

ANNEX C: CONSIDERATION OF MITIGATING CIRCUMSTANCES BY EXAMINERS

Examiners are able to consider mitigating circumstances, i.e. medical and other circumstances (including disability) that may have affected a candidate's performance in examinations and assessments. Examiners may then adjust a candidate's result if necessary.

Adjustments, required as a result of disability, to examinations and assessments as taken are covered in *Annex A: Major adjustments to examinations and assessment*.

Regulations

1. There are two applicable sections of the University's *Examination Regulations*.
 - **Part 13 Mitigating Circumstances: Notices to Examiners** relates to unforeseen circumstances which may have an impact on a candidate's performance.¹²
 - **Part 12 Candidates with Special Examination Needs** relates to students with some form of disability.¹³
2. Students can notify the examiners of mitigating circumstances due to the impact of any of the following on their performance:
 - sudden illness or accidental injury
 - more long-standing conditions which may or may not have resulted in alternative examination arrangements under Part 12 (see paragraph 3 below)
 - bereavement (usually the death of a close relative/significant other)
 - significant adverse personal/family circumstances, for which there is evidence of impact on their performance in examinations/assessments
 - other serious circumstances for which there is evidence of impact on performance (e.g. the impact of a crime).
3. Students who have in place alternative arrangements/major adjustments to assessment under Part 12, but who believe that those arrangements may not be sufficient to fully mitigate the impact of disability on their performance, either due to the nature of the disability, or as a result of a fluctuating condition, can use the mitigating circumstances notice to examiners procedure to make examiners aware of this.

Procedure for Notifying Examiners

4. Whether under Part 12 or Part 13, a mitigating circumstances notice to examiners should be submitted by the college on behalf of the student as soon as circumstances come to light. Candidates with alternative arrangements under Part 12 will not be considered under this mitigating circumstances process if they do not submit a separate mitigating circumstances notice. The Senior Tutor, or other nominated person, should guide the candidate in completing the candidate statement and in gathering appropriate evidence. The college may, but is not required to,

¹² Regulations for the Conduct of University Examinations, Part 13 Mitigating circumstances: Notices to Examiners (<http://www.admin.ox.ac.uk/examregs/2018-19/rftcoue-p13mcntoexam/>)

¹³ Regulations for the Conduct of University Examinations; Part 12 Candidates with Special Examination Needs (Part 12.2, www.admin.ox.ac.uk/examregs/2018-19/rftcoue-p12cwsexamneed/)

include a college statement as part of the notice to examiners. Notices should be submitted through the Mitigating Circumstances SharePoint site.¹⁴

5. It is the candidate's responsibility to raise any issue that may have impacted on their performance with the designated college officer, to complete the candidate statement, and to provide appropriate evidence in support. Failure to do this in a timely fashion may jeopardise the examiners' ability to consider their case.
6. Colleges should remind candidates that their supporting evidence (e.g. a medical certificate) needs to provide explicit detail about the way(s) in which their circumstances affected/are likely to affect their examination performance, e.g. fatigue, poor concentration, panic attacks, etc.
7. In the case of notices submitted by candidates who also have in place alternative arrangements/major adjustments to assessment, colleges should provide a copy of the notification of approved adjustments, e.g. extra time, rest breaks, not taking exams in the morning, an amanuensis, etc. and the candidate should explain why the adjustments that have been made do not fully compensate for the effects of the illness or disability.
8. A University medical certificate is available for use as supporting evidence for mitigating circumstances notices to examiners. The template, and guidance for medical practitioners, is available at www.admin.ox.ac.uk/edc/resources/medicalcerts. Medical certificates supplied electronically will be accepted where the receiving officer is satisfied that the e-mail address from which the certificate is sent is a genuine UK NHS medical practitioner's or practice / hospital account (e.g. doctor.name@trust.nhs.uk or equivalent).
9. The mitigating circumstances notices to examiners process should not be used to make complaints about the conduct of examinations, and any such complaints should be referred to the Proctors for consideration (see section 14 of the *Policy and Guidance for Examiners and others involved in University Examinations*).

Timing of mitigating circumstances notices

10. The Examinations and Assessments team will forward mitigating circumstances notices to the chair of examiners if they are received before noon of the day before the final meeting of examiners. Candidates and colleges should note that notices should be submitted as soon as the circumstances become clear and evidence is available (which may be well before the examination period, if the notice relates for example to a piece of work submitted earlier, or relates to the impact of a long-term condition for which it is felt alternative arrangements cannot fully mitigate). The deadline of noon the day before the final meeting of examiners is to allow for cases of acute illness or similar during the examination period itself, and submission of notices should not be delayed unnecessarily until this deadline if it is possible to submit them earlier.
11. Notices received after noon of the day before the final meeting of the examiners will be considered by the Proctors, and will only be passed on to examiners if received within **three months** of the publication of results **and** if one of the following criteria is met:

¹⁴ <https://sharepoint.nexus.ox.ac.uk/sites/eaas>

- The candidate's condition is such as to prevent them from making an earlier submission;
 - The candidate's condition is not known or diagnosed until after the final meeting of the examiners;
 - There has been a procedural error (beyond the candidate's control) that has prevented the candidate's information from being submitted.
12. If the Proctors decide not to pass on a mitigating circumstances notice to examiners, the regulations require them to give their reasons for their decision. A candidate or their college may appeal against a decision of this kind under the regulations governing appeals¹⁵.

Consideration by a Mitigating Circumstances Panel

13. A subset of the board (the 'Mitigating Circumstances Panel') should meet to discuss the individual notices to examiners. Except for very small examination boards, the Panel should consist of a minimum of three members. In smaller departments, the entire exam board may need to act as the Panel. The Panel should band the seriousness of each notice to examiners on a scale of 1-3, with 1 meaning that the evidence indicates that the mitigating circumstances would have had a minor impact on the candidate's performance, 2 indicating moderate impact, and 3 indicating very serious impact.
14. The Mitigating Circumstances Panel should not consider examination scripts/submissions or marks, but should only consider the mitigating circumstances notices, i.e. it should consider the evidence regarding the mitigating circumstances rather than its impact on the actual work submitted. The role of the Panel is to evaluate, on the basis of the information provided to it, the relevance of the circumstances to examinations and assessment, and the strength of the evidence provided in support. The Board of Examiners will separately consider whether and how to adjust a candidate's results as a result of the mitigating circumstances, taking into account both the Panel's banding of the seriousness of the notice, and the scripts/submissions and marks.
15. When making its decision on the seriousness of each notice to examiners, the Panel should consider the following:
- a) The circumstances and their relevance to examinations/assessment**
- The types of circumstances which are likely to be covered in mitigating circumstances notices to examiners are covered in paragraph 2 above.
 - In the case of health issues or bereavement, it may be helpful to consider whether the circumstances would have resulted in sick or compassionate leave in an employment context.
 - The Panel should take into account that relatively minor illnesses, which might have resulted in one day's absence in an employment context, could be judged as being likely to have had a very serious impact on a candidate's performance (band 3) for an examination taking place on the day of the illness.

¹⁵ Regulations for the Conduct of University Examinations, Part 18 Appeals Against Decisions of the Proctors and Examiners (Part 18.1, <http://www.admin.ox.ac.uk/examregs/2018-19/rftcoue-p18afdprocandexam/>)

- The Panel should also take into account any evidence provided on how the impact of the circumstances has already been mitigated (e.g. if an extension has already been granted for a submission).
- As set out in paragraph 3 above, candidates who have had alternative arrangements/major adjustments to assessment but who believe that those arrangements may not be sufficient to fully mitigate the impact of disability on their performance, may submit a mitigating circumstances notice to examiners. The Panel's banding decision for such candidates should take into account the strength of the evidence that the alternative arrangements/major adjustments to assessment have not fully mitigated the impact of the disability or illness. This might be the case if the candidate has a very serious disability/long-term health condition; if they have a fluctuating condition and were particularly affected during the examination/assessment period; or if an examination adjustment itself has had an adverse impact on the candidate's performance (examples might include the fatigue caused by taking examinations with extra time; the experience of lengthy extended supervision; and frequent interruptions due to the need to take rest breaks).
- The Panel should consider how the timing of the circumstances relates to the examination period/deadline for submission, including to the preparation period for the assessment, and whether it is reasonable to conclude that the circumstances described would be likely to have an impact on a candidate's performance.
- The Panel should also note whether all or a subset of papers appear likely to have been affected, based on the evidence provided regarding the timing (since it is possible for circumstances to have different levels of impact on different papers).

b) Strength of the evidence

- All evidence should clearly demonstrate that the student was affected at the time of the examinations/assessment and/or in the preparation period, and provide explicit detail about the ways in which the circumstances would have affected the candidate's performance.
- For health issues, medical evidence, normally from a college doctor, should be supplied. This will be stronger if it was generated at or near the time of the circumstances, and if it is based on the medical practitioner's examination of the student, rather than only reporting the student's views.
- Please note that in cases of acute illness (e.g. a relatively minor illness on the day of an examination), evidence from a college nurse should be accepted and considered to be appropriate.
- In cases where the notice to examiners indicates that a student completed only part of a paper, chairs of examiners should note that they can request the invigilator's log for the examination in question from the Examinations and Assessments team as supporting evidence (e.g. the log will note if a candidate left the examination room due to illness).

- Other appropriate evidence might include a statement from the Disability Advisory Service or Counselling Service, in the case of long-term conditions, or a statement from the police or a solicitor, in the case of a crime.
 - In the case of bereavement, a copy of a death certificate might be supplied, although a statement from a doctor or from the Counselling Service could also be accepted as appropriate evidence.
 - In the case of adverse personal/family circumstances, the Panel should note that it might be difficult for the student to provide appropriate evidence other than a statement from their college. A detailed statement from the college, which might include what it has done to help the student, should be accepted as appropriate evidence in such cases.
 - The presence or absence of a college statement should not in itself be taken as indicating the seriousness of the notice to examiners, as there is no requirement for such statements to be included as part of the notice.
 - Colleges should not comment on the academic performance of a student, and if they do, the Panel should not take this into account.
 - Evidence in a college statement may be useful in explaining any issues with obtaining other evidence, or in providing evidence regarding what help has already been given to the student due to their mitigating circumstances.
16. It is at the discretion of the chair of the board whether all attendees at the Mitigating Circumstances Panel should see all the evidence supplied with a mitigating circumstances notice.
17. For courses where marks are released at multiple points throughout the academic year, and for multi-part examinations, it is permissible to hold more than one Mitigating Circumstances Panel meeting, prior to the relevant board of examiners meeting. All notices relating to the same papers should be discussed at the same meeting.
18. Since the Mitigating Circumstances Panel meeting will often take place several days prior to the final board of examiners meeting, there will be occasions where notices are received prior to the deadline of noon the day before the final meeting of examiners, but after the Mitigating Circumstances Panel meeting. On such occasions, it may be appropriate to hold a further Mitigating Circumstances Panel meeting immediately prior to the final examiners meeting, if it is not felt appropriate for the whole board to consider these notices.

Consideration by the Board of Examiners

19. The banding information agreed by the Mitigating Circumstances Panel should be used at the final board of examiners meeting to decide whether and how to adjust a candidate's results. The board of examiners should take into account both the banding information and the scripts/submissions and marks.
20. When deciding what action to take as a result of a mitigating circumstances notice to examiners, examiners may wish to consider one of the following. Examiners are not required to take the possible actions suggested below, but are always expected to consider very carefully the circumstances that affected the candidate's performance on the relevant examination/assessment dates and/or in the preparation period, and

to determine whether those circumstances are likely to have affected the candidate's results to the extent that any adjustment should be made.

Actions	Guidance
A. Disregarding a paper or papers and finalising results on the basis of the remaining work	This is most likely to be appropriate in cases of acute illness, where it is clear that performance in a particular paper affected by that illness is weaker than other papers. It is likely that it will normally be appropriate to allow only one paper to be disregarded while still allowing results to be finalised on the basis of the remaining material, although exceptionally it may be appropriate to disregard more than one paper. Where a paper is disregarded, its mark should be reported as 'no result expected' rather than as zero.
B. Finalising the mark for a paper or papers taking into account all available material	<p>This could mean finalising a mark for a paper on the basis of the number of questions actually completed rather than the number of questions required, where there is evidence that a particular paper was affected. It is likely that this will be appropriate for papers where at least half of the questions have been completed.</p> <p>Examiners should not otherwise change the mark for an individual paper, but may, under C below, award a higher classification or permit the student to progress, where the student would otherwise have been just below the boundary for classification or progression. If such threshold requirements have been extended or reduced, and it is not considered appropriate for the mark for an individual paper to appear on the student's transcript, the examiners should report the mark as 'no result expected'.</p>
C. Reviewing the classification/overall outcome requirements (giving particular consideration to candidates who are just below boundaries for classification or progression)	<p>Where there is evidence that a candidate's performance has been affected over one or more papers and this leaves them just below a classification or progression boundary, examiners may consider whether they should be awarded the higher classification, or allowed to progress (e.g. permitted to progress to the FHS, or to the final Part of a multi-part honours school, despite not having met the usual threshold for doing so).</p> <p>This may include extending the threshold usually used for consideration of boundary cases, or reducing the requirements for progression or for classification in the higher band. This should not be considered if individual adjustments to papers have already been applied (such as those under A and B above), to avoid double compensation.</p> <p>Where a candidate has submitted evidence that they were significantly affected for an assessment or assessments but the examiners do not consider it appropriate to give the assessment a passing mark (or to disregard the assessment), and the resit attempt would</p>

	ordinarily be capped, the examiners may recommend to the resit board that the resit attempt should not be capped.
D. Passing the notice to the examiners of the final results/classification meeting	<p>For early parts of multi-part exams, and exams which release final marks throughout the course, the mitigating circumstances notice must be passed to the final exam board which will make the final classification decision, so that the board can consider whether the final classification should be affected. However, this should not preclude examiners for the earlier parts from also considering notices if this is felt appropriate, e.g. to determine eligibility for progression.</p> <p>If a candidate's circumstances are considered more than once (e.g. at the meeting for an earlier part and at the final meeting), this should be recorded, with the decisions made at the different stages made clear.</p> <p>A confidential record of previously submitted medical evidence will need to be kept, including any action taken, e.g. on a password-protected spreadsheet, for use in the final classification meeting.¹⁶</p>

21. It is likely that in most cases no further action will be required for notices in band 1. Students will be informed that their notice to examiners has been considered but that no adjustment has been made. Examiners should note that it is also possible for there to be clear evidence of moderate or even very serious impact on a student (bands 2 or 3) but also for there to be no appropriate action which the examiners can take, and therefore for no adjustment to be made. The banding information will reflect the relevance of the circumstances to examinations and assessment and the strength of the evidence, and not whether an adjustment can or should be made.
22. Examiners should note that it is possible to review the banding information provided and decide to take action if, on consideration of both this information and the candidate's marks, it appears that the original band does not reflect the impact on the student. This is likely to be appropriate if the original banding information reflects minor impact, but performance in a particular paper is demonstrably weaker than others, and the evidence shows that this paper was affected by the mitigating circumstances described.
23. In circumstances where there has clearly been serious impact on a student but there is no action which the examiners can take, they may wish to consider whether to recommend that an application is made to Education Committee for appropriate dispensation. For example, examiners are not able to decide that an attempt should be set aside, but in some circumstances an exam board may be unable to pass the candidate at resit but be sympathetic to a candidate being given an exceptional third attempt at an assessment. In such cases, the exam board should not contact the

¹⁶ Under the terms of the General Data Protection Regulation/Data Protection Act 2018, sensitive personal information must be kept securely and accessed only on a 'need-to-know' basis. Adequate security measures must be observed, e.g. the information must not be copied to laptops or memory sticks and taken off the premises (c.f. the University's Policy on Data Protection at www.admin.ox.ac.uk/councilsec/dp/policy.shtml).

candidate's college but should contact the Proctors' Office who will pass the information on and advise on the possibility of an application to Education Committee. This maintains the integrity of the examination. Examiners should also note the option, under C in the table above, of recommending to a resit board that the resit attempt should not be capped.

24. When considering the impact of a disability upon a candidate's assessment, it is appropriate to bear in mind the relevant equality law. For candidates who submitted a mitigating circumstances notice to examiners having already been granted alternative arrangements/major adjustments for disability, examiners should be aware of *Annex A: Major adjustments to examinations and assessment*, particularly paragraphs 5-8 and 22-24. Universities are obliged under the Equality Act 2010 (and its predecessor the Disability Discrimination Act (1995, amended 2001, 2005)) to provide reasonable adjustments for disabled students. The only exception to this is in the application of a competence standard. However, there are limitations on what may fairly be judged to be a competence standard and in nearly all cases reasonable adjustments must be made to the way in which the standard is assessed (also see *Annex B: Competence standards* for further details).
25. If the candidate has missed any papers, the chair should ensure either that authorisation to consider the candidate for an estimated classification has been received from the Proctors, or that notification has been received that no such authorisation will be given (see section 11.8 of the *Policy and Guidance for Examiners and others involved in University Examinations*).

Record-keeping

26. A formal record should be kept confirming (a) the fact that information about mitigating circumstances has been considered by the examiners, (b) how that information has been considered (i.e. the information that has been taken into account, and the conclusions that have been drawn from that information), and (c) the outcome of the consideration with the reasons for the decisions reached. This should be available as part of the minutes of the examiners' proceedings. A pro forma for boards to record this information is available at the end of this annex.
27. The outcome should be entered onto eVision for publication to students with results via Student Self Service. Further guidance on recording the outcome on eVision is available at <https://examshandbook.admin.ox.ac.uk/home>.
28. This procedure should be part of the information published for candidates in the published examination conventions, and should be clearly communicated to them. It should allow appropriate involvement by the external examiner(s) who should be in a position to certify the fairness of the procedure followed.

Report on a mitigating circumstances notice to examiners

This report should be used to record actions taken for each candidate for whom the board of examiners has received a mitigating circumstances notice to examiners under Part 12 or 13 of the Regulations for the Conduct of University Examinations (<http://www.admin.ox.ac.uk/examregs/2018-19/rftcofunivexam/>). A separate report should be completed for each candidate. Guidance for examiners on how to deal with such notices is available in *Annex C: Consideration of Mitigating Circumstances by Examiners* of the Policy and Guidance for Examiners and others involved in University Examinations (www.admin.ox.ac.uk/edc/policiesandguidance/pgexaminers).

Candidate Number:	
Section 1: Evaluation of seriousness of notice to examiners - to be completed at Mitigating Circumstances Panel meeting	
Examiners should take into consideration the relevance of the circumstances to examinations and assessment, and the strength of the evidence. See paragraphs 13-18 of <i>Annex C: Consideration of Mitigating Circumstances by Examiners</i> of the Policy and Guidance for Examiners and others involved in University Examinations (www.admin.ox.ac.uk/edc/policiesandguidance/pgexaminers).	
In the view of the examiners, how serious is the impact of the mitigating circumstances given in the notice likely to have been?	<input type="checkbox"/> 1 = minor impact <input type="checkbox"/> 2 = moderate impact <input type="checkbox"/> 3 = very serious impact
Do some or all papers appear likely to have been affected, based on the evidence?	<input type="checkbox"/> All papers <input type="checkbox"/> Subset of papers
If a subset of papers, specify which. (Note: It is possible for circumstances to have different levels of impact on different papers.)	
Comments	
Section completed by	
Date	

Candidate Number:			
Section 2: Report of action taken - to be completed at results confirmation meeting			
Guidance for Boards of Examiners is available in paragraphs 19-28 of <i>Annex C: Consideration of Mitigating Circumstances by Examiners</i> of the Policy and Guidance for Examiners and others involved in University Examinations (www.admin.ox.ac.uk/edc/policiesandguidance/pgexaminers).			
Have the examiners considered the candidate's performance in the light of the material provided in the mitigating circumstances notice to examiners, and the evaluation of the seriousness of the notice by the Mitigating Circumstances Panel?			
How have the circumstances been considered?			
Summary of action taken (boards may decide to take one, some, or none of these actions.)			
Paper(s) disregarded and results finalised on the basis of the remaining work	<input type="checkbox"/>	Specify paper(s)	
Mark for paper(s) finalised taking into account all available material (e.g. mark finalised on the basis of the number of questions actually completed rather than the number of questions required)	<input type="checkbox"/>	Specify paper(s)	
Classification/overall outcome requirements reviewed, including progression requirements	<input type="checkbox"/>	Comments	
Notice passed to the final results/classification meeting (this must be done for early parts of multi-part exams, and exams which release final marks throughout the course)	<input type="checkbox"/>	Comments/ recommendation to future examiners	
Other action (Please specify)			
Reasons for action (if notice has been considered but no adjustment made, please record this and state reason.)			
Section completed by			
Date			