

# EXTENUATING CIRCUMSTANCES REGULATIONS

(Taught Provision)

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**GENERAL PRINCIPLES**

**1. Introduction**

- 1.1 The University recognises that there may be occasions when, due to adverse circumstances beyond the student's control, they may be unable to complete assessments to the best of their ability, or are unable to attend an examination, or are unable to meet an assessment deadline. In such circumstances, students can request that these are taken into consideration by the University.
- 1.2 A student who does not attend an examination or does not meet an assessment submission deadline will be deemed to have not attempted the assessment, unless extenuating circumstances has been agreed.
- 1.3 Students are encouraged to promptly inform the University whenever they are experiencing difficulties. There are a number of remedies available to a student, depending on the severity of the problem. In many cases the situation can be resolved by extending the assessment deadline. In other cases, such as serious ill health or injury, the student can apply for Mitigating Circumstances. In some cases the student and the University/Collaborative Partner may consider that it is appropriate for the student to interrupt their studies for an agreed period of time.

## 2. **Scope**

- 2.1 These Regulations apply to students who are registered or enrolled on a University approved taught course delivered at the University or its Collaborative Partners. Students enrolled on a Higher Degree by Research course should follow the 'Extenuating Circumstances Regulations (Research Degree programmes)'.
- 2.2 Request for extenuating circumstances from international students (Tier 4) must be treated in accordance with these Regulations, but students may be required to also meet additional criteria linked to their study visa. As such, the University may be unable to grant extenuating circumstances to international students.
- 2.3 Each School/Collaborative Partner must produce a schedule of Mitigating Circumstances Boards, to ensure that applications for Mitigating Circumstances are considered prior to the relevant Assessment Board. Dates of Boards must only be changed in exceptional circumstances.
- 2.4 Concerns relating to the operation of these Regulations must be considered in accordance with the Review process outlined in paragraph 19. Concerns which fall under the remit of these Regulations cannot be investigated using the University's Student Complaints Policy and Procedure.
- 2.5 The Chair of Academic Board may amend the appendices to these Regulations. Any amendments are to be reported to Academic Board.
- 2.6 Reference to a particular University role may include reference to an equivalent Collaborative Partner role.

## 3. **Definitions**

- 3.1 **Extenuating Circumstances** are defined as unforeseen and unpreventable circumstances outside the control of the student, which have significantly affected performance and/or attendance in a summative assessment and could not have been remedied in the time available.
- 3.2 These are normally health and/or personal circumstances which are sufficiently serious and significant in nature to result in the student being unable to attend, complete or submit an assessment on time.
- 3.3 **Appendix 1** provides a list of examples of acceptable and non-acceptable extenuating circumstances.
- 3.4 Students with an underlying disability or chronic illness should normally have agreed a formal Student Support Plan with Student & Library Services to provide additional support for learning and assessment, as required. However, where such an underlying disability or chronic illness suddenly

flares up, or is exacerbated, this would fall within the above definition of extenuating circumstances.

3.5 There are three types of remedy that may be offered to a student who is experiencing difficulties outside their control, and these will be offered according to the severity of the circumstances:

- An **Extension** to the assessment deadline;
- A formal application for **Mitigating Circumstances**;
- **Interruption of Studies** until an agreed date.

3.6 There are three types of **Extension**:

3.6.1 A **Short Extension** is an extension to the assessment deadline(s) of up to and including 7 days. It is usually granted for one module only. It is normally only available for first submission, not reassessment, due to the requirement for timely progression to the next level of the course. A Short Extension should be agreed by a Module Leader or Course Leader.

3.6.2 A **Long Extension** is an extension to an assessment deadline of a period longer than 7 days, and may apply to more than one module. The length of extension granted will be a matter of academic judgement, based on the circumstances of the student. However, the new deadline should allow for timely progression to the next level of the course, and for this reason a Long Extension will not normally be offered for reassessment. A Long Extension should be agreed by an Associate Dean (or nominee).

3.6.3 **Deferred Submission** is normally only available to part-time students, and not normally available for reassessment. It is a longer extension that allows a student to submit their assessment up to a period of one calendar year from the original submission date. It should be agreed by an Associate Dean (or nominee).

3.7 **Mitigating Circumstances** are available where it is felt that an extension, deferral or interruption is not appropriate. In such circumstances, a Mitigating Circumstances Application will be considered by a Mitigating Circumstances Board (see paragraph 18).

3.8 An **Interruption of Studies** is available for a maximum period of 2 years in total over the length of the course or the maximum registration period (whichever is the shorter). It should be agreed by an Associate Dean (or nominee). It requires a formal request from the student with an explanation as to why an interruption is being sought. A formal agreement should be made, which defines the year/level on which studies will be resumed, and provide either an agreed date for the resumption of studies, or a date as to when the position will

be reviewed and who will initiate that process (School or student). The last date for a request for an interruption of studies will normally be prior to the completion of formal teaching weeks. This includes all activities within the defined teaching weeks of a semester.

#### **4. Communication of Information to Students**

- 4.1 The submission/examination dates for summative assessments will be made known to students in accordance with the University's Assessment and Feedback Policy.
- 4.2 Following a decision on an application, the student must be notified as to whether their claim was accepted or rejected and, where applicable, provided with details of new dates and arrangements for the submission of coursework or attendance at an examination.
- 4.3 Written communication with a student can be via paper or electronic format, for example, email or e-Vision.

#### **5. Advice and Guidance on the Regulations**

- 5.1 Advisers in the Students' Union can provide students with advice independent of the University. Staff and students can also seek advice and support on understanding the Regulations from the Office of Student Complaints, Appeals and Regulations (OSCAR).
- 5.2 The University's Student & Library Services can provide advice and guidance to students on a range of issues including disability and student welfare. They can advise on the additional learning support which is available to students with a disability. It is important that students with a disability are able to demonstrate that they have explored all the relevant resources and support services. In addition, staff should signpost students to these services where appropriate.
- 5.3 Students based at Collaborative Partners should contact their own Students' Union or equivalent.

#### **6. Fair Treatment**

- 6.1 No student submitting an application under these Regulations, will be treated less favourably by any member of staff. If evidence to the contrary is found, the member of staff may be subject to action under the University's Staff Disciplinary Policy and Procedure.
- 6.2 Where a student or staff member believes that consideration of an application is likely to affect their relationship, all parties will be expected to continue that relationship in a professional manner. Only in exceptional circumstances will the appropriate Dean or Head of Collaborative Partner consider agreeing to a

request for alternative working arrangements whilst the application is being considered.

- 6.3 Where a student has declared a disability, the University will endeavour to ensure that information is available to the student in appropriate formats and, where required, reasonable adjustments will be made.

## **7. Confidentiality and Documentation Retention**

- 7.1 Information provided by students will be handled in confidence, and released only to those members of staff who require it for the purposes of processing and considering applications. Any breach of confidentiality may result in formal disciplinary action being taken.
- 7.2 If the information presented raises concerns about the student's personal safety or a risk to the public, the University reserves the right to disclose the information to an appropriate person.
- 7.3 Any documentation obtained, or produced, as part of this process will be retained in accordance with the University's Classification Scheme and Retention Schedule.
- 7.4 The outcome of an application must remain confidential until formal notification is sent to the student.
- 7.5 Where a student has submitted an application under these Regulations, and has previously declared a disability to the University, the student gives consent for any relevant information in relation to their declared disability and any engagement they have undertaken in relation to obtaining and receiving disability support, held by Student & Library Services and/or the School/Collaborative Partner with which the student is enrolled, to be shared with those members of staff who require it for the purposes of considering an application.
- 7.6 Where a student submits a complaint to the Office of the Independent Adjudicator for Higher Education (OIA) relevant information shall be disclosed to the OIA in order for the review to take place.

## **8. Timescales**

Reference to timescales in these Regulations relate to calendar days excluding the University Christmas closure period and statutory bank holidays.

## **9. Submission of Fraudulent Claims**

If a student is suspected of submitting a fraudulent application or supporting evidence, in an attempt to gain an unfair advantage, this may be investigated

under the Regulations Relating to Academic Misconduct (Taught Provision).

## 10. **Monitoring and Evaluation**

On an annual basis, OSCAR shall provide a written report to relevant University Committees/Boards. The report shall provide anonymous statistical data, identify any trends or wider issues, and make any observations and/or recommendations which may assist the University to further good practice in the management of this process.

## 11. **Determination of the Relevant Procedure**

- 11.1 If a student feels unable to submit work or to attend an assessment at the required point, the student should be encouraged to discuss their circumstances with a member of academic staff normally **in advance** of the submission/assessment date. This member of staff should help to identify the best course of action. In many cases it may be appropriate for a student to request an extension or, in the case of part-time students, to defer submission. However, in the case of a more severe or significant problem the student should be advised to apply for Mitigating Circumstances. If the student is unable to continue with their studies for a longer period of time they may be advised to interrupt their studies.
- 11.2 Students can apply for Extensions, Mitigating Circumstances, or Interruption of Studies for all forms of summative assessment. Students can also apply for Mitigating Circumstances for reassessment opportunities offered by the relevant Progression and/or Award Board (Assessment Board). However, Short/Long Extensions will not normally be granted for reassessment due to the requirement for timely progression to the next level at the beginning of the academic year.
- 11.3 If a student has already obtained a long extension or deferred submission, an application for Mitigating Circumstances will not normally be accepted unless there is a particular reason, for example, a sudden change in the student's circumstances or an unexpected incident.

## **PROCEDURE**

## 12. **Process for Reporting Mitigating Circumstances and Submitting Extension, Deferral and Interruption Requests**

- 12.1 It is the student's responsibility to inform a member of academic staff of any circumstances which may affect their ability to meet their course commitments, normally in advance of an assessment deadline or examination. The member of staff should advise the student on the extenuating circumstances options available to them.

- 12.2 A student should obtain the relevant Application Form and supporting guide from their School/Collaborative Partner and must complete it as fully as possible, providing reasons for their request, and supporting evidence if necessary.
- 12.3 Normally, the relevant member of academic staff must sign and date the Application Form, to confirm that they have discussed the matter with the student and have provided advice on extenuating circumstances.
- 12.4 Where a student has submitted an application, but has not received a decision, the student should, wherever possible, attempt to submit their assessment or attend their examination. Where a student does not do so, and their application is subsequently rejected, they will receive the appropriate outcome as outlined in the relevant Assessment Regulations.
- 12.5 Where a student is unwell during an examination, such that they believe that their performance has been affected, they should submit a Mitigating Circumstances Application and include any relevant documentary evidence.
- 12.6 Applications submitted by third parties (for example, legal representative, parent, guardian, or spouse) will not normally be accepted for consideration except where the student has provided written consent. Where written consent is provided and accepted by the relevant School/Collaborative Partner, all further communications will be via the nominated individual only.

### **13 Evidence to accompany an Application**

- 13.1 A student must normally be able to substantiate their application with documentary evidence.
- 13.2 For the use of this process, third party data will normally only be accepted from a student with the written consent of the individual concerned. Where third party data is submitted without consent of the individual, it should be anonymised (i.e. names should be redacted). Students should be aware that documents may not be accepted where third party data has been submitted without consent or has not been anonymised, but that they may be re-submitted once anonymisation has been carried out or consent provided. Where non-anonymised third party personal data has been accepted in error, the University reserves the right to redact personal data. Processing of personal data in this way will be under the lawful basis of legitimate interest and in the public interest.
- 13.3 If the basis of the application is illness, the student must provide a certificate from a medical practitioner, specifying the dates of the illness.
- 13.4 If evidence is provided in a language other than English, it is the student's responsibility to have it independently translated.
- 13.5 The University acknowledges that, in some situations, there may be legitimate reasons which make it impossible for the student to submit documentary

evidence. If this is the case the student must explain, on their Application Form, the reasons for this.

- 13.6 Where it is not possible to submit documentary evidence at the same time as an application, due to circumstances outside the student's control, the student must still submit their application. The student must provide the School/Collaborative Partner a date by which the evidence will be provided, together with a reason for the delay.
- 13.7 Students must always keep a copy of their Application Form and accompanying evidence, as documents submitted will not normally be returned. Students may be required to provide a designated member of staff in the School/ Collaborative Partner with sight of original documents, if they have provided photocopies.
- 13.8 The University reserves the right to contact any person named in the application, in order to seek clarification or request additional information.

#### **14 Submission of a Late Application**

- 14.1 In exceptional circumstances, applications may be submitted after the deadline date. Late applications will only be considered if there is evidence that the student could not have submitted the application earlier. The decision on whether or not to accept a late application for consideration under this process is at the discretion of the relevant School/Collaborative Partner nominee.
- 14.2 In the case of a Mitigating Circumstances Application, a student who is not satisfied with the decision of the relevant School/Collaborative Partner nominee is entitled to submit a request for review as detailed in paragraph 19.
- 14.3 If a student's formal progression point occurs prior to the Mitigating Circumstances Board, the Chair may take Chair's Action. The Chair's Action must be formally noted at the next Mitigating Circumstances Board. If the Chair considers the case to be complex they may defer the decision to the next Mitigating Circumstances Board.

#### **15 Approval Process: SHORT AND LONG EXTENSIONS AND DEFERRED SUBMISSIONS**

- 15.1 Approval for extensions is as follows:

Short Extensions:	Module Leader or Course Leader
Long Extensions:	Associate Dean (or nominee)
Deferred Submissions:	Associate Dean (or nominee)

- 15.2 If an Extension or Deferred submission is declined, the student must be informed in writing of the reason(s) for this. If the student is not satisfied with the decision they may appeal to the Dean or Head of Collaborative Partner, in writing, for a final decision. The appeal must be made by the student within 10 days of receipt of the written communication. The Dean or Head of Collaborative Partner's decision is final and is not subject to further appeal within the University.
- 15.3 The Dean or Head of Collaborative Partner's decision letter must be copied to OSCAR, who will provide the student with a 'Completion of Procedures' letter on request from the student.
- 15.4 A student must request a 'Completion of Procedures' Letter within 28 days from the issue date of the Dean or Head of Collaborative Partner's communication.

## **16 Approval Process: INTERRUPTION OF STUDIES**

16.1 The application will be considered by an Associate Dean of the School/Collaborative Partner (or nominee), on advice from appropriate academic staff.

16.2 If the interruption is agreed, a formal agreement must be made by the School/Collaborative Partner. This should define:

16.2.1 The academic year/level on which studies will be resumed.

and

16.2.2 Either an agreed date for resumption of studies, or a date as to when the position will be reviewed and who will initiate that process (School/Collaborative Partner or student).

This must be signed by the student and by an Associate Dean (or nominee). Where the Associate Dean (or nominee) believes it appropriate they may refer the student to Student & Library Services (or equivalent in a Collaborative Partner) for appropriate advice/support prior to resuming their studies.

16.3 If the Associate Dean (or nominee) does not agree to the interruption, the student must be informed in writing of the reason(s) for this. If the student is not satisfied with the Associate Dean's (or nominee's) decision they may appeal to the Dean or Head of Collaborative Partner, in writing, for a final decision. The appeal must be made by the student within 10 days of receipt of the written communication. The Dean or Head of Collaborative Partner's decision is final and is not subject to further appeal within the University.

16.4 The Dean or Head of Collaborative Partner's decision letter must be copied to OSCAR, who will provide the student with a 'Completion of Procedures' letter on request from the student.

- 16.5 A student must request a 'Completion of Procedures' Letter within 28 days from the issue date of the Dean or Head of Collaborative Partner's communication.

**17 Application Process: MITIGATING CIRCUMSTANCES**

- 17.1 The application must normally be submitted to the School/Collaborative Partner **within 14 days** from the submission or examination date. The date for submission will be set and published by each School/Collaborative Partner.
- 17.2 New evidence presented on the day of the Mitigating Circumstances Board will only be accepted in exceptional circumstances, and with the agreement of the Chair.

**18 THE MITIGATING CIRCUMSTANCES BOARD**

**18.1 Membership of the Mitigating Circumstances Board**

- 18.1.1 Mitigating Circumstances Boards must be chaired by a member of the School/Collaborative Partner's Senior Management Team. They should be chaired consistently by the same person, as far as possible.
- 18.1.2 Each School/Collaborative Partner must determine a core list of members, which must normally include the School's Disability Coordinator. In advance of the Board, the School must determine the members whose attendance is essential. The Chair must be informed, prior to the Board, of the availability of those who have been invited to attend; and must take a decision over whether to proceed with the Board, or to reschedule it.
- 18.1.3 Each School/Collaborative Partner must appoint a Secretary to the Mitigating Circumstances Board, who must not be one of the members.
- 18.1.4 Students may not attend Mitigating Circumstances Boards.

## 18.2 **Procedure for Mitigating Circumstances Boards**

- 18.2.1 The Chair, Secretary and, normally, the School Disability Coordinator must be provided with a full copy of the student's Mitigating Circumstances Application.
- 18.2.2 The Chair must read out the University's confidentiality and declaration of interest statement, at the start of the Mitigating Circumstances Board.
- 18.2.3 The Chair must then present a summary of each case. All other members of the Mitigating Circumstances Board will normally be provided with a written report, identifying relevant and non-confidential information relating to the student.
- 18.2.4 Mitigating Circumstances Boards must give full consideration to applications and must take account of the nature of the circumstances, the proximity to assessment or submission dates, and any prior Extenuating Circumstances claims which have been submitted. Board members must ensure that all decision-making is independent of the assessment process.
- 18.2.5 Detailed records need not be taken, but where applications are rejected, the reasons must be clearly recorded.
- 18.2.6 Any paper copies of documentation should be provided to the Secretary at the conclusion of the Mitigating Circumstances Board, who will arrange for this to be securely destroyed.
- 18.2.7 Cases may be adjourned if additional information is required. The Secretary must write to the student to request the information, which must be provided by a date agreed by the Mitigating Circumstances Board. If the additional information is not provided, the Mitigating Circumstances Application will not be granted. The student must then be informed, in writing, of the Board's decision.

## 18.3 **Procedure following Mitigating Circumstances Boards**

- 18.3.1 Students must be informed of the decision of the Mitigating Circumstances Board, in writing, within **15 days** of the Board meeting. If the application is unsuccessful, the reasons for the decision must be clearly explained, in writing.
- 18.3.2 If the Mitigating Circumstances Application is successful, the formal decision will be one of two options:
- i) Any relevant assessment scheduled to be taken (or

already taken) by the student will be set aside. The student will be allowed a further attempt to be determined by the Assessment Board, or:

- ii) If the student has already taken the assessment and has achieved a pass mark, the student will be allowed to accept or decline the offer of a further attempt. If the student fails to indicate acceptance of the further attempt by the date agreed, the offer must be withdrawn.

18.3.3 In both cases, the mark for the further attempt will replace any previous mark.

18.3.4 If a Mitigating Circumstances Application is successful, the decision of the Mitigating Circumstances Board is reported for information to the relevant Assessment Board, where a new assessment submission date will be set.

## 19 REVIEW PROCESS FOR AN MITIGATING CIRCUMSTANCES APPLICATIONS ONLY

### 19.1 Submitting a request for a Review of a Mitigating Circumstances Board decision

19.1.1 In exceptional circumstances, within **10 days** of the decision of the Mitigating Circumstances Board being communicated to the student, a student may make a written request for a Review provided that their Review meets the grounds cited at paragraph 19.1.4. This Review will not usually consider the issues afresh or involve any further investigation. The Review should be submitted to OSCAR.

19.1.2 Only in exceptional circumstances will a request for a Review be accepted after the cut-off date. If the student wishes to submit a request for a Review after the cut-off date they must submit, at the same time as their Review, a written explanation for the late submission. The decision on whether, exceptionally, to accept a late Review will be at the discretion of the Chair of the Review Panel. Their decision is final and not subject to further review. If the Review is rejected, the student will be issued with a 'Completion of Procedures' letter.

19.1.3 The request **must** identify the grounds and reasons for the Review. If this information is not provided OSCAR will return the Review to the student asking that they provide the necessary information. The student will have **5 days** to provide this information to OSCAR. If this information is not received the Review will be rejected and the student will be

issued with a 'Completion of Procedures' letter.

19.1.4 A Review can only be made on the grounds:

i) That the decision not to grant Mitigating Circumstances was inconsistent and/or unsupported by the evidence presented;

and/or

ii) That there was a material procedural irregularity by the Mitigating Circumstances Board, which prejudiced the student's case.

and/or

iii) That additional evidence has come to light since the decision of the Mitigating Circumstances Board, which could not reasonably have been expected to have been produced at the time of the consideration of the application.

19.1.5 It is expected that students will provide documentary evidence (where appropriate) to support their case at the same time as their Review. Where the submission of supporting documentary evidence is not possible, due to circumstances outside the student's control, the Review should be submitted with a clear statement that evidence will follow, normally within **10 days**. If no subsequent supporting evidence is received OSCAR will process the Review based on the available documentation.

## 19.2 **Initial Consideration of a Review**

19.2.1 Receipt of the Review will normally be acknowledged by OSCAR within **3 days**.

19.2.2 A Review of the decision of the Mitigating Circumstances Board, submitted on time, will normally be considered by the relevant Vice-Chancellor's nominee (Chair of the Review Panel). However, before doing so, OSCAR will circulate the Review to the Chair of the relevant Mitigating Circumstances Board, or nominee, for consideration unless the application falls within paragraphs 19.1.2 or 19.1.3. If the Chair of the relevant Mitigating Circumstances Board believes there to be a case for the decision of the Mitigating Circumstances Board to be reviewed, they may take Chair's Action. In this event, the decision must be formally recorded for ratification at the next appropriate Mitigating Circumstances Board.

- 19.2.3 The Chair of the relevant Mitigating Circumstances Board must inform the student, in writing, that Chair's Action has been taken and the decision of the relevant Mitigating Circumstances Board has been revised. A copy of the decision must be sent to OSCAR. The Chair must advise the student of their right to continue to pursue the case through the formal Review process, and to contact OSCAR within **5 days** if they remain dissatisfied with the decision.
- 19.2.4 Where it appears to the Chair of the relevant Mitigating Circumstances Board that there is no reason for the decision of the relevant Mitigating Circumstances Board to be reviewed, the Chair must provide a written report (the 'Chair's Report') to OSCAR within **12 days** of receipt of the Review.
- 19.2.5 The Chair's Report must normally contain:
- Date of the Mitigating Circumstances Board;
  - A copy of all documentation considered by the Mitigating Circumstances Board;
  - The letter/e-Vision print out to the student informing them of the decision of the Mitigating Circumstances Board;
  - Minutes of the Mitigating Circumstances Board;
  - Any other information/statement which may assist the Chair (or nominee) of the Mitigating Circumstances Review Panel in reaching a decision.
- 19.2.6 OSCAR will forward the case to the Chair of the Review Panel who will determine whether:
- i) The Review is incomplete, misconceived or out of time, and should be dismissed, in which case the student will be issued with a 'Completion of Procedures' letter.
  - ii) To request a Mitigating Circumstances Review Panel be convened to consider the case.
- 19.2.7 The decision as to whether or not to convene a Mitigating Circumstances Review Panel is not subject to further consideration and concludes the Mitigating Circumstances Review process of the University.

### 19.3 **Mitigating Circumstances Review Panel**

- 19.3.1 The Mitigating Circumstances Review Panel shall consist of three members who have had no prior involvement with the student, or previously participated in the case under consideration. The Review Panel will have the following membership:
- A Chair, who will be a Vice-Chancellor's nominee;
  - One elected officer from the Students' Union;
  - One senior representative of a School/Collaborative Partner.
- 19.3.2 The Review Panel will have a Clerk, who will attend in an advisory capacity, and a Secretary.
- 19.3.3 Meetings of the Review Panel will normally be held within **20 days** of a request for a Review Panel to be convened. The student and the relevant School/Collaborative Partner representative will be advised of the date and time of the meeting.
- 19.3.4 Meetings of the Review Panel will normally be held at the University's Middlesbrough or Darlington campus. Students and staff based in other locations may either attend the relevant campus or participate by electronic means of communication, for example, Skype. Those who wish to do so must inform OSCAR prior to the Hearing.
- 19.3.5 It will not normally be possible for the date of the Review Panel meeting to be changed. This will only be done in exceptional circumstances. Any requests to change the date must be submitted in writing to OSCAR, and the decision will be at the discretion of the Chair. Where a decision to re-arrange a Review Panel meeting has been refused, the student will be informed, in writing, of the refusal and the case will be considered in the absence of the student.
- 19.3.6 The student or the relevant School/Collaborative Partner representative is required to attend the Review Panel meeting and if they do not do so without providing a good reason for their non-attendance in advance, the Review Panel meeting may proceed in their absence. In such instances, the case will be considered on the evidence available at the time of the Review Panel meeting.
- 19.3.7 If, for good reason, a student or relevant School/Collaborative Partner representative is unable to attend the Review Panel

meeting, they may request that it be postponed until a later date, or that a third party attend on their behalf. The decision as to whether the Review Panel meeting will be deferred will be made by the Chair of the Review Panel.

- 19.3.8 A student or the relevant School/Collaborative Partner representative also has the right to be accompanied to the Review Panel meeting by one friend who may not act as a representative or attend in any legal capacity unless permitted by the Chair of the Review Panel. It is the student's responsibility to provide a copy of all relevant documentation to their friend. It is the student or School/Collaborative Partner representative's responsibility to provide a copy of all relevant documentation to their friend.
- 19.3.9 At least **5 days** prior to the Review Panel meeting, the student and the Chair of the relevant Mitigating Circumstances Board should confirm to OSCAR, the names of those who will be attending.
- 19.3.10 In considering the Review, the Review Panel may call any appropriate members of staff to give evidence with at least **5 days'** notice. The member of staff may be accompanied to the meeting by a friend. The Secretary of the Review Panel will provide the members of staff with the appropriate documentation. If it appears to the Chair that the Review, associated documentation, or oral evidence, raises allegations of misconduct on the part of a member of staff, this may lead to action under the University's Staff Disciplinary Procedures.
- 19.3.11 The papers to be considered by the Review Panel will be circulated to all parties prior to the Review Panel Meeting. The presentation of any new documentation, by either party, will only be accepted in exceptional circumstances with agreement of the Chair of the Review Panel. This may result in a suspension of proceedings in order to provide all parties with the opportunity to consider the new documentation.
- 19.3.12 The student, their friend and relevant member(s) of staff from the School/Collaborative Partner will normally be allowed to be present throughout the whole of the Review Panel meeting except when the decision is being debated. If the Review Panel, in its absolute discretion, decides that the presence of any person is not appropriate throughout the whole meeting or during any specific part of it, the Chair of the Review Panel shall use reasonable endeavours to ensure that such a person is given an adequate opportunity to present their case.
- 19.3.13 The audio recording of the Review Panel meeting is prohibited subject to such reasonable adjustments as may be agreed by

the University under the Equality Act 2010.

- 19.3.14 All participants are expected to behave in an orderly and non-confrontational manner. If the Chair of the Review Panel believes it necessary, they may adjourn or halt proceedings if, in their opinion, the progress of the Review Panel meeting is being hampered by a participant's behaviour.
- 19.3.15 During the Hearing:
- The Chair will outline the procedure of the meeting to all parties;
  - The Chair will ask the student and/or friend to present their case;
  - Members of the Review Panel may ask questions of the student and/or friend;
  - The School/Collaborative Partner may ask for clarification on any representations made by the student by addressing questions via the Chair;
  - The Chair will ask the School/Collaborative Partner representative(s) to present their case;
  - Members of the Review Panel may ask questions of the School/Collaborative Partner representative(s);
  - The student may ask for clarification on any representations made by the School/Collaborative Partner addressing questions via the Chair;
  - The Chair will ask the student and/or friend and the School/Collaborative Partner representative(s) to leave the meeting;
  - The Review Panel will consider the evidence in private and reach a decision in accordance with paragraph 19.4.
- 19.3.16 The Review Panel has the authority to adjourn the Review Panel meeting if it requires further information or evidence to assist in making its decision.
- 19.3.17 In the event that a student is required to attend a Review Panel meeting, the University will consider meeting reasonable and proportionate incidental expenses such as travel (within the UK), subsistence and accommodation costs where the University is satisfied that it was necessary for the student to incur such expenses. Expenses will not be met without the production of original copies of receipts to OSCAR, and any monies will not be paid until completion of this process.
- 19.3.18 Students are required to submit claims, in writing, to OSCAR. Students who are in doubt as to the acceptability of expenses should check in advance with OSCAR. The decision on whether to meet incidental expenses will be made by the Chair of the Review Panel and this decision will be final.

- 19.3.19 The student or member of staff will be responsible for paying the costs relating to their friend's attendance at the Review Panel meeting, and third party costs will only be reimbursed subject to approval by the Chair of the Review Panel.

#### **19.4 Decision of the Mitigating Circumstances Review Panel**

- 19.4.1 The decision of the Review Panel will be by majority decision.

- 19.4.2 After consideration of the available evidence, the Review Panel may reach any of the following decisions:

i) The Review is rejected;

**or**

ii) Uphold the Review, and impose an alternative outcome.

#### **19.5 Procedure following decision of Mitigating Circumstances Review Panel**

- 19.5.1 The student and the relevant School/Collaborative Partner representative shall be informed, in writing, normally within **5 days**, of the decision of the Review Panel.

- 19.5.2 Where it is decided that the Review is rejected, the decision of the Review Panel is effective immediately, and the student will be issued with a 'Completion of Procedures' letter.

### **20 THE OFFICE OF THE INDEPENDENT ADJUDICATOR FOR HIGHER EDUCATION**

At the conclusion of the University's internal processes, the student shall be issued with a 'Completion of Procedures' letter of internal proceedings in the manner prescribed by the Office of the Independent Adjudicator for Higher Education (OIA). A student who is of the opinion that their case is unresolved may apply to the OIA for reconsideration of their case under the rules of its scheme within 12 months of the issue of the 'Completion of Procedures' letter. Further information on the process may be obtained directly from the OIA at <http://www.oiahe.org.uk>.

## **Appendix 1 – Acceptable and Not Acceptable Extenuating Circumstances: List of Examples (this list is not exhaustive)**

### **Acceptable (Examples):**

- Serious ill health (which may include an acute episode, a disability or a chronic condition which is not covered by agreed support already in place).
- Significant personal accident or injury.
- Acute personal or emotional trauma (which may include acute anxiety or depression, family breakdown, breakdown of close personal relationship, death or serious illness of family member, significant other, or close friend).
- Victim of crime.
- Additional impact of a disability.
- Complications in a pregnancy.
- Jury Service.
- Serious transport difficulties which could not have been avoided.
- Other significant/exceptional factors for which there is evidence of an impact on performance and/or attendance in a summative assessment and could not have been remedied in the time available. This could include religious/cultural issues and their impact on the individual.

### **Not Acceptable (Examples):**

- Study related circumstances (personal equipment failure, printer problems, failure to take back-up copy of work, misreading the examination timetable, oversleeping, taking the wrong examination).
- Normal exam stress or anxiety experienced during revision or during the assessment period.
- Personal disruptions within the student's control (moving house, change of job, normal job pressure, holidays, weddings, failed travel arrangements, financial issues, poor time-management, routine medical appointments, disruption to routine caring responsibilities).
- Grounds of religion, unless notification was given at the start of the academic year.
- Foreseeable and preventable circumstances.
- Statement of a medical condition without reasonable evidence (medical or otherwise) to support the case.
- Complaints against staff or in relation to delivery of the module/programme. (These are managed through the University's Student Complaints Policy and Procedure).
- Medical circumstances outside the relevant assessment or learning period for which appropriate adjustments for extenuating circumstances have already been made.
- Long term health condition, for which the student is already receiving reasonable and appropriate adjustments.
- Medical condition supported only by retrospective evidence (such as a doctor's note stating that the student was seen after the illness, and that the student declared they had been ill previously).
- Late disclosure of circumstances, where the student could reasonably be expected to have contacted a member of staff about the problem, but did not do so.

## Appendix 2 - Guidance on Extenuating Circumstances and Disability

### 1. Definition of Disability under Equality Act

*A person has a disability if:*

- (a) they have a physical or mental impairment and*
- (b) the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.*

*The definition of 'long-term' is one which has lasted at least 12 months or where the period is likely to be at least 12 months from onset.*

### 2. The Legal Duty

The University must ensure that it does not treat a person **less favourably** as a result of their disability. The University has a duty to make **reasonable adjustments** when it is known that someone has a disability.

#### **Definitions:**

##### **Less favourable treatment:**

- a disabled person is treated less favourably than someone else, who has **similar circumstances and abilities**.
- the treatment is for a reason relating to the person's disability.

##### **Reasonable adjustments:**

- A reasonable adjustment might be a variation in normal practice, or the provision of additional resources or support.
- The adjustment addresses a particular issue that the disabled person faces.
- Any adjustment should not convey advantage and should maintain the rigour of the University's academic standards.
- The University process for determining reasonable adjustments is centred on the Student Support Plan. A Student Support Plan is written following a process of consideration of the needs of each individual disabled student. This is undertaken by Disability Services and is underpinned by consideration of course-related activities and Competence Standards. (Reasonable adjustments for work-based experience/placement activities are identified by the School.)
- Competence Standards are determined by the School and define the essential skills that a student on a programme must be able to demonstrate.

### **'Deemed to know':**

- 'Deemed to know' is defined as 'know' or 'ought to have known' and refers to the 'constructive knowledge' of anyone in the University.
- This is straightforward in cases where students disclose a disability.
- It is, however, more complicated than simply asking 'are you disabled?' A clear pattern of repeatedly expressing a set of needs under particular circumstances may be regarded as sufficient for the University to be 'deemed to know'.
- The University's exposure to the consequences of being legally 'deemed to know' is minimised if it can be demonstrated that the University gave appropriate advice about accessing support.

### **3. The Process**

1. Students are encouraged to disclose a disability.
2. Students who declare a disability must be referred to Disability Services.
3. Students will need to provide information and evidence about their disability, from which Disability Services will determine whether the student meets the definition of 'disabled' as per the Equality Act (2010).
4. If so, students are then invited to discuss their needs for a Student Support Plan to be produced. Staff in Disability Services will identify appropriate support and reasonable adjustments through the process of Needs Assessment/Student Support Plan. This may include:
  - assistive technology strategies,
  - non-medical helper strategies (for example note taking, study skills tuition and mentoring), and
  - guidance to students to access support and strategies available to all students. .
5. In addition, eligibility for Disabled Students' Allowance funding will also be checked and students supported to apply, if eligible, as some support can be funded externally; e.g. assistive technology and/or specialist non-medical helper support such as Deaf communication support, specialist mentoring and specialist study skills tuition.
6. Student Support Plans are sent to Schools through the Disability Co-ordinator and staff are required to read and implement adjustments in the plan.

#### 4. Who can use the Extenuating Circumstances Process:

Q1. *Can a disabled student apply for Extenuating circumstances? A1.*  
Yes

Details:

Disabled students who have had a Student Support Plan and have support in place are not usually expected to request Extenuating Circumstances for disability-related reasons. This is because the support is designed to ensure that reasonable adjustments are made, and that the student can engage with their studies and with summative assessments within the usual time frame.

There are clearly some circumstances in which disabled students can apply for Extenuating Circumstances. These include:

- Where a student's disability is by nature sporadic and unpredictable (for example, chronic conditions that can flare up, or periods of fluctuation in mood and energy). There will be occasions where support cannot prevent impact on performance, and the impact is outside the student's control. It is usual to indicate this in a Student Support Plan report, wherever it is known about.
- A disabled student can request Extenuating Circumstances if they feel that:
  - their support has not been implemented
  - implementation has been delayed
  - their condition has worsened and they require a review
  - the challenges they face are greater than predicted, or they are taking some time to benefit from the development of support strategies, for example mastering assistive technology, developing strategies to manage anxiety.
- Disabled students are just as likely as any other students to encounter circumstances beyond their control, which may affect their studying.

Q2. *Can a student repeatedly request Extenuating Circumstances for the same circumstances?*

A2. Yes

Details:

- A student may have a condition that does not meet the definition of disability and would not require a Student Support Plan. This could apply in the case of physical and/or mental ill-health (for example, following a traumatic incident).

- A student may have a condition that meets the definition of disability, but they do not define themselves as such and would not wish to do so. This is their right. A student may have a condition that meets the definition of disability, but the student may not realise this. The working definition for higher education institution is that 'normal day to day activities' include study- related activities. It is entirely possible that a student would not consider themselves disabled if issues have not emerged in day-to-day activities outside of studying. This might be the case for a student with a Specific Learning Difficulty, for example.

In the case of the last two examples, a student can be encouraged to contact Disability Services. There may be significant advantages to them should they do so, in terms of support and reasonable adjustments that might be put in place. But, they cannot and must not be forced to do this.