



The Inns of
Court College
of Advocacy

Mitigating Circumstances: guidance for students 2020-21

Version 2.0

Defining “mitigating circumstances”

Mitigating circumstances are defined as “recognisably disruptive or unexpected events, beyond the student’s control, that might have a significant and adverse impact on their academic performance.”

The Regulations governing Mitigating Circumstances can be found in the [Student Handbook](#) and in the [ICCA Academic Regulations](#).

Mitigating Circumstances Information

Students must submit a [Mitigating Circumstances Form](#) by emailing it to students@icca.ac.uk as soon as possible either in advance of any assessment or normally within 7 days of the first affected assessment. Please note that the ICCA will only accept a Mitigating Circumstances Form (‘MCF’) which has been submitted via a student’s ICCA email account.

Guidance on evidence required to support mitigating circumstances

The following table provides examples of the kinds of circumstances that would normally be considered acceptable mitigating circumstance, with information on what evidence would be required in each case. This list of required evidence is provided as a guide and is not exhaustive; each Mitigating Circumstances Form (MCF) will be assessed on its own merits taking into account the specific circumstances and the evidence presented in each case.

The ICCA considers mitigating circumstances to be “recognisably disruptive or unexpected events, beyond the student’s control, that might have a significant and adverse impact on their academic performance”. The ICCA applies the principle that a student who attends, submits or participates in any form of assessment shall be considered by the ICCA to be in a position to do so (Academic Regulations, 33.1). Additionally, for summative assessments requiring attendance for assessment, the ICCA operates a ‘Fit to Sit’ policy whereby the student declares fitness to sit the assessment, in that they do not believe that they are affected by any mitigating circumstances, as defined above, which would have a significant and adverse impact on their academic performance. If a student self-declares fitness to sit the assessment, a subsequent mitigating circumstances claim will not normally be taken into consideration and any result achieved in that assessment will stand (Academic Regulations, 33.2)

The ICCA recognises that it can be difficult to disclose sensitive, personal information to other parties. As such, please note that all documentation provided in support of an MCF will be treated sensitively and will remain confidential to the Assessor and the Examinations Board.

COVID Related Guidance (this guidance currently applies for the academic year 2020 – 2021, only)	
Circumstance	What evidence is required?
Unable to travel to an assessment because of a local lockdown	Evidence of address and the local COVID restrictions at date of assessment
Unable to travel to an assessment because of requirement to self-isolate	Evidence of requirement to self-isolate: <ul style="list-style-type: none"> ➤ A test-and-trace notification; or ➤ A positive COVID test result for yourself or someone you have been in contact with
Unable to travel to or attend an assessment because of personal clinical vulnerability	Confirmation of the clinical condition giving rise to increased vulnerability to COVID. <ul style="list-style-type: none"> ➤ An original medical certificate/GP letter; or ➤ A letter from the NHS confirming you as a person at risk of severe illness if you contract COVID-19; or ➤ A letter from external support services who have been actively supporting you.
Unable to travel to or attend an assessment because of the clinical vulnerability of someone you live with	Confirmation of the clinical condition giving rise to increased vulnerability to COVID <ul style="list-style-type: none"> ➤ An original medical certificate/GP letter; or ➤ A letter from the NHS confirming the person you live with as a person at risk of severe illness if they contract COVID-19; or ➤ A letter from external support services who have been actively supporting you.
No access to a suitable room to take an online assessment during a local lockdown	<ul style="list-style-type: none"> ➤ A letter from ICCA support services who have been actively supporting you; or ➤ A letter from external support services who have been actively supporting you.
Unable to access the equipment necessary to take an online assessment (including internet provision)	<ul style="list-style-type: none"> ➤ A letter from ICCA support services who have been actively supporting you; or ➤ A letter from external support services who have been actively supporting you.
Experiencing technical difficulties in advance of an online assessment (e.g. unable to access assessment papers)	<ul style="list-style-type: none"> ➤ A letter from ICCA support services who have been actively supporting you; or ➤ A letter from external support services who have been actively supporting you.

General Guidance	
Circumstance	What evidence is required?
Illness	<p>Please note any medical certificate should be from a UK-based medical practitioner or one recognised by UK authorities.</p> <p>Confirmation of the illness, the impact the illness would have/has had on the affected assessment(s) and the dates concerned.</p> <p>This should be provided on:</p> <ul style="list-style-type: none"> ➤ An original medical certificate; or ➤ A letter from ICCA support services who have been actively supporting you; or ➤ A letter from external support services who have been actively supporting you.
Long-standing medical condition or disability	<p>An ICCA Inclusion Plan (IP) that confirms the medical condition or disability and explicitly states that the IP may be used as evidence to support mitigating circumstances.</p> <p>Please note that most IPs will not include this adjustment. If yours does not, you should follow the procedure for illness (as above). You may wish to discuss your future requirements directly with the Disability Support Consultant.</p>
Hospitalisation	<p>Confirmation of the illness, the impact the illness would have/has had on the affected assessment(s) and the dates concerned.</p> <p>This should be provided on:</p> <ul style="list-style-type: none"> ➤ An original medical certificate/letter.
Family illness	<p>Confirmation of the illness, the impact that this would have/has had on the affected assessment(s) and the dates concerned.</p> <p>This should be provided on:</p> <ul style="list-style-type: none"> ➤ An original medical certificate/GP letter; or ➤ A letter from ICCA support services who have been actively supporting you; or ➤ A letter from external support services who have been actively supporting you.

General Guidance	
Circumstance	What evidence is required? Please note any medical certificate should be from a UK-based medical practitioner or one recognised by UK authorities.
Bereavement	A letter confirming the death from an independent person (usually not a family member) with their contact details provided and including a view on the closeness of the relationship to you. A death certificate or order of service are other forms of acceptable evidence and are all that would be required where the closeness of the relationship is evident (e.g. for a close relative - a grand-parent, parent, sibling, or child). Where the closeness of the relationship is less obvious, a certificate/order of service also should be accompanied by a letter from an independent person, as outlined above.
Acute Personal Difficulties	Confirmation of the circumstances, the impact that these would have/have had on the affected assessment(s) and the dates concerned. This should be provided on <ul style="list-style-type: none"> ➤ An original medical certificate/GP letter; or ➤ A letter from ICCA support services who have been actively supporting you; or ➤ A letter from external support services who have been actively supporting you.
Pregnancy-related illness	The requirements for illness, hospitalisation etc. should be followed if there is a specific incident or set of circumstances during pregnancy.
Victim of crime	Police report (including a crime reference number). If the incident has resulted in your seeking medical attention, then the requirements for illness should be followed.
Domestic Disruption	Confirmation of the circumstances, the impact that these would have/have had on the affected assessment(s) and the dates concerned. This should be provided on: <ul style="list-style-type: none"> ➤ A letter from an independent authority (e.g. social worker, counsellor, witness); or ➤ A police report (including a crime reference number); or ➤ A letter from ICCA support services who have been actively supporting you.

General Guidance

Circumstance	What evidence is required?
Representing the ICCA or your Country at a significant/prestigious event	<p>Please note any medical certificate should be from a UK-based medical practitioner or one recognised by UK authorities.</p> <p>A letter of confirmation from the relevant organising body and a supporting statement from the student and/or member of staff explaining why the event should be considered as significant/prestigious.</p> <p>Student athletes with an international commitment (such as an international training camp or world-standard competition) should supply third-party evidence of the commitment.</p>
Jury Service (UK)	A letter from the Court.
Court Attendance (UK)	If you are required to attend a tribunal or court as a witness, defendant (not for 'Criminal Conviction') or claimant, please provide a solicitor's letter including the dates of the legal proceedings and the requirement for you to attend.
Road Traffic Incident	<p>If you have been involved in a road traffic incident, either as a passenger or as the driver, evidence must be provided detailing the time and place that the incident occurred including:</p> <ul style="list-style-type: none"> ➤ A police report (including a crime reference number); or ➤ Insurance reference number/record of the event.
Computer failure prior to an online assessment	<p>If you are registered for an online assessment and are prevented from sitting due to a systems or hardware failure immediately prior to the assessment, evidence must be provided of the issue. This could include a support ticket, communication log or any other correspondence with a technical support or repair company.</p>

Circumstances that would not meet the definition of mitigating circumstances

The following are examples of the kind of circumstances that are likely to be considered unacceptable. However, the ICCA will consider every case individually and on its own merits.

Circumstance
<p>Transport issues</p> <p>It is your responsibility to arrive at the assessment on time, irrespective of the form of transport used or relied upon. Exceptions to this might be industrial action or other significant disruption that is beyond your control. Evidence of any significant disruption would be required. You should aim to arrive at any exam venue with plenty of time to spare and not leave it until the last 15 minutes before the start of the assessment.</p>
<p>Holidays</p> <p>All holidays and vacations should take place at a time that will not impact on your availability to study or undertake or prepare for an assessment(s). Assessment dates are published well in advance and should allow for careful planning for travel.</p>
<p>Misreading the examination timetable</p> <p>It is your responsibility to ensure that you have an accurate understanding of the location, time and duration of all formal assessments.</p>
<p>Paid employment or voluntary work</p> <p>It is your responsibility to manage other commitments so that they do not adversely interfere with your studies.</p> <p>If you are experiencing acute personal difficulties which have led to you needing to undertake unexpected levels of paid work, then these may meet the definition of mitigating circumstances. Please refer to the evidence required for this category in the table, above.</p>
<p>IT and/or computer failure in the case of assessments lasting 24 hours or longer</p> <p>It is your responsibility to ensure that all work which is electronically stored, generated and/or submitted is sufficiently backed up and the correct piece of work is submitted.</p>
<p>Foreseeable/preventable circumstances</p> <p>Where the circumstances are within your control.</p>
<p>Scheduling of assessments/deadline</p> <p>Deadlines or exams being close together.</p>

Circumstance

Not disclosing circumstances

The ICCA can only consider circumstances if they are disclosed in accordance with the regulations. If you had good reason, which can be documented, for not disclosing your circumstances you should speak to your personal tutor.

PLEASE NOTE: IF YOUR CIRCUMSTANCES RELATE TO COVID-19 AND YOU HAVE BEEN UNABLE TO OBTAIN RELEVANT SUPPORTING EVIDENCE, PLEASE PROVIDE AS FULL AN ACCOUNT AS POSSIBLE OF YOUR CIRCUMSTANCES IN ORDER FOR YOUR APPLICATION TO BE ASSESSED.

Frequently Asked Questions (FAQs)

The FAQs are divided into five categories:

- Defining “mitigating circumstances”.
- When mitigating circumstances are affecting or have affected your ability to complete an assessment.
- Completing and submitting a Mitigating Circumstances Form (MCF).
- After an MCF has been submitted.
- The outcome of a mitigating circumstances application.

Defining “mitigating circumstances”

What are mitigating circumstances?

The ICCA considers mitigating circumstances to be: “recognisably disruptive or unexpected events, beyond the student’s control, that might have a significant and adverse impact on their academic performance”.

“beyond the student’s control” means that you could not have reasonably prevented them from happening.

“a significant and adverse impact on their academic performance” means that the circumstances were disruptive enough to have a meaningful adverse impact on your academic ability.

What kind of mitigating circumstances would normally be considered valid/invalid?

Because your circumstances are unique to your individual situation, and circumstances can impact on individuals in different ways, it is not possible to provide a full list of circumstances that would be considered valid. The ICCA has produced guidance (see pages 3 to 6) on acceptable medical evidence that provides examples of the different types of circumstances that would usually be considered acceptable and the evidence needed to support the claim. The guidance also sets out the circumstances which would not be considered acceptable.

What is the difference between mitigating circumstances and Personalised Assessment Arrangements (PAA)?

[Personalised Assessment](#) Arrangements are organised for students in advance of assessments by the Examinations Office. The purpose of PAA is to provide an environment that gives all students an equal opportunity for assessment.

The key difference between PAA and mitigating circumstances is that mitigating circumstances are **unexpected events** beyond your control. In contrast, PAA relate to longer term or 'foreseen' circumstances such as learning difficulties and medical conditions.

Examples of PAA might include extra time for a learning difficulty (such as dyslexia) or an exam paper produced in larger print.

All applications for Personalised Assessment Arrangements require specific supporting evidence and there are strict deadlines for each examination period. You can [find out more about PAA's here](#).

In what ways might mitigating circumstances affect my academic performance?

These are the situations an Examinations Board Chair can take into account as "mitigating circumstances":

- Where the mitigating circumstances mean that you are unable to meet a published deadline for submission of assessed work;
- Where the mitigating circumstances mean that you are unable to take an examination at the prescribed time.

When mitigating circumstances are affecting or have affected your ability to complete an assessment

What should I do if I am unable to meet an assessment submission deadline?

In this situation you are required to submit a completed Mitigating Circumstances Form (MCF).

The form can be submitted at any time before the submission deadline but normally no later than 7 calendar days after the submission deadline.

You must provide documentary evidence with your submission. This can be submitted along with the completed MCF within 7 days of the submission deadline/assessment date. If you are unable to get the evidence together within 7 days you must submit your MCF within 7 days, and then you can submit the evidence separately, within 21 days of the submission deadline/assessment date.

Don't delay submitting the form if you do not yet have the appropriate documentary evidence (see pages 3 to 5). Evidence can be submitted up to 21 days after the date of the affected assessment.

What should I do if my mitigating circumstances mean I am unable to sit an examination?

In this situation you are required to submit a completed Mitigating Circumstances Form (MCF).

The form can be submitted at any time before an examination but normally no later than 7 calendar days after the date of a missed examination.

You must provide documentary evidence with your submission. This can be submitted along with the completed MCF within 7 days of the submission deadline/assessment date. If you are unable to

get the evidence together within 7 days you must submit your MCF within 7 days, and then you can submit the evidence separately, within 21 days of the submission deadline/assessment date.

Don't delay submitting the form if you do not yet have the appropriate documentary evidence (see pages 3 to 5). Evidence can be submitted up to 21 days after the date of the affected assessment.

I am affected by mitigating circumstances, but I worry that these might not be accepted. Is it better for me just to submit the assessment (or take the exam) and see how it goes?

The Examinations Board makes their decisions using the same information provided to students about what are acceptable circumstances, and what is the necessary evidence, so you are advised to read the guidance carefully before completing and submitting the MCF.

You are strongly advised **not** to risk completing an assessment of any type if you are experiencing difficulties that would have an adverse impact on your academic performance and would meet the definition of mitigating circumstances. In this situation, by submitting an MCF you are complying with the ICCA's regulations and are making a conscientious decision to be assessed at a time when your circumstances have improved.

If you are worried about not being able to supply evidence at the same time as your MCF, then follow the procedure outlined on the MCF for providing it within 21 days.

What happens if I am taken ill during an examination and am unable to complete it?

In this instance you should report your illness to an invigilator in the examination hall who will provide you with a signed "incident report form". You should submit the Mitigating Circumstances Form (MCF) along with the invigilator report as soon as possible and normally no later than 7 days after the date of the examination. You will also be required to obtain and submit a medical certificate as soon as is reasonably possible, and in all cases within 21 days of the date of the examination.

What happens if I have taken an examination but with hindsight feel that I shouldn't have done so?

Exceptionally, a student who presents themselves for an assessment or submits coursework may, at the discretion of the Chair of the Examination Board, be retrospectively granted an authorised absence from that assessment provided that they submit evidence of mitigating circumstances normally **no more than seven calendar days after the date of the assessment or submission deadline**. Supporting evidence should be submitted with the form provided for this purpose or within 21 calendar days of the date of the affected assessment.

This means that you can submit an MCF up to 7 days after your assessment or submission deadline, but you will be asked to provide a good reason as to why you did not follow the normal mitigating circumstances procedure before you presented yourself for an examination or submitted coursework.

Does not being able to sit an assessment by your preferred method (online/in-person) constitute mitigating circumstances?

The ICCA offers assessments both online and, where this is demonstrable need, in-person exams in order to minimise the number of circumstances in which a student may need to apply on

practical grounds. If you are unable to travel for your assessment for any reason, you would be expected to sit your assessment online. A mitigating circumstances application on these grounds would only be considered if you were also unable to sit the assessment online, for example if you have a PAA that is not able to be accommodated by the ICCA's exam software.

If you are unable to sit an online assessment due to technical problems immediately before an exam, the ICCA will do their best to accommodate you at an in-person assessment venue if at all possible. Mitigating circumstances would be considered if you were unable to travel to an ICCA assessment venue, either due to personal circumstances or time limitations.

Completing and submitting a Mitigating Circumstances Form (MCF)

What should I do if mitigating circumstances have affected my academic performance?

It is important that you complete a Mitigating Circumstances Form (MCF) as soon as possible. If you are able to, you should submit it in an advance of the missed/affected assessment date.

If you're not able to submit the MCF in advance you must submit it no later than 7 days after the missed/affected assessment date.

7 days is defined as 7 calendar days which includes weekends. Bank Holidays (England/Wales) and ICCA Closure days are excluded from these 7 days.

If you had a reason why you could not submit an MCF within 7 days you can discuss this with your personal tutor. An MCF would not normally be accepted after 7 days except in exceptional situations, such as hospitalisation with no ability to inform the ICCA.

If you submit an MCF in respect of an assessment which you attended, or for which you submitted work, you must also provide reasons as to:

- a) why you did not follow the mitigating circumstances procedure before you presented yourself for an assessment or submitted work; and
- b) (for assessments requiring attendance) why you signed the 'Fit to Sit' form.

What evidence do I need to provide?

Your mitigating circumstance claim will only be accepted if you provide suitable evidence (see pages 3 to 6).

This evidence needs to be

- Documentary: it must be in writing.
- From an independent third party: you cannot self-certify, or produce your own documents.
- Supportive of your claim: it needs to include enough details that it can provide evidence of the circumstances you are submitting.
- Signed by the person who wrote the document, have a date on it and presented on official headed paper.
- Written in English, or accompanied by a translation in English with a confirmation of the source of the translation.

If you don't have the supportive evidence immediately you still must submit your MCF within 7 days. You have up to 21 days from the date of the affected assessment to submit the evidence – but this will only apply if you have submitted your MCF within 7 days.

21 days is defined as 21 calendar days which includes weekends. Bank Holidays (England/Wales) and ICCA Closure days are excluded from these 21 days.

The ICCA has produced guidance (see pages 3 to 6) that provides examples of the different types of circumstances that would usually be considered acceptable and the evidence needed to support the claim.

If I have an ICCA Inclusion Plan (IP), can I use it as evidence?

You can only use an IP as evidence if it confirms that you have a long-standing medical condition or disability and **explicitly** states that the IP may be used as evidence to support mitigating circumstances.

Please note that most IPs will not include this adjustment. If yours does not, you should follow the procedure for evidencing an illness. You may wish to discuss your future requirements directly with the Disability Support Consultant.

Remember that mitigating circumstances are different to [Personalised Assessment Arrangements \(PAA\)](#), which are organised through the Examinations Office.

Where do I submit my form?

The MCF should be emailed to students@icca.ac.uk. Students must submit their MCF from their ICCA email account.

Any supporting evidence that is available should be attached or forwarded at a future date, and in any event, no later than 21 days after the date of the first affected assessment.

How do I know if my mitigating circumstances will be accepted?

Your mitigating circumstances submission will be considered individually with a decision made on your specific circumstances and the evidence you supply.

Each circumstance is considered on a case-by-case basis, so even if you have submitted an MCF before it is important that you outline your circumstances clearly, that they fit into the acceptable grounds and that you provide the full evidence that is needed.

If you are unsure about whether your circumstances would be taken consideration under the regulations, then please consult the guidance document and discuss your circumstances with your personal tutor.

After an MCF has been submitted

Who sees my MCF and evidence?

The ICCA recognises that it can be difficult to disclose sensitive, personal information to other parties. As such, please note that all documentation provided in support of an MCF will be treated sensitively and will remain confidential to the Dean of the ICCA and the Examinations Board members and other relevant staff members, as appropriate.

If you disclose information which might suggest there is a serious risk to your wellbeing, or to the health and safety of others, ICCA has a duty of care to respond to this. In such cases, an MCF will be shared confidentially with the ICCA Bar Course Leader, to provide appropriate support from the ICCA.

Do I need to tell anyone I have applied for mitigating circumstances?

It is strongly advised that you seek additional help from the ICCA that might support your circumstances, particularly if you are concerned that your difficulties are ongoing. You may also wish to consider contacting your Personal Tutor for support.

When will I get a response to my submission and what will I get back?

The mitigating circumstances form and supporting evidence will be reviewed in the first instance by the Dean of the ICCA (or nominee) who will decide whether to recommend to the ICCA Examinations Board that your MCF should be accepted.

You will be notified, via your ICCA email address, of the Dean's decision, normally within 7 calendar days from the date you submitted the completed MCF and evidence, or within 7 days of the date you submitted the MCF, if the Dean has provisionally accepted your MCF, subject to the receipt of satisfactory evidence. Please bear in mind that this period may be longer during periods when the ICCA is closed, such as the Christmas and New Year break.

What if the Dean does not recommend that my MCF should be accepted?

If the Dean of the ICCA (or nominee) decides *not* to recommend to the ICCA Examinations Board that your MCF should be accepted, you will have the opportunity to resubmit an MCF, along with any additional evidence, to the Dean of the ICCA within 5 working days of the date that decision was communicated to you. If the resubmission is also rejected, you have the right to appeal within 20 days of that decision, using the ICCA Academic Appeals Procedure (see s36 of the Academic Regulations).

What will happen if I submit a MCF in advance but then decide to sit the examination or submit my assessed work?

If you have already submitted a MCF and then decide to take your assessment your MCF will be 'voided'. This is because the ICCA applies the principle that a student **who attends, submits or participates in any form of assessment shall be considered by the ICCA to be in a position to do so.**

If you are unsure as to whether you are capable of undertaking an assessment and feel that you might have mitigating circumstances you are strongly encouraged to speak to a professional, such as a medical doctor or counsellor, to help you assess the impact your circumstances are having on you. You can also discuss the matter with your personal tutor.

The final outcome of a mitigating circumstances application

Who makes the final decision?

Where the Dean of the ICCA does recommend to the Examinations Board that your MCF should be accepted, the MCF must then be considered by the Chair of the Examinations Board or their nominee.

In reaching a decision on whether to accept the MCF, the Chair of the Examinations Board will consider the authenticity of the evidence submitted and must also consider whether the mitigating circumstances would:

- a) prevent or have prevented you from sitting the assessment or submitting the assessment within the given timeframe; or

b) have or had a significant and adverse impact on your performance in the assessment.

Will my marks be increased due to my mitigating circumstances?

No. ICCA regulations do not permit marks for individual elements of assessment to be adjusted to compensate for mitigating circumstances.

If your MCF is accepted then you will be deferred and given a replacement examination at a later date.

Can I appeal against the final decision?

You cannot appeal against the Examination Board's decision regarding your MCF until your module results are published. Only then can you appeal against a decision of the Examinations Board by submitting a [Stage One appeal](#). Please read section 36 of the Academic Regulations associated with the Stage One appeal carefully before lodging an appeal.