

**Guidance for the Mitigating Circumstances Policy and Procedure  
(2019/2020)**

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This guidance document has been produced to guide and advise staff on the implementation of the new Mitigating Circumstances Procedure from September 2018. If there are any additional questions or areas of clarification needed following reading this guidance, please contact the Assistant Registrar (Academic Standards) for support in the first instance.

### Introduction

1. This guidance document is provided to support the Mitigating Circumstances Policy and Procedure, initially implemented in academic year 2018/2019. This was developed by the cross-College working party following a review of current protocols, feedback and casework outcomes, and with reference to recognised sector best practice such as that identified in the Academic Registrar's Council guidance and by the Office of the Independent Adjudicator for Higher Education (OIA).
2. This guidance provides detailed information to support those responsible for considering the claims presented and to provide clear information to students. Regular reviews of the documentation and work of the Boards may lead to updates to this guidance.

### Scope

3. The procedure applies to all taught programme students, and those on the taught aspects of research programmes. Postgraduate Research students should consult the *Late Case Request* process and seek support from their supervisor.
4. Where Mitigating Circumstances have been accepted prior to the implementation date of the policy but have yet to have been considered by a Board of Examiners, the decision will be carried forward to the next Board(s) as relevant and considered in line with the regulations that were in place at the time of the decision. Further guidance is provided in the Board of Examiners guidance notes distributed each year.
5. The policy, and this guidance, also provides details of the assessment extension request process. This is separate to the consideration of the claims for mitigation, though it is noted that there are overlaps and in some cases students may be better served in referring a request for an extension to a claim for mitigation or vice versa.

### Confidentiality and GDPR

6. By their nature, claims for mitigating circumstances are likely to contain sensitive and personal information. It is important that this is acknowledged by ensuring that all claims are considered in a confidential manner and that due care and attention is paid to the secure storage and timely destruction of papers, in both paper and electronic form.
7. On submission of the claim, students will be asked to confirm that they understand that their information will be shared only so far as it is necessary to fully consider the claim. They will also be informed that if the claim raises concern regarding their personal welfare or that of others, the College may be required to take further steps such as referring the student to other sources of support and guidance.
8. Whilst most claims will be considered in Mitigating Circumstances Board meetings should it be necessary to consider a claim 'virtually', that is in a form of electronic discussion, the documentation must not be shared outside the EU (as it currently applies), must be deleted as appropriate from any electronic devices used to view it and/or any email accounts. Please be aware that sharing applies to the server/ service provider as much to the physical location of the person accessing the

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information. If there is any doubt of compliance to data protection legislation, an alternative method should be sought.

9. All College members should note any changes to GDPR legislation that may occur as a result of Great Britain's exit from the European Union (Brexit) and how this would impact on the consideration of claims above.
10. Students should also be encouraged as far as possible to not provide sensitive and personal data about 3<sup>rd</sup> parties. Where 3<sup>rd</sup> party data is supplied and is not necessary to the claim it should be returned. Where this is not possible measures should be taken to limit any further dissemination. For example when a claim is received and details confirmed, the 3<sup>rd</sup> party data could be redacted. Further guidance on this can be sought from Registry, your local data protection coordinator or the Data Protection Officer.

### Claim submission

11. Students should make a claim for mitigation within 10 working days of the assessment deadline using the mitigating circumstances form and supplying the relevant independent evidence.
12. Working days are counted as any normal working Monday to Friday and so includes vacations period in the academic year. It excludes Bank Holidays and College Closure days at Easter and Christmas (as listed on the College website at <http://www.imperial.ac.uk/human-resources/procedures/leave/annual-leave/college-closures/>).
13. As claims will not be reviewed centrally, the method such as the email account/person to whom a submission should be given to must be clearly provided to students. This may be on department webpages and/or in the programme handbook for example.
14. Some departments have initiated an electronic version of the Mitigating Circumstances submission process. Support can be provided to roll this out further.
15. As stated in the policy, a student should not delay to make a claim whilst they are seeking supporting documentation. They should submit the form within the deadline and indicate when evidence will be provided.
16. Where a student misses the deadline they may make a late claim using the same process. They should not use notification of late mitigating circumstances as grounds for appeal. If this occurs, the Registry will refer the student to the correct procedure.
17. When making a claim for mitigation after the 10 day deadline, students will be required to explain the reason for the delayed submission and provide appropriate corroborating evidence. Acceptable reasons for a late submission include; hospitalisation or other form of incapacitation, significant mental health difficulties or grief. Examples of reasons that will not be accepted are a lack of understanding or knowledge of the process and the deadline for submission.
18. It is the responsibility of the student to complete the claim form in full and to provide independent supporting evidence. A failure to understand the process or to provide

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the correct evidence when it is or could reasonably be expected to be available will not be grounds for a subsequent appeal.

19. All claims that are made should be considered by a Mitigating Circumstances Board. Any potential consequences to the student should not be known by the members in considering the claim, which should be looked at on its merits.

### Mitigating Circumstances Boards (MCB)

20. Each Faculty will be responsible for designating either faculty or department-level boards for the consideration of claims.
21. Where it is agreed to have department level boards, a Faculty Mitigation Oversight Panel (FMOP) will be constituted. The role of the oversight panel is not to reassess the claims but to act as auditor, identifying best practice and ensuring consistency in practice across the Faculty.
22. The membership of the FMOP will be designated within each faculty but should be sufficiently broad to meet its remit. It should include members of staff with experience of considering mitigating circumstance claims, such as current MCB members, and may also include co-opted members from central College services such as Disability Advisory Service, Registry or Student Services. They may also choose to co-opt an appropriate representative from the Imperial College Union. The Faculty will decide the number and timing of FMOP meetings required through the year.
23. Within each area (faculty or department) for consideration of claims, a group of academic staff will be agreed to be the members of the MCB. It is not necessary for the full group to meet at each occasion. Each MCB considering claims will be drawn from a minimum of 3 members of the group, with a secretary to the Board responsible for recording the decision(s), providing the outcome to the students and to the Board of Examiners in an appropriate format.
24. Those considering claims should be free from any perception of bias. Where there is the potential for a perception of bias, for example where there is a conflict of interests or the Board member has been supporting the student with regards to the claim, they should excuse themselves from the consideration of the case.
25. In a change to the previous policy, it is not the role to assess the actual impact of a given set of circumstances on the performance of the student, rather it should be considering whether the circumstances *could* have had a detrimental impact, and that this is sufficiently evidenced.
26. MCBs should be planned to occur throughout the academic year, considering any major assessment points and timed to occur prior to the Boards of Examiners. This may mean Boards will occur at different frequencies across the College and/or during the year.
27. As it is likely that claims for mitigating circumstances will be raised late, it would be appropriate to plan a MCB to fall after the absolute deadline (10 working days after the official notification of results by the Results team in Registry).
28. If necessary an MCB may be convened on an ad hoc basis.

### Guidance regarding what an MCB may or may not accept

29. During a period of study there are likely to be a number of issues that arise that could have an impact on a student. To a certain extent, students are expected to continue their studies at the same time as dealing with these circumstances.
30. There may be occasions however where **serious and unforeseen** circumstances have a **significant adverse effect** on the ability of the student. The mitigating circumstances policy is there to provide support in these cases.
31. It should be recognised that just as each student is different, the impact of a similar set of circumstances on individual students will also differ. Factors that may influence this impact may include their personal support mechanisms, underlying stress factors, cultural background, a previously confirmed disability, physical or mental health condition.
32. The following list provides an indication of the types of circumstances that may be accepted where there is appropriate corroborating evidence and the claim has been made in a timely manner. It is not exhaustive, and the Board should always consider the definition of Mitigating Circumstances in the procedure document when making their decisions.
  - a. Serious short term illness at the time of the assessment (or immediately prior)
  - b. Bereavement
  - c. Significant adverse personal or family circumstances
  - d. Victim of a serious crime
  - e. Unavoidable transport issues<sup>1</sup>
  - f. Acute exacerbation of a chronic condition or disability
  - g. Public service<sup>2</sup>, such as jury service or being required to act as a witness in court.
33. The following are examples of circumstances that would not normally be accepted:
  - a. Holidays, house moves or events that were planned or could reasonably be expected
  - b. Misreading the timetable, or misunderstanding requirements for assessment
  - c. Conflicting deadlines
  - d. Inadequate planning or time management
  - e. Failure, loss or theft of a computer or printer

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<sup>1</sup>Students must demonstrate they made sufficient allowance whilst traveling to campus for an assessment or handin. Planned closures (such as strike action) will not normally be considered.

<sup>2</sup> NB students may no longer defer jury service on the basis of their studies

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### f. Consequence of paid employment<sup>3</sup>

#### Considering claims related to bereavement

34. As previously stated the impact on each student of any circumstances will differ. This is particularly the case where a claim relates to a bereavement. For example the death of a grandparent may in one case have no significant effect where the relationship was limited, but in other cases it may be devastating for the student.
35. In addition 'trigger-factors' such as birthdays or anniversaries may continue to impact on a student beyond a period of their initial grieving.
36. Where a bereavement is the result of a criminal or negligent act, there may be additional factors to consider with regards to the mitigation such as a Coroner's or Medical practitioner inquest, consideration in a magistrate or crown court, police or media involvement. The MCB is expected to consider claims in a sympathetic manner.
37. The policy document makes it clear that the MCB has greater discretion in cases of bereavement than for other factors. This applies to the availability of appropriate evidence as well as the period in which the student has been impacted.
38. The College has agreed that it will consider that assessments within a 6 month period of the death as being negatively impacted. As such evidence of the death would be the only supporting documentation required.
39. It is acknowledged that this period may not be sufficient in some circumstances. In these cases it is expected that additional evidence beyond that of the death would be required to demonstrate this continuing impact, such as would be the stance of an employer.
40. Where a student is significantly impacted over a long period, those supporting the student should consider the appropriateness of continuing study at that time, and offer a period of interruption of studies. For some students this may be beneficial, but it should also be noted that the ability to continue studying may be an important part of managing their grief.
41. The MCB should take into account any specific cultural or religious observances that may contribute to the impact of the circumstances on the student. This may include requirements for burial to be at a certain time or place, remembrance services at a set period after the death or other such expected observances.

#### Ongoing/Chronic issues

42. The mitigating circumstances process is in place to support short term serious unforeseen events during a student's studies. They are not the correct mechanism to manage known long-term conditions or circumstances.
43. Where a student is impacted in their studies due to a chronic condition or disability they should be encouraged to register with the Disability Advisory Service, who will then be able to assess and support the student with agreed reasonable adjustments.

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<sup>3</sup> Where a programme of study expects a student to be in work, such as PT MBA, unexpected demands of an employer may be considered for mitigating circumstances.

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Further details can be found of the support that is offered at <http://www.imperial.ac.uk/disability-advisory-service/>.

44. There will be occasions that there is a flare up or exacerbation of a chronic condition or an additional unforeseen impact of a known disability. It may not be possible to support the student at these times with reasonable adjustments. In these circumstances a mitigating circumstances claim would be appropriate and students should be supported in making a claim. This may also include where the initial assessment for reasonable adjustments has been made however, there is insufficient time to put the adjustments in place prior to assessment.
45. Where a student has encountered serious personal difficulties that extend over a significant period; following the first submission continued claims for mitigating circumstances relating to the same issue may not be appropriate. Students in these circumstances should be supported to consider the best course of action for them which may include interrupting their studies, and must be clearly informed where an MCB has agreed that no further claims are likely to be accepted.

### Evidence

46. All claims are expected to be supported by independent documentary evidence. This evidence is required to demonstrate *the impact on the student* of the circumstances, rather than the circumstances themselves.
47. When submitting evidence students should ensure that it:
  - a. Covers the timeframe that they are claiming for;
  - b. Clearly describes the circumstances and the impact on them.
48. Where evidence is technical it must be accompanied by supporting information to explain what this means in the context of the student's studies. For example, rather than simply giving a diagnosis, it should describe the symptoms and their severity. If a student has commenced a course of medication information such as side effects that have been experienced or the period in which it will likely be effective from will be required. For example some anti-depressant medications are known to take a period of weeks to have a meaningful impact on symptoms.
49. Evidence may be received in hard copy or electronic format such as emails, PDFs or picture files. Students are responsible for ensuring that the document is legible in the format it is supplied in. If the original evidence is in a language other than English, the student is responsible for providing an official translation.
50. The table gives an indication of the types of evidence that a student may provide to support their claim. This list is not exhaustive and is provided to give guidance as to the types of information expected.

Incident/ circumstance	Evidence
<b>Personal illness</b>	GP or other medical professional official letter/documentation Hospital admission/ discharge papers Emergency responder official papers/notes

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	Exam invigilator report
<b>Bereavement</b>	Death certificate Media report Letter from religious leader/ funeral director Order of service Letter from a legal professional/ notary/ executor of the estate Police report/coroner's report
<b>Victim of a crime</b>	Crime reference number Official court or police correspondence GP/ medical professional letter Counselling/ support service provider information Hospital admission/ discharge papers
<b>Personal issues</b>	Letter from a counsellor Letter from religious leader Letter from social worker
<b>Significant transport issues</b>	Media report Official communication from transport provider Breakdown report/ repair report

51. Students must ensure that the evidence that is provided gives the panel the level of information required in order to fairly judge the impact and severity of the circumstances that the student has experienced.

52. MCBs are expected to come to reasonable conclusions based on the evidence provided. They are not expected to draw inference from the claim that is not supported by the evidence provided. Where the evidence is not entirely clear or details are missing, MCBs should provide one final opportunity for the student to present their claim with additional evidence (see decision-making below).

### Third party information

53. Students should ensure that any evidence that refers to a third party, such as a family member, is provided with their consent and in line with data protection principles.

### Self-certification

54. In certain circumstances it may not be possible for a student to provide independent evidence of a particular event. This may be for a number of different reasons. There is the facility for a student to self-certificate under this process. The maximum period which may be self-certificated is 7 calendar days.

55. The self-certification should clearly indicate:

- a. What the circumstances were;
- b. The impact of this on the student's ability to complete their assessment;
- c. Why independent evidence could not be obtained.

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56. Circumstances in which it would normally be acceptable to permit self-certification include:
- a. Illness of short duration for which medical help is not normally required (e.g. episodes of vomiting and diarrhoea lasting less than 48hrs, flu etc.)
  - b. Acute flare up of a known condition, such as a migraine, hypoglycaemic attack or an epileptic fit. *N.B. corroborating evidence of the underlying condition is likely to be required.*
  - c. Acute flare up of a known registered disability *N.B. corroborating information could be sought from the Disability Advisory Service if necessary.*
57. MCBs can seek to have additional documentation or evidence to provide further collaboration of the circumstances, such as a record that the student had made contact at the time of the exam to inform the College that they were not well, or supporting information from those that it would not ordinarily be acceptable to have evidence from, such as a housemate or parent.
58. Where it becomes apparent that a student is making regular claims using self-certification, the Board should consider what alternative support mechanisms need to be put in place for the student, or if there are underlying concerns that need to be addressed.

### Potential Fraudulent Evidence

59. The College considers that presenting a fraudulent claim, and/or providing fraudulent evidence is an attempt to gain an unfair academic advantage. Allegations will be considered under the College *Academic Misconduct* procedure.
60. Where the Board has concerns of the veracity of the claim and/or the evidence presented it should undertake an initial investigation to ascertain if there is a *prima facie* case to answer.
61. If the investigation lays any concerns to rest the claim should be considered in line with normal procedure.
62. If the investigation suggests that the concern may be valid, the claim, evidence and details of the actions taken to that point should be forwarded to [student.discipline@imperial.ac.uk](mailto:student.discipline@imperial.ac.uk) for action. The outcome of the allegation under the Academic Misconduct procedure will then indicate how the mitigating circumstances claim would then be considered.

### Decision making process

63. The key points that the MCB must consider for each claim are:
- a. Is the submission on time?
    - i. If not, is the rationale for the late submission acceptable under the policy?
    - ii. Does any additional evidence (or the evidence of the circumstances themselves) support the late rationale?

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- b. Do the circumstances described meet the definition in the policy i.e.:
    - i. Unforeseen;
    - ii. Out of the control of the student and could not have been prevented.
  - c. Does the description and evidence support that it occurred in the period of (or immediately preceding) the assessment being claimed for?<sup>4</sup>
64. Where the answer to each of the above is 'yes', the claim would therefore be accepted. The MCB should then decide any recommendations that they may consider making to the Board of Examiners. If the answer to any of the points in para above is no, the claim should be rejected.
65. The official record of the MCB must include the rationale for each decision it has made.
66. In addition to the records for each MCB, the Faculty should consider how an anonymised list of decisions should be retained for analysis on a yearly basis. The analysis will be used to identify any areas in which updates to the procedure or guidance could be given, or for example to provide targeted action to future students where particular trends or patterns emerge.

### Notification of outcomes

67. The student should receive written notification of the outcome of any claim that they have made. This would normally be expected to be by email.
68. Where the claim has been accepted, the notification should include the decision regarding the recommendation to the Board of Examiners if one has been made. The notification should also include the caveat that any recommendation is subject to the review of their full academic profile as part of the Board of Examiners' decision-making process.
69. Where the claim is rejected due to insufficient evidence, the notification must clearly indicate why the MCB came to the decision, and invite the student to resubmit an amended claim within 5 working days in line with the procedure. Students will not be given an additional resubmission if the claim did not meet the definition of mitigating circumstances in the opinion of the MCB. Students should be the opportunity to resubmit evidence if the claim is late, and the MCB require additional evidence to accept the reason given for the lateness of the claim.
70. The resubmitted claim may not add additional grounds to that provided originally, and students must only be given one opportunity to resubmit.
71. Where a claim is rejected the details of the appeal process must also be included in the notification to the student.
72. An anonymised notification of accepted claims will be provided to the Boards of Examiners. This notification should only state that mitigating circumstances have

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<sup>4</sup> For the majority of assessment, the procedure as it stands is clear. however, if there is significant disruption to a period of study that will have impacted on the student's ability to successful undertake the assessment, such as if they are unable to attend labs for a significant period, this may also be grounds to accept a claim.

been accepted and the recommendation. There should be no indication in the notification nor discussion in the Board of Examiners of the circumstances of the claim.

### Resubmitted claims

73. Where a student has resubmitted a claim, as new evidence has been provided, the MCB should consider the claim again in line with paragraphs above. In addition the MCB should also consider if it is *reasonable* that the additional evidence was not provided at the time of the original submission.

### Extension requests

74. Extension requests, whilst normally relating to similar circumstances and expected to be supported by evidence like a claim for mitigating circumstances, are managed differently. Under normal circumstances there is no requirement for the request to be considered by the MCB.
75. Departments must agree protocols for their department based on the policy and procedure:
  - a. Who is the person responsible for granting extensions?
  - b. What specific requirements need to be taken into account? For example the assessments for which an extension request may or may not be considered.
  - c. What are the requirements for evidence?
  - d. Limits for self-certification with extension requests.
  - e. The method for requests to be made by the student.
  - f. Deadline for requests prior to assessment
  - g. Deputy/cover for periods of unavailability.
76. This information should be clearly outlined to the student, such as part of the programme handbook or student support webpages.
77. Students are expected to request an extension in advance of deadline. Departments need to agree the protocols for dealing with requests after the deadline, for example referring the student to make a claim for mitigation 'to allow late'.
78. A template extension request form is produced by the Quality Assurance team which may be adapted by each department to support their agreed protocols.
79. The length of an extension given should reflect the period that has been affected by the circumstances. It should not normally extend beyond 2 weeks so that the student cannot benefit from the feedback given to other students.
80. Exceptionally and in limited circumstances an extension request can be given for longer than 2 weeks. This must be agreed with 2 other members of the MCB and must take into account other assessment deadlines and the type of assessment for which the request is for. It is likely that this would only be used for individual research projects.

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81. If the period required is longer than 2 weeks, careful consideration should be given as to whether a claim for mitigation or an interruption of studies is more appropriate.
82. Significant lengths of extension should consider the period of registration, the time needed for the marking and moderation process and the dates of any relevant Board of Examiners. Further advice can be sought on this from the QA team or Student Records.
83. The person in each department authorised to grant extensions should keep records of extension requests and the outcomes. This is to:
  - a. Identify those students that may require additional pastoral support
  - b. Identify students that may need consideration for additional academic support or assessment for reasonable adjustments
  - c. Monitor the use of self-certification in the extension process
  - d. To provide evidence in complaints or appeals.