

## Mitigating Circumstances Policy, Procedure and Guidance

### Introduction

1. This policy outlines the normal College procedures relating to applications for consideration of mitigating circumstances. Mitigating Circumstances (MC) are defined as unforeseen, unpreventable circumstances that significantly disrupt student performance in assessment.<sup>1</sup>
2. Throughout this policy the term “boards” should be taken to mean sub-boards of examiners for undergraduate programmes and College boards of examiners for postgraduate programmes.
3. The purpose of assessment is to enable the College to gauge the achievement (rather than the potential) of each student against the defined learning outcomes of each assessment element. The purpose of the mitigating circumstances regulations and policy is to enable the College to take into account circumstances that have prevented the student from demonstrating their achievement (rather than their potential).
4. Assessment procedures are designed to enable the College to gauge accurately an individual student’s achievement based on evidence. It is generally accepted that it is extremely difficult to determine a value by which a student’s performance has been affected and to determine a mark which a student may have achieved had they not had mitigating circumstances. Therefore, boards should not normally raise marks for elements of assessments or overall module results on the basis of accepted mitigating circumstances. The default should normally be the award of an assessment opportunity without penalty, thus giving the student the opportunity to show their true achievement in the affected element.
5. The only exception to this will normally be where a student has failed an element or module by no more than 2% (in which case, where an application for mitigating circumstances has been accepted, the board may use discretion to raise the relevant mark to a bare pass), or where a student’s final overall result falls within 2% of a border (in which case, where an application for mitigating circumstances has been accepted, the board may use discretion to raise the class of award to the next level). Where an individual element or module mark is raised to a bare pass the student would normally still be given the option to attempt a reassessment without penalty in its place.

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<sup>1</sup> “Assessment” relates to any form of assessment including coursework, reports, essays, examinations, laboratory work, in-class tests, projects, dissertations etc.

6. The College Policy on Mitigating Circumstances applies to specific circumstances that affect assessment only. It does not apply to long term medical or other conditions. The College makes reasonable adjustments for students with disabilities (including long-term health conditions) under the 2010 Equality Act; these may apply to assessments as well as to aspects of the student learning experience. Reasonable adjustments specifically relating to examinations are determined by the College's process for providing Personalised Examination Provision (PEP). It will not normally be possible to claim mitigating circumstances in respect of circumstances that the College has already made allowance for under its special examination arrangements procedures or more broadly as part of a student's Study Support Plan (SSP).
7. Students who have been unable to attend or submit assessments, or who believe their performance in assessment has been affected by mitigating circumstances may submit a claim.
8. A Mitigating Circumstances claim should be submitted if valid detrimental circumstances result in:
  - a) the late or non-submission of assessment;
  - b) non-attendance of examination(s);
  - c) poor performance in assessment.
9. For a claim to be accepted a student must produce independent documentary evidence to show that the circumstances:
  - a) have detrimentally affected their performance/submission/attendance in assessment or will do so;
  - b) were unforeseen;
  - c) were out of their control and could not have been prevented;
  - d) relate directly to the timing of the assessment affected.

Students should be aware that discussing their claim with a member of staff does not constitute a submission of a claim of mitigating circumstances.

10. Decisions relating to mitigating circumstances claims are taken by the appropriate Board of Examiners, based in the Department responsible for the programme on which the student is registered (the 'home department'). Students must submit any mitigating circumstances claim to the Mitigating Circumstances Panel in their home department, even when the affected module is run by another department (the host department). If mitigating circumstances are accepted by the home Mitigating Circumstances Panel, the host department should be informed and asked to make a decision on the form of reassessment that should be made or in what other way the claim should be dealt with. The Panel's decision and the host department's recommendation on reassessment should be communicated to the appropriate Board of Examiners for ratification. Where agreement on acceptance of

mitigating circumstances or reassessment cannot be reached, the Chairs of the Mitigating Circumstances panels should seek guidance from the Academic Registrar or nominee.

### **Submission of Mitigating Circumstances Claims**

11. Students are encouraged to submit their claim for mitigating circumstances in advance and at the earliest opportunity. The final deadline for submission of a claim is *normally* 1 week after the final assessment<sup>2</sup> for a module unless otherwise stated by the appropriate School<sup>3</sup>.
12. Claims should use where possible the standard College Mitigating Circumstances claim form (see annex A) which should be submitted in accordance with the procedure for submission published by the appropriate School.

### **Confidentiality and Record Storage**

13. The mitigating circumstances claim and associated evidence will be considered by members of the appropriate panel or board solely for the purpose of processing a student's claim. Original documentary evidence will only be returned upon written request by the student.
14. All claims and evidence will be kept by the College for the duration of time as stated in the College Records Retention Policy after which the records and evidence shall be destroyed.
15. The College therefore does not accept any liability for the destruction of original copies of evidence after the minimum period of storage has lapsed.

### **Documentary Evidence for claims**

16. In addition to the requirement for independent documentary evidence to be provided, the following also applies:
  - a) Documentary evidence must *normally* be presented in English and, where required, translations must be provided by the student using a translator approved by the Chair of the relevant panel or board. It is not the responsibility of the College to translate any evidence provided by the student

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<sup>2</sup> Each board is responsible either for reviewing applications for consideration of mitigating circumstances, or delegating consideration of mitigating circumstances applications to an appropriate panel. It is anticipated that the latter of these two options will usually apply. See paragraphs 16-26.

<sup>3</sup> This is the School that operates the programme / module that the student is registered for; this will not necessarily be the School that delivers the module in question.

- and any un-translated evidence will not be considered.
- b) The College reserves the right to check the authenticity of all documentation submitted as part of a mitigating circumstances claim.
  - c) Any student who submits documentation that is not authentic may be subject to the College disciplinary procedures and may be liable to criminal proceedings.

### **Mitigating Circumstances Panels**

17. Each board should consider, in respect of applications for consideration of mitigating circumstances, whether or not, on the basis of all the evidence submitted, the student has made a valid claim. This responsibility will normally be delegated to a panel established for the purpose.
18. The membership of any panel shall be at the discretion of the relevant board, but does not require the membership of an external examiner. However, boards, when determining the membership of a panel, should consider the need for objectivity in the process.<sup>4</sup>
19. The Academic Board may nominate a member of academic or administrative staff to observe any Mitigating Circumstances Panel to ensure consistency across the College. The Academic Board or its nominated body may request all mitigating circumstances records of one or more panels be audited by the College to ensure consistency across the College in the application of this policy.
20. Where a board or panel is unable to reach a decision on a claim the Chair of the board should seek guidance from the Academic Registrar or nominee on similar cases across the College.
21. Schools should ensure that panels or boards are provided with the dates and deadlines of assessments, as a major factor in determining the validity of a claim is the correspondence between the date(s) of the mitigating circumstances and the date of the assessment.<sup>5</sup>
22. The panel or board must make one of the following decisions for each element of assessment for which a student has made a claim:
  - Accept: The claim is accepted as affecting that item of assessment.
  - Allow Late: No penalty will be applied in respect of late submission.<sup>6</sup>
  - Reject: The claim is not accepted for that item of assessment.

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<sup>4</sup> This may mean inviting an external examiner, or internal members of staff from outside of the programme, School or Faculty.

<sup>5</sup> If the documentary evidence provided by the student does not indicate that they were affected by mitigating circumstances at the time of the assessment the claim should normally be rejected.

<sup>6</sup> The assessment will therefore NOT be subject to a penalty for late submission and will be awarded its true mark.

23. A Mitigating Circumstances Panel must ensure that a list of all accepted claims is provided to the relevant board. This will comprise the registration number of the student, the module and element of assessment in question and the decision of the Mitigating Circumstances Panel, together with any recommendations.
24. The details and evidence of any claim shall remain confidential, and should not normally be provided to the board unless specifically requested.
25. Where a panel has made one of the decisions provided for in paragraph 23 of this policy, this decision may be communicated to the student in advance of the meeting of the board. However, it is the board who will decide how this decision will be treated (see paragraph 26); the student should only be informed of how the circumstances will be taken into consideration once the board has confirmed its decision. Students should not normally be informed of any recommendations made by a panel until approved by the board.
26. Where the Mitigating Circumstances Panel has accepted a claim, the relevant board should use its discretion to judge how these circumstances will be taken into consideration. Possible decisions could include a decision that the student:
  - (a) should be given another assessment opportunity which shall not count as an additional attempt at the assessment (known as a reassessment without penalty)<sup>7</sup> Alternatively, the board may feel that the circumstances and evidence warrant a retake without penalty of the module.<sup>8</sup>
  - (b) should not be penalised for late submission of coursework and allow the student their true mark for the element in question (where a panel has not already made this decision on the board's behalf).
  - (c) in the case of failure by 2 percentage points or less, raising the numerical result to the pass mark.
  - (d) should only use the marks from non-affected elements of the assessment to decide the module result
  - (e) should have their final classification raised (if the final classification index is within 2% of a borderline).
  - (f) If the overall degree result is 2 percentage points or less below a class borderline, the numerical overall result may be raised so that the higher class is achieved.

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<sup>7</sup> The format and timing of this reassessment are at the discretion of the board.

<sup>8</sup> A retake without penalty in the module means to retake the module with full attendance and full submission and attendance of all assessments. This would not count as a separate, additional attempt at the module. However it would be included in the total number of modules that a student can attempt in any given academic session.

### **Late and Rejected Mitigating Circumstances Claims**

27. If a claim does not meet one or more of the required conditions (paragraph 9) it will be rejected.<sup>9</sup>
28. Students may appeal against a decision of a Board or Examiners on the basis that there were mitigating circumstances that the student was unable or, for valid reasons, unwilling to submit to the Board by the published deadline (see paragraph 11). Any such appeal should be made according to the procedure outlined in the College's Appeals Policy and Procedure.

### **Mitigating Circumstances and Passed Assessments and Modules.**

29. If a student submits a claim for mitigating circumstances which is accepted and then subsequently passes the element in question the board should still offer the student the reassessment without penalty in the element in question.
30. The student may elect to not undertake this re-assessment without penalty, in which case the student will retain the existing mark. This will be noted for reference at the board meeting so that in the event of the student being borderline between two classifications this will signify to the board that the existing mark may under-represent their work and may be used by the board in borderline cases to award the higher classification.

### **Reporting**

31. To ensure consistency of decision making across the College, each Board of Examiners should report annually on decisions taken on mitigating circumstances to the appropriate College Board of Examiners. This report should include details of number of applications received, numbers accepted and rejected, number of late submissions condoned and numbers of decisions taken in each category outlined in paragraph 26 of this policy. Academic Board may also request further information as outlined in paragraph 19 of this policy.

Academic Board  
June 2016

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<sup>9</sup> Details of why a claim was unsuccessful should be recorded and will be made available to students only on request.

2016/17

MIT-CIRC



## BIRKBECK – UNIVERSITY OF LONDON

### Mitigating Circumstances Claim Form (for academic session 2016/17)

You must submit this form at the earliest possible opportunity, and at the latest 1 week after the final assessment deadline or date of exam for a module, unless otherwise stated by the appropriate School. Submission after that date must be in line with the College procedure for 'Appeals Policy (Taught)'. Claims that do not include relevant information or documentary evidence will not be considered. Acceptance of mitigating circumstances claims is at the discretion of the College only. All information submitted as a claim of mitigating circumstances will be treated as confidential.

Please check our website for further information at: <http://www.bbk.ac.uk/registry/policies>

Surname: .....

First Name(s): .....

Student Number .....

Programme of Study: .....

Current Email Address: ..... (you will normally be contacted with a decision by email)

Please list all modules for which you are submitting a claim of Mitigating Circumstances:

Module Code	Module Title	Assessment affected (e.g. examination, first coursework, in-class test)	Coursework		Examination
			Deadline	Date submitted	Date of examination

Please complete the following information by ticking the appropriate box and completing the related columns.

Type of Original Evidence you are Submitting	Tick	Date Covered by Evidence	
		Date From	Date To
Doctor's note or other medical evidence			
Police letter or form			
Employer's letter (part-time students only)			
Death Certificate			





I confirm that the above information is correct

Signature: .....

Date: .....

Return this form to your Course Administrator as soon as possible.

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Departmental use only:

Received:

SITS:

## **Guidance on Grounds for Mitigating Circumstances**

### **Examples of circumstances beyond the reasonable control of the student:**

- bereavement (near relative only)
- serious accident, illness or serious infectious disease
- burglary and theft
- childbirth (ie going into labour on the day of an assessment)

### **Examples of situations which *may* be considered beyond the reasonable control of the student:**

- medical operation (if approved prior to the point of assessment or an emergency)
- hospital tests (if approved prior to the point of assessment or an emergency)
- being taken ill during an examination
- significant accident, injury, acute ailment or condition
- unanticipated and unavoidable professional obligations
- private or public transport failure leading to delays of more than 1 hour (corroborative evidence is required to verify such a delay)

### **Examples of circumstances that would NOT normally be considered mitigating circumstances:**

- accidents to friends or relatives (unless within 3 days prior to deadline or examination or where student is sole carer)
- family illness (except in an emergency or where the student is the sole carer)
- examination nerves
- feeling generally anxious, depressed or stressed (unless medically certificated and notified in advance i.e. at least 2 weeks)
- minor accidents or injuries
- pregnancy
- cold, cough, upper respiratory tract infection, throat infection, unspecified viral infection
- childcare problems that could have been anticipated
- domestic problems (unless supported by independent evidence)
- mistaking the deadline, or time management problems (including alarm not going off)
- private or public transport failure leading to delays of less than 1 hour
- general financial problems
- legal problems (unless required to attend Court on the day of the assessment)
- holidays or booked travel arrangements
- house moves
- notes burned or stolen (unless supported by a fire or police report)
- intermittent or last minute computing equipment problems (discs, machines, printers, viruses)
- handing-in problems
- inclement weather (unless exceptional/severe conditions)
- ignorance of the Regulations or examination/assessment arrangement
- inadequate planning and time management.
- having more than one examination on the same day.
- examination clashes arising from incorrect registration by the student
- any event that could reasonably have been expected or anticipated.

### **Guidance on Independent Documentary Evidence**

This should be an official document e.g. a letter on official headed paper, and should normally include the dates during which the circumstances applied.

Copies of documentary evidence, other than officially certified copies of Death Certificates, will not normally be accepted. If a student needs an original document for another purpose, they must bring the original into the School Office so that a copy can be made by a member of College staff. (Where a photocopy is made by a member of staff they should indicate on the copy that they have seen the original).

Supporting statements from Personal Tutors may be submitted if the Tutor has been made aware of the specific mitigating circumstances and how they have affected the student. However such a statement should not be considered to be independent evidence.

Evidence sent by fax does not constitute submission of evidence. If documentation is faxed, the decision of a Board will not be confirmed until the original documentation has been submitted and received.

### **Counselling**

Psychiatrists and Counsellors with a recognised professional qualification may provide a confidential statement.

### **Illness and Injury**

- Circumstances relating to illness or injury must be independently verified by the person, practice or institution that diagnosed or assessed the illness/injury at the time it occurred.
- This must take the form of a medical certificate or doctor's letter that is either obtained at the time of the illness or evidence that makes it clear that the student was unwell at the time. It should state the time and duration of the illness and include a clear medical opinion, (a note from the doctor indicating that the student *told* them that they were unwell will not be accepted). Self-certification cannot be accepted.
- Written evidence from Complementary Therapists will only be considered where the College is satisfied that the therapist is a member of a recognised professional body.

### **Bereavement**

Where the death is of someone related to or known to the student, the College normally requires a death certificate or an officially certified copy of a Death Certificate or written confirmation from a GP to be provided.

Where a student has been affected by a death of someone other than a partner, parent, child or close family member, the College requires the student to explain the relationship to the deceased and the impact upon their performance in assessment. Bereavement will normally be considered to cover the assessments within the term the death occurred. If a student feels they have been affected by a death beyond this they will normally need to provide additional evidence to indicate how the death has affected them personally e.g. a doctor's certificate.

### **Financial and Accommodation Problems**

Claims and evidence for financial and accommodation problems are considered on a case-by-case basis and must comply with the conditions for independent documentary evidence and must fulfil the principles of the Mitigating Circumstances process.

### **Chronic or Long-term Conditions and Special Examination Arrangements**

- Such cases will only normally be considered if evidence from a Medical Practitioner indicates that the chronic condition became acute during the relevant period.
- Reasonable adjustments for examinations and other assessments may be made for students with particular disabilities or difficulties affecting their ability to undertake the proposed examination or other form of assessment.
- Students who have been granted special examination arrangements for assessments would normally not have a claim of mitigating circumstances accepted for the same piece of assessment unless the arrangements were shown to be inadequate or the mitigating circumstances affected the student over and above the special examination arrangements that had been made for them.

### **Computer and Information Technology problems**

Equipment and system failures would normally only justify late submission of coursework for up to 24 hours and should be verified by an independent source.

## **Employment**

The College understands that some students have to work to finance their studies but must ensure the integrity of its awards. Students should consider whether they can comply with the requirements of their chosen programme before enrolling at the College.

- Part-time students in employment who are prevented by their employer's action(s) from attending assessments or completing work by the published deadline must provide documentary evidence from their employer.
- Full-time students will not normally be eligible to claim for mitigating circumstances in relation to employment.