	0.90	0.88	0.89	0.9
Standard error of measurement	3.97 (4.52%)	4.17 (4.68%)	4.28 (4.75%)	4.12 (4.58%)	4.23 (4.75%)

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

4.4 Independent Observer confirmation

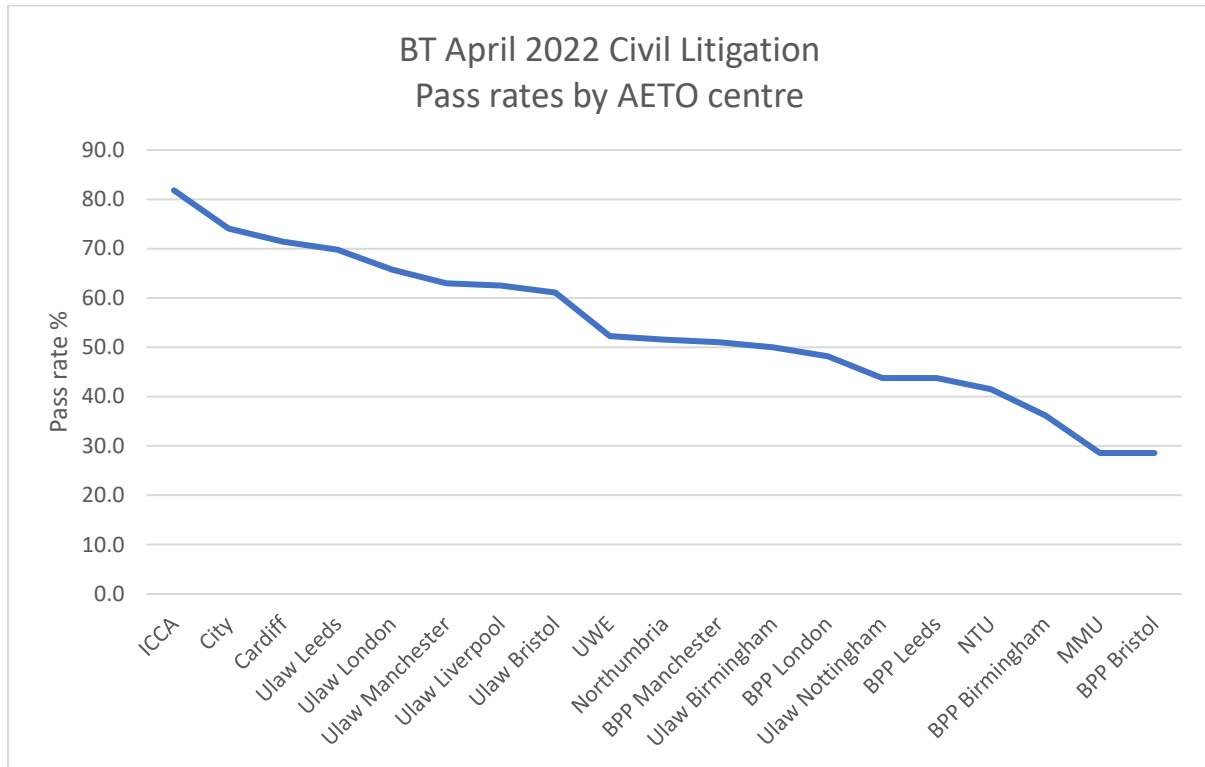
The Independent Observer endorsed the proceedings in respect to Civil Litigation.

4.5 Civil Litigation post-intervention pass rate April 2022

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

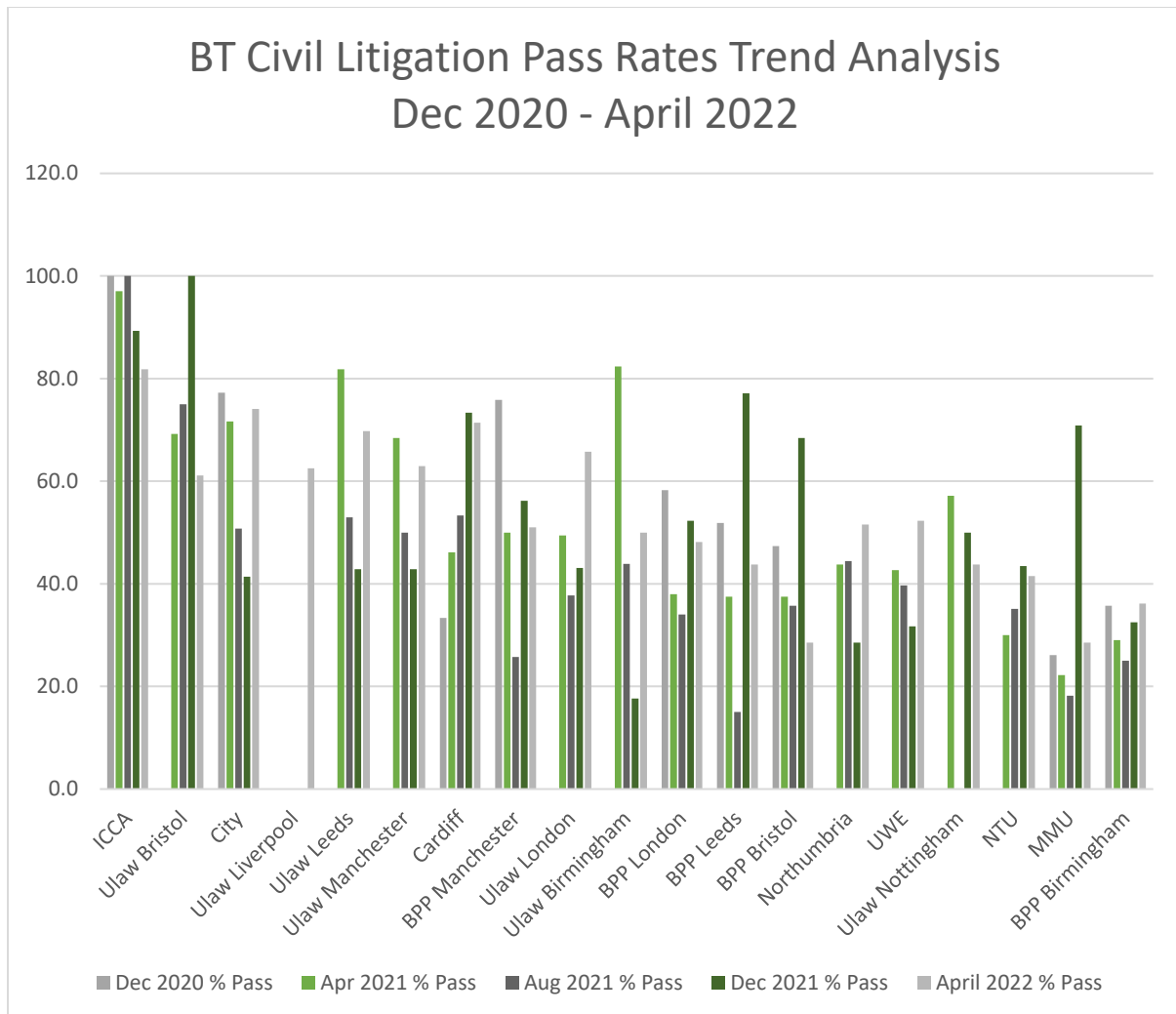
The table above shows the all-AETO April 2022 post-intervention Bar Training cohort pass rate of 59.6% for Civil Litigation, based on a passing standard recommended to the Final Board (post standard setting processes) of 49/89. The final passing rate is the highest yet over the five cycles of the Bar Training assessments (replacing the BPTC) and the cohort, at 1,517 the largest by far for this BT assessment. As mentioned elsewhere, the December 2020 cohort would, of necessity, have been comprised of first sit candidates (that being the first iteration of the Bar Training assessment). The raw data available for the April 2022 sitting does not distinguish between first sit candidates and those referred or deferred from earlier sittings.

4.6 April 2022 Civil Litigation pass rates by AETO



AETO centre cohorts are ranged left to right in order of their April 2022 pass rates in the Civil Litigation assessment. Hence the ICCA had the highest April 2022 pass-rate at 81.8% and BPP Bristol the lowest (albeit with only 7 candidates) a range of over 53%, 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).

4.7 Trend data – how have AETO cohorts performed over the 5 sits to date?



4.7.1 AETO centre cohorts are ranged left to right in order of the average of their passing rates across the five sittings of the Bar Training centralised assessments since December 2020. Note that only 9 AETO centres entered cohorts for the December 2020 sit. The calculation of AETO centre averages have been adjusted to reflect this. The data shows that ICCA has achieved the highest average passing rate (93.6%), and BPP Birmingham the lowest at 31.7%

4.7.2 Comparing cohort performance in April 2022 with December 2021, City passing rates are up 32% (with a cohort 320 candidates larger), and MMU drops by over 42% (but cohort size is down from 24 to 7). ULaw Liverpool did not have a cohort for previous sits.

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

multiple entry points – hence some of the candidates attempting the April 2022 sit will have been making their first attempt and some may have been referred or deferred from an earlier sitting. Analysis is further complicated by significant volatility in cohort numbers at each AETO across the various sittings.

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

BT Civil Litigation - Dec 2020 to April 2022 (5 sits)			
AETO	Total number of attempts	Total number of passes	% Pass
ICCA	156	143	91.67%
Ulaw Leeds	89	60	67.42%
City	798	537	67.29%
Ulaw Bristol	36	24	66.67%
Ulaw Liverpool	16	10	62.50%
Ulaw Manchester	98	59	60.20%
Cardiff	200	112	56.00%
BPP Manchester	285	155	54.39%
Ulaw London	476	254	53.36%
Ulaw Birmingham	174	90	51.72%
BPP Leeds	130	63	48.46%
BPP London	1014	475	46.84%
BPP Bristol	75	35	46.67%
Ulaw Nottingham	26	12	46.15%
Northumbria	178	81	45.51%
UWE	307	135	43.97%
MMU	74	29	39.19%
NTU	163	60	36.81%
BPP Birmingham	174	56	32.18%
Total	4469	2390	53.48%

As can be seen from the above table 2,390 candidates have passed Bar Training Civil Litigation since the first sitting in December 2020, based on 4,469 attempts – thus the aggregate passing rate to date is 53.48%. There are 11 AETOs failing to achieve this average thus far, with a 38% range in cumulative passing rates between the strongest and weakest cohorts. There is some re-ordering of AETO centres when the cumulative data is presented this way compared with the simple averaging of passing rates used at 4.7, for example ULaw Leeds moves up to second place. ULaw Liverpool did not have a cohort for previous sits.

5. FURTHER COMPARATIVE ANALYSIS

5.1 Comparing performance in Criminal and Civil Litigation examinations

The post-intervention passing rates for the April 2022 sits in Criminal Litigation and Civil Litigation were fairly close to each other, at 63.7% and 59.6% respectively. The Final Board was advised that there were 1,199 Bar Training candidates who took both litigation subjects in April 2022 sit and cross-tabulated the outcomes, as follows:

	Fail Criminal	Pass Criminal	Sum
Fail Civil	350	143	493
Pass Civil	102	604	706
Sum	452	747	

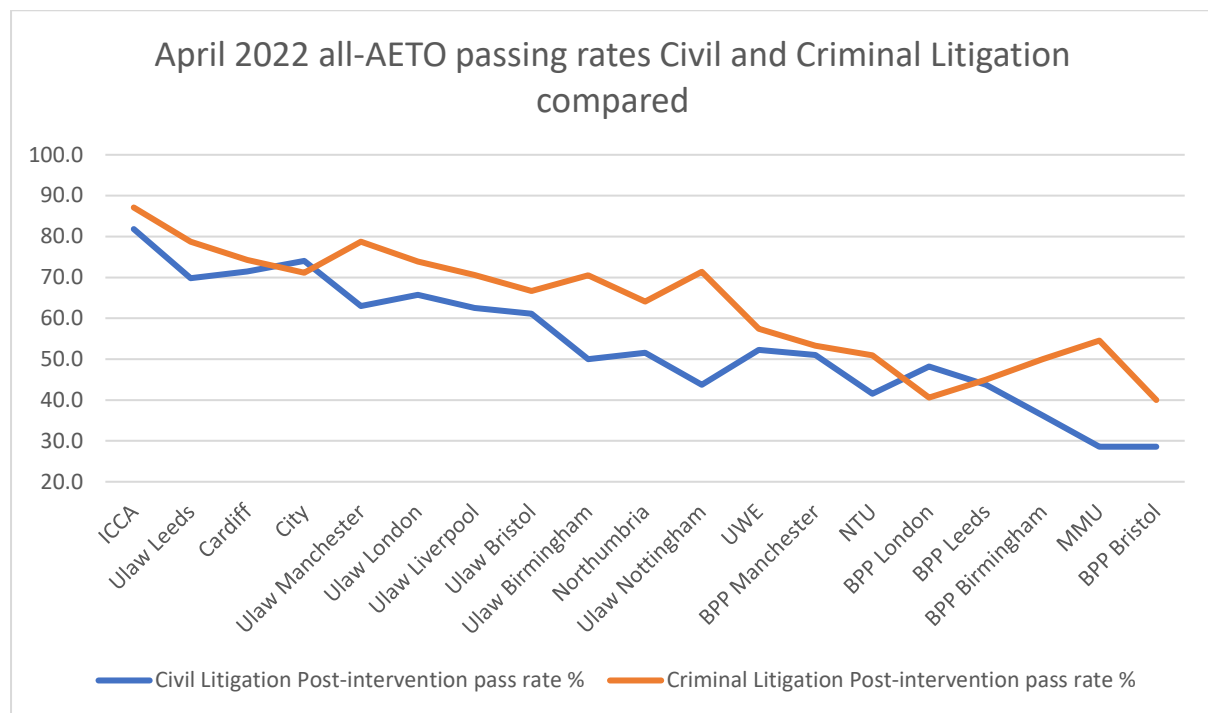
The key cells (on the shaded background) are those which show the number of candidates who passed one subject but failed the other. If the two subjects were equally difficult to pass (making allowances for the fact that the Bar Training examinations in Civil and Criminal Litigation now have rather different formats), the number of candidates in these two cells should be approximately equal. The data for April 2022 does not raise issues in this respect.

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

All AETO Post-intervention	Dec-20		Aug-21		Apr-21		Dec-21		Apr-22	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of candidates	824	818	825	738	1104	989	383	407	1653	1517
Passing rate	56%	53.80%	42.40%	41.30%	46.20%	55.50%	59.80%	55.80%	63.7%%	59.6%%
Confirmed passing standard	44/75	50/90	46/75	50/89	41/75	52/89	43/75	50/88	44/75	49/89
Reported reliability score	0.85	0.89	0.82	0.9	0.84	0.9	0.89	0.91	0.87	0.9

Candidate numbers for April 2022 were the highest so far across the five cycles of centralised Bar Training examinations to date. Passing rates for the April 2022 sitting were also the highest so far in each of the litigation subjects.

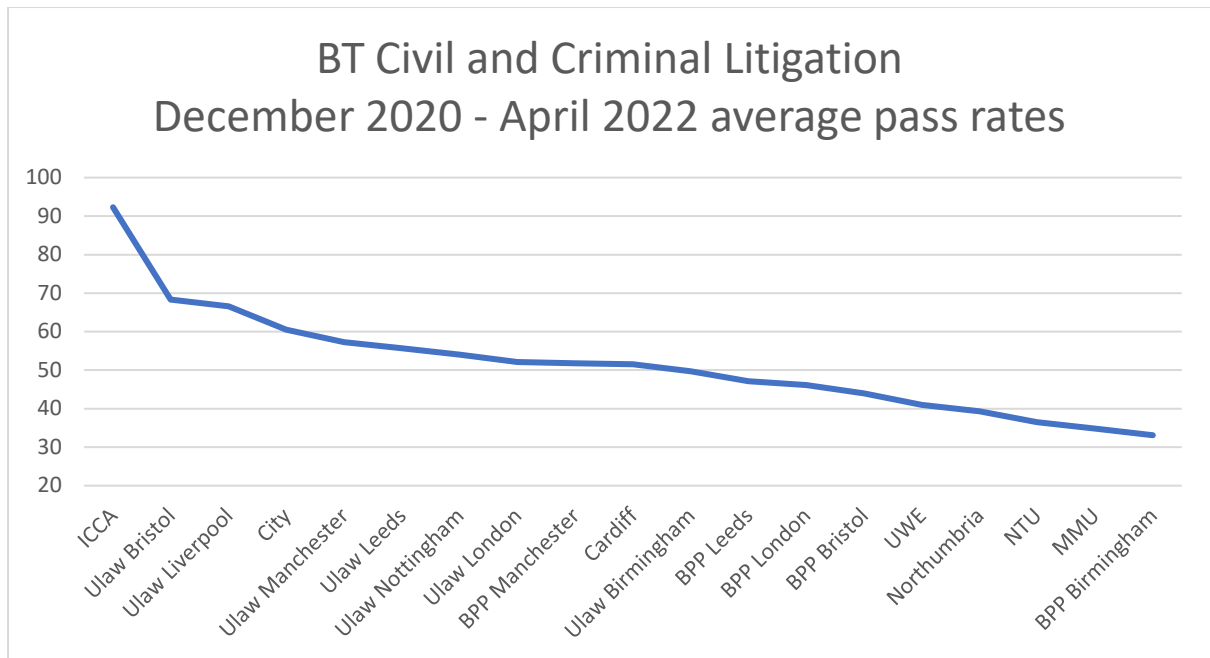
5.3 April 2022 post-intervention pass rates for both Criminal Litigation and Civil Litigation by AETO



AETO cohorts are ranged left to right according to the average of their pass rates across both the Criminal and Civil Litigation examinations in the April 2022 sit. The ICCA therefore had the highest average passing rate (84.5%) and BPP Bristol the lowest (34.3% on a very small cohort). Overall, six AETO centres failed to achieve an average passing rate of 50% taking both litigation subjects together. Interestingly, only two AETO centres managed a higher passing rate in Civil Litigation compared to Criminal Litigation (City & BPP London).

5.4 AETO average passing rates since December 2020

An analysis of passing rates achieved by each AETO cohort in both litigation subjects across all Bar Training Course examination sittings to date (adjusted to allow for the fact that some AETOs have entered candidates for only two of the three sittings) shows the following:



The ICCA has the highest average passing rate across both litigation subjects and all sittings to date at 92.3%, and BPP Birmingham 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 24%. There are nine AETO centres where the average passing rate across both litigation subjects and all sittings to date is below 50%. Again, it is important to bear in mind the caveats flagged at 1.5.3 when considering these results.

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

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

AETO	Total candidates at AETO	Total Candidates passing at AETO	Overall % pass rate both subjects
ICCA	313	289	92.33%
Ulaw Bristol	71	50	70.42%
Ulaw Liverpool	33	22	66.67%
Ulaw Leeds	202	134	66.34%
City	1721	1112	64.61%
Ulaw Manchester	208	133	63.94%
Ulaw Nottingham	48	28	58.33%
Ulaw London	1017	581	57.13%
Ulaw Birmingham	377	209	55.44%
Cardiff	399	215	53.88%
BPP Manchester	597	319	53.43%
BPP Leeds	254	126	49.61%
BPP Bristol	155	74	47.74%
Northumbria	320	150	46.88%
BPP London	2058	960	46.65%
UWE	641	276	43.06%
NTU	328	128	39.02%
MMU	150	58	38.67%
BPP Birmingham	368	130	35.33%
Total	9260	4994	53.93%

This table aggregates all the attempts by candidates at both the Criminal Litigation and Civil Litigation examinations across all five sittings from December 2020 to April 2022. In total there have been 9,260 Bar Training candidate entries, of which 4,994 have been successful (53.93%). As can be seen, 13 AETO centres fall below this overall figure, 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 – 5 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	313	289	92.33%
City	1721	1112	64.61%
Ulaw group	1956	1157	59.15%
Cardiff	399	215	53.88%
BPP group	3432	1609	46.88%
Northumbria	320	150	46.88%
UWE	641	276	43.06%
NTU	328	128	39.02%
MMU	150	58	38.67%

Looking at the data this way shows that City, as an AETO, has outperformed the ULaw AETO centres as a whole. Similarly, the ULaw centres are significantly ahead of the BBP grouping when centre results for the two AETOs are aggregated and compared. If the 'not for profit' AETOs (i.e., not the ULaw or BPP AETO centres) are aggregated in the same way they have a combined passing rate of 57.4% - putting them just behind ULaw as a group and some way ahead of BPP.

6. BAR TRANSFER TEST RESULTS APRIL 2022

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

Civil Litigation		
Year	Number of BTT Candidates	Passing rate
April 2022	62	45.2%
December 2021	69	44.9%
August 2021	78	46.2%
April 2021	85	52.9%
Average passing rate		47.3%
Criminal Litigation		
Year	Number of BTT Candidates	Passing rate
April 2022	70	43%
December 2021	85	46%
August 2021	94	45.7%
April 2021	88	29.5%
Average passing rate		41.0%

Results in the two litigation subjects for the BTT cohort in April 2022 were broadly consistent – within a 3% range, and in line with the outcomes for the two previous sittings. Over the last four sittings the performance in Civil Litigation has been marginally stronger than in Criminal Litigation.

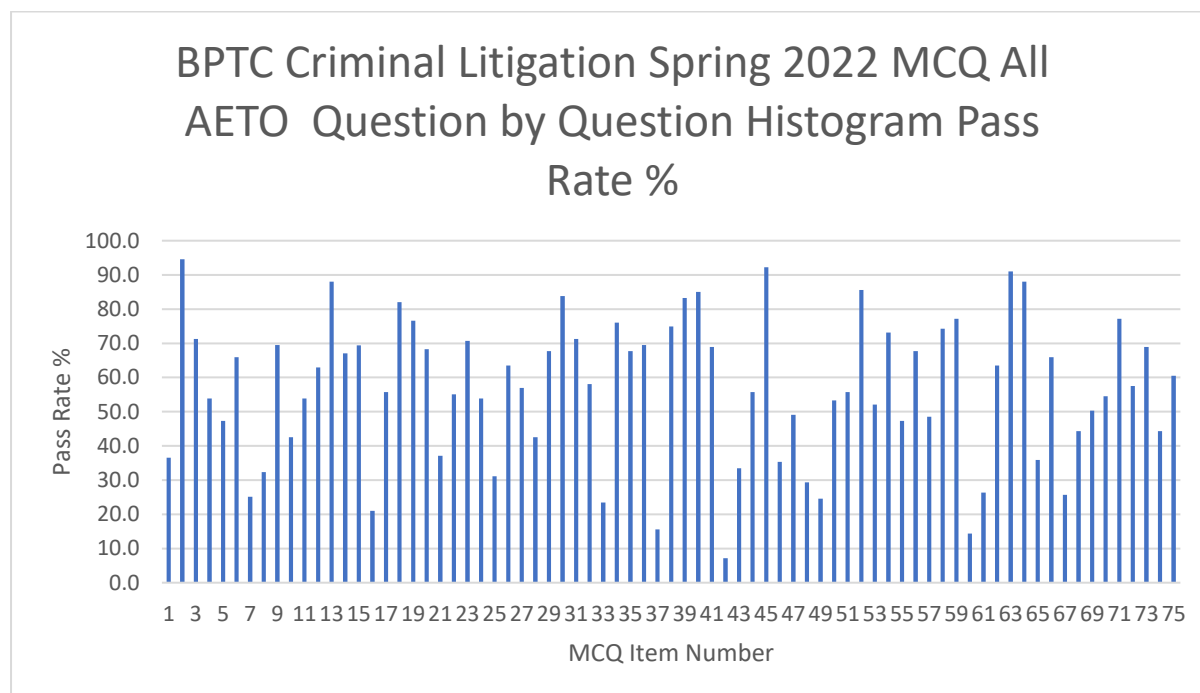
7. BPTC RESULTS APRIL 2022

- 7.1 The BPTC assessments are now being wound down and the final opportunity to take an 'old style' BPTC 75 MCQ Civil litigation paper was the April 2022 sit: see further <https://www.barstandardsBoard.org.uk/training-qualification/becoming-a-barrister/transitional-arrangements.html>
- 7.2 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>
- 7.3 For the April 2022 sitting BPTC candidates were, therefore, offered the opportunity to attempt both the Criminal Litigation assessment (the same Criminal Litigation assessment as the Bar Training candidates), and the final BPTC Civil Litigation assessment, as required.

8. APRIL 2022 BPTC CRIMINAL LITIGATION

As indicated above the BPTC candidates attempted the same Criminal Litigation examination as the Bar training candidates. See 3.1 to 3.4 above for details of the Final Exam Board deliberations, agreed interventions, and sign off by the Board.

8.1 The post-intervention pass rate for each question



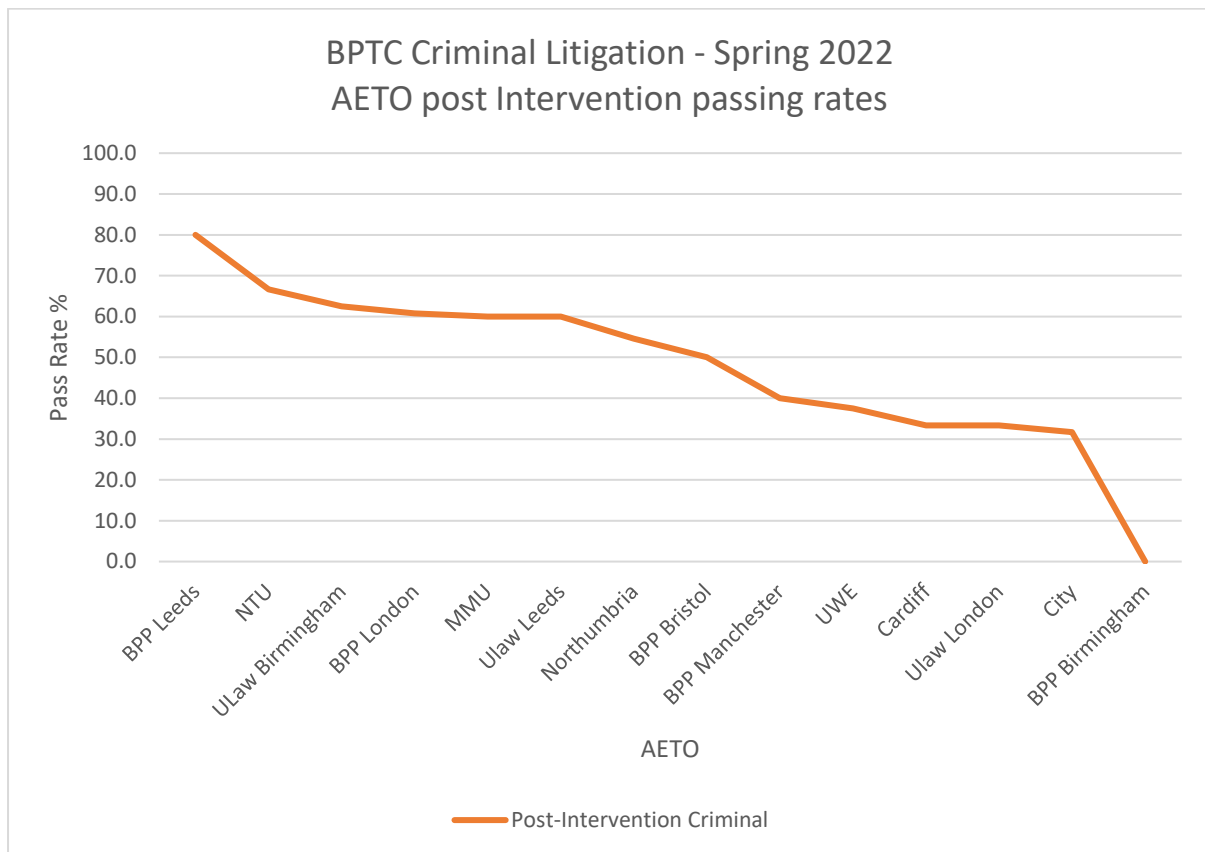
The post-intervention data shows 17 MCQs with an all-AETO cohort pass rate below 40% (compared to 10 for the Bar Training cohort). There is no evidence to suggest a fall-off in candidate performance during the examination (assuming most candidates attempted the 75 MCQs in the order presented). Across the first 25 MCQs the average pass rate was 57.3%, across MCQs 26 to 50 it was 55.5%, and across MCQs 51 to 75 it rose to 58%.

8.1.2 The passing rate for the April 2022 sitting was as follows:

	Spring 2022	December 2021	Summer 2021	Spring 2021
Criminal Litigation, Evidence, and Sentencing				
Number of Candidates	167	168	354	478
Passing MCQ	49.0%	39.0%	47.5%	35.1%

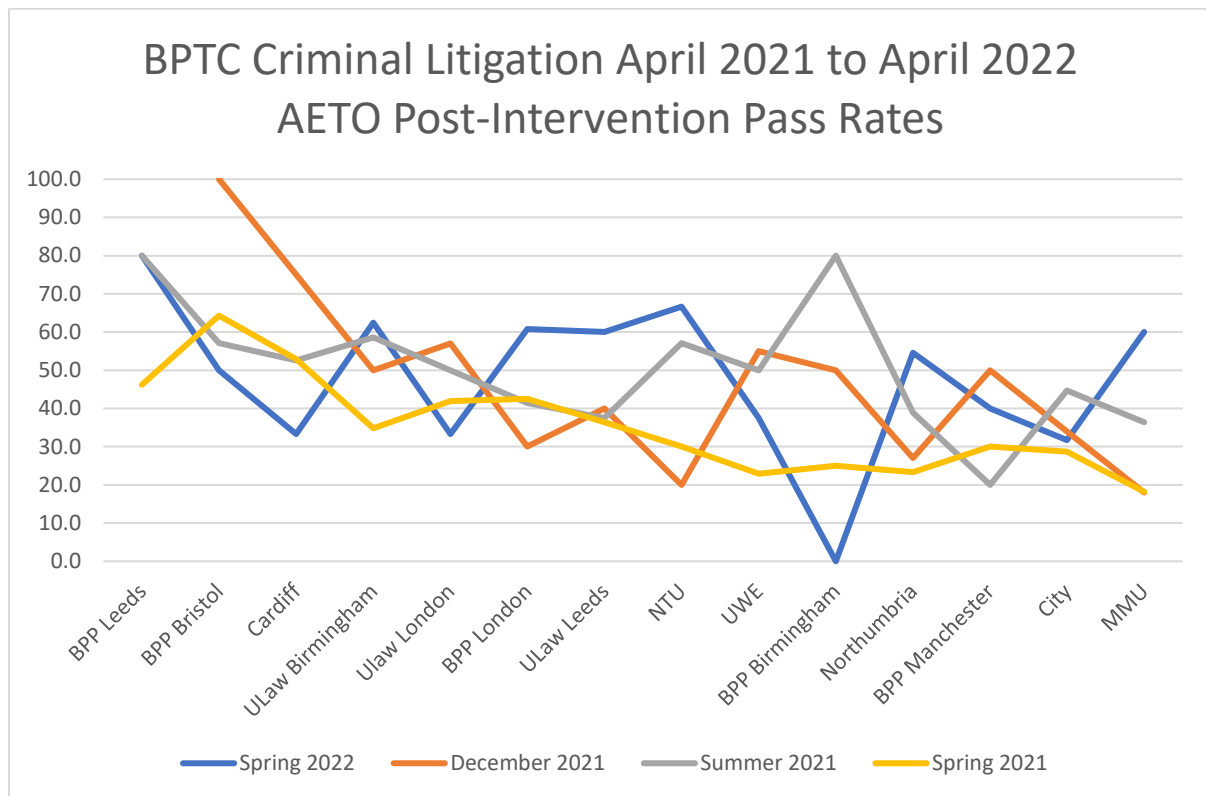
The number of candidates eligible to attempt the BPTC Criminal litigation assessment is reducing with each sitting. Given the likelihood that most of the candidates will have attempted the paper on a referred or deferred basis there is little to be gained in terms of comparing the outcome with earlier sittings, but it is perhaps not a surprise to see the passing rate declining as it has.

8.2 April 2022 BPTC Criminal passing rates at each AETO centre



AETO centre cohorts are ranged left to right in order of their April 2022 pass rates in the BPTC Criminal Litigation assessment. Hence, BPP Leeds had the highest April 2022 pass rate at 80% and BPP Birmingham had no passes. The data needs to be read in the context of cohort sizes (BPP Bristol had only five candidates) and other factors outlined at 1.5.3 (above). Only 14 AETO centres had candidates attempting this examination and 10 of those cohorts were in single figures (BPP Birmingham had only two candidates, both of whom failed).

8.3 BPTC Criminal Litigation AETO passing rate trends last 4 sittings

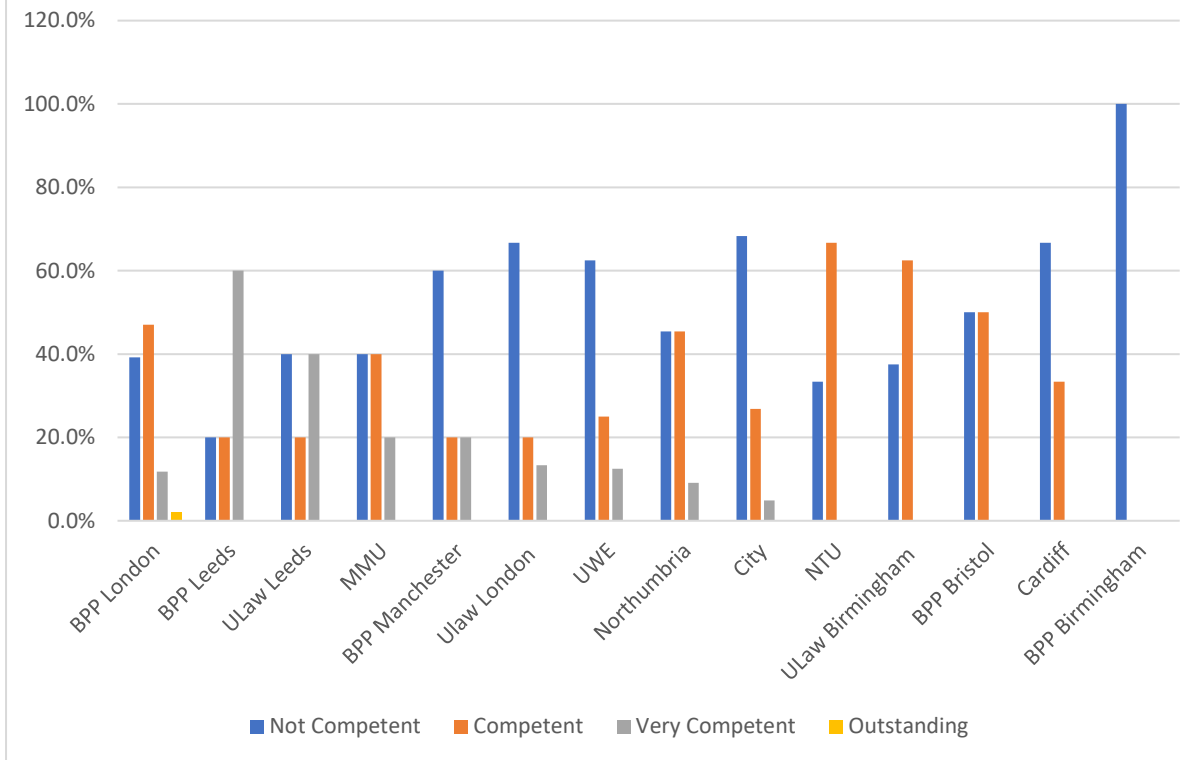


AETO centre cohorts are ranged left to right in order of the average of their passing rates across the last four sittings of the BPTC Criminal Litigation assessment. Note that there were no BPP Leeds candidates for the December 2021 sitting. The calculation of AETO centre averages have been adjusted to reflect this. It would be unwise to place too much weight on the relative performance of AETO cohorts across the four sittings, given that candidate numbers were very small for some sittings

8.4 Criminal Litigation grade boundaries

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 April 2022 sitting of BPTC Criminal litigation the distribution of grade boundaries across the 14 AETOs entering candidates was as follows:

BPTC Criminal Litigation Spring 2022 Grade Boundaries by AETO



AETO cohorts are ranged in descending order of grade boundaries – hence BPP London was the only AETO centre with any ‘Outstanding’ candidates (2%), BPP Leeds had the highest percentage of ‘Very Competent’ candidates, and so on, through to BPP Birmingham with all candidates graded ‘Not Competent’.

9. APRIL 2022 BPTC CIVIL LITIGATION

As indicated above, for the April 2022 sitting, BPTC candidates attempted a single 75 question Civil Litigation examination – the last of its kind to be offered.

9.1 April 2022 BPTC Civil Litigation Exam Board decisions in relation to selected questions

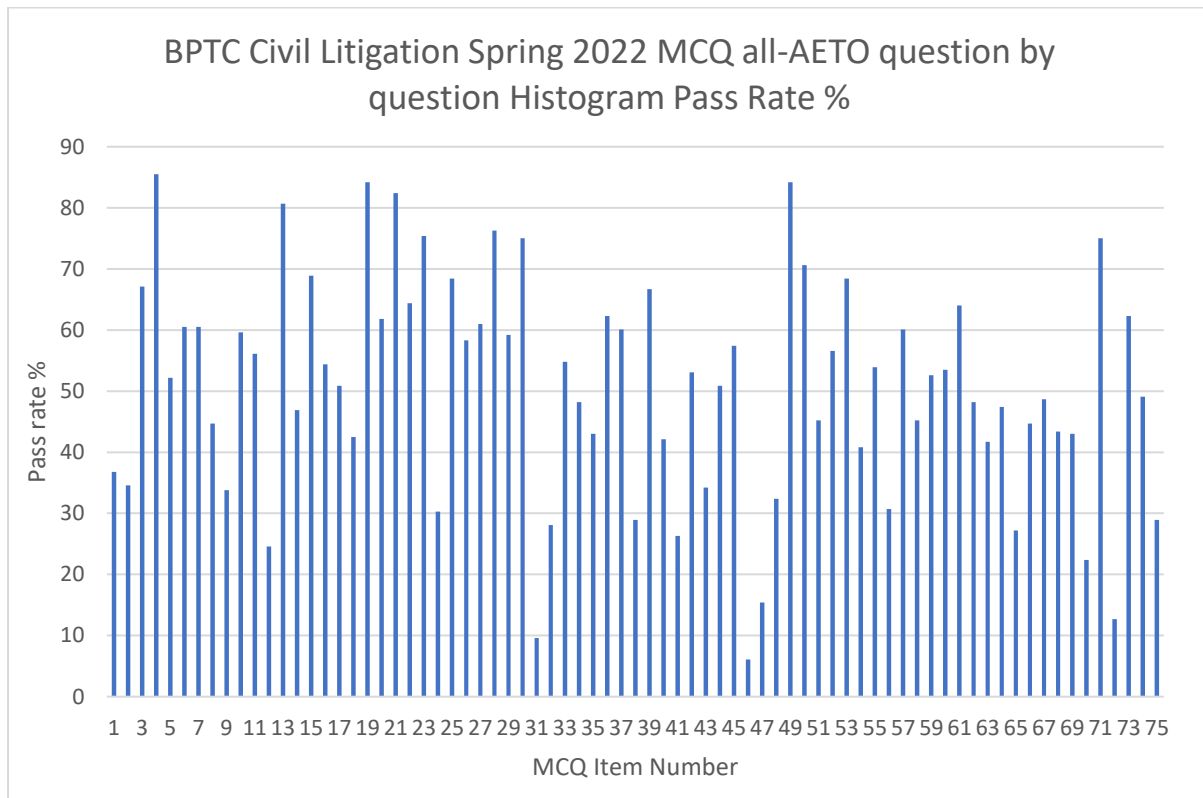
- 9.1.1 The CEB invited AETOs to provide feedback on the examination paper as a whole and each question if there were issues that the AETO wished to bring to the attention of the Exam Board before it proceeded to confirm the results. Along with the statistical data available to the Exam Board (see 2.5.3 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.
- 9.1.2 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.
- 9.1.3 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.
- 9.1.4 For the April 2022 BPTC Civil Litigation assessment comments were received in relation to 30/75 questions, hence 40% of questions generated some level of AETO feedback. 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, 24 questions had only one item of feedback, five questions generated two AETO responses, and only one (Q.4) generated three 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.

Item	Number of AETOs responding	Exam Board decision and rationale
Q.2	0	<p>Passing Rate 35% Zero discrimination No AETO comments</p> <p>The Psychometrician noted that correct answer [D] had no positive correlation but distractor [C] does have positive correlation. The Chief Examiner commented that it was a tough question for a closed book examination but that correct answer [D] does apply the rule correctly and was the only correct answer.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q.4	3	<p>Passing Rate 86% Poor discrimination, but no problem with any of the distractors.</p> <p>AETO commented that there was one typo. After consideration of the stats, there was no cause for intervention.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q.11	1	<p>Passing Rate 56% Poor discrimination</p> <p>AETO's comments that they were confused as to whether 'Aquare' was a person or a company. The Chief Examiner commented that there was distinction in the fact pattern of the question which was fairly reasonable to suggest that it wasn't a company. It was noted that if it 'Aquare' was made obvious to be a company then the answer wouldn't be correct.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q.42	2	<p>Passing Rate 53% Poor discrimination</p>

Item	Number of AETOs responding	Exam Board decision and rationale
		<p>AETOs commented that they thought that the question might not have been on syllabus and that it was not a fair question. The Examining team noted that the question did rely on the commentary but was supported by the commentary and that it was clear at the top of the commentary. The Examining team noted that the AETOs had not understood the whole preference points.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q.47	1	<p>Passing Rate 15% Poor discrimination, with positive correlation on wrong answer [D]</p> <p>An AETO commented that they thought correct answer [A] was wrong and that distractor [D] should have been credited as the correct answer. The Examining team noted that this question was previously used in December 2020 and that both distractors [A] and [D] were credited so therefore were reluctant to revert back to [D] being the correct answer. It was also noted by the team that this question would be retired.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q.51	2	<p>Passing Rate: 45% Poor discrimination</p> <p>An AETO commented that there was limited distinction between distractors [B] and [C]. The Chief Examiner disagreed with the feedback and said that there was enough distinction between the distractors but that the question could be improved for future use.</p> <p><i>The Board decided there was no reason for intervention.</i></p>
Q.61	1	<p>Passing Rate 64% Poor discrimination</p> <p>An AETO commented on Limitation issues. The Examining team confirmed that the question was an MCQ and that there was only one correct answer. The Examining team noted that they would look at the question again to see if it could be improved for future use.</p> <p><i>The Board decided there was no reason for intervention.</i></p>

9.2 Post-intervention histogram of MCQs



The post-intervention data shows 18 MCQs with an all-AETO cohort pass rate below 40% (compared to 10 for the Bar Training cohort). There is some evidence to suggest a fall-off in candidate performance during the examination (assuming most candidates attempted the 75 MCQs in the order presented). Across the first 25 MCQs the average pass rate was 57%, across MCQs 26 to 50 it was 48%, and across MCQs 51 to 75 it dropped further to 47%. It should be noted, however, that four of the first 25 MCQs recorded passing rates in excess of 80%, compared to 1 in the other terciles.

9.3 Standard setting and reliability of the assessment

The Final Board noted the psychometrician's confirmation that the reliability of the assessment was 0.81 (above the 0.8 benchmark) and that the standard deviation of the ratings for all items generated at standard setting was within tolerance. The Final Board endorsed the recommended pass standard of 43/75.

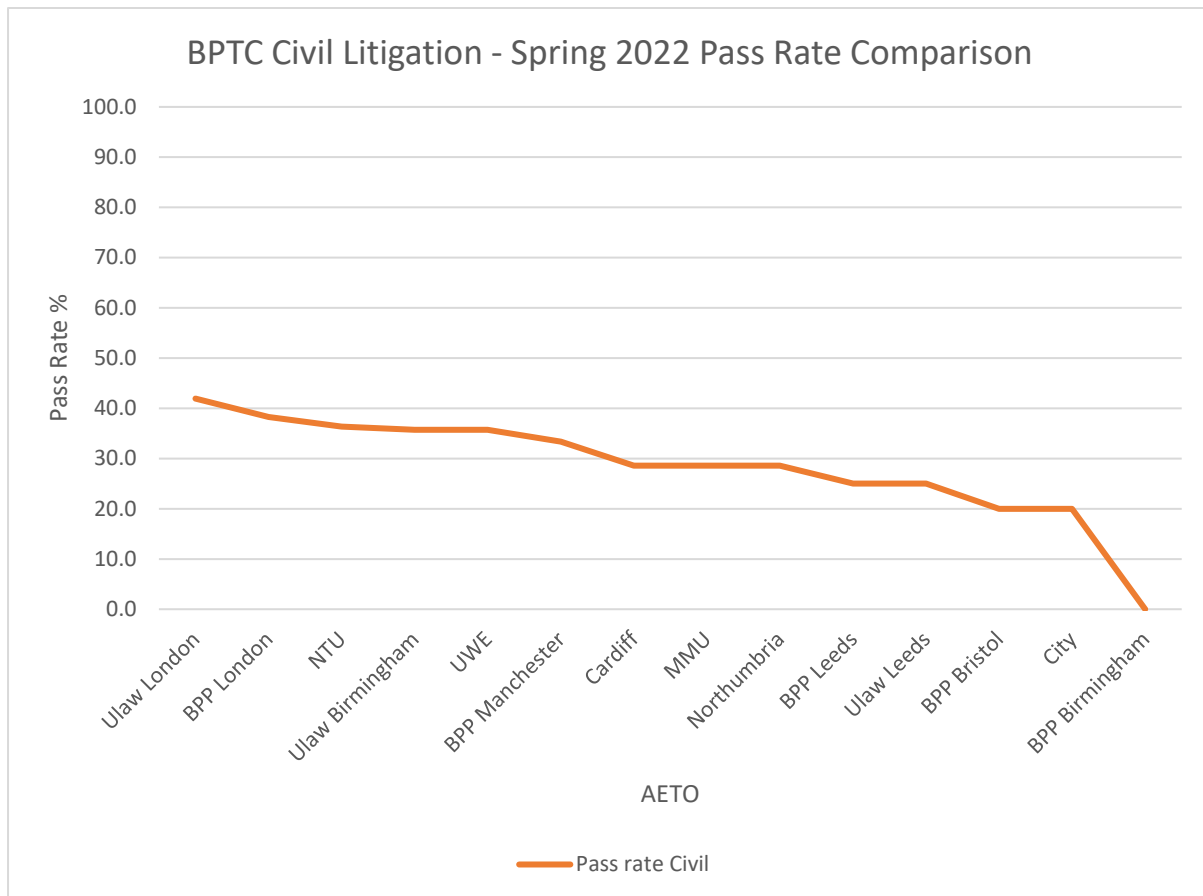
9.4 Independent Observer confirmation

The Independent Observer endorsed the proceedings in respect of the BPTC Civil Litigation assessment.

9.5 Civil Litigation post-intervention pass rate April 2022

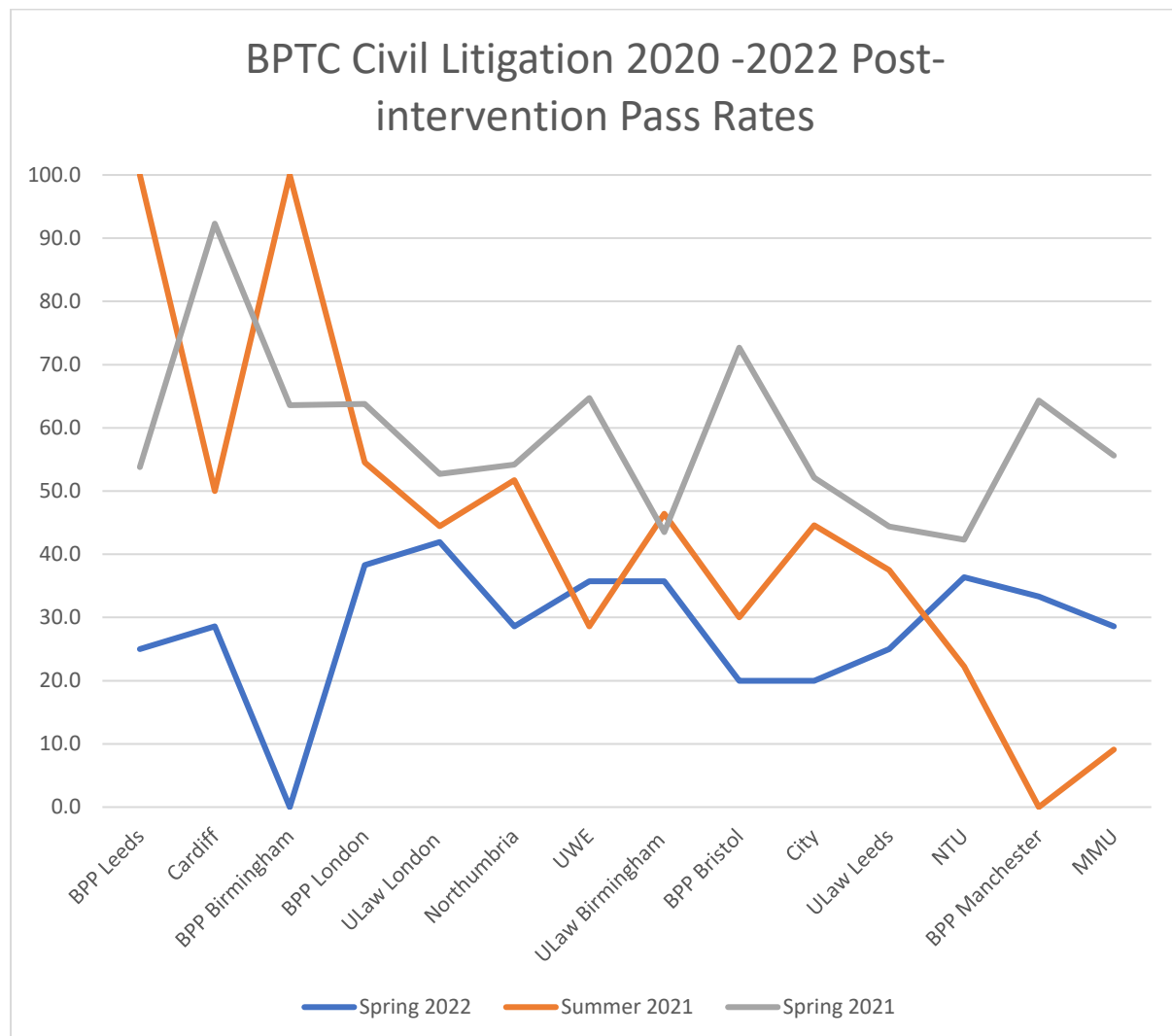
Civil Litigation All Provider Post-Intervention	Spring 2022	December 2021	Summer 2021	Spring 2021
MCQ Passing Rate	31.0%	No sit	43.8%	57.4%

9.6 April 2022 Civil Litigation pass rates by AETO



AETO centre cohorts are ranged left to right in order of their April 2022 pass rates in the BPTC Civil Litigation assessment. Hence, ULaw London had the highest April 2022 pass rate at 41.9% and BPP Birmingham had no candidates passing. The data needs to be read in the context of cohort sizes (BPP Birmingham had only three candidates) and other factors outlined at 1.5.3 (above). Only 14 AETO centres had candidates attempting this examination and seven of those cohorts were in single figures).

9.7 Trend data – how have AETO cohorts performed over the 5 sits to date?

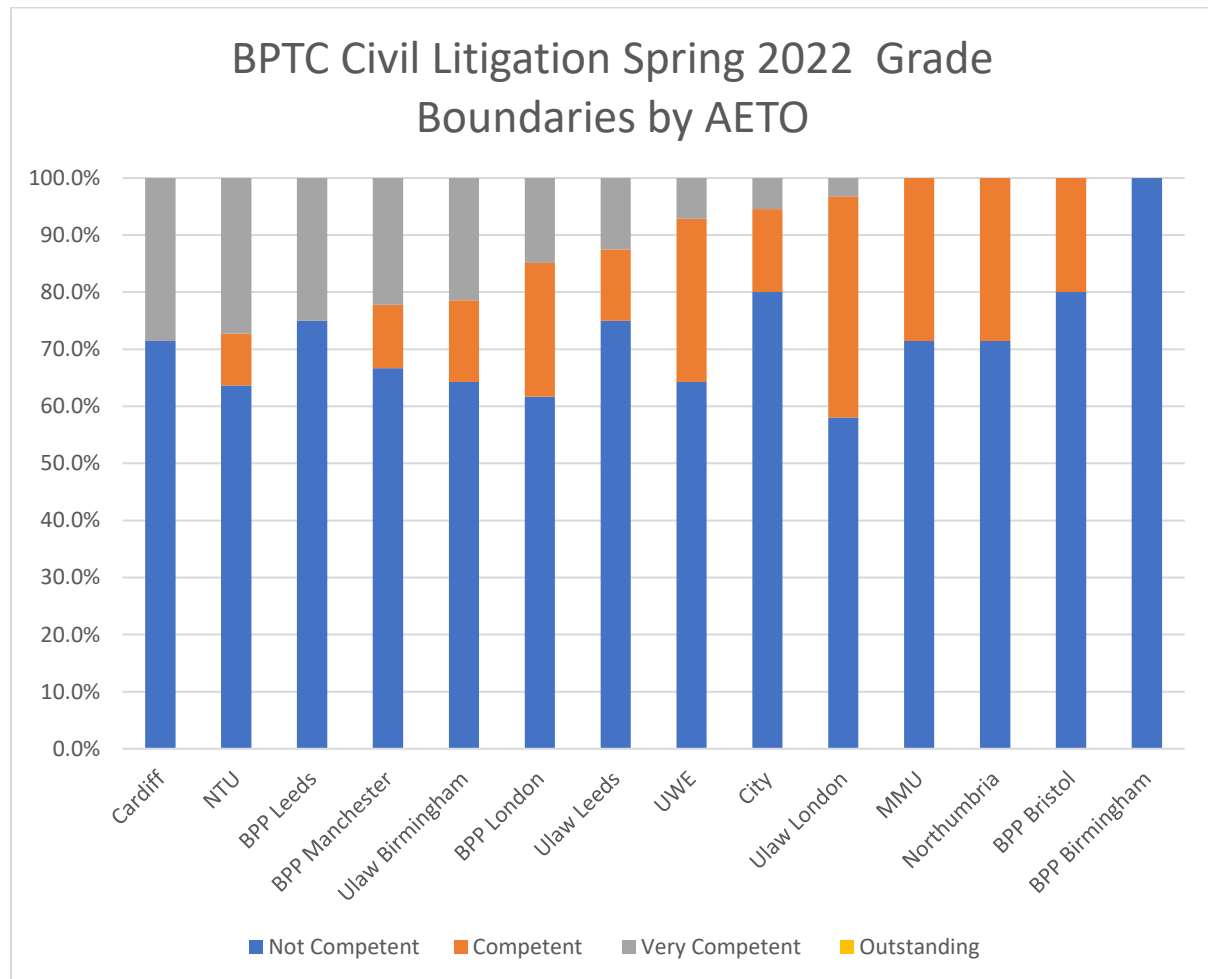


AETO centre cohorts are ranged left to right in order of the average of their passing rates across the last 3 sittings of the BPTC Civil Litigation assessment. Hence, BPP Leeds has the highest average passing rate at 59.6%. and MMU the lowest at 31.09%. As ever care needs to be taken in interpreting these figures as numbers for some cohorts were very low, and many candidates will have been sitting on a referred or deferred basis. That said, what is striking is how much lower the AETO centre passing rates are for the April 2022 sit compared to the previous two, suggesting a decline in cohort strength. No AETO centres managed to exceed the passing rate it achieved in the Spring 2021 sit.

9.8 Civil Litigation grade boundaries

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 April 2022 sitting of BPTC Civil Litigation

examination the distribution of grade boundaries across the 14 AETOs entering candidates was as follows:



AETO cohorts are ranged in descending order of grade boundaries. There were no candidates graded as 'Outstanding' for Civil litigation, hence the ranking represents the allocation of 'Very Competent' gradings – Cardiff having highest percentage of these at 28.6% (although Cardiff had no candidates graded 'Competent' and therefore had all remaining candidates graded as 'Not Competent').

10. BPTC April 2022 SUBJECTS COMPARED

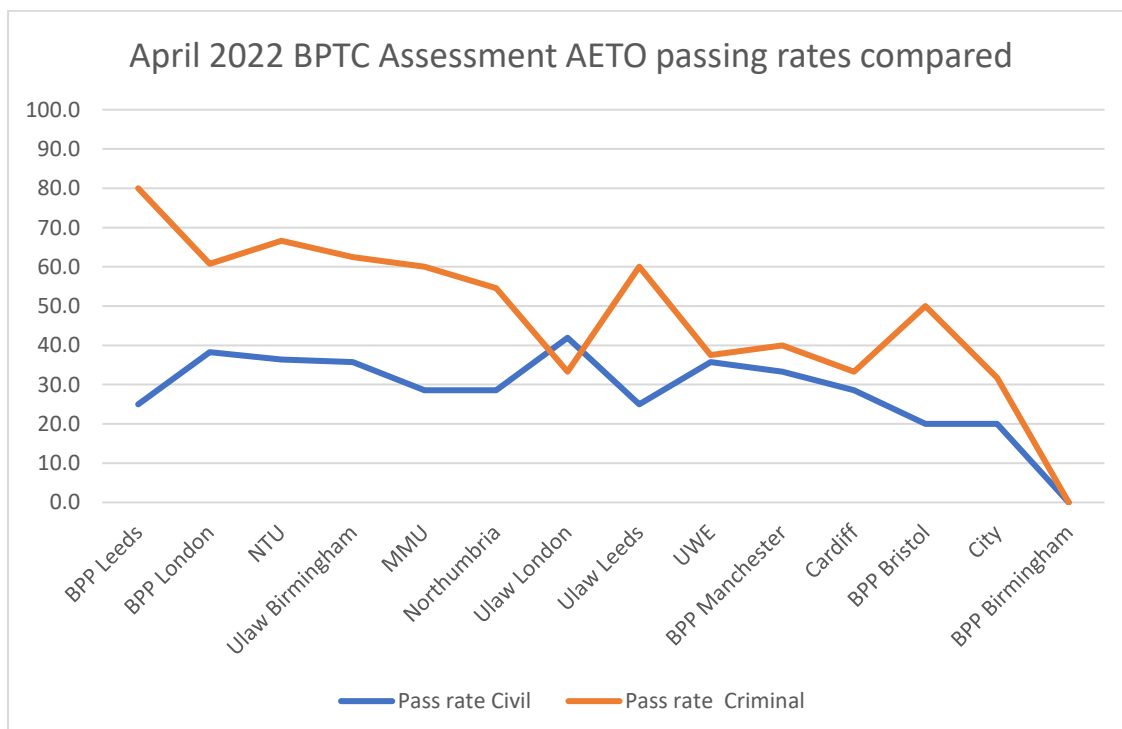
10.1 BPTC April 2022 Passing Rates

The passing rates for the two April 2022 BPTC litigation assessments were as follows:

	Spring 2022
Civil Litigation, Evidence, and Sentencing	
Number of Candidates	229
Passing MCQ	31.0%
	Spring 2022
Criminal Litigation, Evidence, and Sentencing	
Number of Candidates	167
Passing MCQ	49.0%

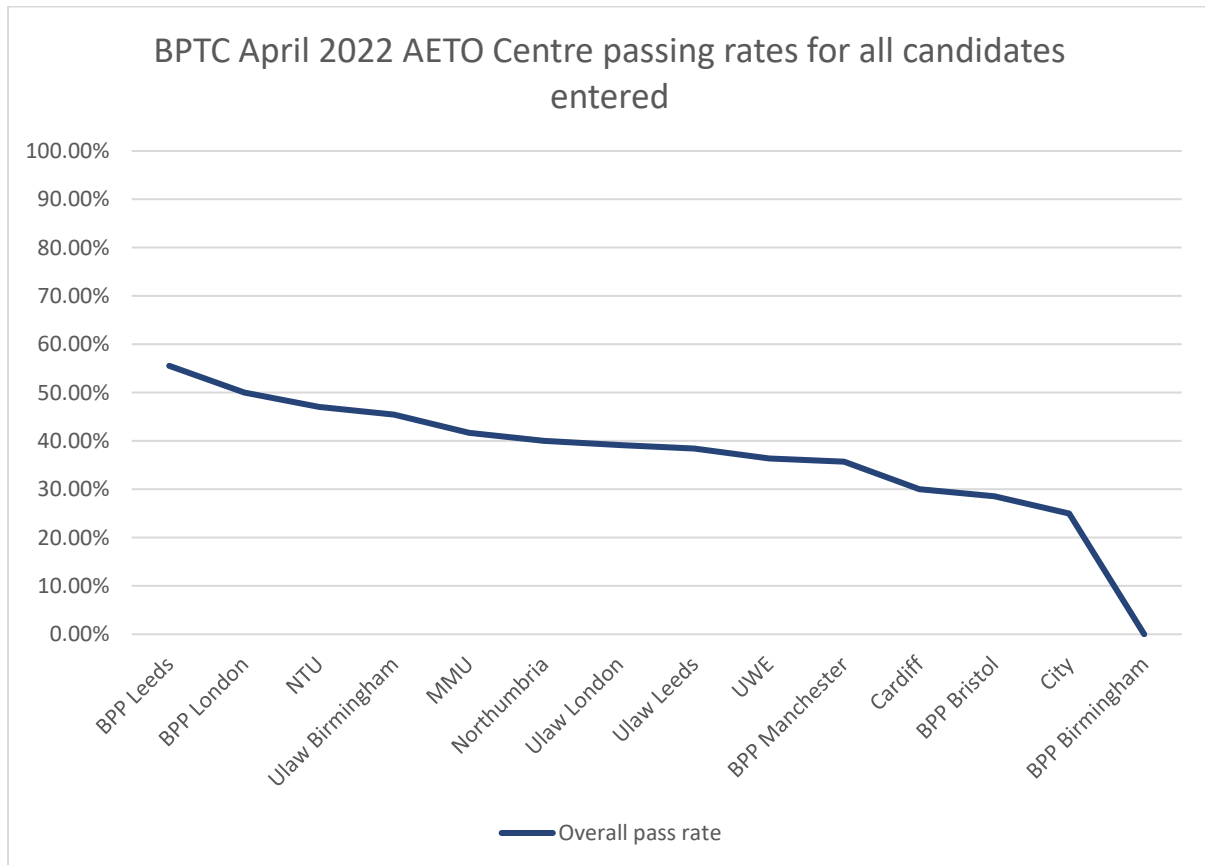
Comparing pass rates across the 14 AETO centres submitting candidate across both assessments shows the following:

10.2 Passing rates for the April 2022 BPTC assessments across AETOs compared



AETO centres are ranged from left to right in declining order of combined passing rates for both litigation assessments. It is clear from the table above that AETO centre cohorts performed better in Criminal Litigation, except in the case of ULaw London.

10.3 Overall passing rates combining both April BPTC assessments at AETO centres



AETO centres are shown in declining order of passing rates taking both BPTC assessments together. Hence, BPP Leeds had a total of nine candidates across both the Civil and Criminal litigation assessments, and a total of five passes, producing an overall passing rate of 55.56%. None of the five candidates at BPP Birmingham passed either assessment.

Professor Mike Molan
 Chair of the Central Examination Board
 1 July 2022