

## Mitigating Circumstances Policy and Procedure

Please note that this Policy remains applicable for the 2020/21 year but with the following exceptions in response to the disruption from COVID-19. These changes are effective from 11<sup>th</sup> January 2021.

- 1) No documentary evidence is required for any claims. Please ignore reference to this in sections 11, 15, 16, 17, 18 and 26 of this policy.
- 2) The addition of the following examples as acceptable grounds for claims:
  - Bereavement due to COVID-19
  - Hospitalisation due to contracting COVID-19
  - Self-isolation due to having COVID-19 or COVID-19 like symptoms
  - Financial impacts due to furlough, loss of work or redundancy
  - Difficulties in completing work because of limited access to a computer, internet or quiet study space
  - Reduced capacity to study due to having to home-school, children/or caring for vulnerable relatives etc.
  - Taking on extra work in employment to cover staff absences/ extra shifts as a key worker
  - Deterioration of existing mental ill health conditions or development of such conditions

Please see the [‘COVID-19 Response - Mitigating Circumstances - Guidance for Students’](#).

- 3) All mitigating circumstances claims should be submitted using the online process.

### Introduction

1. This policy outlines the normal College procedures relating to applications for consideration of mitigating circumstances. Mitigating Circumstances (MC) are defined as unforeseen circumstances or circumstances that are outside the student’s control, and that significantly disrupt the student’s performance in assessment.<sup>1</sup>
2. Throughout this policy, the term “boards” should be taken to mean sub-boards of examiners.

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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.

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 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 overall weighted average mark falls within 2.00% of the next (higher) degree classification (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.
6. This policy 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.
7. 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 personalised examination provision procedures or more broadly as part of a student's Study Support Plan (SSP). However, students can submit mitigating circumstances claims relating to an unforeseen worsening of their declared long-term health condition, or to significant issues with the implementation of disability support that are unforeseen or outside of the student's control, and which had an impact on their performance in assessment.
8. If a claim is made on the basis of lack of implementation of necessary disability support, the Panel should seek advice from the Disability & Dyslexia Service when considering the claim.
9. 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.

10. A Mitigating Circumstances claim should be submitted if valid detrimental circumstances result in:
- the late or non-submission of assessment;
  - non-attendance of examination(s);
  - poor performance in assessment.
11. For a claim to be accepted a student must produce independent documentary evidence to show that the circumstances:
- have detrimentally affected their performance/submission/attendance in assessment or will do so;
  - were unforeseen;
  - were out of their control and could not have been prevented;
  - 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.

12. 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 Disability and Dyslexia Service, Mental Health Advisory Service, or Academic Registrar or nominee.

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

13. 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 2 weeks after the assessment date or assessment deadline for the element of assessment to which the claim relates.<sup>2</sup>
14. Claims should use 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**

15. 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

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<sup>2</sup> Mitigating Circumstances claims relating to missed attendance of taught sessions should be submitted within 2 weeks after the end of the term in which attendance was affected

student's claim. Original documentary evidence will only be returned upon written request by the student.

16. 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.
17. 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**

18. 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 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**

19. 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.
  20. 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>3</sup> When composing a Panel, Departments should consider the diversity of the panel. Where possible the Department should seek to have a panel that is diverse in terms of a range of protected characteristics, such as gender, race, disability, and age.
  21. 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.
  22. 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.
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23. 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>4</sup>
24. 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>5</sup>
  - Reject: The claim is not accepted for that item of assessment.
25. 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.
26. The details and evidence of any claim shall remain confidential, and should not normally be provided to the board unless specifically requested.
27. Where a panel has made one of the decisions provided for in paragraph 24 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 28); 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.
28. 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 and which will not be capped known as a reassessment without penalty).<sup>6</sup> Alternatively, the board may feel that the circumstances and evidence warrant a retake without penalty of the module.<sup>7</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) should only use the marks from non-affected elements of the assessment to decide the module result
  - (d) should have their final classification raised (if the overall weighted average mark is within 2.00% of a borderline).

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<sup>4</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>5</sup> The assessment will therefore NOT be subject to a penalty for late submission and will be awarded its true mark.

<sup>6</sup> The format and timing of this reassessment are at the discretion of the board.

<sup>7</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**

29. If a claim does not meet one or more of the required conditions, it will be rejected.<sup>8</sup>
30. 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**

31. If a student submits an assessment by the deadline but believes their performance has been negatively affected by mitigating circumstances, where this claim is accepted and the student subsequently passes the element in question, the board should still offer the student the reassessment without penalty in the element in question.
32. 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**

33. 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  
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<sup>8</sup> Details of why a claim was unsuccessful should be recorded and will be made available to students only on request.