Extenuating Circumstances Handbook May 2016

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1. The Definition of Extenuating Circumstances:

1.1 The Formal Definition

'Extenuating Circumstances' are formally defined as 'circumstances beyond the student's control which cause the student to perform less well in his or her coursework and/or examinations than they may otherwise have been expected to do (on the basis of their other work).'

Generally speaking, extenuating circumstances are usually either medical or personal problems that are likely to affect the person for a significant amount of time.

1.2 Examples of Claims Which Would Not be Treated as Extenuating Circumstances

- General pressure of work is not taken to be circumstances beyond your control, as you are expected to plan your work schedule;
- A short-term problem or illness which has occurred during the year and which is not deemed to have had an overall effect on your performance;
- Personal disruptions or events which could have been anticipated; such as holidays, weddings, changing address or employment, religious holidays or festivals which are usually known in advance.
- Excessive demands on time or pressure of one's employment, which could have been anticipated.
- Financial constraints commonly experienced by students.
- Missing an examination because you misread the timetable or overslept;
- Having more than one examination on the same day or on consecutive days (unless you were already suffering from illness or injury);
- Where extenuating circumstances have affected you throughout your time at University, it is difficult to determine what your marks might have been like otherwise. In such cases, the Board of Examiners is unlikely to take any action.

2. The Purpose of this Guide

This guide is intended as a comprehensive guide to Extenuating Circumstances for UG and PGT Exam Boards, and their Chairs and Secretaries. It defines Extenuating Circumstances and covers the expectations had of students. The guide also provides information on how to handle and consider claims, legal responsibilities of the Board, and guidance on the handling of reasonable adjustments.

3. Interaction with the Late Submission of Coursework Policy

The University has a policy for the late submission of work which can be found at: http://www.essex.ac.uk/students/exams-and-coursework/late-submission.aspx

Where students cannot submit a piece of coursework within the seven days permitted by the Late Submission of Coursework Policy, or at all, they are referred to the Extenuating Circumstances guidance notes and form.

4. The Student's Responsibilities

4.1 Forms and Submission deadlines

It is the student's responsibility to inform the Board of Examiners of any circumstances that they feel may have affected their assessed work or examinations by submitting an Extenuating Circumstances Form before the board meets.

Extenuating Circumstances forms, guidance and deadlines can be found at: http://www.essex.ac.uk/students/exams-and-coursework/ext-circ.aspx

Students are responsible for submitting their own evidence. The University will not seek it on their behalf.

Staff and/or members of the Exam Board cannot raise extenuating circumstances on behalf of a student. If a student informs a member of staff about extenuating circumstances they should inform the student of the need to submit a form and refer them to the appropriate guidance.

4.2 Failure to inform the board

Failure to submit a form by the deadline means that examiners will not take the extenuating circumstances into account. Students cannot appeal against their results on the grounds of extenuating circumstances if they could *reasonably* have reported them to the Board of Examiner's beforehand.

Departments include information about the extenuating circumstances in their handbook. At the time of examination entry, the guidance provided to students also remind them of the policy for submitting an Extenuating Circumstances Form.

5. Documentary Evidence

5.1 When is evidence required?

Details of what evidence needs to be submitted can be found at: http://www.essex.ac.uk/students/exams-and-coursework/ext-circ.aspx

Boards may accept claims which are not accompanied by documentary evidence except when considering claims of illness-related absence as detailed below. However, lack of third party evidence may weaken a claim.

Documentary evidence is required for claims relating to absence from an exam or invigilated test due to illness. The evidence must relate specifically to the time of the illness and must make it clear that the student was medically unfit to take the exam/test. Evidence stating that

the student retrospectively reported their illness will not be regarded by the Board of Examiners as satisfactory.

Evidence is also required where students have been receiving treatment for a serious or long-term medical condition.

5.2 Types of Evidence

Normally Boards must not insist on any particular form of evidence but it may be necessary in some serious cases for the Board to request third party evidence from the student in order to permit action to be taken in relation to the claim. For example, in previous years we have had cases where a student has failed the year so badly that a strict application of the rules of assessment meant they would be required to withdraw. However, the student had claimed ill-health but had not supplied any evidence. In cases like this the Board has asked the student to supply satisfactory medical evidence if they wish to be offered the chance to repeat the year.

If a student supplies evidence about an ongoing health condition from out of country, particularly relating to treatment that wasn't recent, we are permitted to request they supply evidence from a local medical practitioner if the Board believes it is essential to have up-to-date evidence about their health condition.

Evidence from alternative practitioners should not be automatically rejected. The Board must confirm that validity of the evidence on a case-by-case basis. It also needs to decide whether the evidence supports the impact of the circumstances being claimed.

Boards should note that it is not always possible for a student to supply a death certificate in cases of claims about bereavement so other forms of corroborating evidence can be accepted.

If a doctor states that a student is unfit to take exams/study for a particular period, the Board needs to take this into account. If there are particular reasons why the Board decides not to take the expert medical advice into account then it needs to minute its reasons in full.

Students are responsible for submitting their own evidence. The University will not seek it on their behalf.

6. Confidentiality of Forms

If students are concerned about submitting very confidential information, they should be reassured that the forms are only seen by a limited number of staff in the Department, and by the chair and secretary of the Exam Board. Recommendations are made anonymously to the main Exam Board.

Students are not permitted to ask for their Extenuating Circumstances Form to be seen only by the Chair of the Board of Examiners.

There is no University requirement for departments to anonymise forms which are considered by Pre-Boards, but departments can do so if they wish.

7. How Exam Boards Should Handle Claims:

7.1 The Role of the Pre-Board Meeting

It should be noted that there are 2 types of Pre-Board meeting: the Departmental Pre-Board meetings which are held in addition to, or alongside, the department Extenuating Circumstances Committee boards; there are also informal Academic Section Pre-Board meetings between the Exam Board chair and Exam Board secretary.

All departments are required to hold Departmental Pre-Board meetings in advance of the Board of Examiners' meeting, for all undergraduate and postgraduate routes. This will consider, among other things, the extenuating circumstances claims. The Departmental Pre-Board will make recommendations to the Board of Examiners. These recommendations are submitted to the Academic Section Pre-Board to enable the Exam Board to make effective decisions as efficiently as possible. The recommendation from the Departmental Pre-Board meeting does not mandate members of the Board.

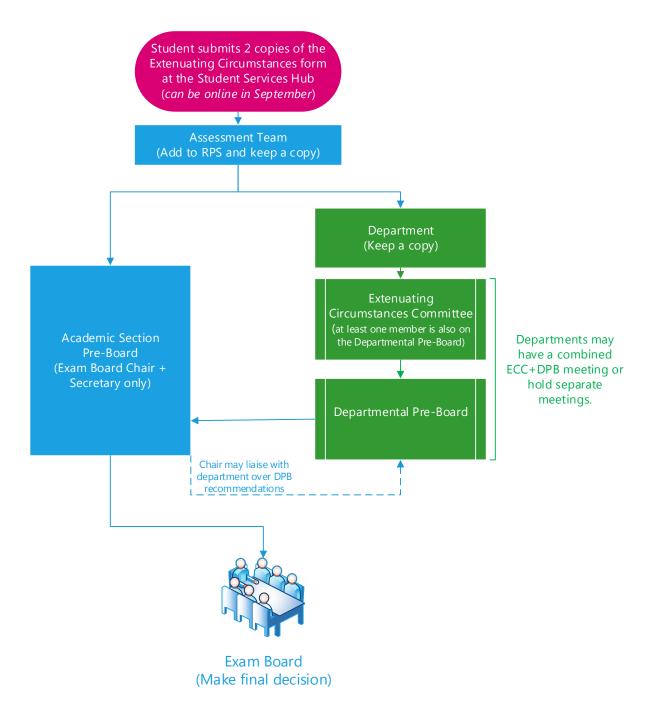


Figure 1 Path of an EC decision

Deciding whether circumstances are extenuating is a matter of discretion. The impact of circumstances on different forms of assessment of different disciplines will not be the same. The range of things that can happen and how that affects people is too large to codify. As a result, whether circumstances extenuate should be decided by a small committee of members of a department relying on their discretion, judgement and experience; the Extenuating Circumstances Committee (ECC). They should advise an Examination Board how to treat each claim.

The members of the departmental ECC should be chosen so that the Board can have confidence in its recommendations. If the Board has that confidence, it will rarely ask for the

reasons for its recommendations. The Examination Board, however, makes the final decision about whether circumstances are extenuating.

Departments which hold separate ECC meetings to consider extenuating circumstances claims must ensure that at least one member must also be a member of the Pre-Board of Examiners.

Further information about the membership of Pre-Boards can be found at:

http://www.essex.ac.uk/staff/academic/documents/assessment-procedures-policy.pdf

7.2 The Role of External Examiners

External Examiners are not required to attend Pre-Board meetings. Where External Examiners do attend, they should not be unnecessarily exposed to lengthy consideration of individual extenuating circumstances cases. Departments may wish to consult with their Course Externals in advance to see what level of involvement they wish to have in meetings where extenuating circumstances are being considered.

8. Consideration of claims

8.1 Consideration of Extenuating Circumstances at the main Board of Examiners meeting

NB: Undergraduate boards are serviced by members of the Academic Section and Postgraduate boards are serviced by department post-graduate administrators.

- a. The Chairs of Boards of Examiners independently go through the Extenuating Circumstances Forms with the Exam Board Secretary prior to the Board and are thus able to initiate discussion of a particular case of extenuating circumstances at the Board, irrespective of whether it has been referred by the departmental group.
- b. The Boards either agree the recommendations from the department or discuss a particular case in detail as necessary at their meetings. Discussion of extenuating circumstances at Board meetings will normally be brief and concentrated on those cases that require further careful consideration.
- c. Where extenuating circumstances have already been taken into account during a student's course of study, for example where coursework marks for late coursework have been instated by a Late Submissions Committee, the Board of Examiners should take such earlier action into account when reaching its own decision, but should nevertheless still feel at liberty to use the same extenuating circumstances in determining the final degree classification where appropriate.
- d. Although final year Undergraduate Boards of Examiners are not permitted to alter individual second year marks in response to extenuating circumstances, they may take the

second year extenuating circumstances into account in the exercise of their discretion in relation to degree classification. (ASC.M.14/98 - 28 January 1998)

8.2 Judging the impact of a claim

Boards should only determine that circumstances extenuate bad performance if it lies outside a pattern of better performance demonstrated elsewhere. Consequently, circumstances that an individual suffered throughout the entire period under consideration (e.g. the whole of the first year of study in the case of First Year students, or all years counting towards the degree classification in the case of Final Year students) should not be treated as extenuating.

9. Actions that can be taken by a Board and Guidance

9.1 Possible Courses of Action

Committees should never impute marks - that is, attempt to guess what mark a student would have been given if his or her performance had not been affected. If a committee accepts that performance on a piece of assessed work has been affected, it should suggest how the student should be assessed without taking account of the affected. Possible courses of action include:

- a) Where a student's performance has been affected by extenuating circumstances resulting in a mark above a pass, but out of line with the rest of the grid the Board of Examiners will be able to exercise discretion by zero-weighting certain elements of assessment as appropriate.
- b) Where a student's performance has been affected by extenuating circumstances resulting in a mark below a pass, or no mark at all, the Board of Examiners will be able to exercise discretion where other evidence exists of learning outcomes having been met, (e.g. a coursework mark but no exam mark). In such cases the Exam Board offer uncapped resits or zero-weight elements of assessment as appropriate to calculate the mark for the course/module, or a combination of these. (see below for more info on uncapped reassessment)
- c) Where there is no mark available for a course at all, or there is a mark below a pass and no other evidence that the learning outcomes have been met, then the Board shall recommend that the assessment be taken again as a first attempt.
- d) The following actions may also be taken by exam boards, subject to department-specific rules of assessment (see <u>Appendix A</u> for UG and <u>Variations to the Rules of Assessment</u> for PG):
 - Permit students who are in their second year of study to trail up to 30 failed credits into the final year. Reassessment of the failed credits will take place alongside their final year components. (This outcome will normally only be used by the exam board which meets following reassessment, for example by a 2ndyear Sept resit board.)

- Where second year students have achieved the necessary number of credits for the current year, the exam board can carry forward the extenuating circumstances to the final year for consideration when the board confirms the degree classification.
- In serious cases where an entire second or final year of a degree is affected by extenuating circumstances, the exam board might agree that the final classification be based on the unaffected year;
- Award an *Aegrotat* degree (for Undergraduate students only see below for more info);
- Take no action because there are insufficient or illegitimate grounds, eg complaints about exam timetable (these are dealt with under an earlier procedure at confirmation of examination entry;
- Take no action because no material effect on the outcome is possible;
- Take no action because the extenuating circumstances have no material effect on the final degree result, e.g. a student's results suggest a clear 2.1 classification in any
- To extend a student's maximum period in a case where the circumstances are significant and the student must undertake repeat study or reassessment in the next academic year. (see below for more info)
- To offer voluntary first sits in case where a student has passed a module but the mark appears to be out of line with other marks.
- To permit a student in Stage 2 of a 4-year course to go abroad/on placement and undertake reassessment in maximum of 30 non-core credits.

The following actions are **not** valid as students must achieve credit:

- Leaving coursework, exam or module aggregate mark blank on grid;
- Condoning a failed module and removing FAIL from the transcript.

9.2 Guidance on Recommending Reassessment as Uncapped First Sits

The Rules state that capping is applied at the level of the module, *not* the individual piece of work or the exam. Similarly, first sits are free but a charge of £40 is made for any element of a module which is treated as a resit. These charges are applied at the level of the module.

In some cases in previous years Boards decided that reassessment in the coursework would be uncapped due to extenuating circumstances but the resit in the exam would be capped. In practice this outcome could not be implemented. The Board must therefore make a judgement about whether the **overall module** should be treated as an uncapped first sit. For example, student X fails a module assessed by 10% coursework and 90% exam. The student fails both the coursework and exam with very low marks they have valid extenuating circumstances to cover an assignment but not the exam. In this case it is clear that the failure in the coursework is not the only reason the student has failed the module, so it would not be appropriate to recommend that the whole module is treated as a first sit.

9.3 Guidance on Extending Maximum Period of Study

When making a recommendation, the Pre-Board should decide whether to recommend that the maximum period of study should be extended by one year if the student is required to repeat the year or undertake reassessment without attendance. Normally this will be relevant only when the extenuating circumstances have been serious and have affected a significant portion of the academic year.

9.4 Guidance on Awarding an Aegrotat Degree for Undergraduates Only:

Aegrotat degrees are only available to undergraduate students. Below is a summary of Regulation 6.25 – please see the full text in the University Calendar.

- Where illness or other sufficient cause affects an undergraduate candidate after the sixth week of the spring term and before the end of the final examination period (or the January exam period in the case of compulsory final year exams), the Board of Examiners may confer on them an aegrotat degree. Such a candidate may re-sit the examinations in the following year.
- The Aegrotat regulation should be interpreted by Boards of Examiners in such a way that a candidate affected by extenuating circumstances over his or her entire period of study is not awarded an aegrotat degree, but is considered for a classified degree.

Boards must be satisfied that the student would have obtained a degree but for the extenuating circumstances, and that all the required learning outcomes for the degree have been achieved.

9.5 Guidance on Claims Related to Religious Observance

In recent years the Deans agreed that we would not accept an EC claim relating to missing exams due to religious observance if a student missed the deadline for notifying Student Support. Student Support made this much clearer on their website and also moved the deadline to the end of January.

9.6 Guidance on Late Reporting of a Disability/Dyslexia:

The University has received legal advice, which is reinforced by recent OIA judgments, that its statutory duty under disability legislation extends to making reasonable adjustments where a student has a late diagnosis of a disability.

i. Policy

Boards of Examiners will take reasonable steps to enable a student with a late diagnosis of a disability to demonstrate their potential in accordance with the recommended reasonable adjustments. This policy applies to all taught students.

ii. Guidelines

When a Board of Examiners receives an extenuating circumstances claim based on late diagnosis of a disability, it will:

- Contact Student Support to confirm that the student has declared a disability, in cases where a supporting statement from Student Support is not provided
- Request information from Student Support on the recommended reasonable adjustments
- Consider the following possible actions, in the light of the recommended reasonable adjustments

The following are only guidelines and the Board should consider the specific circumstances of each individual case

	Student has passed	Student has failed
Reasonable adjustment affects assessment eg extra time for	Offer exam resit as a first attempt, at the next available opportunity, with the necessary special arrangements in place	Reassessment as a first attempt with the necessary special arrangements in place.
exams, coversheets for coursework	Offer review of coursework mark with coversheet attached If student is not in final year, as an alternative to the above the student should also be offered the option of having extenuating circumstances carried forward to final year	Resubmission of coursework as a first attempt with special arrangements in place. In parallel, arrange review of first coursework mark with coversheet attached. If review does not result in any change to marks or change is still a fail mark, resubmission process continues as a second attempt.
Reasonable adjustment affects study support eg student entitled to specialist software, tutorial support etc	Offer repeat year (with extension to the max end date) If student is not in final year, as an alternative to the above the student should also be offered the option of having extenuating circumstances carried forward to final year	Repeat year (with extension to the max end date)

Where a student is not in their first year of study and is claiming that the extenuating

circumstances also affected a previous year(s) study, the Board of Examiners will only take the above action in relation to the current year of study. In making a decision about the final award/classification, the Board can, however, put more weight on the performance in assessment when the student received the appropriate support.

9.7 Where a student has not yet received an assessment for dyslexia

It is important to note that if students submit an extenuating circumstances claim saying they believe they have dyslexia but are awaiting an assessment, the advice from the National Association of Disability Practitioners' Legal Helpline is that we are not required to take action. We only have to make reasonable adjustments in cases where a firm diagnosis of dyslexia has been made.

10. Guidance on the Equality Act:

The Equality Act 2010 protects students from discrimination based on 'protected characteristics' or based on association with another person who has a protected characteristic. These are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity

- Race
- Religion or belief
- Sex
- Sexual orientation

Discrimination occurs when a student is treated less favourably than another student because of a protected characteristic.

Type of Discrimination	Definition and examples relating to extenuating circumstances and exams
Direct Discrimination NB: To claim	Definition: Occurs when a student is treated less favourably than another student because of a protected characteristic (other than pregnancy and maternity – see note opposite)
pregnancy or maternity discrimination a female student must show she has been treated unfairly because of her pregnancy or maternity and does not have to compare her treatment with	 A pregnant student is absent from a compulsory mid-term test due to attending a hospital appointment and is not given another opportunity to take the test or an alternative assessment A student who is known to have chronic fatigue syndrome misses coursework deadlines due to a period of ill health (confirmed by her doctor) and this is not considered by the Extenuating Circumstances committee
someone who is not pregnant or a new	

mother				
Discrimination by association	Definition: Occurs when a student is treated less favourably because of their association with another person who has a protected characteristic			
	Examples:			
	 A student, who misses an exam because their elderly mother, who they care for, is taken seriously ill is treated less favourably to a student who misses an exam because they themselves are taken ill A student is harassed by other students because their best friend is gay 			
	NOTE – we have received confirmation from the University's Equality Team that discrimination based on association doesn't extend to pregnancy and maternity. There is some ambiguity about whether discrimination by association could potentially be claimed by a same-sex partner on the basis of sexual orientation. If a case of this nature arises, please contact Student Support or the University's Equality Unit for advice.			
Discrimination by	Definition: Occurs when a student is treated less favourably because			
perception	it is mistakenly thought that they have a protected characteristic			
	Examples:			
	 A member of staff refuses to supervise a student because they think they are transsexual (it is irrelevant whether they are or are not) A student is 'sent to Coventry' in classes by fellow students because they think s/he is of a certain religion 			

Indirect discrimination

Definition: Occurs when a decision is made that applies to all students or a particular group of students e.g. all students taking a particular exam, and has the effect of putting students sharing a protected characteristic at a particular disadvantage

NB: Indirect discrimination can be justified if it can be shown that it was 'a proportionate means of achieving a legitimate aim'

Examples:

- The exam timetable is set such that students taking a particular combination of modules have to take four exams in two days. This could particularly disadvantage students with certain disabilities
- The date and time of a particular exam is changed at the last minute. This could particularly disadvantage students with caring responsibilities or those of a certain religion or with certain disabilities.

Further advice and info can be obtained from Karen Bush and Angela Jones. The Equality and Diversity Team's website is http://www.essex.ac.uk/equality/

11. Guidance on Making Reasonable Adjustments for Students with a Disability

11.1 OIA appeal case

In recent years we had an appeal case upheld by the Office of the Independent Adjudicator (OIA). It would be useful for Exam Boards to note the circumstances of the case and to ensure that advice is sought from the Disability Team in Student Support in advance of the Exam Board if a student submits an extenuating circumstances claim relating to the suitability of any individual assessment arrangements which have been made. Depending on the nature of the case, it may be reasonable for the Exam Board to offer the student another attempt at the assessment with different individual assessment arrangements in place.

11.2 Background to the OIA Judgement

The student had a disability and had been given individual examination arrangements. However, the student submitted extenuating circumstances to the Exam Board as he believed that the individual arrangements had not been sufficient to enable him to demonstrate his ability in the exams. He failed the modules but the Exam Board decided not to take action in relation to his extenuating circumstances claim. The student then appealed. During the initial appeals process, the Department had been asked whether it was possible to set an alternative assessment for the modules in question but said it could not be done. The appeal was dismissed and the student then lodged an appeal with the OIA.

In giving its judgement the OIA raised concerns about whether the University had properly considered its obligations under the Equality Act. It pointed to a number of issues that the

University should have considered at the point the student appealed against the decision of the Board of Examiners. The guestions were as follows:

- Was the student disabled?
- Was he placed at a substantial disadvantage by the practice of setting formal, timed and unseen exams for a reason related to his disability?
- Did he remain at a substantial disadvantage for reasons related to his disability despite the adjustments which had been made to the examinations to date?
- Was the requirement to sit a formal, timed, unseen exam a competence standard* in itself, for each of the modules concerned? *[see below for a definition of this term]
- If the exam format was not of itself a competence standard, was it possible to remove any substantial disadvantage which remained by making further adjustments such as replacing timed exams with another mode of assessment?
- Would it be reasonable to make those adjustments?

Having reviewed the case and taken further advice, the Department agreed to offer the student another chance to take the assessment and to change the format of the examination paper.

11.3 Definition of a Competence Standard

The paragraphs below come from The Disability Discrimination Act 1995 (Code of Practice (revised) for providers of post-16 education and related services). Although this Act has been superseded by the Equality Act the Government decided not to produce a range of new codes of practice to support the new legislation. Here is a link to the document http://dera.ioe.ac.uk/6466/

Para 5.71 of The Disability Discrimination Act 1995 (Code of Practice (revised) for providers of post-16 education and related services) gives the following definition of a 'competence standard'.

"...an academic, medical, or other standard applied by or on behalf of an education provider for the purpose of determining whether or not a person has a particular level of competence or ability."

The code of practice gives further guidance on this matter. Here are some extracts:

"5.72 Education providers are likely to impose various requirements and conditions in respect of courses.

5.73 However, any such requirement or condition only amounts to a competence standard if its purpose is to demonstrate a particular level of a relevant competence or ability. A requirement that a person has a particular level of knowledge of a subject is likely to be a competence standard.

5.74 On the other hand, a condition that a person can, for example, do something within a certain period of time will not be a competence standard if it does not determine a particular level of competence or ability.

5.77 It is very important to ascertain whether a particular provision, criterion or practice of an education provider is a genuine competence standard and, if so, whether the matter at issue concerns the application of that standard to the disabled person.

5.78 Although there is no duty to make reasonable adjustments in respect of the application of a competence standard, such a duty does apply to the process by which competence is assessed. So although an education provider has no duty to alter a competence standard, it needs to consider whether or not a reasonable adjustment could be made to some aspect of the process by which it assesses a competence standard. However, there may be an overlap between a competence standard and any process by which an individual is assessed against that standard.

5.79 Where an education provider does not comply with the duty to make reasonable adjustments it will be committing an act of unlawful discrimination."

The code also gives some helpful examples to illustrate points made in the paragraphs. If you want more information please read the code at http://dera.ioe.ac.uk/6466/

12. Reporting Recommendations from the Pre-Board to the Main Exam Board and Taking Minutes

A template for reporting recommendations can be found at:

http://www.essex.ac.uk/staff/academic/documents/extenuating-circumstances-recs.docx

The Chairs and Secretaries of Pre-Boards and Boards need to ensure that clear minutes are taken about the recommendations and decisions taken about extenuating circumstances. Where claims are rejected or partially rejected, the Board should explain why. It also needs to note whether alternative courses of action were discussed and rejected. Many of the appeals which have been upheld by the Office of the Independent Adjudicator at other institutions are due to the minutes from Exam Boards not being clear about the reasons why extenuating circumstances claims/evidence have been dismissed.

13. Useful Links

Results processing system and exam board documentation: http://www.essex.ac.uk/staff/academic/rps.aspx

Handbook for Chairs and Secretaries of Boards of Examiners' Meetings and Pre-Boards (Undergraduate Boards): http://www.essex.ac.uk/staff/academic/documents/ug-chairs-handbook.pdf

Advice for Chairs & Secretaries of PGT Interim & Final Exam Boards: www.essex.ac.uk/staff/academic/documents/pgt-boards-handbook.pdf

Guidance for students, forms, and submission deadlines: http://www.essex.ac.uk/students/exams-and-coursework/ext-circ.aspx