BAR STANDARDS BOARD

REGULATING BARRISTERS

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

**Bar Training, BTT, BPTC & BTR
August 2024 Sitting**

EXECUTIVE SUMMARY

The Bar Training course is the successor to the Bar Professional Training Course ('BPTC') as the vocational training component to be successfully completed prior to call to the Bar. The Bar Training Course saw its first intake of students at nine 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 twelfth iteration of examinations attempted by Bar Training course candidates in August 2024, the confirmed post-intervention outcomes for which are as follows:

All Providers (Post-Intervention Results)						
	Dec-20	**Apr-21**	**Aug-21**	**Dec-21**	**Apr-22**	**Aug-22**
Civil Litigation						
No. of candidates	407	989	738	823	1517	790
Passing rate	55.8%	55.5%	41.3%	53.6%	59.6%	46.2%
Criminal Litigation						
No. of candidates	383	1104	827	824	1653	802
Passing rate	59.8%	46.2%	42.4%	55.9%	63.7%	52.5%
	Dec-22	**Apr-23**	**Aug-23**	**Dec-23**	**Apr-24**	**Aug-24**
Civil Litigation						
No. of candidates	929	1671	889	833	1748	987
Passing rate	56.4%	59.8%	45.1%	53.2%	59.8%	45.4%
Criminal Litigation						
No. of candidates	596	1583	842	805	1754	1008
Passing rate	49.8%	65.6%	39.9%	55.2%	60.5%	47.6%

In comparing results across the twelve iterations of assessment it should be noted that for the December 2020 sit, only nine AETO centres presented cohorts of candidates for assessment. For April 2021 the figure was 19 AETO centres, which explains why there were significantly more candidates for that sitting compared to December 2020. From April 2021 onwards, sittings will have comprised a mix of first sit (new and deferred) and resitting candidates (ie candidates who had previously failed an assessment without extenuating circumstances). The April 2022 sitting saw the first cohorts entered by ULaw Liverpool, the December 2022 sitting the first cohorts entered by the University of Hertfordshire, and the April 2023 sitting the first candidates entered by ULaw Newcastle. For the August 2024 sitting there were 21 AETO assessment centres providing candidate cohort results. As can be seen in the above table, the August 2024 passing rates for both Criminal Litigation and Civil Litigation are largely in line with previous August sitting outcomes. See further on candidate numbers at 1.3 and 1.4, below.

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 considered:

- 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 or subsequent 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.
- AETO cohorts within which candidates are given more resit opportunities will tend to have a wider gap between the percentage of candidates who ultimately pass the assessments and the average single-examination pass rate
- A candidate who fails an assessment will not necessarily attempt it at the next opportunity.
- Whereas under the previous BPTC examinations it was reasonably safe to assume that, for the Spring sit, the vast majority of candidates were sitting for the first time, and that the majority of those attempting the Summer sit were referred or deferred candidates (hence enabling year on year comparison of Spring or Summer sit results) no such certainty exists in relation to the make-up of the cohorts attempting the Spring, Summer or Winter sits of the centralised examinations for the Bar Training course.
- Some of the historic data on candidate numbers and pass rates differ in this Chair's Report from that presented in previous Chair's Reports. This is because previous Chair's Reports utilised data presented at the Final Exam Board, which excluded a small number of candidates from the analysis where they were extreme outliers (such as those who only answered one or two items). In this report, candidate numbers and pass rates are based on the results as sent back to AETOs after the Final Board. The differences are larger in Civil Litigation, as some candidates sit only one paper of the two papers comprising that assessment, and these candidates are always excluded from analysis at the Final Board. This change is simply to ensure consistency in reporting and has no bearing on previous exam board decisions or Chair's Report commentary.

1. BACKGROUND AND CONTEXT

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

The 2010/11 academic year saw the first round of assessments under the BPTC regime in the wake of the Wood Report (July 2008). Centralising the Professional Ethics, Civil Litigation and Criminal Litigation 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 on the BPTC, with assessments compiled by a team of CEB examiners appointed by the BSB.

1.2 Future Bar Training

1.2.1 As part of the Future Bar Training reforms a new vocational training component, Bar Training, was introduced to replace the BPTC for the start of the 2020/21 academic year. Centralised assessment of Professional Ethics is now undertaken as part of the pupillage training requirements. Tuition in Criminal Litigation and Civil Litigation (including dispute resolution) continues to be delivered by course providers, now referred to as AETOs, with the assessments set by the BSB.

1.2.2 The Criminal Litigation assessment takes the form of a closed book three-hour paper comprising 75 multiple-choice questions (MCQs) and single best answer questions (SBAs). 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 five are stand-alone MCQ and/or SBA questions, and the remaining 35 take the form of rolling case scenarios – each with seven questions that track a developing narrative. Candidates are permitted access to the White Book for reference during Civil paper 2. 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 .

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

1.2.4 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.

1.2.5 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/training-qualification/becoming-a-barrister/vocational-component/aetos-from-2020.html

1.3 Candidate numbers by AETO centre: Civil Litigation

AETO	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22	Aug-22
BPP Birmingham	28	31	28	40	47	32
BPP Bristol	19	16	14	19	7	9
BPP Leeds	27	32	20	35	16	5
BPP London	151	179	150	262	274	173
BPP Manchester	58	54	35	89	49	37
Cardiff	51	39	15	60	35	14
City	22	208	132	59	378	136
Hertfordshire	N/A	N/A	N/A	N/A	N/A	N/A
ICCA	28	34	5	56	33	14
MMU	23	9	11	24	7	8
Northumbria	N/A	64	36	15	64	36
NTU	N/A	50	37	23	53	34
ULaw Birmingham	N/A	34	41	18	82	51
ULaw Bristol	N/A	13	4	1	18	5
ULaw Leeds	N/A	22	17	7	43	25
ULaw Liverpool	N/A	N/A	N/A	N/A	16	5
ULaw London	N/A	89	106	65	216	137
ULaw Manchester	N/A	19	18	7	54	20
ULaw Newcastle	N/A	N/A	N/A	N/A	N/A	N/A
ULaw Nottingham	N/A	7	1	2	16	7
UWE	N/A	89	68	41	109	42
TOTAL	**407**	**989**	**738**	**823**	**1517**	**790**

AETO	Dec-22	Apr-23	Aug-23	Dec-23	Apr-24	Aug-24
BPP Birmingham	56	42	55	35	38	61
BPP Bristol	8	9	6	5	17	5
BPP Leeds	16	18	9	24	15	13
BPP London	260	299	244	217	257	222
BPP Manchester	73	73	79	72	74	89
Cardiff	72	25	13	81	37	19
City	75	397	105	46	429	132
Hertfordshire	13	6	7	1	2	5
ICCA	89	38	14	117	82	34
MMU	23	12	7	37	5	11
Northumbria	14	69	24	10	78	27
NTU	24	74	42	25	70	45
ULaw Birmingham	30	89	46	12	61	51
ULaw Bristol	3	33	9	N/A	31	5
ULaw Leeds	12	60	31	9	73	48
ULaw Liverpool	2	56	21	14	100	30
ULaw London	101	197	96	57	169	102
ULaw Manchester	7	44	18	11	74	18
ULaw Newcastle	N/A	9	5	N/A	11	6
ULaw Nottingham	6	12	3	N/A	13	6
UWE	45	109	55	60	112	58
TOTAL	**929**	**1671**	**889**	**833**	**1748**	**987**

1.3.1 The December 2020 sit was the first opportunity for candidates to attempt the centralised assessments for the Bar Training course, hence the lower volume of candidates. As can be seen, for the August 2024 sit, BBP London had the largest cohort, accounting for 22.5% of the Civil Litigation candidate entries, and BPP London has also provided 21.3% of the total number of candidate entries across the twelve sittings offered thus far. As noted above, five AETOs have cohort numbers in single figures for the August 2024 sit, a factor that can impact significantly on the comparison of cohort data.

1.4 Candidate numbers by AETO centre: Criminal Litigation

AETO	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22	Aug-22
BPP Birmingham	28	30	29	43	64	22
BPP Bristol	20	16	13	26	5	7
BPP Leeds	20	25	24	35	20	7
BPP London	137	202	174	270	261	199
BPP Manchester	52	62	47	91	60	34
Cardiff	54	37	19	19	70	21
City	20	247	154	77	425	141
Hertfordshire	N/A	N/A	N/A	N/A	N/A	N/A
ICCA	32	31	7	56	31	13
MMU	20	14	11	20	11	7
Northumbria	N/A	40	25	13	64	24
NTU	N/A	51	36	23	55	32
ULaw Birmingham	N/A	46	49	20	88	56
ULaw Bristol	N/A	15	2	N/A	18	5
ULaw Leeds	N/A	38	20	8	47	25
ULaw Liverpool	N/A	N/A	N/A	N/A	17	2
ULaw London	N/A	107	127	73	234	129
ULaw Manchester	N/A	23	19	7	61	9
ULaw Newcastle	N/A	N/A	N/A	N/A	N/A	N/A
ULaw Nottingham	N/A	5	1	2	14	3
UWE	N/A	115	70	41	108	66
TOTAL	**383**	**1104**	**827**	**824**	**1653**	**802**

AETO	Dec-22	Apr-23	Aug-23	Dec-23	Apr-24	Aug-24
BPP Birmingham	36	32	33	60	33	36
BPP Bristol	N/A	1	9	4	4	13
BPP Leeds	5	14	20	5	23	19
BPP London	120	184	249	215	207	256
BPP Manchester	35	65	49	68	74	51
Cardiff	20	68	15	37	65	17
City	61	408	114	73	419	142
Hertfordshire	15	9	10	1	4	3
ICCA	92	37	9	129	69	24
MMU	24	8	7	35	21	12
Northumbria	14	75	14	9	77	25
NTU	24	69	38	27	77	51
ULaw Birmingham	19	80	40	12	67	54
ULaw Bristol	2	32	7	N/A	31	5
ULaw Leeds	9	60	30	11	76	50
ULaw Liverpool	2	59	20	13	96	35
ULaw London	76	174	103	54	167	111
ULaw Manchester	3	43	13	10	75	28
ULaw Newcastle	N/A	9	1	N/A	11	6
ULaw Nottingham	3	13	3	N/A	13	8
UWE	36	143	58	42	145	62
TOTAL	**596**	**1583**	**842**	**805**	**1754**	**1008**

1.4.1 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. As can be seen, for the August 2024 sit, BPP London had the largest cohort, accounting for 25.4% of the Criminal Litigation candidate entries, and BPP London has also provided 20.3% of the total number of candidate entries across the twelve sittings offered thus far. As noted above, four AETOs have cohort numbers in single figures for the August 2024 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 team of examiners, 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 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 exams (listing for example, public transport strikes, bomb alerts, fire alarms, building noise), 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 August 2024 Bar Training exam dates were as follows:

Criminal Litigation: Monday 14 August 2024 at 14:00
Civil Litigation (paper 1):   Wednesday 21 August 2024 at 14:00
Civil Litigation (paper 2):   Friday 23 August 2024 at 14:00

2.4 Marking

2.4.1 Candidates attempting the Civil Litigation and Criminal Litigation assessments record their answers on machine-readable answer sheets. AETOs return the original answer sheets to the BSB for machine marking. The answer sheet scanning is undertaken by specially trained BSB support staff, using specialist scanners and software. The scanner removes the risk of wrongly capturing marks which may occur with human input. This process enables accurate production of data statistics and results analysis for consideration at the exam boards. Once scripts are uploaded, the BSB staff compare the scripts received with the exam attendance lists supplied by AETOs to ensure all the expected scripts have been received. Where there is an expected script which is not received, or a script received which was not expected, this is queried with the AETO.

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 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 considers, with the advice of the independent observer, 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 feedback pro-formas returned by the AETOs – thus flagging up any correlation of AETO criticisms and concerns with systemic poor performance by candidates.
- statistical analysis produced by the BSB Exams Team and endorsed by the psychometrician, including facility values, point biserials, and a measure of discrimination for each distractor, as well as an estimate of reliability for the assessment as a whole.
- 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 informed by the Independent Observer's views, the Subject Boards have the discretion to intervene where there is evidence that a particular element of an assessment has not operated effectively. Options typically include:

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

2.5.5 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 Final Board's members include the Chair of the CEB, the relevant Chief Examiners, and one of either the BSB's Director General, the BSB's Director of Regulatory Standards, or the BSB's Assessment Lead. The meeting is also attended by an independent psychometrician and an independent observer who provide advice and oversight, and BSB staff serving in an administrative role. 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 — although AETOs may cap passing results as 60% for resitting candidates or set aside results due to extenuating circumstances or academic misconduct. 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 Examination Boards. The actual scores achieved by candidates need to be aligned with the 60% pass mark used by AETOs for their own postgraduate award, where applicable. 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 2024 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 2024 Criminal Litigation assessment, requests for intervention from AETOs were received in relation to 9/75 questions (see 3.1.5, below). Typically, responses from AETOs raised issues such as the possibility of there being more than one 'best' answer; the link between the question asked and the syllabus reading material; 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.

3.1.5 Summary of Exam Board deliberations

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

Item	Number of AETOs requesting an intervention	Exam Board decision and rationale
Q.13	1	Passing rate 42%. Point Biserial 0.28 (above benchmark). AETO feedback proposed that option [D] should also be credited in addition to correct answer [B]. It was noted that the question was of the SBA format and option [B] was the best answer to the specific question presented. *The board decided not to intervene.*
Q.25	0	Passing rate 37%. Point Biserial 0.16 (below benchmark). No AETO feedback. The Board noted the slight positive correlation in option [A], which attracted 36% of candidates. It was noted that the onus was on the defence to prove on the balance of probabilities, a reasonable excuse for the possession of an offensive weapon in a public place, once possession was established by the prosecution, therefore, [D] was the only correct answer. *The board decided not to intervene.*

Item	Number of AETOs requesting an intervention	Exam Board decision and rationale
Q.41	1	Passing rate 51%. Point Biserial 0.29 (above benchmark). AETO feedback suggested that option [B] should be credited in addition to correct answer [D]. The Board noted that the feedback received did not seem to consider changes to legal terminology. It was agreed that, based on the facts presented, option [D] was the only possible correct answer. *The board decided not to intervene.*
Q.45	1	Passing rate 60%. Point Biserial 0.31 (above benchmark). AETO feedback suggested that option [D] should be credited in addition to correct answer [C]. The Board agreed that option [C] was the only correct answer as it considered one of the exemptions for a mandatory minimum sentence. *The board decided not to intervene.*
Q.46	1	Passing rate 55%. Point Biserial 0.28 (above benchmark). AETO feedback suggested that alternative options should be credited. The Board noted that the feedback did not seem to consider the whole of the information contained in the scenario and the impact on the deliberation time. *The board decided not to intervene.*

| Item	Number of AETOs requesting an intervention	Exam Board decision and rationale
Q.50	1	Passing rate 32%. Point Biserial 0.07 (below benchmark). AETO feedback suggested that the question should be improved before being reused and that option [C] should be credited in addition to correct answer [D]. The Board noted the performance of option [A], which attracted 42% of candidates and had positive discrimination. It was agreed that this option was wrong because of the information presented in the fact pattern. In response to the AETO feedback, option [C] would require speculation beyond what was specified in the fact scenario and to do so would deviate from the instructions given to candidates. Additionally, correct option [D] was drafted to help candidates, as it stipulated the reason why a good character direction would not be granted. It was agreed to re-evaluate the question in light of the poor discrimination achieved and to consider the order of the distractors presented. *The board decided not to intervene.*

Item	Number of AETOs requesting an intervention	Exam Board decision and rationale
Q.67	2	Passing rate 35%. Point Biserial 0.13 (below benchmark). This question tested candidates' ability to identify the best approach for the prosecution to take when a defendant failed to attend for their trial. AETO feedback suggested that candidates would be equally justified in choosing option [D] as choosing the original best answer [A], due to the fact that the syllabus reading highlighted that proceeding in absence against an unrepresented defendant in the Crown Court was an exceptional course of proceedings. The question had poor discrimination, and the correct answer [A] had a low positive correlation of 0.13, with only 35% of candidates selecting this option. Option [D] was more popular than A, with 58% of candidates selecting it and a correlation of 0.00. The Board agreed that the question had not performed as intended. It was noted that although candidates were told in the fact pattern that they were instructed by the prosecution and the answers read from the prosecution perspective, the stem did not specify whose approach they were asking to consider, as it simply read "*What is the best approach to take in these circumstances?"* The Board agreed that the stem should be amended if the question was to be used again. Although the intention had been to ask what prosecution counsel should do, rather than the likely outcome of any application to proceed in absence, it was clear that the candidates had struggled with distinguishing this point. The issue was compounded by the fact that the defendant was unrepresented, which would make trial in absence in the Crown Court more unlikely. It was agreed that the question could not be used again in its current form, and that option [D] could not be distinguished sufficiently from option [A]. **The board decided to intervene by crediting option [D] in addition to correct option [A].**

Item	Number of AETOs requesting an intervention	Exam Board decision and rationale
Q.70	1	Passing rate 53%. Point Biserial 0.33 (above benchmark). AETO feedback suggested option [B] should be credited in addition to correct option [C]. The Board agreed that, while option [B] would be technically correct and possible, the question asked candidates how the court would interpret its powers in relation to the Defendant. Option [C] was the more likely outcome based on the evidence against the Defendant. *The board decided not to intervene.*
Q.73	1	Passing rate 44%. Point Biserial 0.23 (borderline). AETO feedback suggested that the question should be removed from the examination. The Board noted the discrimination factor. The feedback from the AETOs was considered but not accepted as grounds for removing the question. The relevant statement did not meet the definition of hearsay because the third limb of the *Twist* test, and CJA 2003 s. 115(3), was therefore not satisfied. *The board decided not to intervene.*

3.2 Post-intervention pass rate of MCQs

The bar chart below shows the facility score (% of Bar Training candidates answering correctly) for each of the questions in the August 2024 Criminal Litigation examination.

BT Criminal Litigation Summer 2024 Post Intervention MCQ ALL
AETO Question-by-Question Bar Chart Pass Rate %
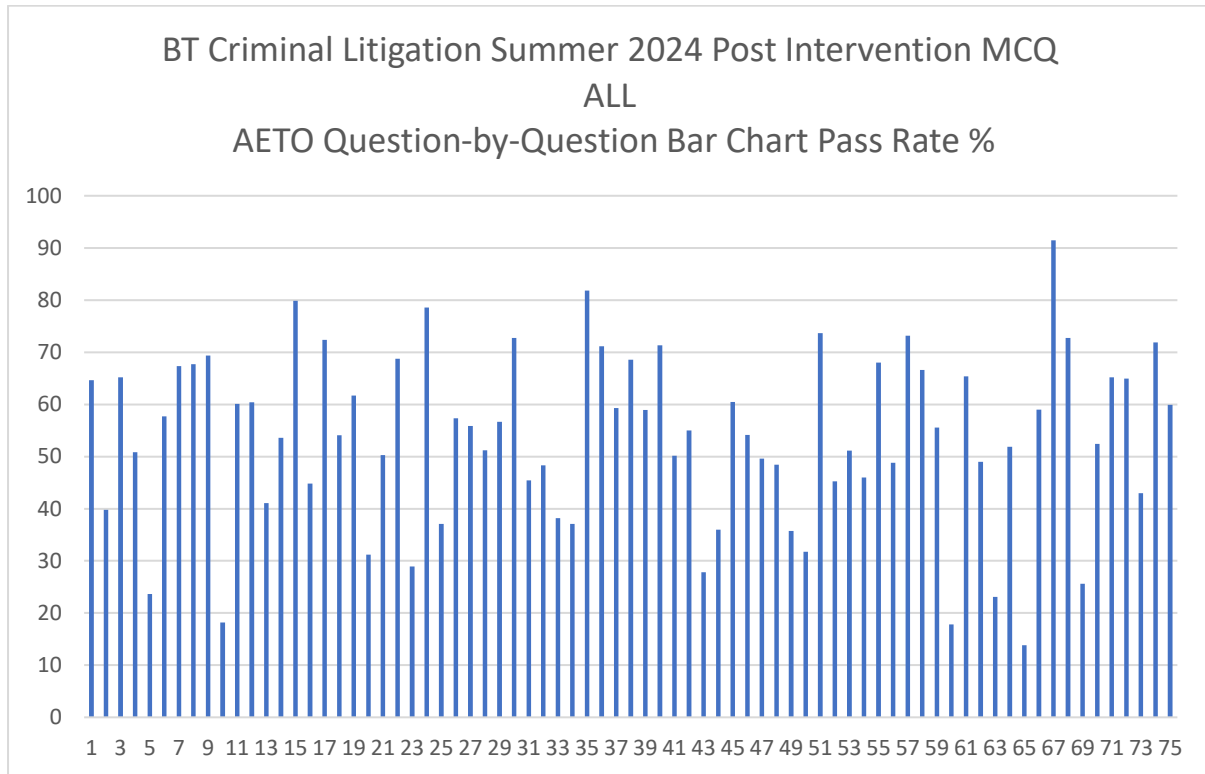
The post-intervention data shows 16 MCQs with an all-AETO cohort pass rate below 40% (compared to 4 for the April 2024 sit). There is no evidence to suggest a fall-off in candidate performance during the examination (assuming most candidates attempted the 75 MCQs in the order presented). Across the first 25 MCQs the average pass rate was 54%, across MCQs 26 to 50 it was again 54%, and across MCQs 51 to 75 it dropped to 53%. The word count of the assessment was not felt by the Final Board to have been an issue.

3.3 Standard setting and reliability of the assessment

3.3.1   The pass standard reported to the Criminal Litigation Subject Board was 41 out of 75. The outcome of the standard setting process is a recommended pass standard rather than a determined outcome of what the pass standard should be. The Final Board endorsed that recommendation and confirmed the pass standard as 41/75.

3.3.2 Data supplied to the Final Exam Board by the psychometrician indicated that, with a KR-20 Reliability score of 0.84, the assessment had exceeded the benchmark KR-20 Reliability of 0.8. The Exam Board noted that all other data suggested an assessment operating as expected.

	Dec-22	Apr-23	Aug-23	Dec-23	Apr-24	Aug-24
No. of Candidates	594	1583	840	805	1754	1008
No. of Scored Items	75	75	75	75	75	75
Pass Standard	44 (58.7%)	43 (57.3%)	43 (57.3%)	42 (56.0%)	41 (54.7%)	41 (54.7%)
No. Passing	296 (49.8%)	1039 (65.6%)	297 (35.4%)	444 (55.2%)	1062 (60.5%)	480 (47.6%)
Mean Score	44.18 (58.91%)	47.0 (62.7%)	39.5 (52.7%)	43.6 (58.2%)	44.0 (58.7%)	40.5 (54.0%)
Standard Deviation	10.81 (14.42%)	11.2 (14.9%)	10.7 (14.3%)	11.7 (15.7%)	11.2 (15.0%)	9.9 (13.2%)
Range of Scores	15 to 72	11 to 74	13 to 69	13 to 73	14 to 72	5 to 69
Reliability (KR-20)	0.88	0.89	0.87	0.89	0.88	0.84
Reliability for Equivalent 90-item Test	0.89	0.90	0.88	0.91	0.90	0.86
Standard Error of Measurement	3.82 (5.09%)	3.7 (5.0%)	4 (5.33%)	3.9 (5.2%)	3.9 (5.2%)	3.9 (5.3%)

3.4 Chief Examiner's Report

The Chief Examiner for Criminal Litigation reported that she was satisfied that this assessment was fair to candidates and allowed them to demonstrate their competence to the required threshold, noting that comments from AETOs were generally positive overall.

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 2024

All-AETO Post-Intervention 2022-2023	Criminal Litigation December 2022	Criminal Litigation April 2023	Criminal Litigation August 2023
Number of Candidates	594	1583	840
Passing Rate	49.8%	65.6%	39.9%
All-AETO Post-Intervention 2023-2024	**Criminal Litigation December 2023**	**Criminal Litigation April 2024**	**Criminal Litigation August 2024**
Number of Candidates	805	1754	1008
Passing Rate	55.2%	60.5%	47.6%

The table above shows the all-AETO August 2024 post-intervention Bar Training cohort pass rate of 47.6% for Criminal Litigation, based on a passing standard recommended to the Final Board (as a result of the standard setting process) of 41/75. Although the post-intervention passing rate is nearly 8% higher than the August 2023 sitting, it is broadly consistent with that achieved in other August sittings (the average pass rate of the August 2021, August 2023, and August 2023 sittings is 44.9%, see Executive Summary).

3.7 August 2024 Criminal Litigation pass rates by AETO centre

BT Summer 2024 Criminal Litigation Passing Rate by AETO Centre
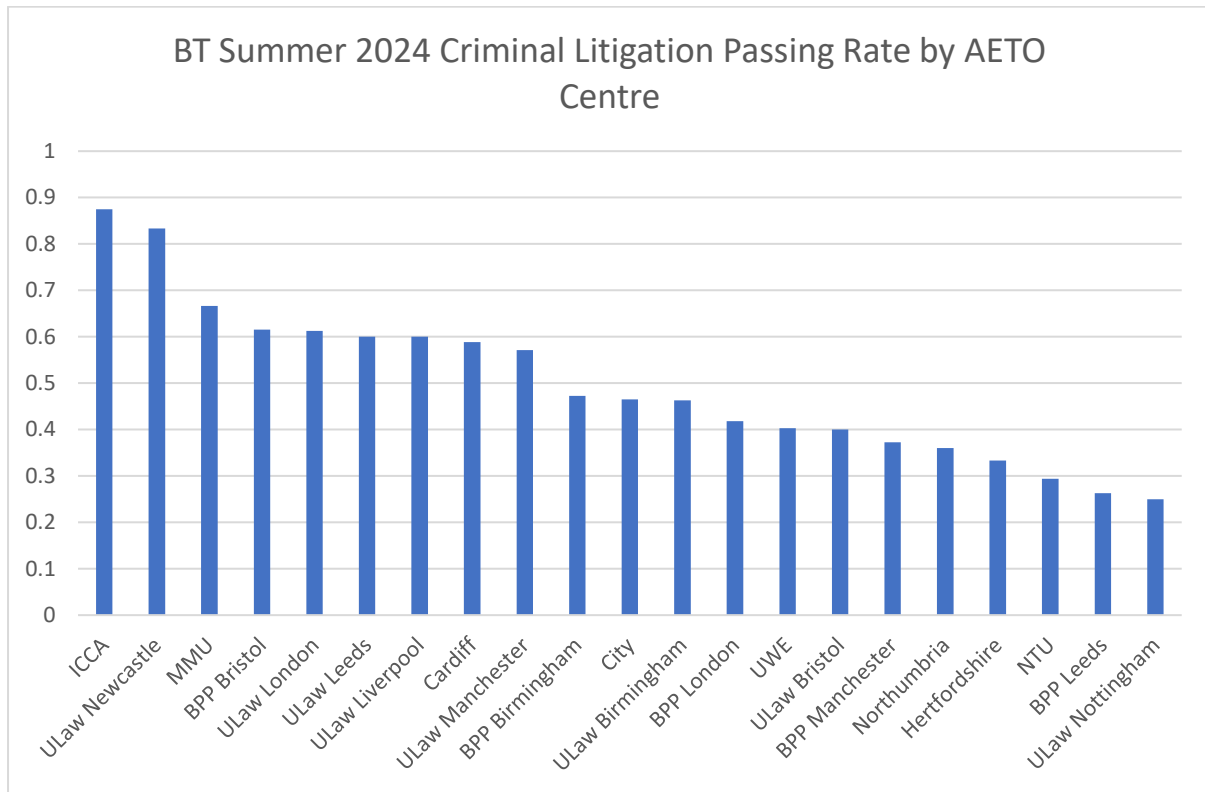
3.7.1   In the above graph the 21 AETO centre cohorts are ranged left to right in declining order of their August 2024 pass rates in the Criminal Litigation assessment. The ICCA achieved the highest passing rate of 88% based on a cohort of 24 candidates. ULaw Newcastle also performed very well with a passing rate of 83% (albeit with a cohort of only 6 candidates). ULaw Nottingham and BPP Leeds managed only 25% and 26% respectively.

3.7.2 Distribution of first sit candidates across the AETO centres for Criminal Litigation August 2024 sitting

AETOs Ranked by % of cohort first sitting CRIMINAL LITIGATION			
AETO	Cohort Size	# First Sit	% First Sit
BPP Bristol	13	12	92.3%
Northumbria	25	23	92.0%
ICCA	24	18	75.0%
BPP London	256	173	67.6%
ULaw Leeds	50	32	64.0%
BPP Manchester	51	30	58.8%
BPP Leeds	19	11	57.9%
ULaw London	111	61	55.0%
ULaw Birmingham	54	28	51.9%
BPP Birmingham	36	18	50.0%
MMU	12	3	25.0%
UWE	62	15	24.2%
City	142	34	23.9%
ULaw Bristol	5	1	20.0%
ULaw Liverpool	35	7	20.0%
Cardiff	17	3	17.6%
ULaw Nottingham	8	1	12.5%
NTU	51	6	11.8%
ULaw Manchester	28	3	11%
Hertfordshire	3	0	0%
ULaw Newcastle	6	0	0%
OVERALL	1008	479	47.5%

Nine of the 21 AETO centres entering candidates for the August 2024 Criminal Litigation assessment had a preponderance of first sit candidates. Hertfordshire and ULaw Newcastle were the only AETOs with no first sit candidates in the August 2024 Criminal Litigation assessment.

3.7.3 Comparison of first sit and resit candidate passing rates at each AETO for Criminal Litigation August 2024 sitting

First Sit Pass Rates and Resit Pass Rates CRIMINAL LITIGATION		
AETO	**First Sit % Pass**	**Resit % Pass**
BPP Birmingham	61%	33%
BPP Bristol	58%	100%
BPP Leeds	36%	13%
BPP London	49%	27%
BPP Manchester	43%	29%
Cardiff	67%	57%
City	68%	40%
Hertfordshire	N/A	33%
ICCA	100%	50%
MMU	33%	78%
Northumbria	30%	100%
NTU	33%	29%
ULaw Birmingham	46%	46%
ULaw Bristol	100%	25%
ULaw Leeds	66%	50%
ULaw Liverpool	86%	54%
ULaw London	70%	50%
ULaw Manchester	33%	60%
ULaw Newcastle	N/A	83%
ULaw Nottingham	0%	29%
UWE	27%	45%
OVERALL	55%	41%

Data presented to the exam boards for the August 2024 sitting showing the split between first sit and resit candidates for Criminal Litigation revealed that 55% were attempting on a first sit basis (ie first ever attempt at the examination, or previous attempts discounted on the basis of accepted extenuating circumstances), and 41% as resit candidates (ie candidates who had previously failed the examination without mitigating circumstances having been submitted or accepted). First sit cohorts tend to be stronger than resit cohorts, and with this in mind it should be noted that, for the August 2024 Criminal Litigation examination, for the 19 AETO centres with first sit and resit candidates, only five reported a higher passing rate for their resit cohort compared to their first sit cohort.

3.7.4 Passing rates of first sit cohorts at each AETO for Criminal Litigation August 2024 sitting.

AETOs Ranked by First Sit Pass Rate CRIMINAL LITIGATION	
AETO	**First Sit % Pass**
ICCA	100%
ULaw Bristol	100%
ULaw Liverpool	86%
ULaw London	70%
City	68%
Cardiff	67%
ULaw Leeds	66%
BPP Birmingham	61%
BPP Bristol	58%
BPP London	49%
ULaw Birmingham	46%
BPP Manchester	43%
BPP Leeds	36%
MMU	33%
NTU	33%
ULaw Manchester	33%
Northumbria	30%
UWE	27%
ULaw Nottingham	0%
Hertfordshire	N/A
ULaw Newcastle	N/A

Excluding Hertfordshire and ULaw Newcastle, neither of which entered any first sit candidates, there were 10 AETO centres where fewer than 50% of first sit candidates managed to secure a pass in the August 2024 Criminal Litigation assessment.

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

	Dec 22 % Pass	Apr 23 % Pass	Aug 23 % Pass	Dec 23 % Pass	Apr 24 % Pass	Aug-24 % Pass	Average over 6 sits
ICCA	89.1	89.2	77.8	91.5	89.9	87.5	87.5
ULaw Newcastle		88.9	100.0		45.5	83.3	79.4
Cardiff	60.0	83.8	53.3	78.4	73.8	58.8	68.0
Ulaw Leeds	77.8	66.7	56.7	36.4	73.7	60.0	61.9
Ulaw London	40.8	67.2	54.4	46.3	60.5	61.3	55.1
BPP Birmingham	52.8	68.8	51.5	51.7	57.6	47.2	54.9
City	44.3	74.3	38.6	54.8	68.0	46.5	54.4
BPP Leeds	60.0	50.0	60.0	60.0	65.2	26.3	53.6
Northumbria	57.1	76.0	35.7	44.4	66.2	36.0	52.6
BPP Manchester	45.7	64.6	53.1	54.4	55.4	37.3	51.7
Ulaw Nottingham	0.0	76.9	100.0		46.2	25.0	49.6
Ulaw Bristol	0.0	75.0	42.9		77.4	40.0	47.1
BPP London	41.7	63.6	31.6	43.9	49.8	41.8	45.4
Ulaw Birmingham	36.8	60.0	35.0	33.3	56.7	46.3	44.7
BPP Bristol		100.0	11.1	25.0	25.0	61.5	44.5
Ulaw Manchester	0.0	62.8	38.5	40.0	58.7	57.1	42.8
MMU	58.3	25.0	14.3	48.6	38.1	66.7	41.8
Ulaw Liverpool	0.0	47.5	40.0	46.2	54.2	60.0	41.3
UWE	25.0	48.3	29.3	45.2	52.4	40.3	40.1
Hertfordshire	20.0	22.2	0.0	100.0	50.0	33.3	37.6
NTU	37.5	36.2	31.6	25.9	32.5	29.4	32.2

3.8.1   AETO centre cohorts are listed in order of the average of their Criminal Litigation passing rates across the last six sittings of the Bar Training centralised assessments. Note that Hertfordshire entered candidates for the first time in the December 2022 sit, and ULaw Newcastle for the first time in April 2023. Greyed out cells indicate other instances in the table above where an AETO centre did not enter any candidates. The calculation of AETO centre averages have been adjusted to reflect this. The data shows that the ICCA currently has the highest average passing rate (87.5%), having entered candidates in each of the last six sittings of the Criminal Litigation assessment. The ICCA cohort has also achieved the highest passing rate in three of the last six sittings. NTU has the lowest passing rate at 32.2%, that figure driven in part by a very low passing rate in the August 2022 sitting.

3.8.2 An alternative way of assessing the success of each AETO across all the sittings to date (*ie* ten sittings in total) is to consider the cumulative total of attempts at the exam by candidates at that AETO made over all sittings thus far, and to compare this with the number of those attempts which were passing attempts. Note that a candidate who, for example, passes on their third attempt, will be recorded in the second column ("total number of attempts") three times, but will only appear in the third column ("total number of passes") once, the final column should not therefore be taken as the "percentage of candidates at each AETO who have passed," but should instead be understood as the "percentage of attempts at this assessment which were successful."

BT Criminal Litigation - December 2020 to August 2024 (12 sits)			
AETO	**Total Number of Attempts**	**Total Number of Passes**	**% Pass**
ICCA	530	482	90.9%
ULaw Newcastle	27	19	70.4%
ULaw Bristol	117	81	69.2%
ULaw Leeds	374	239	63.9%
Cardiff	442	276	62.4%
City	2281	1405	61.6%
ULaw Manchester	291	173	59.5%
ULaw Nottingham	65	38	58.5%
ULaw London	1355	791	58.4%
Northumbria	380	212	55.8%
BPP Manchester	688	362	52.6%
ULaw Liverpool	244	127	52.0%
ULaw Birmingham	531	275	51.8%
BPP Leeds	217	110	50.7%
BPP Birmingham	446	208	46.6%
BPP Bristol	118	55	46.6%
BPP London	2474	1146	46.3%
UWE	886	391	44.1%
MMU	190	81	42.6%
NTU	483	165	34.2%
Hertfordshire	42	9	21.4%
TOTAL	12181	6645	54.6%

As can be seen from the above table Bar Training Criminal Litigation assessments have been passed 6,645 times since the first sitting in December 2020, based on 12,181 attempts – thus the aggregate passing rate to date is 54.6%. There are 11 AETOs whose cumulative percentage of passing attempts is lower than this. The range between the AETO with the highest rate of passing attempts and that with the lowest is 69.5%. Seven AETO centres have a cumulative rate of passing attempts below 50%. As discussed above, this does not necessarily mean that less than half of that AETO's candidates pass this exam, but it does mean that the exam is passed less than 50% of the times it is attempted at that AETO.

4. BAR TRAINING CIVIL LITIGATION RESULTS AUGUST 2024 SIT

4.1 Exam Board decisions in relation to selected questions

4.1.1 The CEB invited AETOs to provide feedback on the examination paper as a whole and each question if there were issues that the AETO wished to bring to the attention of the Exam Board before it proceeded to confirm the results. Along with the statistical data available to the Exam Board (see 2.5.3 above), the feedback from the AETOs can be of material assistance to the Exam Board in determining whether or not any intervention is required in respect of any individual question.

4.1.2 The examining team is first asked to reflect on the AETO feedback without having sight of any of the statistical data revealing how candidates have performed in respect of a particular question. This enables the examining team to focus on the substantive points raised by the AETOs (in particular, questions of substantive law and procedure) without being influenced by evidence of actual cohort performance. Independently of this, the psychometrician advising the Exam Board analyses the data on cohort performance and prepares a report on any apparent anomalies in terms of passing rates for individual questions, poor correlation, and low discrimination.

4.1.3 Discrimination refers to the extent to which candidates, who performed well in the examination as a whole, answered a specific question correctly, and the extent to which candidates who were weak overall answered the same specific question incorrectly. Where the statistical analysis shows poor discrimination, it can be evidence that candidates had to resort to guessing which answer was correct, suggesting that the question had not operated as expected. It is also the case that where the passing rate for an item is very high, the discrimination score can be low, simply because the vast majority of candidates (both weak overall and strong overall) will have answered the question correctly. Correlation is a similar measure. The Board expects to see a positive correlation figure in respect of the correct or intended best answer for any given question, and a negative correlation score in relation to a wrong, or 'not the best' answer. A positive correlation outcome for a wrong or 'not the best' answer suggests that the stronger candidates (in terms of performance across the examination as a whole) were attracted to that answer.

4.1.4 For the August 2024 Civil Litigation assessment requests for intervention from AETOs were received in relation to 7/90 questions (see 4.1.5, below). Typically, responses from AETOs raised issues such as the possibility of there being more than one 'best' answer; the link between the question asked and the syllabus reading material; 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.

4.1.5 Summary of Exam Board deliberations

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

Item	Number of AETOs responding	Exam Board decision and rationale
Paper 1		
Q.4	1	Passing rate 79%. Point Biserial -0.01 (below benchmark). Correct answer was [C]. Slightly positive discrimination on answer choices [A] and [B], 0.03 and 0.05, respectively. AETO feedback that distractor [D] should be credited in addition to correct answer [C]. The fact pattern quoted two paragraphs from the Claimant's Particulars of Claim (PoC), each with one allegation, and the Defendant's response in which he stated that one of the allegations was not true but did not address the other paragraph. The question asked the effect of this defence in relation to the two allegations. Correct answer [C] stated that the Defendant was taken to have admitted the allegation which he did not address but denied the allegation which he explicitly disputed in his defence. Option [B] could not be correct as it stated that the Defendant had admitted to both paragraphs of the PoC, despite the clear denial of one allegation. Similarly, Option [A] could not be correct as it stated that the Claimant had been required to prove both paragraphs, but the Defendant had not dealt with one of the allegations in his response, nor had he set out the nature of his case in relation to it.

Item	Number of AETOs responding	Exam Board decision and rationale
Q.4 (Cont.)		Option [D] mirrored correct answer [C] in stating that the Defendant had been taken to admit one allegation, but to have denied the other. However, it reversed which allegation was admitted and which was denied. One AETO argued that either [D] or [C] could be correct depending on whether CRP 16.5(3) or 16.5(1)(a) and 16.5(2) applied, and so requested that both be credited. The Board noted that, here, 16.5(1)(a) and 16.5(2) did apply and 16.5(3) did not apply because the Defendant had denied one claim and not addressed the other, however it was noted that 16.5(1)(a) was not included in the list of references on the answer key provided to AETOs after the exam for feedback, and that including this in the future would be clearer for AETO staff members reviewing the papers. Although it was agreed that this was an MCQ, with only one correct answer, and that all of the distractors were incorrect on the basis of the facts presented, it was noted that the wording of the fact pattern could be improved before future use to remove any possibility that the Defendant may be taken as implicitly accepting the existence of a contract with the Claimant through their denial that they violated a specific clause of the purported contract. *The Board decided not to intervene. Amend answer explanation and consider for redrafting.*

Item	Number of AETOs responding	Exam Board decision and rationale
Q.9	1	Passing rate 60%. Point Biserial 0.08 (below benchmark). AETO feedback was that the item should be removed from the question paper on the basis that, although the question sought to examine s32(1)(b) of the Limitation Act, the facts presented may have meant that s14(a) applied instead, and that the limitation period should run from the 'date of knowledge', which would lead to none of the answer choices presented being correct. The Board noted that the intended answer choice [D] was correct if the facts were considered in light of s32(1)(b) which was on syllabus and could be applied to this set of facts. The Board did note that it would also be possible to apply s14(a) instead of s32(1)(b) to the same set of facts; however, this would result in an alternative correct answer which was not one of the available answer choices. Furthermore, none of the other answer choices could be correct under s14(a) or s32(1)(b). The question, therefore, had two possible correct answers, but only one of those was presented to candidates, and so the item as sat by candidates still had one and only one correct answer. The Board recommended that the question be improved before further use, specifically that the final paragraph should be amended in such a way so that s14(a) no longer applies to this set of facts. *The Board decided not to intervene.*
Q.22	1	Passing rate 66%. Point Biserial 0.26 (above benchmark). AETO feedback was that the item should be removed from the question paper on the basis that it was off syllabus because it required candidates to understand the test described in the commentary at 32.10.2, which was not included in the list of assessed references on the syllabus. The Board disagreed that knowledge of this specific piece of commentary was required to answer the question, as the relevant information was addressed in CPR 3.8 and 3.9 which are both on syllabus. *The Board decided not to intervene.*

| Item	Number of AETOs responding	Exam Board decision and rationale
Q.30	1	Passing rate 22%. Point Biserial 0.34 (above benchmark). AETO feedback was that distractor [A] should be credited in addition to correct answer [D]. This question dealt with a claimant seeking default judgement by request with respect to three claims. Intended correct answer [D] provided that, in order to obtain default judgement, the claimant would need to abandon its claim for an injunction. This was correct because an injunction is not one of the remedies listed in CPR12.4(1) and claims for any such remedy must be abandoned in order to obtain judgement by request. Option [A] provided that the claimant would have to abandon its claim for both the injunction <u>and</u> delivery of goods. This was incorrect because default judgement by request can be obtained for delivery of goods where the defendant has been given the option of a payment of money equivalent to the value of the goods CPR12.4(1)(c), and the claim as presented in the fact pattern included the option of a money payment in lieu of the physical goods. The Board agreed with the AETO feedback that there was unintended ambiguity in the phrasing of the claim for delivery of goods or equivalent money and the phrasing of the same claim in answer choice [A]. In the fact pattern the claim was given as "2. *Delivery of the excavator, or a payment equivalent to its value.*" In answer choice [A], the claimant is advised it will have to "*abandon its claim for delivery of goods."* Without any reference to the money option. It was intended that answer choice [A] be read as the claimant abandoning the whole of their second claim (*ie* abandoning both delivery of the excavator itself <u>and</u> abandoning the possibility of receipt of payment in lieu of the excavator). And it was intended that the phrasing of the claim be interpreted as indivisible (*ie* "delivery of goods" is a single remedy in respect of the excavator which can be fulfilled wither by providing the excavator or by paying its value).

Item	Number of AETOs responding	Exam Board decision and rationale
Q.30 (Cont.)		However, candidates may also have interpreted the claim as divisible and understood answer choice [A] to have meant abandoning only the first part of the claim, (*ie* "abandoning its claim for the excavator itself" but <u>not</u> abandoning its claim for the money) - which, in practice, is what the claimant would be doing. It was also noted that candidates who applied a more colloquial sense of the word "abandon" might be drawn to [A] since the claimant would be abandoning any prospect of its excavator being returned. The Board decided that, although the wording in intended correct answer [D] was the preferred language, candidates who selected answer choice [A] may have been interpreting that option to mean the same thing as was the intended interpretation of answer choice [D]. The Board, therefore, agreed that the question set had in fact been an SBA, not and MCQ, and there was scope to credit candidates who had opted for [A] on the basis outlined above. In fairness to candidates, it was agreed that both [A] and [D} should be credited. **The Board intervened by recommending that answer choice [A] should be credited in addition to intended correct answer [D].**
Q.42	1	Passing rate 52%. Point Biserial 0.23 (borderline) AETO feedback was that distractor [B] should be credited in addition to best answer [D] on the basis that the fact pattern was too brief and that, in practice, such decisions were relatively subjective, and therefore more information was required to lead candidates to seeing [D] as clearly better than [B]. The question related to ADR, with respect to a dispute over whether or not wine supplied by one party was organic. Best answer [D] recommended pursuing expert determination to resolve the matter, and answer [B] recommended early neutral evaluation (ENE). The Board noted that the crux of the dispute was whether the wine was or was not organic and that this information was sufficient to lead candidates to recognise that expert determination was the best option at this stage. *The Board decided not to intervene.*

Item	Number of AETOs responding	Exam Board decision and rationale
Paper 2		
Q.34	2	This question was intended to assess candidates' ability to understand how privilege protects certain communications from inspection. The context for the question was the giving of legal advice by a client's solicitor where that client subsequently consulted different solicitors in relation to those same proceedings which were in contemplation.

The intention was that option [C] should be the only correct answer: that such advice would be covered by the ongoing duty of legal advice privilege. Of the cohort, 70% selected that option but with a poor discrimination of 0.09; 20% (discrimination 0.10) selected option [D], which presented litigation privilege as the umbrella to protect the inspection of the legal advice. This question was challenged by two AETOs suggesting that both options [C] and [D] were credible answers, albeit acknowledging that option [C] was the "better option".

After discussion, the examining team recognised that the distinction between options [C] and [D] was too fine and could have resulted in unfairness to candidates. The board accepted the recommendation to reclassify the question as an SBA ('best answer') question, and credit both options [C] and [D].

The Board decided to credit answer option [D] in addition to correct answer [C]. |
| **Q.35** | 1 | Passing rate 41%. Point Biserial 0.23

AETO feedback that option [C] and [D] should also be credited.

It was noted that it was wrong to suggest that a litigant wait three months in order to reply and furthermore the Protocol made it clear that a reply was required within 21 days of the date of posting of the letter.

The Board decided not to intervene. |

4.2 Post-intervention pass rate of MCQs

The bar charts below show the facility scores (% of Bar Training candidates answering correctly) for each of the questions in the August 2024 Civil Litigation examination (following any agreed interventions detailed at 4.1.5).

4.2.1 Paper 1

BT Civil Litigation Paper 1 Summer 2024 Post-Intervention MCQ All-AETO question-by-question bar chart pass rate %
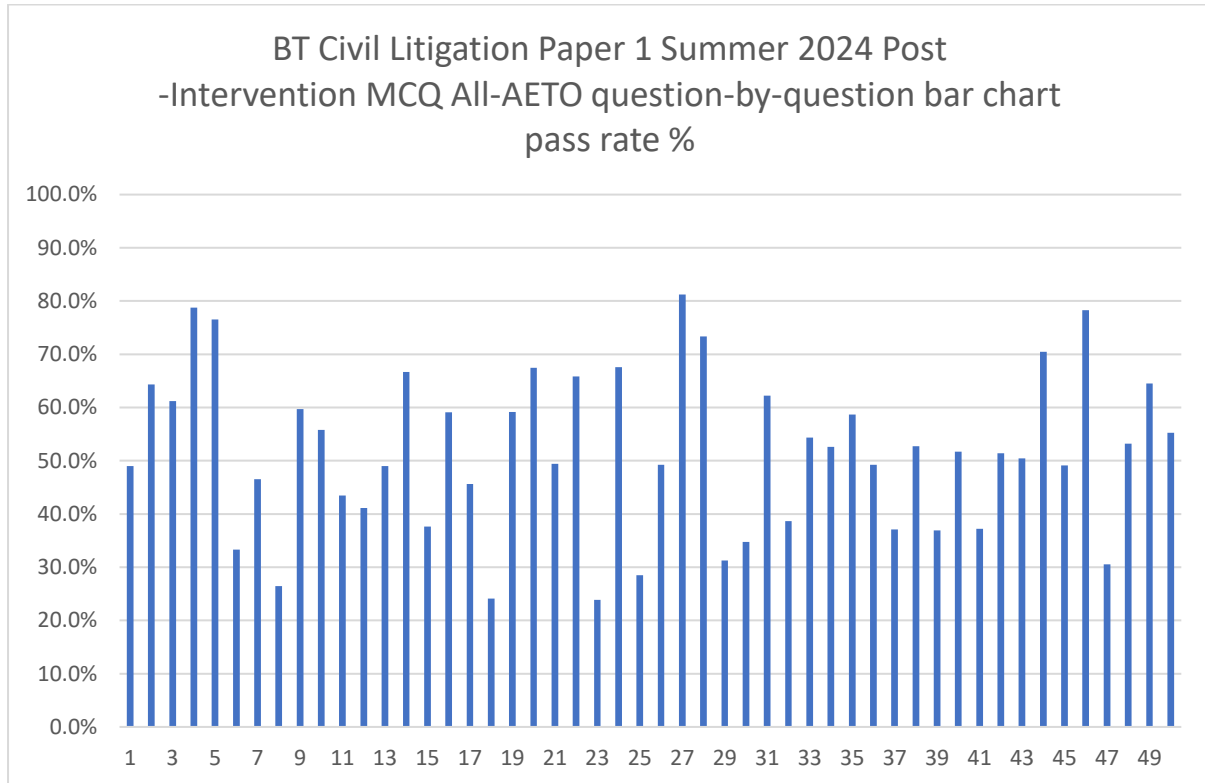
For Civil Litigation paper 1 the post-intervention data shows 13 MCQs with an all-AETO cohort pass rate below 40% (compared to 2 out of 50 for the April 2024 sit). Assuming candidates attempted the questions in the order presented there no evidence of candidate fatigue being a factor. The average passing rate was 52% across both the first 25 MCQs and across MCQs 26 to 50 (see discussion on pass standard below).

4.2.2 Paper 2

BT Civil Litigation Paper 2 Summer 2024 Post-Intervention MCQ All-AETO question-by-question bar chart pass rate %
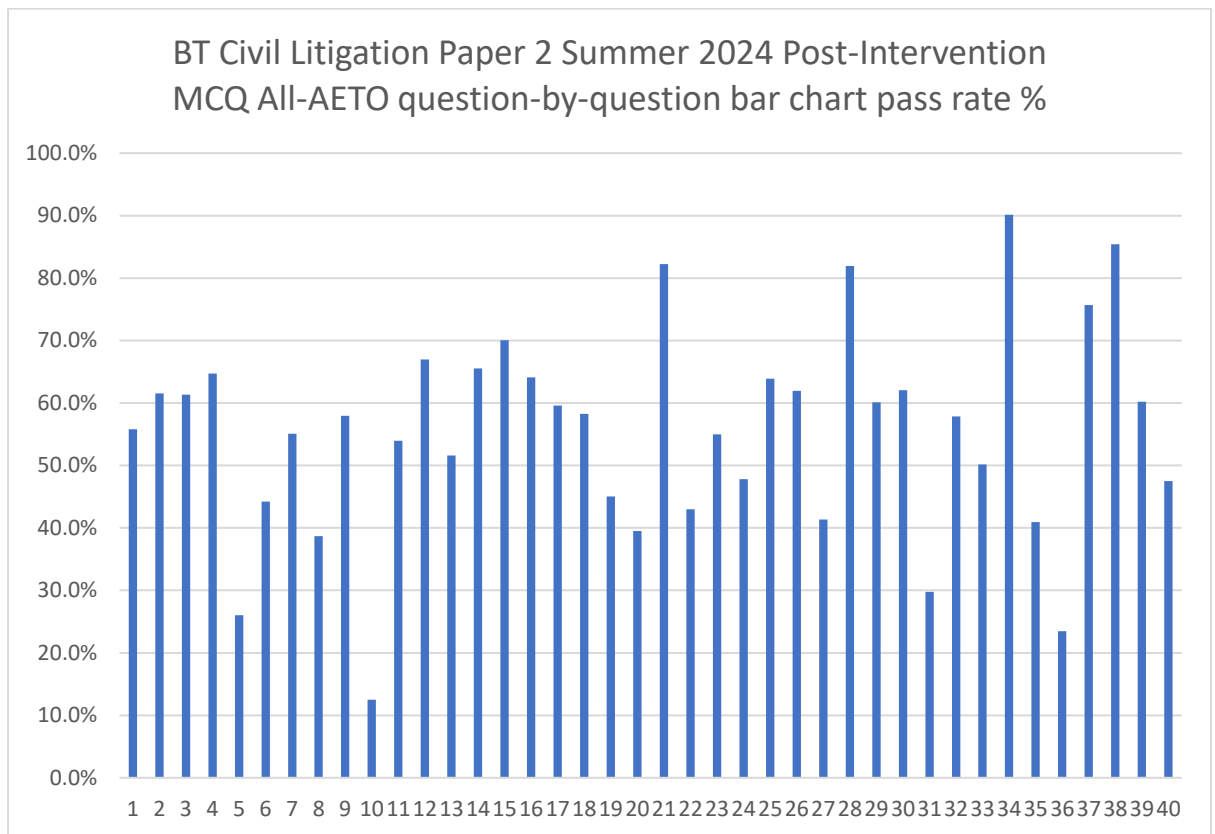
For Civil Litigation paper 2 the post-intervention data shows six MCQs with an all-AETO cohort pass rate below 40% (compared to 7 for the April 2024 sit). Across both papers 1 and 2 there were, therefore 19 questions with a passing rate of 40% or below, compared to 9/90 in the April 2024 sitting. Assuming candidates attempted the paper 2 questions in the order presented there is no evidence of candidate fatigue being a factor. The average passing rate across the first 20 MCQs in paper 2 was 53%, compared to 57% across MCQs 21 to 40. The average passing rate for the first five stand-alone questions on paper 2 was 54%, lower than all but one of the subsequent rolling case scenarios.

4.3 Standard setting and reliability of the assessment

4.3.1 The standard setting exercise was undertaken without incident and the Chair for that exercise commended the recommended pass standard to the Board. The recommended pass standard was reported to the Civil Subject Board as being 49/90. The Final Board accepted that recommendation.

4.3.2 Data supplied to the final Exam Board by the psychometrician indicated that the assessment had achieved a KR-20 Reliability score of 0.87, exceeding the benchmark of 0.8. The Exam Board noted that all other data suggested an assessment operating as expected.

	Dec-22	Apr-23	Aug-23	Dec-23	Apr-24	Aug-24
No. of Candidates	929	1671	889	833	1748	987
No. of Scored Items	90	89	89	90	90	90
Pass Standard	48 (53.3%)	51 (57.3%)	50 (56.2%)	49 (54.4%)	51 (56.7%)	49 (54.4%)
No. Passing	524 (56.4%)	1000 (59.8%)	401 (45.1%)	443 (53.2%)	1046 (59.8%)	448 (45.4%)
Mean Score	50.50 (56.11%)	53.7 (60.4%)	48.2 (53.6%)	51.6 (57.3%)	54.6 (60.7%)	48.0 (53.3%)
Standard Deviation	13.43 (14.92%)	13.2 (14.9%)	13.2 (14.7%)	14.7 (16.4%)	14.7 (16.3%)	12.1 (13.4%)
Range of Scores	18 to 86	15 to 87	17 to 84	15 to 87	14 to 88	18 to 87
Reliability (KR-20)	0.9	0.90	0.90	0.92	0.92	0.87
Reliability for Equivalent 90-item Test	0.9	0.90	0.90	0.92	0.92	0.87
Standard Error of Measurement	4.20 (4.67%)	4.10 (4.6%)	4.3 (4.7%)	4.1 (4.8%)	4.1 (4.6%)	4.3 (4.8%)

4.4 Chief Examiner's Report

The Chief Examiner for Civil Litigation confirmed that she was satisfied that this 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 2024

All-AETO Post-Intervention 2022-2023	Civil Litigation December 2022	Civil Litigation April 2023	Civil Litigation August 2023
Number of Candidates	929	1671	889
Passing Rate	56.4%	59.8%	45.1%
All-AETO Post-Intervention 2023-2024	Civil Litigation December 2023	Civil Litigation April 2024	Civil Litigation August 2024
Number of Candidates	833	1748	987
Passing Rate	53.2%	59.8%	45.4%

The table above shows the all-AETO August 2024 post-intervention Bar Training cohort pass rate of 45.4% for Civil Litigation, based on a passing standard recommended to the Final Board (as a result of the standard setting process) of 49/90. The post-intervention passing rate is broadly consistent with that achieved in previous August sittings.

4.7 August 2024 Civil Litigation pass rates by AETO

BT Summer 2024 Civil Litigation Passing Rate by AETO Centre
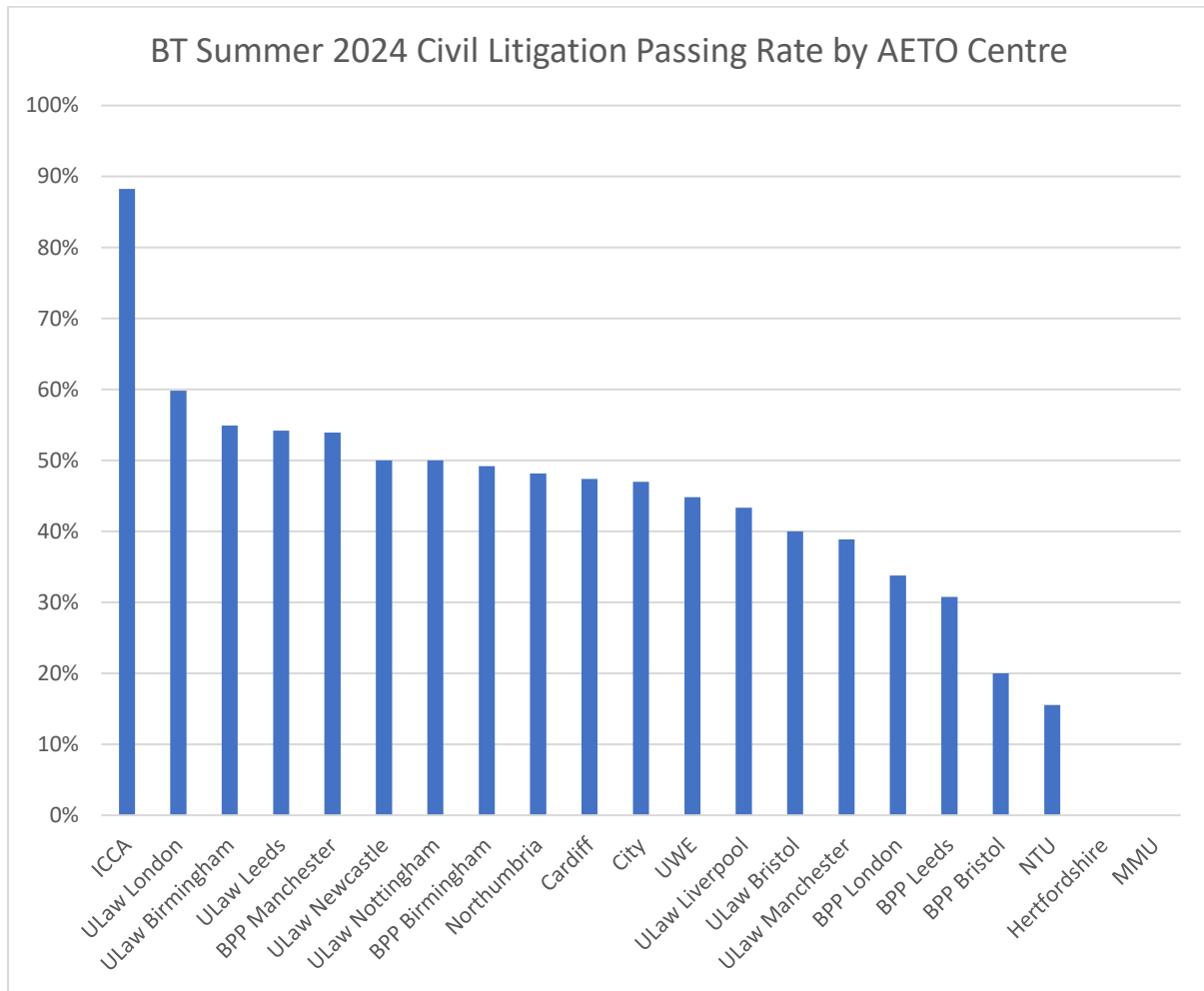
4.7.1 The 21 AETO centre cohorts entering candidates for the Civil Litigation assessment are ranged left to right in descending order of their August 2024 pass rates. As was the case with the Criminal Litigation assessment, the ICCA cohort achieved the highest passing rate at 88%. ULaw London had the second highest passing rate, some way behind on 60%. Neither Hertfordshire nor MMU had any candidates passing Civil Litigation. All of the five Hertfordshire candidates were resitting, as were 11 of the 12 MMU candidates.

4.7.2 Distribution of first sit candidates across the AETO centres for Civil Litigation August 2024 sitting

AETOs Ranked by % First Sit			
AETO	Cohort Size	No. First Sitting	% First Sit
ICCA	34	28	82%
BPP Birmingham	61	45	74%
ULaw Leeds	48	33	69%
ULaw Birmingham	51	31	61%
ULaw London	102	62	61%
BPP Manchester	89	53	60%
BPP London	222	132	59%
UWE	58	29	50%
ULaw Bristol	5	2	40%
City	132	38	29%
Cardiff	19	4	21%
BPP Bristol	5	1	20%
ULaw Liverpool	30	6	20%
ULaw Manchester	18	3	17%
ULaw Nottingham	6	1	17%
BPP Leeds	13	2	15%
NTU	45	6	13%
Northumbria	27	3	11%
MMU	11	1	9%
Hertfordshire	5	0	0%
ULaw Newcastle	6	0	0%
OVERALL	987	480	49%

Seven of the 21 AETO centres entering candidates for the August 2024 Civil Litigation assessment had a preponderance of first sit candidates.

4.7.3 Comparison of first sit and resit candidate passing rates at each AETO for Civil Litigation August 2024 sitting

First Sit Pass Rates and Resit Pass Rates CIVIL LITIGATION		
AETO	**First Sit % Pass**	**Resit % Pass**
BPP Birmingham	49%	50%
BPP Bristol	0%	25%
BPP Leeds	100%	18%
BPP London	41%	23%
BPP Manchester	51%	58%
Cardiff	75%	40%
City	58%	43%
Hertfordshire	N/A	0%
ICCA	93%	67%
MMU	0%	0%
Northumbria	0%	54%
NTU	33%	13%
ULaw Birmingham	55%	55%
ULaw Bristol	50%	33%
ULaw Leeds	52%	60%
ULaw Liverpool	83%	33%
ULaw London	68%	48%
ULaw Manchester	33%	40%
ULaw Newcastle	N/A	50%
ULaw Nottingham	100%	40%
UWE	52%	38%
OVERALL	54%	38%

Data presented to the exam boards for the August 2024 sitting showing the split between first sit and resit candidates for Civil Litigation revealed that 64% were attempting on a first sit basis (ie first ever attempt at the examination, or previous attempts discounted on the basis of accepted extenuating circumstances), and 43% as resit candidates (ie candidates who had previously failed the examination without mitigating circumstances having been submitted or accepted). First sit cohorts tend to be stronger than resit cohorts, and with this in mind it should be noted that, for the August 2024 Civil Litigation examination, only six of the 17 AETO centres with both first sit and resit candidates reported higher passing rates for their resit cohorts compared to their first sit cohorts.

4.7.4 Passing rates of first sit cohorts at each AETO for Civil Litigation August 2024 sitting

AETOs ranked by First Sit Pass Rate CIVIL LITIGATION	
AETO	**First Sit % Pass**
BPP Leeds	100%
ULaw Nottingham	100%
ICCA	92.9%
ULaw Liverpool	83%
Cardiff	75%
ULaw London	68%
City	58%
ULaw Birmingham	55%
UWE	51.7%
ULaw Leeds	51.5%
BPP Manchester	51%
ULaw Bristol	50%
BPP Birmingham	48.9%
BPP London	40.9%
NTU	33.3%
ULaw Manchester	33%
BPP Bristol	0%
MMU	0%
Northumbria	0%
Hertfordshire	N/A
ULaw Newcastle	N/A

Disregarding both ULaw Newcastle and Hertfordshire, neither of whom had any first sit candidates, seven AETO centres failed to pass more than 50% of their first sit candidates in the August 2024 Civil Litigation assessment.

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

	Dec 22 % Pass	Apr 23 % Pass	Aug 23 % Pass	Dec 23 % Pass	Apr 24 % Pass	Aug 24 % Pass	Average over 6 sits
ICCA	86.5	84.2	78.6	90.6	86.6	88.2	85.8
Ulaw Nottingham	66.7	66.7	100.0		61.5	50.0	69.0
Ulaw Leeds	75.0	66.7	64.5	33.3	75.3	54.2	61.5
City	53.3	73.8	50.5	45.7	71.3	47.0	56.9
Ulaw London	47.5	63.5	64.6	35.1	69.2	59.8	56.6
Ulaw Bristol	33.3	66.7	66.7		74.2	40.0	56.2
Cardiff	77.8	56.0	30.8	70.4	51.4	47.4	55.6
ULaw Newcastle		44.4	80.0		45.5	50.0	55.0
Northumbria	42.9	65.2	54.2	50.0	62.8	48.1	53.9
BPP Manchester	58.9	56.2	48.1	52.8	33.8	53.9	50.6
Ulaw Manchester	57.1	45.5	61.1	27.3	73.0	38.9	50.5
UWE	53.3	48.6	43.6	41.7	59.8	44.8	48.7
Ulaw Birmingham	36.7	61.8	39.1	41.7	52.5	54.9	47.8
BPP Birmingham	53.6	47.6	32.7	48.6	44.7	49.2	46.1
Ulaw Liverpool	50.0	41.1	47.6	35.7	57.0	43.3	45.8
BPP London	52.7	53.8	32.4	42.9	38.5	33.8	42.4
MMU	47.8	41.7	28.6	54.1	80.0	0.0	42.0
BPP Leeds	56.3	38.9	44.4	54.2	26.7	30.8	41.9
BPP Bristol	62.5	22.2	33.3	40.0	52.9	20.0	38.5
Hertfordshire	23.1	33.3	14.3	100.0	50.0	0.0	36.8
NTU	20.8	37.8	42.9	36.0	34.3	15.6	31.2

4.8.1   AETO centre cohorts are listed in order of the average of their Civil Litigation passing rates across the last six sittings of the Bar Training centralised assessments. Note that Hertfordshire entered candidates for the first time in the December 2022 sit, and ULaw Newcastle for the first time in April 2023. Greyed out cells indicate other instances in the table above where an AETO centre did not enter any candidates. The calculation of AETO centre averages have been adjusted to reflect this. The data shows that the ICCA has achieved the highest average passing rate (85.8%), and NTU the lowest at 31.2%. The ICCA cohort has achieved the highest passing rate in four of the last six sittings.

4.8.2 An alternative way of assessing the success of each AETO centre across all the sittings to date is to consider the cumulative total of attempts at the exam by candidates at that AETO made over all sittings thus far, and to compare this with the number of those attempts which were passing attempts. As discussed in section 3.8.2 above, note that individual candidates may attempt an assessment multiple times before making a passing attempt, and so the data below does not represent the percentage of candidates who pass, it represents the percentage of attempts made at the exam which were passing attempts.

BT Civil Litigation - December 2020 to August 2024 (12 sits)			
AETO	Total Number of Attempts	Total Number of Passes	% Pass
ICCA	544	483	88.8%
Ulaw Bristol	122	81	66.4%
Ulaw Leeds	347	228	65.7%
City	2119	1384	65.3%
Cardiff	448	275	61.4%
Ulaw Manchester	290	170	58.6%
Ulaw London	1335	750	56.2%
Ulaw Nottingham	73	40	54.8%
Northumbria	437	228	52.2%
BPP Manchester	782	404	51.7%
ULaw Newcastle	31	16	51.6%
Ulaw Liverpool	244	122	50.0%
Ulaw Birmingham	515	255	49.5%
UWE	788	374	47.5%
BPP Bristol	134	62	46.3%
BPP Leeds	230	106	46.1%
BPP London	2688	1230	45.8%
BPP Birmingham	493	215	43.6%
MMU	177	73	41.2%
NTU	477	159	33.3%
Hertfordshire	34	8	23.5%
TOTAL	12308	6663	54.1%

As can be seen from the above table, Bar Training Civil Litigation have been passed 6,663 times since the first sitting in December 2020, based on 12,308 attempts – thus the aggregate passing rate to date is 54.1%. There are 13 AETOs whose cumulative percentage of passing attempts is lower than this. The range between the highest rate of passing attempts and lowest rate of passing attempts is 65.3%. Nine AETO centres have a cumulative rate of passing attempt below 50%. As noted above with regard to the Criminal Litigation data, this does not imply that less than 50% of candidates ultimately pass this exam, but it does mean that the Civil Litigation exam is passed less than 50% of the times it is attempted at that AETO.

5. FURTHER COMPARATIVE ANALYSIS

5.1 Comparing performance in Criminal and Civil Litigation examinations

The post-intervention passing rates for the August 2024 sits in Criminal Litigation and Civil Litigation were very close to each other, at 47.6% and 45.4% respectively, with the Criminal Litigation cohort having a slightly higher percentage of resitting candidates (52.5% vs 51%). There were 489 Bar Training candidates who could be easily identified as having attempted both Litigation assessments at the August 2024 sitting and the cross-tabulated outcomes, are as follows:

(a) All candidates attempting both papers:

	Pass Crime	Fail Crime
Pass Civil	133	45
Fail Civil	56	255

	Pass Crime	Fail Crime
Pass Civil	27.2%	9.2%
Fail Civil	11.5%	52.1%

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

	Pass Crime	Fail Crime
Pass Civil	76	14
Fail Civil	17	53

	Pass Crime	Fail Crime
Pass Civil	47.5%	8.8%
Fail Civil	10.6%	33.1%

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

	Pass Crime	Fail Crime
Pass Civil	47	22
Fail Civil	33	154

	Pass Crime	Fail Crime
Pass Civil	18.4%	8.6%
Fail Civil	12.9%	60.2%

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 have rather different formats), the number of candidates in these two cells should be approximately equal. To the extent that this data provides a reliable means of evidencing whether or not the two papers (notwithstanding their differing formats) provided a similar level of challenge, some comfort can be drawn from the relative closeness of the figures in the shaded boxes at (b) in respect of the performance of fist sit candidates. As the tables below indicate, using the Pearson correlation coefficient ('Pearson R' analysis of correlation) suggest a strong correlation in terms of the performance of all candidates attempting both examinations.

Bar Training Candidates Sitting Both Exams Correlation of Criminal Litigation and Civil Litigation Post-Intervention Scores			
Group	Number of Candidates	Pearson's R	Interpretation
All BT Candidates Sitting Both Exams	489	0.73	Strong Correlation
BT Candidates First Sitting Both Exams	160	0.79	Strong Correlation
BT Candidates Resitting Both Exams	256	0.58	Moderate Correlation

Pearson's R Interpretation Index	
Pearson's R	**Interpretation**
0.80 --- 1.00	**Very Strong Correlation**
0.60 --- 0.799	**Strong Correlation**
0.40 --- 0.599	**Moderate Correlation**
0.20 --- 0.399	**Weak Correlation**
0.01 --- 0.199	**Very Weak Correlation**
0.00	**No Correlation**

It should be noted that whilst there were 498 candidates in all – as represented in table (a), not all candidates were first sitting both papers or resitting both papers (some may have been first sitting one and resitting another) – hence the sum of tables (b) and (c) does not equal 498.

5.2 Centralised assessment post-intervention pass rates compared December 2020 to August 2024

ALL-AETO Post-Intervention	Dec-20		Apr-21		Aug-21	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	383	407	1104	989	827	738
Passing Rate	59.8%	55.8%	46.2%	55.5%	42.4%	41.3%
Pass Standard	44/75	50/90	41/75	52/89	46/75	50/89
Reliability Score	0.91	0.91	0.86	0.90	0.85	0.88
ALL-AETO Post-Intervention	Dec-21		Apr-22		Aug-22	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	824	823	1653	1517	802	790
Passing Rate	55.9%	53.6%	63.7%	59.6%	52.5%	46.2%
Pass Standard	44/75	50/90	44/75	49/89	42/75	52/90
Reliability Score	0.87	0.89	0.89	0.90	0.85	0.85
ALL-AETO Post-Intervention	Dec-22		Apr-23		Aug-23	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	596	929	1583	1671	842	889
Passing Rate	49.8%	56.4%	65.6%	59.8%	39.9%	45.1%
Pass Standard	44/75	48/90	43/75	51/89	43/75	50/89
Reliability Score	0.89	0.90	0.90	0.90	0.88	0.90
ALL-AETO Post-Intervention	Dec-23		Apr-24		Aug-24	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	805	833	1754	1748	1008	987
Passing Rate	55.2%	53.2%	60.5%	59.8%	47.6%	45.4%
Pass Standard	42/75	49/90	41/75	51/90	41/75	49/90
Reliability Score	0.91	0.92	0.90	0.92	0.84	0.87

For both Criminal and Civil Litigation candidate numbers for August 2024 were the highest for an August sitting since the new format for the centralised assessments was introduced for the December 2020 sitting. Passing rates for both assessments are largely in line with previous August sittings, where the passing rate tends to be lower than that achieved in either of the December or April sittings. The April 2023 passing rate for Criminal Litigation (65.6%) is the highest recorded for either subject across the 12 sittings, and the August 2023 passing rate for Criminal Litigation (39.9%) is the lowest. The variations in cohort size tends to reflect the course structures adopted by AETOs, which in turn determines when most candidates will be attempting each of the centralised assessments for the first time. Cohort numbers are also impacted by the approval of additional AETOs and AETO centres. There were 9 cohorts entered for December 2020, 18 for April 2021, and 21 had been authorised by the time of the April 2023 sitting.

All Litigation	All Litigation	All Litigation	All Litigation
All sits	Dec	April	August
52.95%	54.96%	58.84%	45.05%
Criminal Litigation	Criminal Litigation	Criminal Litigation	Criminal Litigation
All	Dec	April	August
53.26%	55.18%	59.00%	45.60%
Civil Litigation	Civil Litigation	Civil Litigation	Civil Litigation
All	Dec	April	August
52.64%	54.75%	58.68%	44.51%

Overall passing rates across the eleven sittings to date of the current format assessments show an average passing rate of 52.95%, with the average passing rate for Criminal Litigation (53.26%) being very marginally higher than that for Civil Litigation (52.64%). In terms of variation in passing rates across sittings, the April cohorts have on average, been the strongest (58.84%) with the August cohorts the weakest (45.05%). This data shows averages of passing rates across sittings and does not reflect the volume of candidates at any given sitting (ie passing rates at April sittings have the same weighting as passing rates at August sittings, despite the higher volume of candidates normally entered for an April sit).

5.3 August 2024 post-intervention pass rates for both Criminal Litigation and Civil Litigation by AETO

AETO	Civil Litigation	Criminal Litigation	AVERAGE
ICCA	88%	88%	87.9%
ULaw Newcastle	50%	83%	66.7%
ULaw London	59%	61%	60.0%
ULaw Leeds	54%	60%	57.1%
Cardiff	47%	59%	53.1%
ULaw Liverpool	43%	60%	51.7%
ULaw Birmingham	55%	46%	50.6%
BPP Birmingham	49%	47%	48.2%
ULaw Manchester	39%	57%	48.0%
City	47%	46%	46.7%
BPP Manchester	54%	37%	45.6%
UWE	45%	40%	42.6%
Northumbria	48%	36%	42.1%
BPP Bristol	20%	62%	40.8%
ULaw Bristol	40%	40%	40.0%
BPP London	34%	42%	37.8%
ULaw Nottingham	50%	25%	37.5%
MMU	0%	67%	33.3%
BPP Leeds	31%	26%	28.5%
NTU	16%	29%	22.5%
Hertfordshire	0%	33%	16.7%

5.3.1   AETO cohorts are listed in descending order of the average of their passing rates across the two August 2024 Litigation examinations. The ICCA, therefore, had the highest average passing rate across both litigation subjects at 87.9%, with ULaw Newcastle next on 66.7%. Hertfordshire recorded the lowest average at 16.7% largely due to having no candidates passing Civil litigation (despite entering 5 resit candidates). Overall, 14 of the 21 AETO centres entering candidates failed to achieve an average passing rate, across the two litigation subjects of 50%. These figures need to be viewed with caution, however, as they are distorted, to some extent by low cohort numbers in some cases.

5.3.2   An alternative way of looking at the extent to which AETO centres were successful in supporting their candidates in the August 2024 Litigation assessments is to aggregate the total number of candidates entered for each exam at an AETO centre and compare this with the aggregate number of candidates passing at that AETO centre.

AETO	Aug-24 Criminal Candidates	Aug-24 Civil Candidates	Total Aug-24 Instances of Assessment	Total Passing Criminal	Total Passing Civil	Total Aug-24 Candidates Passing an Exam	Overall % of Candidates Passing an Exam in Aug-24
BPP Birmingham	36	61	97	17	30	47	48.5%
BPP Bristol	13	5	18	8	1	9	50.0%
BPP Leeds	19	13	32	5	4	9	28.1%
BPP London	256	222	478	107	75	182	38.1%
BPP Manchester	51	89	140	19	48	67	47.9%
Cardiff	17	19	36	10	9	19	52.8%
City	142	132	274	66	62	128	46.7%
Hertfordshire	3	5	8	1	0	1	12.5%
ICCA	24	34	58	21	30	51	87.9%
MMU	12	11	23	8	0	8	34.8%
Northumbria	25	27	52	9	13	22	42.3%
NTU	51	45	96	15	7	22	22.9%
ULaw Birmingham	54	51	105	25	28	53	50.5%
ULaw Bristol	5	5	10	2	2	4	40.0%
ULaw Leeds	50	48	98	30	26	56	57.1%
ULaw Liverpool	35	30	65	21	13	34	52.3%
ULaw London	111	102	213	68	60	128	60.1%
ULaw Manchester	28	18	46	16	7	23	50.0%
ULaw Newcastle	6	6	12	5	3	8	66.7%
ULaw Nottingham	8	6	14	2	3	5	35.7%
UWE	62	58	120	25	26	51	42.5%
TOTAL	1008	987	1995	480	447	927	46.5%

As the table above shows, the ICCA was the most successful AETO in terms of the percentage of candidates entered for any of the August 2024 examinations achieving a pass, in either examination, with a figure of 87.9%. At the other extreme, at Hertfordshire, only 12.5% of its candidates managed to get through either exam. Out of 21 AETO centres, 12 failed to achieve a 50% progression rate calculated on this basis.

5.3.3 The extent to which these outcomes reflect the impact of resitting candidates remains, to some extent, a matter of conjecture. If there is a correlation between lower passing rates and the number of resitting candidates, it might be reasonable to expect any AETO centre with an above average percentage of first sit candidates to be able to achieve a higher-than-average passing rate across both Litigation subjects taken together. For the August 2024 sitting, there were 1,995 candidates across the two litigation subjects, of which 1,036 (51.9%) were resitting. It might be expected that the ICCA, with the highest percentage of first sit candidates across the two litigation assessments taken together (79.3%) would have the highest overall passing rate as detailed at 5.3.2 (above). The correlation does not necessarily hold true for other AETOs, however. ULaw Newcastle had no first sit candidates yet achieved an overall passing rate of 66.7%. Cardiff had fewer than 20% of its candidates first sitting yet achieved an overall passing rate of 52.8%.

5.3.4 Looking across the last twelve cycles of Bar Training centralised Litigation assessments there is no compelling evidence to suggest AETO cohorts have found the Civil Litigation assessment more challenging than those in Criminal Litigation, although the outcomes for specific sittings are quite marked. The table below shows the variance in passing rates between the two Litigation subjects for each AETO centre at each of the twelve sittings for the current assessment format (AETOs without cohorts for a sitting have blank data cells). The blue shading (negative) indicates that candidates have performed better on Crime than on Civil, hence, at BPP Birmingham in December 2020 the Civil Litigation passing rate was 3.6% below that for Criminal Litigation.

	Dec-20	Apr-21	Aug-21	Dec-21	Apr-22	Aug-22
BPP Birmingham	-3.6%	12.3%	7.8%	-14.0%	-13.8%	9.1%
BPP Bristol	-2.6%	6.3%	12.1%	-0.8%	-11.4%	-1.6%
BPP Leeds	-26.9%	20.6%	-26.7%	8.6%	-1.3%	-2.9%
BPP London	-3.7%	12.7%	-10.2%	-6.6%	7.6%	-1.2%
BPP Manchester	-2.6%	16.1%	-16.1%	0.1%	-2.3%	-12.9%
Cardiff	-2.0%	13.6%	0.7%	20.7%	-2.9%	-19.0%
City	12.3%	13.7%	7.1%	-8.7%	3.0%	-5.5%
Hertfordshire						
ICCA	0.0%	6.7%	14.3%	-5.4%	-5.3%	-7.1%
MMU	-13.3%	0.8%	9.1%	15.8%	-26.0%	-17.9%
Northumbria		3.8%	8.4%	3.6%	-12.5%	6.9%
NTU		-9.2%	4.6%	8.7%	-9.4%	1.8%
ULaw Birmingham		12.8%	9.2%	-17.8%	-20.5%	-6.3%
ULaw Bristol		-3.1%	-25.0%		-5.6%	0.0%
ULaw Leeds		17.9%	7.9%	17.9%	-9.0%	-4.0%
ULaw Liverpool					-8.1%	10.0%
ULaw London		0.1%	-5.3%	-7.6%	-8.2%	-13.3%
ULaw Manchester		21.5%	-2.3%	0.0%	-15.7%	5.6%
ULaw Newcastle						
ULaw Nottingham		-22.9%	-100.0%	0.0%	-27.7%	-4.8%
UWE		13.0%	5.5%	-7.3%	-5.1%	-19.5%
Average	**-4.7%**	**7.6%**	**-5.5%**	**0.4%**	**-9.2%**	**-4.3%**

	Dec-22	Apr-23	Aug-23	Dec-23	Apr-24	Aug-24	Average
BPP Birmingham	0.8%	-21.2%	-18.8%	-3.1%	0.7%	2.0%	-3.5%
BPP Bristol		-77.8%	22.2%	15%	-33.3%	-41.5%	-10.3%
BPP Leeds	-3.8%	-11.1%	-15.6%	-5.8%	-2.4%	4.5%	-5.2%
BPP London	11.0%	-9.8%	0.8%	-1.1%	-5.8%	-8.0%	-1.2%
BPP Manchester	13.2%	-8.4%	-5.0%	-1.6%	-11.5%	16.7%	-1.2%
Cardiff	17.8%	-27.8%	-22.6%	-8.0%	-16.7%	-11.5%	-4.8%
City	9.1%	-0.5%	11.9%	-9.1%	8.6%	0.5%	3.5%
Hertfordshire	3.1%	11.1%	14.3%	0%	2.0%	-33.3%	-0.5%
ICCA	-2.6%	-5.0%	0.8%	-0.9%	-18.3%	0.7%	-1.8%
MMU	-10.5%	16.7%	14.3%	5%	0.5%	-66.7%	-6.0%
Northumbria	-14.3%	-10.8%	18.5%	6%	16.7%	12.1%	3.5%
NTU	-16.7%	1.6%	11.3%	10%	4.5%	-13.9%	-0.6%
ULaw Birmingham	-2.2%	1.8%	4.1%	8%	12.1%	8.6%	0.9%
ULaw Bristol	33.3%	-8.3%	23.8%		-41.5%	0.0%	-2.9%
ULaw Leeds	0.0%	0.0%	7.8%	-3.0%	0.0%	-5.8%	2.7%
ULaw Liverpool	50.0%	-6.4%	7.6%	-10.4%	-8.0%	-16.7%	2.2%
ULaw London	6.7%	-3.7%	10.2%	-11.2%	25.0%	-2.4%	-0.9%
ULaw Manchester	57.1%	-17.3%	22.6%	-12.7%	-66.7%	-18.3%	-2.4%
ULaw Newcastle		-44.5%	-20.0%		4.5%	-33.3%	-23.3%
ULaw Nottingham	66.7%	-10.2%	0.0%		-13.9%	25.0%	-8.8%
UWE	28.3%	0.3%	14.3%	-3.6%	-33.3%	4.5%	-0.3%
Average	13.0%	-11.0%	9.9%	-1.5%	-8.4%	-8.4%	

The biggest average differential is recorded by the ULaw Nottingham figure – 24.4% higher in Criminal Litigation (albeit across only 4 sittings). For the 8 AETO centres with results across all 12 sittings, the biggest average differential is at City with a 7.2 % better outcome in respect of Civil Litigation. Despite the overall passing rates in both Litigation subjects being very close in the August 2024 sitting, there were 11 AETO cohorts that performed more strongly in Criminal Litigation compared to Civil Litigation.

5.4 AETO average passing rates since December 2020

An analysis of passing rates achieved by each AETO cohort in both Litigation subjects across all ten 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:
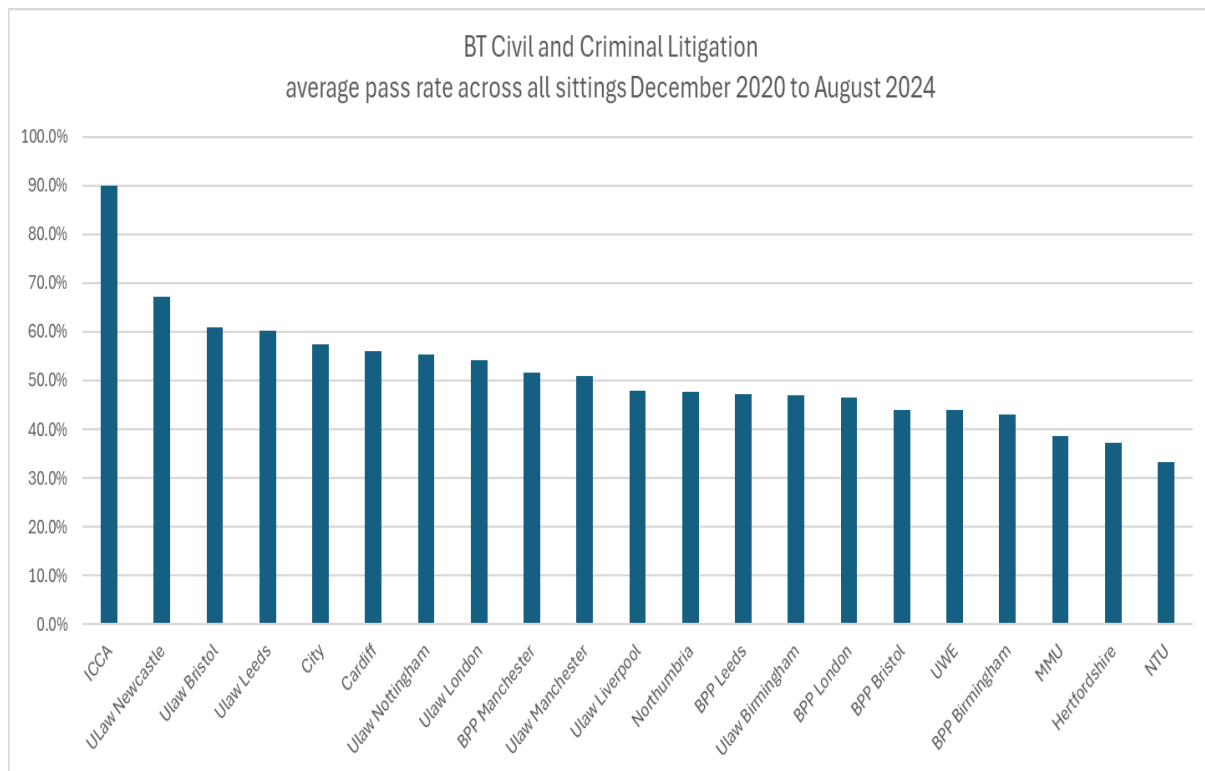
The ICCA has the highest average passing rate across both Litigation subjects and all sittings to date at 89.9%, and NTU the lowest at 33.2%. The ICCA is, thus far, some way ahead of the other AETO centres in terms of cohort performance, the gap between it and second placed ULaw Newcastle being 22.7% (the ULaw Newcastle figure itself needs to be seen in the context of this AETO having only entered 4 cohorts to date) 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 1.2.6 when considering these results.

5.5 Overall passing rates across both subjects December 2020 to August 2024 23

5.5.1   Cumulative passing rate to date disaggregated by AETO centre

BT Civil and Criminal Litigation December 2020 to August 2023			
AETO	**Total No. of Attempts**	**Total No. of Passes**	**% Pass**
ICCA	1074	965	89.9%
Ulaw Bristol	239	162	67.8%
Ulaw Leeds	721	467	64.8%
City	4400	2789	63.4%
Cardiff	890	551	61.9%
ULaw Newcastle	58	35	60.3%
Ulaw Manchester	581	343	59.0%
Ulaw London	2690	1541	57.3%
Ulaw Nottingham	138	78	56.5%
Northumbria	817	440	53.9%
BPP Manchester	1470	766	52.1%
Ulaw Liverpool	488	249	51.0%
Ulaw Birmingham	1046	530	50.7%
BPP Leeds	447	216	48.3%
BPP Bristol	252	117	46.4%
BPP London	5162	2376	46.0%
UWE	1674	765	45.7%
BPP Birmingham	939	423	45.0%
MMU	367	154	42.0%
NTU	960	324	33.8%
Hertfordshire	76	17	22.4%
TOTAL	**24489**	**13308**	**54.3%**

This table aggregates all the attempts by candidates at both the Criminal Litigation and Civil Litigation examinations across all eleven sittings from December 2020 to August 2024. In total there have been 24,489 attempts at the centralised assessments by Bar Training candidates, of which 13,308 have been successful (54.3%). As can be seen, 12 AETO centres have a cumulative rate of passing attempts lower than this overall passing rate, with eight AETO centres seeing less than 50% of all attempts being passing attempts since the introduction of the Bar Training course in 2020. As discussed at sections 3.8.2 and 4.8.2, this does not equate to less than 50% of candidates passing because individual candidates may be recorded as having multiple failing attempts before ultimately making a single passing attempt. Similarly, overall pass rates from the table above (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; however, both pieces of

data provide insights into how successful each AETO centre has been in supporting its candidates to pass the centralised Litigation assessments within fewer attempts.

5.5.2   Cumulative passing rate disaggregated by AETO group – 11 sittings to date

The table below takes the data used for table 5.5.1 but aggregates the cumulative totals for the six University of Law centres and the five BPP centres, to produce an aggregate cumulative score for each of those AETOs across all their centres.

BT Civil and Criminal Litigation December 2020 to August 2023			
AETO	**Total No. of Attempts**	**Total No. of Passes**	**% Pass**
ICCA	1074	965	89.9%
City	4400	2789	63.4%
Cardiff	890	551	61.9%
ULaw Group	5961	3405	57.1%
Northumbria	817	440	53.9%
BPP Group	8270	3898	47.1%
UWE	1674	765	45.7%
MMU	367	154	42.0%
NTU	960	324	33.8%
Hertfordshire	76	17	22.4%

Presenting the data this way shows that the ICCA remains the most successful AETO in terms of the percentage of attempts at a centralised assessment being deemed a pass, 26% ahead of the second placed AETO, City. Of the two largest AETOs, ULaw is ahead of BPP, although ULaw has not entered cohorts for all sittings. Five AETO groups have not, to date, managed to exceed the 50% overall success level for centralised Litigation assessments.

6. BAR TRAINING RESIT RESULTS AUGUST 2024

For the December 2023 sitting the BSB decided to pilot a scheme to allow candidates, who commenced their Bar training from September 2020 onwards, to take further re-sits of the elements of assessment that are necessary to be Called to the Bar (which the BSB regulates), even if they had reached the maximum number of permitted re-sits for the academic award at their training provider such as a Postgraduate Diploma or LLM (which the BSB does not regulate). For the December 2023 pilot scheme this facility was made available for BPP students only. From April 2024 this was facility was extended to students from all AETOs. Candidates attempt the same assessments as other Bar Training and BTT candidates. Candidates were again offered this resit facility for the August 2024 sitting, the results for which were as follows:

Bar Training Resit Post-Intervention	Dec-23		Apr-24		Aug-24	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	8	6	19	31	26	26
Passing Rate	50.0%	33.3%	26.3%	51.6%	42.3%	46.2%

7. BAR TRANSFER TEST RESULTS AUGUST 2024

The results for Bar Transfer Test ('BTT') candidates attempting the August 2024 BTT assessments were considered by the Litigation Subject Exam Boards and the Final Board. For the August 2024 sit, all BTT candidates attempted the same centrally assessed exam papers as the Bar Training Course candidates. See sections 3 and 4 (above) for details of the exam board discussion of interventions etc. The BTT passing rates in August 2024 for both litigation subjects fall within the range of previous sittings, and both exceed the to date average passing rates.

BPTC Post-Intervention	Apr-22		Aug-22		Dec-22	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	167	229	70	43	45	31
Passing Rate	48.5%	31.0%	44.3%	25.6%	40.0%	45.2%
BPTC Post-Intervention	**Apr-23**		**Aug-23**		**Dec-23**	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	36	57	29	37	15	12
Passing Rate	42.0%	53.0%	17.2%	30.0%	40.0%	25.0%
BPTC Post-Intervention	**Apr-24**		**Aug-24**		**Dec-24**	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	24	18	19	17		
Passing Rate	29.2%	22.2%	15.8%	29.4%		

8. BPTC RESULTS AUGUST 2024

8.1 Unification of assessment regimes

8.1.1 There are no longer any discrete BPTC assessments, the final opportunity to take an 'old style' BPTC 75 MCQ Civil Litigation paper was the April 2022 sit. See sections 3 and 4 (above) for details of the exam board discussion of interventions etc.

8.2 BPTC Passing rates December 2021 to August 2024

BPTC Post-Intervention	Apr-22		Aug-22		Dec-22	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	167	229	70	43	45	31
Passing Rate	48.5%	31.0%	44.3%	25.6%	40.0%	45.2%
BPTC Post-Intervention	**Apr-23**		**Aug-23**		**Dec-23**	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	36	57	29	37	15	12
Passing Rate	42.0%	53.0%	17.2%	30.0%	40.0%	25.0%
BPTC Post-Intervention	**Apr-24**		**Aug-24**		**Aves to date**	
	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation	Criminal Litigation	Civil Litigation
No of Candidates	24	18	19	17		
Passing Rate	29.2%	22.2%	15.8%	29.4%	34.6%	32.7%

As the above table shows, the number of BPTC candidates is steadily declining, with a total of 36 candidate entries across the two Litigation assessments for the August l 2024 sitting, compared with 42 for the April 2024 sitting. Understandably, given the cohort composition and distance in time between the delivery of tuition and attempting the assessment, the BPTC outcomes do not compare favourably with those for the main Bar Training cohort, passing rates being 31.8% lower in Criminal Litigation, and 16% lower in respect of Civil Litigation. The BPTC passing rate for Criminal Litigation in August 2024 was 18.8% below the average across the last 8 BPTC cohort sittings, and for Civil Litigation the figure was 3.3% below. The passing rate for Criminal Litigation in August 2024 was also the lowest BPTC subject passing rate in the current reporting period.

Professor Mike Molan
Chair of the Central Examination Board
29 October 2024