

**BAR
STANDARDS
BOARD**

REGULATING BARRISTERS

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

**Pupillage stage Professional Ethics
July 2024 Sitting**

1. EXECUTIVE SUMMARY

The ninth sitting of the pupillage component Professional Ethics examination was held on Tuesday 23 July 2024 at 2pm. The summary of results is as follows:

July 2024	
Total Number of Candidates	62
Number Passing	56
Passing Rate (%)	90.3%

All Exams To-Date										
	Apr-22	Jul-22	Oct-22	Jan-23	Apr-23	Jul-23	Jan-24	Apr-24	Jul-24	Avg. Passing Rate
Number of Candidates	112	25	9	213	59	51	344	115	62	86.4%
Number Passing	107	23	7	196	42	46	281	100	56	
Passing Rate	95.5%	92.0%	77.8%	92.0%	71.2%	90.2%	81.7%	87.0%	90.3%	

The July 2024 sitting saw 62 candidates attempting the assessment. The passing rate was slightly above the average across the pupillage stage assessments of Professional Ethics since the first sitting in April 2022. There were no interventions required in respect of any cohorts of candidates for the July 2024 sitting and no interventions required in respect of any of the assessment questions. For more detail on candidate journey data see 5.7.1.

2. THE ASSESSMENT OF PROFESSIONAL ETHICS

2.1 Bar Training

In 2020, following on from the Future Bar Training reforms, the Bar Professional Training Course (BPTC) was replaced as the vocational stage of training by a range of permitted pathways that could be used to deliver Bar Training. Authorised Education and Training Organisations (AETOs) providing a Bar Training course are required to provide tuition in, and assessment of, professional ethics to a foundation level. The Centralised Examinations Board (CEB) is not involved in the assessment of professional ethics in the Bar Training courses delivered by AETOs.

2.2 Professional Ethics assessment during pupillage

Following a transition period, passing the Professional Ethics assessment during pupillage is now¹ a requirement for all pupils unless they have a specific exemption authorised by the BSB. Pupils cannot obtain a full practising certificate until they have been deemed competent for the purposes of the pupillage component Professional Ethics assessment. The setting and marking of the pupillage component Professional Ethics assessment is overseen by the CEB, on behalf of the Bar Standards Board (BSB). The first sitting of the pupillage component assessment was in April 2022. To be eligible to attempt the assessment, candidates must have completed three months of pupillage by the date of their first attempt at the examination (unless granted a reduction in pupillage). Examinations are normally offered three times per year and there is no limit on the number of attempts by candidates.

For more information on the background to the introduction of the pupillage component Professional Ethics assessment, see the BSB paper published in April 2020 available here: <https://www.barstandardsboard.org.uk/training-qualification/becoming-a-barrister/pupillage-component/intro-of-professional-ethics-assessment.html>

¹ From the July 2024 Ethics assessment onwards

3. THE PUPILLAGE COMPONENT PROFESSIONAL ETHICS EXAMINATION

3.1 What is assessed – Syllabus

A Professional Ethics syllabus team, comprising academics and practitioners advises the CEB regarding the syllabus for the Professional Ethics assessment and a final update, for all 2024 sittings, was provided to candidates in October 2023, see: <https://www.barstandardsboard.org.uk/static/b6ade09d-d302-479d-97803aa988157072/BSB-Professional-Ethics-Pupillage-WBL-Assessment-Syllabus-23-24.pdf>

3.2 How is Professional Ethics assessed during the pupillage component?

The Professional Ethics assessment is an exam comprising 12 questions. All questions are equally weighted. Consecutive questions may or may not be connected. The exam is three hours long and is open book: candidates have access to the BSB Handbook in electronic format for the duration of the exam. The questions posed consist of scenarios set within professional practice, each of which requires the candidate to engage with one or more issues, applying ethical principles in order to identify, critically analyse and address the matters raised, and to reach an appropriate resolution of those issues. Candidates are required to provide responses in the form of narrative prose or short answer and to apply their knowledge of ethical principles and, using the provisions of the BSB Handbook, guidance, and other syllabus materials, provide comprehensive analysis and sound reasoning in their answers. From the January 2023 sitting examiners adopted a standard format stem for each question: *“Identifying the relevant ethical issues and applying them to the facts, explain what ethical issues arise [for A / for A and B] in this scenario and how they should be resolved.”*

3.3 What constitutes competency in the examination?

The pupillage component examination in Professional Ethics is designed to assess whether or not candidates have achieved the threshold standard expected of barristers on their first day of practice as defined in the Professional Statement; see: <https://www.barstandardsboard.org.uk/uploads/assets/0279b209-dab6-40c9-a554af54994e2566/bsbprofessionalstatementandcompetences2016.pdf>

3.3.1 In terms of notification of results, candidates will be awarded one of two grades in respect of their overall performance. Those achieving the required standard overall will be graded as 'Competent', and those not achieving the required standard overall will be graded as 'Not Competent'. As part of the internal marking process a candidate's answer to any given question is allocated to one of four categories:

- Good (Competent)
- Satisfactory (Competent)
- Poor (Not Competent)
- Unacceptable (Not Competent)

See **Appendix 1** for a more detailed definition of the key characteristics of an answer deemed to fall within any of these four categories.

3.3.2 In order to be awarded an overall grading of 'Competent', a candidate would normally be expected to have achieved a grading of at least 'Satisfactory' in respect of 8 out of 12 questions. For details of scripts that are treated as automatic passes, scripts that are subject to holistic review to determine whether the candidate has passed or not, and those scripts resulting in automatic fails, see further sections 4.3.3 to 4.3.6 (below).

3.3.3 Notwithstanding 3.3.2 (above), where a candidate has three or more answers graded as 'Unacceptable' the candidate will be graded 'Not Competent' in respect of the overall assessment, regardless of the grades awarded in respect of answers for other questions.

3.4 How candidates prepare for the examination

The BSB does not prescribe any programme of prior study by way of preparation for the examination. A practice assessment that candidates can use for developmental purposes is provided on the BSB website, along with an example mark scheme, and guidance on the grading system. Information about all BSB and external support materials can be found here: <https://www.barstandardsboard.org.uk/training-qualification/becoming-a-barrister/pupillage-component/intro-of-professional-ethics-assessment.html>

3.5 How the assessment is administered

The assessment is a computer-based test. Candidates are required to register their intention to take the examination with the BSB and to book either a remotely proctored online assessment, or computer-based assessment at one of the designated test centres – full details are available here:

<https://www.barstandardsboard.org.uk/training-qualification/becoming-a-barrister/pupillage-component/intro-of-professional-ethics-assessment/professional-ethics-exam-candidate-guide/part-1-about-your-professional-ethics-assessment.html>

Reasonable adjustments, including the provision of a pen and paper-based assessment, are available for candidates who notify the BSB of their needs within the timelines set out in the BSB's Adjustments and Other Arrangements Policy, found here: <https://www.barstandardsboard.org.uk/static/fc606779-c7ba-4d48-b9258bc52c2ce000/Professional-Ethics-Adjustments-and-other-arrangements-policy.pdf>

4. QUALITY ASSURANCE

4.1 Pre exam: paper drafting and confirmation process

The bank of material used for compiling the pupillage stage Professional Ethics assessment is comprised of questions written by legal practitioners and professional legal academics who have received training from the Professional Ethics Examining Team. The question writers are allocated topics from the syllabus by the Chief Examiner, and all submitted questions, along with suggested mark schemes and indicative content (suggested answers), are reviewed by the Examining Team (which has a strong practitioner representation). The Examining Team compiles a draft examination paper, ensuring that it complies with core assessment principles including level of difficulty, fairness to candidates and syllabus coverage. Each draft paper and accompanying draft mark scheme and indicative content statement is considered at a paper confirmation meeting, convened by the Chair of the CEB. The purpose of the paper confirmation meeting is to ensure that the assessment is suitably rigorous, fair to the candidates, and that the content is both sufficiently plausible and comprehensible. In addition, the mark scheme for each question is reviewed to ensure that it is accurate, appropriate, and proportionate. Following the paper confirmation meeting, the paper, mark scheme and indicative content statement will undergo a syllabus check by the syllabus officer before being reviewed by a Pilot Tester (Paper Scrutiniser) and Proof-reader. The Chief Examiner responds to comments and suggestions arising from these further checks, incorporating changes to the paper where necessary. Once these processes have been completed the examination paper is uploaded to the online system by the BSB Exams Team ready for use in the next scheduled examination.

4.2 Post exam: standard setting and mark scheme development

- 4.2.1 Standard setting takes place following the sitting of the examination. Standard setting is the process of differentiating between the levels of candidate performance and, in this context, whether a level of candidate performance is to be deemed 'Competent' or 'Not Competent'. This process ensures that a consistent pass standard can be maintained notwithstanding that the level of challenge offered by one examination paper may vary compared to another due to the nature of the questions set. The standard setting team is comprised of legal practitioners and academics, supervised by the Examining Team.
- 4.2.2 The standard setting exercise requires standard setters to identify the pass standard for each of the 12 questions. In effect this requires standard setters to identify what should appear in the answers of a candidate displaying the threshold level of competence in Professional Ethics as referenced in the Professional Statement as well as the definition of the classifications of Competent and Not Competent respectively, details of which have been published on the BSB website (see above). Standard setters do not expect candidate responses to be of the quality that might be expected from a KC or leading junior, but of an individual who has completed three months of pupillage and who, on the basis of their answers, can be regarded as "comfortably safe".

4.2.3 Standard setters also bear in mind the context in which the assessment is sat namely that:

- (i) candidates have had exposure to professional practice for a minimum of three months (unless granted a reduction in pupillage), having successfully completed the vocational element of training, including foundation level Professional Ethics;
- (ii) the assessment is a three hour long open book exam; and
- (iii) the objective of the assessment is to test candidates' application of knowledge.

4.2.4 For the first part of the standard setting process, standard setters are asked to identify (independently of each other), the content for each question they consider the notional 'minimally competent candidate' should be able to provide by way of a response for each question. The standard setters are provided with copies of the draft mark scheme and indicative content statement produced by the Examining Team and confirmed as part of the paper confirmation process and are also provided with a sample of candidate answers for each question. During this period, members of the Examining Team review a wider sample of candidate answers, collecting additional material or content for discussion. Responses from the standard setters regarding expected content for each question are collated by the Examining Team (along with the additional content) and circulated for discussion at a plenary meeting attended by all standard setters, the Examining Team, and BSB Exams Team. The submitted content is discussed at the plenary standard setters' meeting and the pass standard for each question is agreed, along with the content of the mark scheme to be provided to markers, detailing the criteria for four possible gradings: 'Good'; 'Satisfactory' (both 'Competent'); 'Poor'; and 'Unacceptable' (both 'Not Competent'). The Independent Observer attends the plenary standard setters' meeting and comments on the process where necessary.

4.2.5 From the April 2024 cohort onwards, an additional quality assurance step was implemented. Following the standard setting meetings the Examining Team applies the final mark scheme to a further sample of three responses (that have not been seen by standard setters) to test the amended mark scheme before it is shared with markers. The change is helpful in ensuring that markers understand how to apply the final mark scheme and in resolving any remaining issues during the marking stage.

4.3 Post exam: markers' meetings and the marking process

- 4.3.1 Before any 'live' marking is undertaken, a markers' meeting is convened to give markers the opportunity to discuss the operation of the mark scheme. Prior to the meeting, markers are provided with a number of sample scripts (drawn from the candidate cohort) which they mark independently. Markers submit the marks and the feedback to be given to the candidate before the meeting. "Think-aloud marking" takes place using the sample scripts along with further samples so that all markers within the team understand the application of the scheme. Following this meeting, the mark scheme may be further amended to include instructions to markers in respect of specific content of the scheme for particular questions.
- 4.3.2 Markers are allocated two specific questions to mark. Marking teams are supervised by a team leader (an experienced marker) who also marks scripts and moderates the marking of their team. Team Leaders meet with the Examining Team in advance of the markers' meeting and are given guidance on how to perform their role. Feedback is given to all markers during the moderation/calibration process which takes place following the markers' meeting. The marking by Team Leaders is first moderated by the Examining Team, and then (once the Examining Team is satisfied) Team Leaders go on to moderate their marking teams. The Examining Team also continues to carry out dip sampling during the live first marking period. All scripts are double marked, and where the two markers disagree a further review process is instituted to resolve differences. Markers are instructed to escalate scripts to their Team Leader where guidance or clarification is required, and Team Leaders escalate to the Examining Team, if necessary. Clarification and/or guidance is provided by the Examining Team to all relevant markers when required during the process. Where an answer is graded 'Unacceptable' by two markers, this is escalated either to the Team Leader or, where the team leader is one of the pair of markers involved, to the Examining Team either to approve the Unacceptable grade or otherwise.
- 4.3.3 Once marking and moderation is completed, scripts that have eight or more 'Satisfactory' or 'Good' and no more than two 'Unacceptable' answers ("automatic passes") are removed from further review processes. All such scripts are graded overall 'Competent'. Scripts with four or fewer 'Satisfactory' or 'Good' answers ("automatic fails") are also removed from further review processes. All such scripts are graded overall 'Not Competent.'
- 4.3.4 Scripts with three or more answers graded 'Unacceptable' are reviewed again by a member of the Examining Team. Confirmation that a script contains three or more answers graded 'Unacceptable' will result in the script being removed from further review processes. All such scripts are graded overall 'Not Competent.' If a script is found, as a result of this process, to contain two or fewer answers graded 'Unacceptable' it will be allocated for holistic review.

4.3.5 Scripts containing between five and seven ‘Satisfactory’ or ‘Good’ answers (and no more than two ‘Unacceptable’ answers) will be subject to a final holistic review. This review involves a “read through” of a complete script to enable the reviewers to judge whether or not the candidate has met the competence threshold (bearing in mind the threshold criteria contained in the Professional Statement and the General Descriptors). The overriding criterion for grading a script as ‘Competent’ is that, on the basis of the candidate’s performance across the paper as a whole, there is no reasonable doubt that s/he had displayed an awareness of Professional Ethics issues commensurate with the granting of a full practising certificate. The *rebuttable* presumptions are:

- (i) that those scripts containing seven ‘Satisfactory’ or ‘Good’ answers will meet the threshold for competence;
- (ii) and that those scripts containing five answers graded ‘Satisfactory’ or ‘Good’ will not.

Scripts with six answers graded ‘Satisfactory’ or ‘Good’ will be carefully scrutinised, using the same principles, reviewers being mindful that that this category contains scripts which are very much on the competence threshold. Each script is reviewed independently by two reviewers and an overall judgment is made on the quality of the script with a particular focus on the nature and gravity of the errors made by the candidate where answers have been graded ‘Poor’ and ‘Unacceptable’. If there is disagreement between the reviewers as to whether a candidate’s script meets the threshold for competence, a final review will be undertaken by the Chief Examiner.

4.3.6 Finally, a further check of scripts graded overall as ‘Not Competent’ at the holistic review stage is undertaken, along with a sampling of those scripts graded overall ‘Competent’ at the holistic review stage (particularly those deemed to be just on the borderline of competence).

4.4 The role of the exam board – psychometrician and independent observer, and board members

The Professional Ethics Examination Board comprises the Chair of the CEB, the Chief and Assistant Chief Examiners for Professional Ethics, the Psychometrician, the Independent Observer, either the BSB Director General, or the BSB Director of Standards. Also in attendance will be the BSB Examinations Manager and Senior Examinations Officers, the Head of Qualifications for the BSB, and the BSB Assessment Lead. The Board meets to receive reports on the conduct of the examination, the performance of the assessment questions, and to confirm which candidates have been deemed ‘Competent’ for the purposes of the assessment. The Board does not determine issues relating to extenuating circumstances or academic misconduct.

4.5 Extenuating circumstances

The BSB policy on extenuating circumstances in respect of the pupillage stage Professional Ethics examination can be accessed here:

<https://www.barstandardsboard.org.uk/uploads/assets/ddb1ca65-63b8-447e-99993ef80aca5e93/Professional-Ethics-extenuating-circumstances-policy.pdf>

4.6 Examination misconduct

The BSB Examination Misconduct Policy respect of the pupillage stage Professional Ethics examination can be accessed here:

<https://www.barstandardsboard.org.uk/uploads/assets/62449065-f1f2-4b52-a84f1a5712cc81b8/Professional-Ethics-Misconduct-Policy.pdf>

4.7 Reviews

Challenges against the academic judgement of examiners are not permitted. Under the candidate review process, examination answers are not re-marked but candidates may request:

- (i) an enhanced clerical error check which involves the BSB checking that the results have been captured and processed correctly; and/or
- (ii) a review, on the grounds that the CEB, in confirming individual and cohort results for the centralised assessment in Professional Ethics, has acted irrationally and/or in breach of natural justice. Candidates may submit joint applications if they believe that the CEB has acted irrationally and/or in breach of natural justice in respect of cohort results (ie a decision taken regarding whether to make an intervention relating to a cohort as a whole).

See further: <https://www.barstandardsboard.org.uk/uploads/assets/1ec417a2-c574-4105-a5f36d40416d26f1/c8af002b-0266-41d0-a3980d5f73fcd07a/Professional-Ethics-regulations-governing-candidate-review-paper-based-applications.pdf>

4.8 Release of Results and Feedback to Failing Candidates

Results are issued using MyBar - the online self-service portal for Barristers and Bar Training Students. Following the Exam Board, results are uploaded to candidates' MyBar Training Records and candidates are notified that they can view them by logging into their MyBar account. Candidates may also share their result with the Pupil Supervisor or others, using their unique Training Record ID.

Candidates who have failed the exam receive feedback on each of the questions which were scored 'Poor' or 'Unacceptable'. Candidates who have failed the exam three times are also provided with more holistic feedback covering all three attempts they have made at the exam. Failing candidates can access the commentary on the operation of the assessment (5.6.1 below) in conjunction with the individualised feedback provided.

5. THE JULY 2024 PROFESSIONAL ETHICS EXAMINATION RESULTS

5.1 Report from the Examinations Manager on the conduct of the examination

The Examinations Manager confirmed that 64 candidates had registered to sit the July 2024 examination, of whom 62 sat and completed the exam. The two absences did not arise from any technical or administrative errors on the part of the BSB or Surpass and are not connected to any extenuating circumstances applications.

Of the 62 candidates who sat the exam, 50 (81%) sat Online Invigilated (OI) exams and 12 (19%) sat Test Centre (TC) exams. TC candidates sat across six centres in five cities. One TC candidate sat a pen-and-paper exam. One OI candidate sat the exam over the course of two consecutive days. All other candidates sat computer-based tests (CBT) on the same day.

5.2 Report from the Examinations Manager on the academic misconduct

Invigilation Reports were received from each of the test centres and one Incident Report was also received. A Red-Amber-Green (RAG) Report was received from the OI proctors, which included 13 “red flags”; two “amber flags”; and 35 “green flags.”

The Senior Examinations Officers (SEOs) reviewed all TC reports and all notes on the RAG Report. They also reviewed in full the 15 recorded examination sessions where the proctors had raised a red or amber flag, alongside a random sample of recordings which were marked as green flags. No evidence of examination misconduct was identified by the SEOs’ review, and no candidates were referred for any further action.

The TC incident report related to technical issues which led to a candidate’s examination beginning 50 minutes later than the intended start time. The candidate was ultimately able to begin and complete their examination. This matter was later addressed as extenuating circumstance case #2.

The high number of red flags on the RAG Report was due to OI proctors failing to apply the BSB’s invigilation guidance correctly and raising flags for behaviour which is permitted under our Examination Requirements. In particular, proctors were flagging candidates taking short breaks and reading aloud. One red flag related to the candidate’s ID check image being blurry. The two amber flags and one further red flag related to brief periods where the candidate’s screen-sharing or webcam was frozen. All red and amber flags were stood down by the SEOs.

5.3 Report from the Examinations Manager on Extenuating Circumstances

The Extenuating Circumstances Panel received two cases:

- Case #1 related to the candidate who sat a pen-and-paper exam at a test centre as part of their adjustments. The candidate should have been given both a physical copy of the Handbook and access to the online version but had to request access to the online copy after the exam had already begun. The candidate also felt that the notices about exam timings and other instructions given by the invigilator were not clear.
- Case #2 related to the TC candidate whose exam began 50 minutes late (2.3 *above*). The candidate's adjustments included extra time and breaks, and their exam should have begun at 11:00 and finished at 17:38. While the technical issue was ongoing, the candidate became very anxious that they would not have sufficient time to complete their exam. The candidate did finish their exam by 18:00; however, the candidate requested to use half of an agreed one-hour break to make up part of the lost time.

The Panel accepted both extenuating circumstance applications. There are no results from this sitting to be set aside as a result of extenuating circumstances.

5.4 Report from the Chief Examiner on the standard setting process

- 5.4.1 Following the sitting, a sample of scripts was selected for the purposes of standard setting. Eight candidate responses were chosen per question.
- 5.4.2 A team of standard setters comprising legal practitioners and academics was selected. The team was provided with a briefing and written guidance on their tasks for the standard setting process. They were provided with the exam paper, the sample scripts as well as the indicative content and suggested mark scheme drafted by the examining team as part of the paper confirmation process. Following the briefing, the standard setters undertook the first part of standard setting, namely the task of identifying, independently of each other, the standard expected for each of four level descriptors for each question.²

² See Appendix 1

5.4.3 The examining team collated the material submitted by individual standard setters, which comprised commentary and suggestions regarding the content for each descriptor for each question. In addition, the examining team checked a wider selection of scripts, so that the available pool of 'observed' responses for each question was as wide as possible. Any additional matters were recorded for discussion at the standard setting meetings. The meetings, involving all standard setters and the examining team, took place and were scrutinised by the Independent Observer. The content for each question was discussed and agreed by the standard setters. Immediately following the meetings, the examining team applied the mark scheme to three further responses for each question and any issues arising from that task were raised and resolved with the standard setters before the mark scheme was shared with markers.

5.5 Report from the Chief Examiner on the marking and moderation processes

5.5.1 A sample of candidates' answers was selected for discussion at the markers' meeting. Team Leaders were allocated two questions each and provided with written instructions about their role. Team Leaders attended a general Team Leader briefing as well as a separate meeting with a member of the examining team to discuss the questions for which they had particular responsibility.

5.5.2 As regards marking, all markers had to sample mark eight responses for each of the two questions they were marking and submit the grades awarded and feedback provided for each response prior to the markers' meeting.

5.5.3 At the markers' meeting, a general briefing session for all marking teams focused on the need to provide accurate and meaningful feedback for each answer, and particularly for answers which were graded Poor or Unacceptable. Following the plenary markers' meeting, each marking team (consisting of the Team Leader and markers, along with a member of the examining team) took part in individual discussions relating to the operation of the mark scheme of the questions they were to mark. This was a "think aloud" process in which individual markers talked through the sample answers and discussed the grade they awarded, based on the content of the mark scheme. Clarification was provided, where necessary, on the operation of the mark scheme. Additional answers submitted by the candidature were provided for discussion and grading once the earlier set of samples had been considered.

5.5.4 Following the markers' meeting, where necessary, the examining team discussed and amended the mark scheme to provide guidance as to how to address particular issues which had arisen during the markers' meeting.

- 5.5.5 Team Leaders then undertook a small quota of marking which was moderated by a member of the examining team who also provided feedback not only on the application of the mark scheme but also the quality of commentary/feedback on the response. All markers then marked a similar number of responses which was moderated by the Team Leader. Feedback was provided to all markers. Where necessary, discussions between Team Leaders and the examining team took place regarding the operation of the mark scheme during and following this calibration exercise, and further guidance was provided to all affected markers in these circumstances. Responses which were discussed and resolved during the moderation/calibration process were submitted as final grades by either the member of the examining team or Team Leader responsible for the relevant question. First marking then took place.
- 5.5.6 The examining team also undertook dip sampling of the marking teams and Team Leaders following moderation and during the live first marking period. Where required, individual markers were provided with appropriate direction in relation to specific issues arising out of their marking. Following first marking, every response not already “submitted” as part of the calibration process was marked by a second marker.
- 5.5.7 Discussions then took place between first and second markers where there was disagreement between them as to the appropriate grade to be awarded for an answer. Grades were agreed between markers. Where a response was graded “Unacceptable” by two markers, this was escalated either to the Team Leader or, where the Team Leader was one of the pair of markers involved, to the examining team either to approve the Unacceptable grade or otherwise.
- 5.5.8 Following agreed marking, all results were collated according to the number of Good, Satisfactory, Poor and Unacceptable answers achieved.

5.6 The operation of the assessment – results for each question

5.6.1 The following is a summary of the distribution of candidate performance in respect of each question and a brief overview of any discernible patterns in terms of candidate answers, in particular areas that proved challenging. To preserve the integrity of its question bank, the BSB does not provide full details of the questions used in the assessment, although the broad syllabus area under consideration is identified.

SAQ 1							
Unacceptable		Poor		Satisfactory		Good	
#	%	#	%	#	%	#	%
0	0%	6	10%	28	45%	28	45%

Broad syllabus areas covered:

The question required candidates to demonstrate their understanding of the ethical principles related to media comments on the outcome of a hearing and client confidentiality.

Key observations from Chief Examiner on cohort performance:

A satisfactory application of knowledge should have identified that barristers are permitted to make comments to the media, but in doing so they must act in the best interests of the client (CD2) and comply with their obligations not to make statements that are misleading/untrue (CD3; rC9.1). Candidates identified the obvious main principles raised by the question. There were no ‘unacceptable’ answers. ‘Poor’ candidates failed to identify or to make specific reference either to CD2 in the context of speaking to the media or to the breach of CD6 as a consequence of the barrister alluding to the client’s medical condition without the client’s consent. Failure to deal with the latter point appeared to be an oversight, as the scenario indicated the barrister thought the report had helped in mitigation, even though it was not mentioned in open court. Some candidates missed addressing remediation in any form, and in two particular papers both the identification of the engagement of CD2 and reference to the necessary remedial steps were absent. Most candidates highlighted the comment made by the barrister blaming the victim and the engagement of CD3. Many candidates went on to argue the enhanced points relating to gC22, and the need to act in the best interests of the client and discussed the issue of misconduct but the threshold not being reached in respect of serious misconduct, and CD5 being breached in respect of victim blaming.

Decision of the exam board in relation to question:

no intervention necessary; results for question confirmed and applied to candidates.

SAQ 2							
Unacceptable		Poor		Satisfactory		Good	
#	%	#	%	#	%	#	%
0	0%	24	39%	28	45%	10	16%

Broad syllabus areas covered:

The question required candidates to demonstrate their understanding of the ethical principles related to the duty to prepare the client's case effectively.

Key observations from Chief Examiner on cohort performance:

Candidates needed to identify the relevant ethical principles and provide a full explanation of the issues, including a resolution. 'Satisfactory' candidates needed to identify that the barrister had a duty to provide a competent standard of work and service (CD7) and to act in the client's best interests (CD2). He should not have accepted the instructions if he knew that there was an appreciable risk that he was not going to be able to prepare properly or provide a competent standard of work. In taking on the case in circumstances where he had insufficient time, he had failed to take reasonable steps to manage his practice (CD10). He had wasted the court's time by being late, and the remedy was to apologise to the client and the court.

Most candidates identified that the barrister should have not taken the case if he had no time to prepare, but rather than attribute this to CD10 they discussed CD2 and/or CD7, or with reference to gC72. Candidates also failed to identify the need to apply for more time or take some reasonably practical step not to waste the court's time or to mislead the court (CD1). The issue relating to lack of preparation was identified as it appeared obvious to candidates, but they did not always identify the possible breach of duty that flowed from it. Most candidates answered this question satisfactorily. There was not much scope within the mark scheme to graduate to the good category. For the weaker candidates, omission to identify, rather than incorrect application of, the relevant core duties was the stumbling block in this question.

Decision of the exam board in relation to question:

no intervention necessary; results for question confirmed and applied to candidates.

SAQ 3							
Unacceptable		Poor		Satisfactory		Good	
#	%	#	%	#	%	#	%
3	5%	6	10%	26	42%	27	44%

Broad syllabus areas covered:

The question required candidates to demonstrate their understanding of the ethical principles related to the duties arising in respect of a vulnerable client, ethical limitations on 'coaching' of client for court appearance, and treatment of complainants.

Key observations from Chief Examiner on cohort performance:

The question required candidates to demonstrate their understanding of the ethical principles involved, particularly the duties to the court and the client. Candidates needed to recognise that the barrister could not comply with the client's requests to coach her in giving specific answers or to cross-examine the complainants in a way that might be inappropriate. The scenario required candidates to recognise the need to support a vulnerable client while maintaining the duty to the court. Overall, candidates performed well on this question. Most candidates successfully identified that the client was vulnerable, the barrister could not coach the client, and the barrister could not bully the complainants. Some candidates were able to identify ways in which the barrister could assist the client in preparing for the trial and being able to offer best evidence (such as applying for special measures). A small number of weaker answers failed to address a key part of the scenario, specifically what to do about the client's request to be coached or to "bully" the complainants.

Decision of the exam board in relation to question:

no intervention necessary; results for question confirmed and applied to candidates.

SAQ 4							
Unacceptable		Poor		Satisfactory		Good	
#	%	#	%	#	%	#	%
1	2%	13	21%	38	61%	10	16%

Broad syllabus areas covered:

The question required candidates to demonstrate their understanding of the ethical principles related to behaviours in social settings; responsibility for maintaining the security of information.

Key observations from Chief Examiner on cohort performance:

Satisfactory candidates needed to identify that being intoxicated and talking loudly about a case in a public place was inappropriate and would place the barrister in breach of CD5. This scenario also involved the barrister misplacing electronic and paper documents. Candidates were required to analyse the responsibilities that applied to the two types of documents within this fact pattern. The performance of candidates on this question was mixed. The candidates who did not achieve a “satisfactory” grade generally did not identify the key issues here. Some failed to identify CD5 in relation to the barrister being drunk and talking about the case in a public place. Others failed to address the breach of client confidentiality (CD6) either entirely or within the correct factual context presented by this scenario, namely the loss of paper documents.

Decision of the exam board in relation to question:

no intervention necessary; results for question confirmed and applied to candidates.

SAQ 5							
Unacceptable		Poor		Satisfactory		Good	
#	%	#	%	#	%	#	%
2	3%	9	15%	24	39%	27	44%

Broad syllabus areas covered:

The question required candidates to demonstrate their understanding of the ethical principles related to potential conflict of duties to the client and the court.

Key observations from Chief Examiner on cohort performance:

The question required candidates to demonstrate their understanding of the ethical principles related to the barrister's duty to the court, the client, and the duty to maintain confidentiality. In particular, candidates were expected to identify that the barrister's duty to the client is subject to his duty to the court. Candidates needed to recognise that the barrister could not mislead the court by allowing the client to maintain a "not guilty" plea if this would involve presenting a case that the barrister knew to be false, but the barrister had a duty to act in the client's best interests. Candidates were also expected to recognise that while the overriding duty is to the court, the same does not require the barrister to breach client confidentiality, and that as such the barrister should not disclose what the client has told him without consent. Candidates needed to conclude that subject to these matters, the barrister could continue to act for the client. This question was answered well overall. In particular, candidates generally identified the duty not to mislead and were able to articulate clearly what the barrister was not able to do in terms of advancing a positive case on behalf of the client. Better candidates were able to develop their answers to identify what the barrister was permitted to do on behalf of the client in this scenario. They were also able to go on to explain that in the event the client insisted that the barrister conduct the defence on the basis that he did not commit the offence, then the barrister would have to withdraw. Not many candidates expressly stated that the barrister could continue to act for the client subject to ensuring the court was not misled, but this could easily be read into the responses from the way candidates had phrased them, and therefore did not cause an issue. Where candidates fell into the "poor" category it tended to be the result of the failure to identify the interplay between the barrister's duty to the court and the requirement to maintain the client's confidentiality, or to recognise the engagement of CD6 at all.

Decision of the exam board in relation to question:

no intervention necessary; results for question confirmed and applied to candidates.

SAQ 6							
Unacceptable		Poor		Satisfactory		Good	
#	%	#	%	#	%	#	%
4	6%	22	35%	28	45%	8	13%

Broad syllabus areas covered:

The question required candidates to demonstrate their understanding of the ethical principles related to ceasing to act; duties arising where client does not pay agreed fees; obligation to return documentation.

Key observations from Chief Examiner on cohort performance:

A satisfactory answer required candidates to identify that non-payment of fees gave rise to a basis upon which a barrister may withdraw, but only in circumstances where the client has been provided with reasonable notice to remedy the non-payment and where the consequences of failing to do so have been made clear to the client. Candidates were also expected to identify the need for the barrister to have regard to the interests of the client when considering whether to withdraw, this being particularly pertinent on the facts of the question which referred to an impending hearing date and deadline for filing evidence. Finally, candidates were expected to deal correctly with the question of what documents the barrister was entitled to retain until her fees had been discharged. This question caused the candidates some difficulty overall. Most candidates were able to correctly identify that non-payment of fees gives rise to a basis upon which a barrister may withdraw. They were also able to engage in some sensible discussion surrounding the need to consider the interests of the client in light of the impending hearing date, and the requirement to have provided reasonable notice before withdrawing. However, a significant number of candidates struggled to deal appropriately, or at all, with the two types of documents they were expected to discuss, namely the documents drafted by counsel and the client's original documents. Candidates either did not address the issues involving the documents at all, or they tended to group the two types of documents into a general classification of "documents", resulting in a failure to then adequately discuss and/or identify the specific issues that arise depending on the nature/classification of documents being addressed. A smaller number of candidates also allowed themselves to be misled into believing that due to the impending hearing date, the barrister was required to provide to the client the documents she had drafted on his behalf, when this is in fact not the case. While some candidates did engage appropriately with the key ethical issues, resulting in a number of "satisfactory" responses, there were not many "good" responses on this question. Candidates seemed to stop once they had addressed rC26 and the documentation issues.

Decision of the exam board in relation to question:

no intervention necessary; results for question confirmed and applied to candidates.

SAQ 7							
Unacceptable		Poor		Satisfactory		Good	
#	%	#	%	#	%	#	%
3	5%	7	11%	45	73%	7	11%

Broad syllabus areas covered:

The question required candidates to demonstrate their understanding of the ethical principles related to duties arising where the instructing solicitor's competence is in question.

Key observations from Chief Examiner on cohort performance:

This scenario tested the candidate's application of CD2 and/or CD7, and in particular the recognition that the duty owed under CD2 is to the lay client, not the professional client. Satisfactory candidates were expected to identify the relevance of CD2 and/or CD7, the need for the barrister to inform the client of her concerns regarding the instructing solicitor's conduct of the case, and the fact that in the circumstances the barrister had a duty to consider whether the client's best interests would be served by different legal representation. Satisfactory candidates were also expected to identify the client's vulnerabilities (being the victim of domestic violence along with her poor command of English) and/or the need to provide her advice in a sensitive manner and in a way that the client could understand. This question was answered reasonably well overall. Most candidates were able to recognise the issues with the solicitor's conduct of the case, and the need for the barrister to address these with the client in order to fulfil her duty under CD2 and/or CD7. Many candidates also correctly identified the requirement to consider alternative legal representation. Candidates did not always engage with the issues relating to vulnerability, or the need, in the circumstances of the scenario, to deal with the client sensitively etc. Few candidates specifically referenced the fact that due to the early stage of proceedings, time would not be an issue with regard to obtaining alternative legal representation; however, where all other "satisfactory" points were made, this was not fatal to the candidate's response.

Better candidates were able to also identify a number of the "good" points, and in particular those points relating to the duty under CD2 being owed to the lay rather than professional client, and the issues of confidentiality in relation to the lay interpreter. Few candidates identified the "good" points relating to independence (CD4) or discrimination. Candidates graded "poor" tended to be those who did not engage sufficiently with the requirements for a "satisfactory" answer in terms of identification of the key points, and in particular the need to raise the concerns regarding the instructing solicitor with the client. Some candidates were confused as to whether the barrister could continue to represent the client should she refuse to instruct alternative legal representation.

Decision of the exam board in relation to question:

no intervention necessary; results for question confirmed and applied to candidates.

SAQ 8							
Unacceptable		Poor		Satisfactory		Good	
#	%	#	%	#	%	#	%
1	2%	24	39%	23	37%	14	23%

Broad syllabus areas covered:

The question required candidates to demonstrate their understanding of the ethical principles related to the cab rank rule, and a barrister seeking to avoid having to represent a potential client.

Key observations from Chief Examiner on cohort performance:

The scenario tested candidates' understanding of the application of the cab rank rule and its exceptions. Candidates were expected to be able to identify that the cab rank rule applied to the barrister in this scenario, and that as such the barrister was bound to accept the instructions. Candidates were further expected to identify that the barrister's personal opinions and/or beliefs are irrelevant in this situation. The other element of this question was the breach of CD3 on the part of the barrister in lying to his clerk about the existence of a prior commitment. Candidates were expected to identify this breach, and that the same might amount to serious misconduct. Finally, some discussion was required as to the steps that the barrister would need to take to mitigate his breach, such as self-reporting to the BSB and/or confirming to his clerk that he would accept the instructions. The cab rank rule element of this question was dealt with well overall. Most candidates were able to identify that the cab rank rule applied, and that the barrister was obliged to accept the instructions. A number of candidates were also able to engage in discussion of some of the "good" points surrounding this aspect of the question.

A reasonable number of candidates fell into the "poor" descriptor as a result of a complete failure to identify the dishonesty element in relation to the interaction with the clerk. There were also a number of candidates who were graded "poor" as a result of failing to engage at all with the 'resolution' aspect of the question, ie they failed to consider or discuss the steps that the barrister should take to mitigate the effects of his breach. Better candidates did identify the dishonesty element, and the steps needed to remedy the breach, and also went on to consider some of the "good" points, such as the application of CD4.

Decision of the exam board in relation to question:

no intervention necessary; results for question confirmed and applied to candidates.

SAQ 9							
Unacceptable		Poor		Satisfactory		Good	
#	%	#	%	#	%	#	%
4	6%	4	6%	40	65%	14	23%
Broad syllabus areas covered:							
<p>The question required candidates to demonstrate their understanding of the ethical principles related to continuing ethical duties in respect of a barrister's private life, and reliance on professional standing to enforce a complaint in a private matter.</p>							
Key observations from Chief Examiner on cohort performance:							
<p>This scenario tested the candidate's understanding of the ethical duties which apply during a barrister's private life. Satisfactory candidates needed to acknowledge core duties applied in this scenario, despite it being a personal situation for the barrister. Even in the barrister's private life, she must not do anything which undermines the public's trust and confidence in the profession. Satisfactory candidates needed to address at least one of the ways the barrister breached her duties under the Handbook when making the telephone complaint. This meant either addressing the fact the barrister lied in the complaint or identifying that the discriminatory comments were also a breach of core duties. Finally, candidates were expected to identify at least one of the ways the barrister abused her position as a barrister, either by referring to her occupation during the complaint or by utilising her chambers email account to further a private dispute.</p> <p>On the whole, candidates performed satisfactorily in this question. Although some candidates did not address the barrister's dishonesty, most candidates addressed one of the issues which arose in the telephone complaint. Most candidates also recognised that the barrister had abused her position. Stronger candidates were able to identify ways in which the barrister could mitigate the effect of the breaches. Some weaker candidates did not identify that core duties applied in this context.</p>							
Decision of the exam board in relation to question:							
no intervention necessary; results for question confirmed and applied to candidates.							

SAQ 10							
Unacceptable		Poor		Satisfactory		Good	
#	%	#	%	#	%	#	%
5	8%	9	15%	25	40%	23	37%

Broad syllabus areas covered:

The question required candidates to demonstrate their understanding of the ethical principles related to duties engaged in accepting instructions; scope of competence and experience.

Key observations from Chief Examiner on cohort performance:

Candidates needed to identify that barristers must not accept instructions when they are not competent or do not have enough experience to undertake the work. Candidates were also expected to identify the need for the barrister to maintain her independence and not to be influenced by her clerk, concern for the work in chambers or the wish to keep an instructing solicitor happy.

This particular question posed some difficulty for a number of candidates. Most candidates were able to identify that the barrister should not be influenced by the clerk or chambers' issues. Most candidates were able to discuss the issue of competency, recognising that the barrister was not experienced in criminal law. However, the weaker candidates drew the conclusion that the barrister should take on the case and provided incorrect reasoning for this conclusion. This included suggestions that the barrister could develop competency over the weekend or that it was in the best interests of the client to have someone to represent them even if that person lacked any experience.

Decision of the exam board in relation to question:

no intervention necessary; results for question confirmed and applied to candidates.

SAQ 11							
Unacceptable		Poor		Satisfactory		Good	
#	%	#	%	#	%	#	%
12	19%	12	19%	30	48%	8	13%

Broad syllabus areas covered:

The question required candidates to demonstrate their understanding of the ethical principles involved when representing clients with potentially conflicting interests.

Key observations from Chief Examiner on cohort performance:

Candidates needed to recognise that the barrister faced a significant ethical dilemma: she could not continue to represent both father and son if their instructions and interests diverged, particularly where one was putting pressure on the other to accept liability while the other denied fault and wanted to proceed to trial. The barrister had to consider whether she could continue to act for both clients or whether the conflict of interest necessitated separate representation. Candidates were expected to identify that the barrister should explain the potential conflict to both father and son, and would have to cease to continue acting for both of them in this context, while understanding that she might be able to represent one, provided she had the informed consent of both.

Generally speaking, it appeared the cohort as a whole found this a relatively difficult question. Candidates achieving lower grades tended either to miss the point of the question (that there was a conflict of interest) or, more commonly, identified the conflict but considered that the barrister could still represent both clients (resulting in an “unacceptable” grade) or that the barrister could represent one client without seeking informed consent (resulting in a “poor” grade). Very few candidates considered the practical steps the barrister should take after deciding she must cease to act. The better answers either took the ‘safety first’ approach of ceasing to act entirely, or made the point that there was an ability to represent one client with informed consent. Candidates usually made the point that an adjournment would be needed. A good number of candidates applied CD6 appropriately in respect of the barrister’s duties to each client.

Decision of the exam board in relation to question:

no intervention necessary; results for question confirmed and applied to candidates.

SAQ 12							
Unacceptable		Poor		Satisfactory		Good	
#	%	#	%	#	%	#	%
1	2%	3	5%	47	76%	11	18%

Broad syllabus areas covered:

The question required candidates to demonstrate their understanding of the ethical principles related to the acceptance of gifts and entertainment by barristers and the need to maintain independence.

Key observations from Chief Examiner on cohort performance:

Satisfactory responses needed to recognise that accepting valuable gifts or benefits, such as complimentary clothing, in exchange for promoting the fashion house's products on social media could compromise the barrister's independence and create a perception that his legal services were influenced by personal gain. Additionally, the prospect of further legal work from the fashion house raised concerns about whether the barrister's professional judgment could be affected by the desire to maintain a favourable relationship with the fashion house. Candidates were expected to identify that the barrister should consider very carefully the offer to promote the fashion house's products on social media, as doing so could undermine public confidence in his independence and integrity as a barrister. Furthermore, the barrister should carefully consider the appropriateness of accepting the lunch.

This question seemed to be one of the easier questions on the paper with few "poor" or "unacceptable" grades. Most candidates identified the central issue as one of proportionality/size of gifts and entertainment. These candidates tended to reach a reasoned decision, one way or the other (standard setters having agreed, after a lengthy discussion, that candidates could reasonably justify different conclusions). Notably, candidates often applied either CD3 or CD4, rather than both, but this did not prove fatal to the awarding of a "satisfactory" grade. Poorer candidates failed to properly address the two issues as separate points. Identification of the BSB Social Media guidance was rare, but this was not central to the question. A high number of candidates identified and addressed CD5 appropriately in the context of public perception of high-value entertainment.

Decision of the exam board in relation to question:

no intervention necessary; results for question confirmed and applied to candidates.

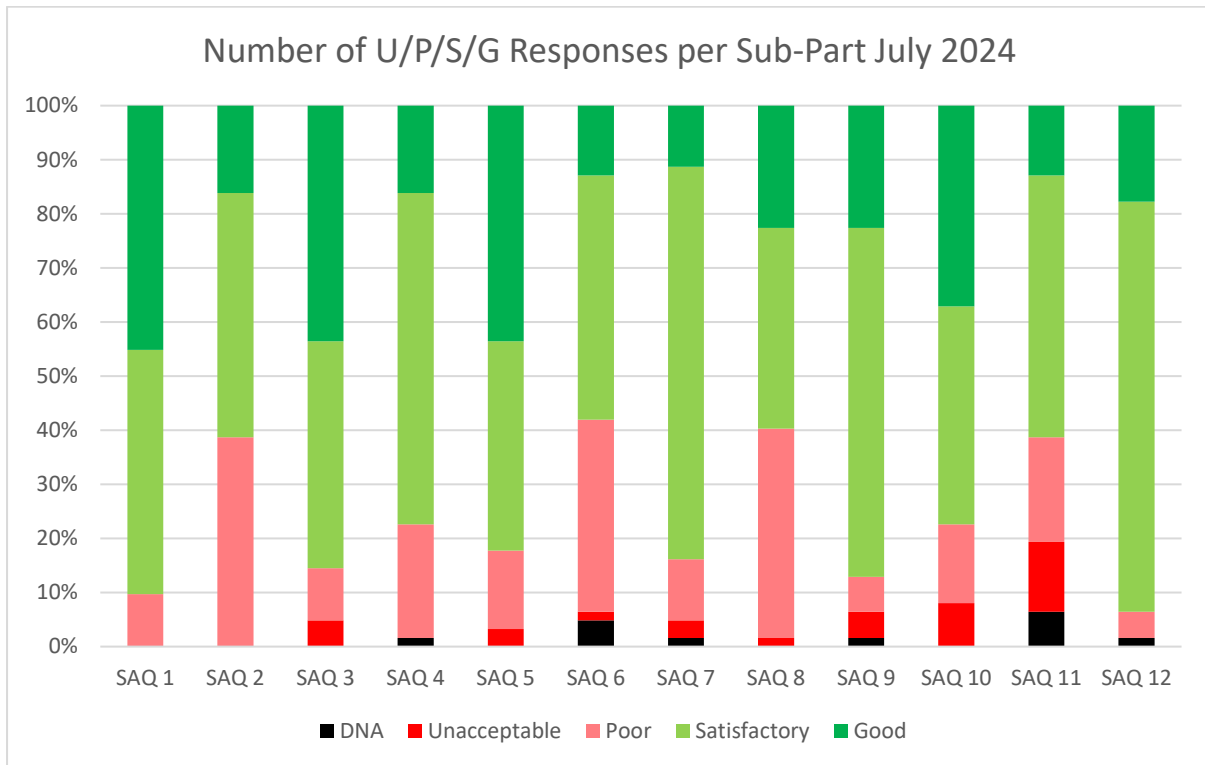
5.6.2 The Exam Board: (i) confirmed that no interventions were required in respect of any of the assessment questions, or cohort results; and (ii) that all questions would be included in the assessment for the purposes of compiling candidate results.

5.6.3 Taking the 12 question responses across 62 candidates produces 744 answers which were graded as follows:

Grading	% of all responses July 2024
Did Not Answer (DNA)	1.48%
Unacceptable	3.36%
Poor	18.68%
Satisfactory	51.34%
Good	25.13%

Across all 12 questions the average competency rate (ie percentage of answers rated either 'Satisfactory' or 'Good') was 76.4%. The overall candidate passing rate for the July 2024 sitting is 90.3% which is higher than this figure, as candidates can be rated 'Competent' overall, without having to achieve a 'Good' or a 'Satisfactory' grading in respect of every one of the 12 questions.

5.6.4 Distribution of categorisations across questions July 2024 sitting



The graph above shows the distribution of answer categorisations across all 12 questions of the assessment for the July 2024 sitting. Questions 6 and 8 proved to be the most challenging. Looking at each question on the basis that an answer rated either 'Satisfactory' or 'Good' falls within the 'Competent' grouping, results in 58% of responses to question 6 were graded as 'Competent' and 61% for question 8. By contrast, question 12 had a competency rate of 93.5%.

5.6.4 Assuming candidates attempted the questions in sequence, the data does not suggest a falling-off in candidate performance when comparing grades awarded for the first 4 questions, compared to those awarded for the last four questions. The average competency rate (ie answers rated either 'Satisfactory' or 'Good') for questions 1 to 4 was 78.6%, compared with 71% for questions 5 to 8, and 80% for questions 9 to 12.

5.6.5 The word count for the July 2024 assessment paper was very much in the middle of the range compared to previous sittings, and below the average of all sittings to date, a factor that also suggests that candidate fatigue and lack of time to complete the assessment may not have been significant factors.

Sitting	Word count
Apr-22	3708
Jul-22	4318
Oct-22	4796
Jan-23	4798
Apr-23	4059
Jul-23	3474
Jan-24	3672
Apr-24	3595
Jul-24	3773
Average	4021

5.7 Trend data

5.7.1 The Candidate Journey: Cumulative data on candidate outcomes

Candidate Journey									
Examination Date	Apr-22	Jul-22	Oct-22	Jan-23	Apr-23	Jul-23	Jan-24	Apr-24	Jul-24
Single-Assessment Candidate Profiles and Outcomes									
Candidates First Sitting ¹	112	21	7	212	44	34	340	58	43
Candidates Resitting	N/A	4	2	1	15	17	4	57	19
Total Number of Candidates Sitting	112	25	9	213	59	51	344	115	62
First Sit Candidates Deemed 'Competent'	107	19	5	196	33	30	277	49	38
Resit Candidates Deemed 'Competent'	N/A	4	2	0	9	15	4	51	18
First Sit Candidates Deemed 'Not Competent'	4	2	1	16	10	3	62	9	5
Resit Candidates Deemed 'Not Competent'	0	0	0	1	6	2	0	6	1
Results Set Aside or Voided ²	1	0	1	0	1	1	1	0	0
Single-Assessment Pass Rate	95.5%	92.0%	77.8%	92.0%	71.2%	88.2%	81.7%	87.0%	90.3%
Cumulative Outcomes									
Total Number of Unique Candidates to-date	112	132	139	351	394	427	767	824	867
Cumulative Total of Unique Candidates Deemed 'Competent'	107	130	137	333	375	420	701	801	857
Cumulative Total of Candidates Not Yet Deemed 'Competent'	5	2	2	18	19	7	66	23	10
Cumulative Pass Rate	95.5%	98.5%	98.6%	94.9%	95.2%	98.4%	91.4%	97.2%	98.8%

(1) A Candidate may be recorded as a first sitter more than once, if their earlier attempts were deemed invalid, eg due to extenuating circumstances.

(2) Results may be set aside or voided due to extenuating circumstances or examination misconduct.

The table on the previous page shows that, across the nine sittings to date, 867 unique candidates have attempted this exam at least once. 857 of these candidates have been deemed 'Competent' with regard to this assessment, giving an overall cumulative passing rate of 98.8%.

Of the 867 candidates who have sat this exam, 754 achieved a 'Competent' result on their first valid attempt, giving a cumulative first sit passing rate of 87.0%.

105 candidates have made at least one resit attempt, of which 103 have ultimately achieved a 'Competent' result following one or more previous valid attempts, giving a cumulative resit passing rate of 98.1%.

Of the 105 candidates who have resat the exam, 91 (*ie* 86.7%) achieved a 'Competent' grade on their second valid attempt. Taken alongside the 754 candidates who were deemed 'Competent' on their first valid attempt, the cumulative passing rate within two attempts (*ie* within those attempts which are funded by the profession via the PCF) is 97.5%. 12 Candidates have achieved a 'Competent' result on a third or further attempt.

There remain 10 candidates who have attempted the Professional Ethics Exam at least once but have not yet achieved a 'Competent' result.

5.7.2 Trends in Single-Assessment Marks and Results

Sitting	Number of Attempts	Number of 'Competent' Results	% of Attempts Deemed 'Competent'
Apr-22	112	107	95.5%
Jul-22	25	23	92.0%
Oct-22	9	7	77.8%
Jan-23	213	196	92.0%
Apr-23	59	42	71.2%
Jul-23	51	45	88.2%
Jan-24	344	281	81.7%
Apr-24	115	100	87.0%
Jul-24	62	56	90.3%
Cumulative Total to Date	990	857	86.60%
Average Single-Assessment Passing Rate			86.19%

The table above shows the number of attempts at each sitting and the number and percentage of those attempts which were 'Competent'. This includes all first sits, resits, and sits set aside or voided. In total, there have been 990 attempts at the Professional Ethics Assessment. Of which, 857 (*ie* 86.6% of all attempts) have produced a 'Competent' result.

The table below also considers all attempts and shows the total number of individual SAQ responses submitted by candidates at that attempt and the percentage of those responses which were assigned each grade boundary or deemed 'Did Not Attempt' (DNA).

Sitting	Apr-22	Jul-22	Oct-22	
Number of SAQ Responses	1344	300	108	
% DNA	0.00%	0.67%	2.78%	
% Unacceptable	3.20%	4.33%	4.63%	
% Poor	12.87%	23.00%	26.85%	
% Satisfactory	48.21%	43.00%	49.07%	
% Good	35.71%	29.00%	16.67%	
Sitting	Jan-23	Apr-23	Jul-23	
Number of SAQ Responses	2556	708	612	
% DNA	1.02%	2.54%	1.47%	
% Unacceptable	1.02%	4.52%	0.98%	
% Poor	27.03%	34.46%	19.28%	
% Satisfactory	51.49%	44.63%	51.63%	
% Good	19.44%	13.84%	26.63%	
Sitting	Jan-24	Apr-24	Jul-24	Cumulative
Number of SAQ Responses	4128	1380	744	11880
% DNA	0.65%	0.65%	1.48%	0.88%
% Unacceptable	5.74%	8.91%	3.36%	4.29%
% Poor	27.20%	17.93%	18.68%	23.85%
% Satisfactory	45.78%	43.04%	51.34%	47.51%
% Good	20.62%	29.49%	25.13%	23.47%

Of the 11,880 individual responses submitted across all sittings to date, the cumulative 'competency rate' (ie proportion of answers rated either 'Satisfactory' or 'Good') is 71%. The April 2022 cohort was arguably the strongest so far, achieving a competency rate of 84%, compared to 58% for the April 2023 cohort, arguably the weakest so far (with the highest percentage of answers graded 'poor' to date). The July 2024 cohort achieved a 'competency rate' of 76%, which was slightly above the cumulative competency rate, and 3% ahead of the previous sitting's competency rate.

5.8 Observations from the Chief Examiner for Professional Ethics on the operation of the assessment

The Chief Examiner confirmed that she was content that all standard setting, marking, and review processes were followed satisfactorily and there was nothing to cause concern about any of these individual stages following the sitting of the July 2024 Professional Ethics Assessment.

5.9 Comments from the Independent Psychometrician

The Independent Psychometrician was happy to endorse the decisions taken by the board and felt that the outcomes were reassuring.

5.10 Comments from the Independent Observer

The Independent Observer confirmed to the Board that he was entirely happy with the way the board had considered the operation of the assessments and the decisions made.

5.11 Comments from the Director General

On behalf of the Director General, the Interim Director of Standards confirmed that she was happy with the conduct of the Board and the conclusions which had been arrived at.

6. COHORT AND CANDIDATE PERFORMANCE JULY 2024 SITTING

Results for the July 2024 sitting of the pupillage stage Professional Ethics examination are as follows.

Total Number of Candidates	62
Number Passing	56
Passing Rate (%)	90.3%

6.1 Analysis of cohort performance

6.1.1 Based on the marking protocols relating to candidates automatically graded as 'Competent' and those candidates whose overall examination performance is referred for a holistic review (see further 4.3.3, above) 85.5% of July 2024 candidates were deemed to be automatic passes, and a further 4.8% were deemed to have passed following a holistic review of their scripts.

6.1.2 The table on the following page reveals that the July 2024 sitting resulted in:

- (i) a significantly lower than average number of candidates being considered under the holistic review process (11.3%);
- (ii) a lower-than-average percentage of candidates subjected to holistic review being confirmed as 'Competent' following the review process (4.8%);
- (iii) the highest percentage of candidates to date passing automatically (85.5%).

This data must read in the context of a change to the holistic review policy introduced from the July 2023 sitting onwards. Previously, scripts were referred for holistic review if they contained between five and eight 'Satisfactory' or 'Good' and no more than two 'Unacceptable' answers. Scripts with nine or more 'Satisfactory' or 'Good' and no more than two 'Unacceptable' answers became 'automatic passes'. The holistic review policy has now been refined so that scripts are referred for holistic review if they contain between five and seven 'Satisfactory' or 'Good' and no more than two 'Unacceptable' answers. Scripts with eight or more 'Satisfactory' or 'Good' and no more than two 'Unacceptable' answers are now graded as 'automatic passes'.

Exam Sitting	Apr-22	Jul-22	Oct-22
Total number of candidates	112	25	9
Total number of candidates subject to holistic review	15.2%	40.0%	44.4%
Automatic Fail	1.8%	4.0%	22.2%
Fail at Holistic Review Stage	2.7%	4.0%	0.0%
Pass at Holistic Review Stage	12.5%	36.0%	44.4%
Automatic Pass	83.0%	56.0%	33.3%

Exam Sitting	Jan-23	Apr-23	Jul-23
Total number of candidates	213	59	51
Total number of candidates subject to holistic review	41.3%	59.3%	15.7%
Automatic Fail	5.2%	15.3%	3.9%
Fail at Holistic Review Stage	2.8%	13.6%	5.9%
Pass at Holistic Review Stage	38.5%	45.8%	9.8%
Automatic Pass	53.5%	25.4%	80.4%

Exam Sitting	Jan-24	Apr-24	Jul-24
Total number of candidates	344	115	62
Total number of candidates subject to holistic review	28.8%	15.7%	11.3%
Automatic Fail	8.7%	9.6%	3.2%
Fail at Holistic Review Stage	9.6%	3.5%	6.5%
Pass at Holistic Review Stage	19.2%	12.2%	4.8%
Automatic Pass	62.5%	74.8%	85.5%

Cumulative
990
28.9%
7.1%
6.3%
22.6%
64.0%

6.1.3 The tables below show the breakdown of 'Competent' candidates by reference to the number of answers graded as 'Good' or 'Satisfactory' and the breakdown of 'Not Competent' candidates by reference to the number of answers graded as 'Unacceptable' or 'Poor':

Number of Passing Candidates With	
5 Satisfactory/Good Responses	0
6 Satisfactory/Good Responses	1
7 Satisfactory/Good Responses	2
8 Satisfactory/Good Responses	9
9 Satisfactory/Good Responses	12
10 Satisfactory/Good Responses	18
11 Satisfactory/Good Responses	10
12 Satisfactory/Good Responses	4

Number of Failing Candidates With	
3 Unacceptable/Poor Responses	0
4 Unacceptable/Poor Responses	0
5 Unacceptable/Poor Responses	0
6 Unacceptable/Poor Responses	4
7 Unacceptable/Poor Responses	1
8 Unacceptable/Poor Responses	0
9 Unacceptable/Poor Responses	0
10 Unacceptable/Poor Responses	1
11 Unacceptable/Poor Responses	0
12 Unacceptable/Poor Responses	0

6.1.4 The table below illustrates the operation of the grading and holistic review processes (outlined at 4.3.3 above) in respect of the July 2024 cohort.

Profiles July 2024 Sitting	Unacceptable	Poor	Satisfactory	Good
Strongest Profile - candidate automatically failing with 3 or more "Unacceptable" gradings	3	4	4	1
Strongest Profile - candidate automatically failing with 4 or fewer "Good" or "Satisfactory" gradings	1	9	2	0
Strongest profile - candidate failing following holistic review	2	4	3	3
Weakest profile - candidate passing following holistic review	0	6	6	0

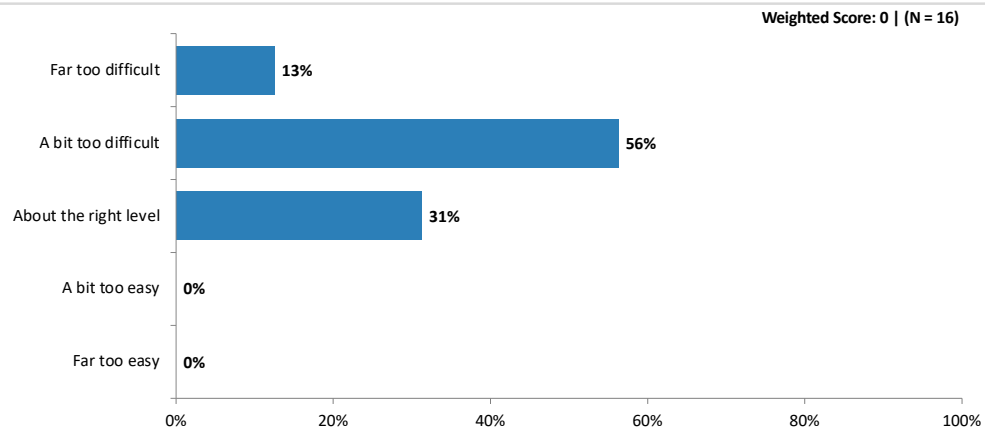
In respect of the candidates being considered in the holistic review process, it should be borne in mind that the determination of a "Competent" or "Not Competent" grading is not driven by a simple mathematical formula, but ultimately rests on the overall view of the quality of the script taken by the examiners. Hence, as the above table shows, the weakest candidate passing as a result of the holistic review process only had one answer graded as "Good" but had 5 answers graded as "Satisfactory". By contrast, the strongest candidate failing following holistic review had 4 answers graded as "Good", but only one answer graded as "Satisfactory". Both candidates had identical "Unacceptable/Poor" scores. A consideration for reviewers will be the nature and seriousness of the defect contained in an answer, for example whether an answer is graded "Unacceptable" on the grounds of what the candidate has failed to address, or on the basis of what the candidate has (wrongly) asserted to be the correct ethical position.

6.2 Feedback from candidates

6.2.1 The Examinations Manager reported that feedback was solicited from all candidates via a survey immediately following the exam, with reminders sent a week later. Responses were provided by 16 candidates (26%).

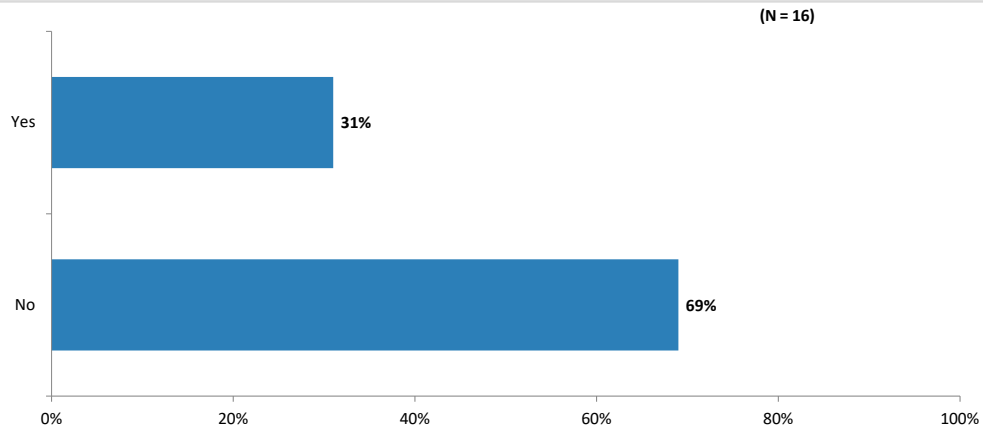
6.2.2 A summary of the general feedback: Level of difficulty

What was your impression of the overall difficulty level of the paper for a barrister at this level of training?



6.2.3 A summary of the general feedback: Sufficiency of time allowed

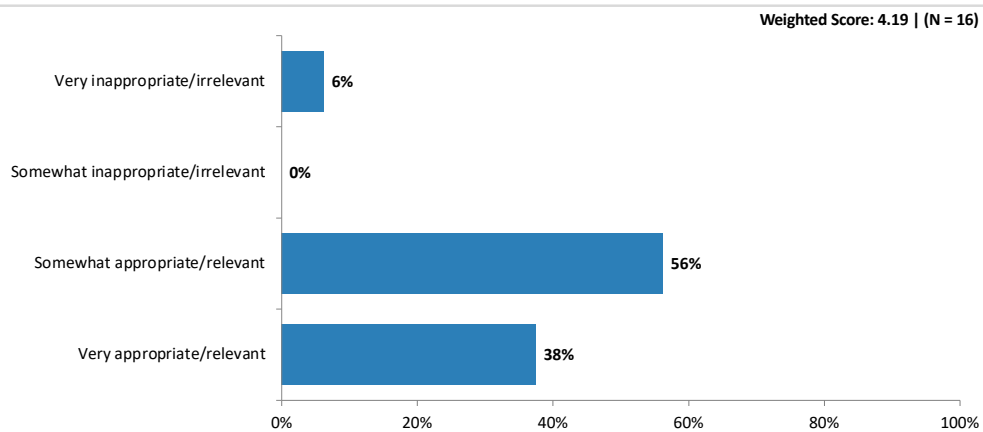
Did you leave any answers blank or incomplete due to insufficient time?



7

6.2.4 A summary of the general feedback: Relevance of scenarios

How appropriate and relevant did you find the scenarios were to the experience of early years practitioners?



9

6.2.5 Candidate feedback trends

From the July 2022 sitting onwards the BSB has canvassed candidate feedback on the Professional Ethics assessment, focussing in particular on the level of difficulty posed by the questions, the extent to which candidates were unable to complete all items, and the relevance of the scenarios used to early years practitioners. Inevitably, response levels are quite low and the opportunity to give feedback is more likely to be taken up by those candidates who have more negative feelings regarding the assessment. The summary of responses to date is as follows:

Question	Apr-22	Jul-22	Oct-22	Jan-23	Apr-23	Jul-23	Jan-24	Apr-24	Jul-24
no. responding	N/A	3	3	73	12	12	88	19	16
% of candidates responding	N/A	8%	33%	34%	20%	24%	26%	17%	26%
% of respondents confirming that the difficulty level of the paper as a whole was appropriate for a barrister at this level of training	N/A	66%	33%	19%	33%	50%	17%	37%	31%
% of respondents self-reporting as leaving answers blank due to lack of time	N/A	0%	33%	55%	91%	25%	45%	50%	31%
% of respondents confirming that the question scenarios were somewhat appropriate/relevant or very appropriate/relevant to the experience of early years practitioners	N/A	100%	33%	57%	41%	83%	64%	69%	84%
Passing rate for this sit	95.50%	92%	77.80%	92%	71.20%	90.20%	81.70%	87.00%	90.30%

Of the 226 responses to date, the cumulative breakdown is as follows:

% of respondents confirming that the difficulty level of the paper as a whole was appropriate for a barrister at this level of training	22.92%
% of respondents self-reporting as leaving answers blank due to lack of time	48.29%
% of respondents confirming that the question scenarios were somewhat appropriate/relevant or very appropriate/relevant to the experience of early years practitioners	63.43%

Generally, candidates who responded to the surveys appear to be happy regarding the relevance of the scenarios used but feel the assessment may be too challenging and that more time should be allowed for completion of the assessment.

Professor Mike Molan
Chair of the CEB
7 October 2024

Appendix 1

General Descriptors

Grade	Descriptor
Good = "More than Competent"	Content exceeds the criteria for a Satisfactory answer i.e., "more than Satisfactory"
Satisfactory = Competent	<p>A competent answer demonstrating satisfactory understanding of the key issues, but with some inaccuracies and/or omissions. Such inaccuracies and/or omissions do not materially affect the integrity of the answer.</p> <p>Analysis and/or evaluation is present but may not be highly developed</p> <p>Evidence of insight, but it may be limited.</p> <p>Use of appropriate information and principles drawn from syllabus materials.</p> <p>Shows an awareness of the key issues and comes to appropriate conclusions.</p>
Poor = Not yet Competent	<p>Poor understanding of the key issues with significant omissions and/or inaccuracies.</p> <p>Limited or completely lacking in evidence of understanding. Interpretation, analysis and/or evaluation is shallow and poorly substantiated.</p> <p>Little or no evidence of insight.</p> <p>Limited use of information and principles.</p> <p>Not evident that syllabus materials were understood and/or incorporated into answer.</p> <p>Shows a very limited awareness of the key issues and fails to come to appropriate conclusions.</p>
Unacceptable = Not yet competent	<p>The answer contains material which, in the view of the examiners, is so <i>clearly incorrect</i> that, if it were to be replicated in practice, it could significantly affect the client's interests or the administration of justice (such acts or omissions would include behaviour which would require reporting to the BSB) and/or place the barrister at risk of a finding of serious misconduct.</p> <p>An answer which, in the view of the examiners, fails to make a genuine attempt to engage with the subject-matter of the question (e.g., the candidate's response amounts only to "<i>I do not know the answer to this question, but I would telephone my supervisor for assistance</i>") will fall into the "clearly incorrect" category of answers.</p> <p>A failure by a candidate to provide any answer will be treated in the same manner as a candidate who provides a "clearly incorrect" answer.</p>