Specific Regulations

B5. Consideration of Mitigating Circumstances

These regulations take effect from the 2010/11 academic year.

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1 Introduction

1.1 These regulations apply to all students engaged in taught programmes that lead to an Oxford Brookes award at both undergraduate and postgraduate level. Where there is a discrepancy between these regulations and other regulations or handbooks in respect of procedures for the consideration of mitigating circumstances relating to assessments, these regulations will take precedence.

1.2 The Academic Registrar is authorised to consider and make judgement in any cases of doubt or where clarification is needed concerning these regulations.

2 Definition of Mitigating Circumstances

2.1 The University defines mitigating circumstance as:

Mitigating circumstances are circumstances which are beyond the control of the student and which could not be reasonably accommodated by the student and which seriously impair performance in assessment.

2.2 This definition covers all mitigating circumstances. All three elements of the definition must be met in order to substantiate a claim for mitigating circumstances.

2.3 On-going conditions and other disabilities that affect students do not fall within this definition of mitigating circumstances. A mechanism exists within the University for considering the impact on individuals of such on-going conditions. Where an allowance has been made for a continuing condition, a further allowance should not be made through the consideration of mitigating circumstances except as described in 2.4.

2.4 Some students affected by ‘on-going’ conditions may encounter specific difficulties related to their condition that impacts upon an assessment. Such circumstances may be legitimately considered as meeting the definition of mitigating circumstances in 2.1. For example, a student who suffers from MS, rheumatoid arthritis, or Crohn’s
disease, may or may not need constant ‘reasonable adjustments’ in exam or coursework situations, but if they had a ‘flare-up’ around the time of an assessment they may also need to be considered under these mitigating circumstances procedures. In such situations the decision-making body considering the claim for mitigating circumstances will need to receive information concerning any ‘reasonable adjustments’ that are in place. The important principle is that no student should receive a double compensation through both an on-going ‘reasonable adjustment’ and an allowance through mitigating circumstances.

2.5 It should be noted that a student’s performance in an assessment may have been affected by circumstances which occurred during their study, not simply during the assessment itself, e.g. on the day of an examination.

3 Consideration of Mitigating Circumstances

3.1 The process for considering mitigating circumstances is carried out separately from the process by which allowances are made for the impact of mitigating circumstances. This two stage process involves:

a) a process for considering the submission of evidence concerning mitigating circumstances and deciding whether or not that evidence is sufficient to satisfy the University’s definition of mitigating circumstances (see 2.1); and

b) a process for making suitable allowances for those students whose performance in an assessment has been confirmed to have been affected by mitigating circumstances.

3.2 The responsible group charged with the review of evidence concerning mitigating circumstance (see section 5) may only reach one of two conclusions either that the evidence as presented represents a substantial impact on the student’s performance (as defined in 2.1) or that the evidence does not present evidence of such impact (see 5.5).

3.3 Where the responsible group does not support a submission for mitigating circumstances this does not necessarily imply that the student was not affected at all by the situation for which evidence has been provided, simply that the situation did not satisfy the University’s definition of mitigating circumstances. This may be because the circumstances were within the students control or could have been foreseen and appropriate adjustments made in advance or that they did not seriously impair performance in assessment.

3.4 In order to reach a decision that a student has been affected by mitigating circumstances, the responsible group must be satisfied that all three elements of the definition have been proven. In addition, sufficient evidence must be provided, including documentary evidence, to support a claim for mitigating circumstances.

4 Evidential Standards

4.1 To support academic standards, procedural fairness and ensure sufficient evidential standards are met all claims for mitigating circumstances must be supported by documentary evidence from a relevant objective third party, for example, a Doctor’s certificate, counsellor’s statement or death certificate (except as described in 4.2).

4.2 The expectation is that documentary evidence should be provided in all circumstances. However, in some situations there may be clear and legitimate reasons why it is not possible to submit documentary evidence, in which case the claim for mitigating circumstances must set out the reason why no documentary evidence can be submitted. Where no documentary evidence has been provided the responsible group has discretion to decide whether or not to accept the reasons stated for the lack of documentary evidence and, hence, whether or not to accept
self-certification of the mitigating circumstances. These situations are expected to be extremely rare and exceptional. The main situation where documentation may not be available or appropriate, and so self-certification may be acceptable, is to extend an assessment deadline by up to one calendar week (see also section 5). Where no evidence has been provided the responsible group has discretion to decide whether to accept the reasons stated for the lack of evidence.

4.3 At all times it is the student’s responsibility to provide sufficient documentary evidence to support a claim for mitigating circumstances.

4.4 All requests for the consideration of mitigating circumstances should be submitted using the appropriate University form.

5 Roles and Responsibilities

5.1 Mitigating circumstances, whether for events during a period of study (for example, when seeking an extension to a submission deadline), leading up to an examination or after an examination, should be submitted to the relevant individual before being forwarded to the relevant group (or individual) for consideration and then the outcome communicated back to the student.

5.2 In most circumstances a student’s evidence of mitigating circumstances will be considered by a Mitigating Circumstances Panel (MCP). The purpose of the MCP is to ensure independence of decision making from the assessment process and to support procedural fairness. The MCP also ensures that any highly personal details contained in the evidence submitted for mitigating circumstances are not communicated beyond a larger group than strictly necessary.

5.3 The specific roles and responsibilities are as follows:

<table>
<thead>
<tr>
<th>Evidence Submitted To…</th>
<th>Evidence Considered By…</th>
<th>Allowance Determined By…</th>
<th>Outcome Relayed By…</th>
<th>Evidence Held By…</th>
<th>Self-certification accepted?</th>
</tr>
</thead>
<tbody>
<tr>
<td>During study (to extend a deadline by up to 1 week)</td>
<td>Module Leader</td>
<td>Module Leader</td>
<td>Module Leader</td>
<td>Module Leader: verbal and confirmed by e-mail or letter</td>
<td>AMO</td>
</tr>
<tr>
<td>During study (for extensions of more than 1 week up to 4 weeks)</td>
<td>AMO</td>
<td>MCP Subgroup (at least two people drawn from the MCP)</td>
<td>MCP Subgroup (at least two people drawn from the MCP)</td>
<td>School (as identified by the School): e-mail or letter</td>
<td>AMO</td>
</tr>
<tr>
<td>By the MCP deadline</td>
<td>AMO</td>
<td>MCP</td>
<td>Exam Committee</td>
<td>School (as identified by the School): e-mail or letter</td>
<td>AMO</td>
</tr>
<tr>
<td>After an Examination Committee (late submissions)</td>
<td>AMO</td>
<td>ACCO then MCP Chair</td>
<td>Chair on behalf of the Exam Committee</td>
<td>ACCO</td>
<td>ACCO</td>
</tr>
</tbody>
</table>

5.4 The MCP should contain staff from the school concerned (including academic and support staff as appropriate) and at least one of the individuals should not be responsible for teaching the student whose position is under consideration. The MCP should consist of at least three individuals plus a secretary, but may include
others up to a maximum of nine plus a secretary. The MCP should be made up as follows:

- At least one staff member with involvement in undergraduate programmes
- At least one staff member with involvement in taught postgraduate programmes
- At least one representative from another school

One of these members should be appointed the Chair of the MCP. The Chair of the MCP should not be the Chair of an Examination Committee. The Chair of an Examination Committee may be a member of the MCP. There should also be a Secretary to the MCP who shall not be one of the members.

5.5 The Module Leader, an MCP Sub-group or the MCP itself should consider the evidence presented by the student and conclude either that there is evidence of mitigating circumstances or that there is not (see 3.2).

5.6 In respect of evidence considered by a Module Leader. The evidence is received by and considered by the Module Leader. The Module Leader considers the evidence presented by the student and concludes either that there is evidence of mitigating circumstances or that there is not (see 3.2). If the evidence is accepted, the Module Leader is authorised to and will grant an extension of up to one week.

5.7 In respect of evidence considered by an MCP Sub-group. The evidence is forwarded to the MCP Sub-group. The MCP Sub-group considers the evidence presented by the student and concludes either that there is evidence of mitigating circumstances or that there is not (see 3.2). If the evidence is accepted, the MCP Sub-group is authorised to and will grant an extension of up to four weeks.

5.8 If a student fails to submit evidence in support of a claim for mitigating circumstances by a relevant deadline, as notified by AMO or their School, their claim is considered to be late. The student should proceed with their assessment and submit evidence to be considered by the MCP.

5.9 In respect of evidence considered at an MCP. The evidence is forwarded to the MCP. The MCP will first consider if there were circumstances beyond the student’s control which prevented them from requesting an extension prior to the deadline for submission of coursework. If the MCP accepts that there was a valid reason for not requesting an extension the evidence is then considered and the MCP will conclude either that there is evidence of mitigating circumstances or that there is not (see 3.2).

5.10 Where an MCP agrees a claim for mitigating circumstances this decision will be reported to the relevant Examination Committee. Only the decision will be reported to the Examination Committee: no details of the student’s circumstances will be forwarded.

5.11 Where an MCP does not agree a claim for mitigating circumstances the Examination Committee will not be notified that a request was made, considered and refused. The Examination Committee will, therefore, normally be unaware that a claim was submitted.

5.12 Notwithstanding the guidance in 5.10 and 5.11, the Chair of the Examination Committee will be presented with a list of all the students that were considered at the MCP including the outcome, i.e. whether mitigating circumstances were agreed or not. The details of students’ situations will not be forwarded to the Chair. This list is to be used by the Chair only to clarify any queries that members of the Examination Committee may have concerning whether or not a student’s situation
has been considered. An Examination Committee may not question the decision of an MCP.

5.13 When a student submits evidence of mitigating circumstances after the MCP has met, the evidence is forwarded to the Appeals, Complaints and Conduct Office. The ACCO will first consider if there were circumstances beyond the student’s control which prevented them from submitting the evidence by the relevant deadline. If the ACCO accepts that there was a valid reason for late submission, the evidence is then forwarded to the Chair of the MCP and considered. The Chair of the MCP will conclude either that there is evidence of mitigating circumstances or that there is not (see 3.2). If the Chair of the MCP concludes that there is valid evidence of mitigating circumstances then the decision to approve mitigating circumstances will be forwarded to the Chair of the Examination Committee.

5.14 For students studying on the UMP, there is a common timetable for meetings of the MCP. The MCP will be held the working day before the meeting of the SEC. The deadline for receipt of evidence in AMO will be 4.30pm two days prior to the MCP, i.e. there is one clear working day between the deadline for receipt of evidence and the MCP.

5.15 For students studying on programmes outside of the UMP, the relevant School is responsible for ensuring that clear deadlines for the submission of evidence have been communicated in advance to students.

6 Allowances for Students with Mitigating Circumstances affecting Coursework

6.1 Where a student is unable to hand in summatively assessed coursework due to mitigating circumstances, the student should normally be allowed an extension equal to the period during which they were affected, up to a maximum period of four calendar weeks (where four calendar weeks is practical within relevant programme constraints, such as feedback and progression requirements).

7 Allowances for Students with Mitigating Circumstances considered at an Examination Committee

7.1 Where it is determined by an MCP that a student has been affected by mitigating circumstances, the Examination Committee (or, in certain circumstances, the Chair acting on behalf of the Examination Committee) must offer the student a re-sit opportunity in the affected module(s) or, in relevant circumstances, an opportunity to re-take the module (see 7.7). A re-sit or re-take must be offered irrespective of the original mark obtained, i.e. even when a student has already obtained a pass mark for the affected module. No other allowance is permissible (except in limited circumstances as described in 7.8).

7.2 A re-sit may mean either re-examination or the re-submission of coursework or a combination of both. The affected examination or submission of coursework will be disregarded (except as described in 7.6).

7.3 The rationale for allowing only a re-assessment opportunity in response to mitigating circumstances reflects the purpose of assessment, as defined in the University’s Academic Regulations (see C1.1), which is to enable students to demonstrate that they have fulfilled the objectives of the programme of study and achieved the standard required for the award they seek. By presenting students with an opportunity for re-assessment, this ensures that a student’s award is always based on actual work submitted without hindrance.

7.4 A student should not be put in a position of unfair advantage over other candidates; the aim in considering mitigating circumstance is to enable every student to be assessed on equal terms. Normally, a re-assessment arising from the consideration
of mitigating circumstances should be the same form of assessment taken at the
next available opportunity or after a period of time that will compensate for the
disadvantage suffered by the student but not unfairly advantage them. If it is not
possible or it is not appropriate to offer the same form of assessment the
Examination Committee may exercise discretion in deciding on the particular form
any reassessment should take, options include viva voce examination and
additional assessment tasks designed to show whether the student has satisfied the
learning outcomes.

7.5 Students may decline a re-assessment opportunity but their current mark will stand
and no other allowance will be made.

7.6 If a student obtains a lower mark in their re-sit or in a module which is re-taken than
in the affected attempt at the assessment, then the mark awarded in the affected
assessment will stand (i.e. the student will be awarded the higher of the two marks).

7.7 If, through mitigating circumstances, a student is or will be unable to take a re-sit or
their performance in a re-sit is affected, whatever the reason for the re-sit, then the
consideration of their mitigating circumstances will be identical to students affected
in a first-sit assessment. Where it is determined that a student has been affected by
mitigating circumstances in their re-sit (or will be unable to take a re-sit), then the
Examination Committee will agree a DR (disregard) grade for the affected module
and the student’s continuing programme will be determined at the discretion of the
Examination Committee. The DR grade will not be considered as part of the
student’s programme for meeting the requirements of the award. Where a student
re-takes a module which has been disregarded they will be required to re-take all
elements of the assessment for that module irrespective of which elements of
assessment were originally affected by mitigating circumstances.

7.8 Where an Examination Committee is considering a student who would otherwise be
able to graduate were it not for the impact of agreed mitigating circumstances then
an Examination Committee may award a limited number of MS grades. An MS
grade is an ungraded ‘medical pass’, it carries no mark and is not considered in the
determination of degree classifications. In order to award an MS grade, an
Examination Committee must be satisfied that there is sufficient evidence to
demonstrate that the student has achieved a pass mark in the learning outcomes for
the affected module(s). The maximum value of any modules awarded an MS grade
must not exceed 30 credits for awards with a total credit value in excess of 180
credits or 20 credits for awards with a total credit value up to and including 180
credits. For example, 20 credits (normally one single module) for a Masters degree
and 30 credits (normally two single modules) for a Bachelors degree. An MS grade
may only be awarded for a whole module.

7.9 MS grades cannot be used at any stage of a student’s programme other than at the
point at which they would otherwise be able to graduate. Prior to this point, a
student should be given the opportunity for re-assessment or (as described in 7.7)
to have the affected module disregarded.

8 Communication of Outcomes

8.1 The outcome of any claim for mitigating circumstances will be communicated to the
student, as outlined above (5.3).

8.2 This communication of the outcome of the claim for mitigating circumstances (i.e.
whether or not the claim was supported) will include:

- The factors that were taken into account when the circumstances where
  considered; and
- The decision; and
• The reason(s) for the decisions.

8.3 All decisions will be recorded as appropriate.

9 **Review Process**

9.1 Students may seek a review of a decision concerning their mitigating circumstance but may not appeal that decision, i.e. the reviewing body shall not normally substitute their own judgement but would only overturn the previous decision either if it was improperly made (e.g. it did not take account of all the matters that it should or took account of things that it should not have done) or if it was one that no fair or reasonable person/body could have come to. This review request should be submitted in writing (an e-mail will suffice).

9.2 The review body for decisions made by Module Leaders should be three members of the MCP, as far as possible none of whom shall have decided a mitigating circumstances request from the student in the previous 12 months and normally including the Chair of the Panel, using the normal administrative processes of the Panel and with the student allowed 5 working days to request a review from the date that the decision of the Module Leader was sent to the student.

9.3 The review body for decisions of an MCP (including MCP Sub-groups) should be a University Panel consisting of three members of MCPs from other Schools, administered by the Appeals, Complaints and Conduct Office and with the student allowed 10 working days to request a review from the date that the decision of the MCP was sent to the student.

9.4 All the reviews will be carried out on the basis of documentation only.