

**BAR  
STANDARDS  
BOARD**

REGULATING BARRISTERS

**Bar Training  
Professional Ethics examination during pupillage/work-  
based learning**

**Extenuating circumstances policy and procedures**

**Contents**

- 1. Introduction**
- 2. Voluntary withdrawal from an examination**
- 3. What are extenuating circumstances?**
- 4. Examples of eligible extenuating circumstances**
- 5. Ineligible extenuating circumstances**
- 6. Evidence supporting your extenuating circumstances**
- 7. Examples of acceptable evidence**
- 8. Case studies**
- 9. Timing of an extenuating circumstances application**
- 10. How and when to submit your extenuating circumstances**
- 11. Extenuating Circumstances Panel**
- 12. Extenuating Circumstances Panel outcomes**
- 13. Candidate appeals against the decision of an Extenuating Circumstances Panel**
- 14. Complaints**
- 15. Confidentiality and Data Protection**

## Introduction

1. We are committed to providing supportive and fair opportunities to all candidates taking the Professional Ethics examination during the pupillage/work-based learning component of training. We want to enable every candidate to perform at their best. This policy covers our approach to extenuating circumstances including how you can apply for extenuating circumstances if you have not voluntarily withdrawn from an examination.

## Voluntary withdrawal from an examination

2. You may voluntarily withdraw from an examination after you have registered to sit. Voluntary withdrawal (or cancelling a booked assessment) is not the same as having extenuating circumstances for not sitting an exam. You do not need to submit an extenuating circumstances claim to withdraw. Please refer to the [Candidate Guide](#) for more information about how to cancel and the deadlines for doing so. If you have cancelled your exam within the deadlines, there will be no financial penalty.

If you fail to attend the exam and have **not** cancelled, and the extenuating circumstance occurred before the deadline for voluntary withdrawal, you must include in your claim evidence of good reason for failing to withdraw in a timely manner.

If you fail to attend the exam and have **not** withdrawn within the deadlines listed in the Candidate Guide, and you make a claim for extenuating circumstances which is later rejected, if you are on your first or second attempt, you will have used one of your free of charge sittings.

## What are extenuating circumstances?

3. Extenuating circumstances can be defined as “a serious or significant event affecting a candidate’s health or personal life which is beyond the candidate’s control. The events are sufficiently serious enough in nature to result in the candidate being unable to attend or complete an examination”.
4. You are responsible for submitting your own request for consideration of extenuating circumstances. You will need to declare which of the following criteria apply for your affected examination. Criteria include the following:
  - a. Unplanned absence from a scheduled examination.
  - b. Taken ill during a scheduled examination.
  - c. Where an examination was attended, and you can clearly demonstrate you were unfit to sit.

5. Your request should also demonstrate how your circumstances meet these additional criteria:
- **Beyond your control:** you must demonstrate that you could not have done anything to prevent the circumstances arising, that they were unforeseen and unpreventable.
  - **Impact on the examination:** your request must demonstrate a significant negative impact on your ability to attend an examination or significant negative impact on your performance if you did attend. It must make clear the duration of the circumstances. Your request / claim should be supported by the appropriate documentary evidence.
  - **Have timely relevance:** typically, the circumstance must have occurred on the examination day or up to two days before the examination day. Where the serious or significant event falls before this time you should be able to demonstrate that the impact (as above) it had can be linked to the examination being claimed for.
5. You should note that you are not able to submit extenuating circumstances claims for adverse events which arose over 48 hours before your examination date. Exceptions will be considered on a case-by-case basis.

### **Examples of eligible extenuating circumstances**

6. Examples of extenuating circumstances that would typically be accepted (although not exhaustive and other examples will be considered on a case-by-case basis):
- Illness or accident resulting in hospitalisation or urgent medical attention/treatment relating to yourself or your unborn child
  - Illness or accident (as described above) of a member of your immediate family (eg mother, father, sister, brother, son, daughter, spouse, guardian, grandparent)
  - Infectious disease that could put others at risk (this includes the requirement to self-isolate / quarantine)
  - Sudden acute flare up in a chronic medical condition or sudden deterioration or disability
  - Childbirth
  - Diagnosed psychological illness
  - Bereavement
  - Funeral attendance
  - Severe adverse personal/family difficulties
  - Being the victim of a crime

- Legal proceedings requiring attendance at court as a witness or jury service (NB attendance at court as a pupil barrister is not a permitted reason for extenuating circumstances)
- Technical difficulties experienced during the examination which could not be resolved by the invigilator/proctor or ProctorExam.

### **Ineligible extenuating circumstances**

7. Extenuating circumstances do not encompass normal life challenges that individuals are expected to deal with routinely. The following incidences will not be considered as valid for submission under this policy (this is not an exhaustive list):

- Medical circumstances that
  - do not relate directly to the examination period in question and/or cannot be attributed as having an impact on your examination
  - relate to minor illnesses that would not lead to equivalent absence from a work environment and can normally be treated with over-the-counter remedies (eg colds, sore throat, day to day ailments)
  - are unsubstantiated or include retrospective evidence (eg a doctor's note after the illness has disappeared); however, retrospective evidence which relates to an illness at the time of an exam will be accepted.
- A long-term condition where treatment or additional support/arrangements are in place to mitigate the impact and there has been no additional unforeseen flare up
- Travel problems (eg transport difficulties that could have been anticipated or lack of contingency planning into travel time)
- Work/pupillage commitments
- Peaks in work/pupillage demands
- Personal holidays/family events
- Religious festivals: these are known in advance, and we have planned our examination dates around these
- Foreseeable and/or preventable circumstances
- Misreading the exam date or start time and/or failing to attend at the right time and in the right place for the examination
- Financial difficulties

## Evidence supporting your extenuating circumstances

8. A claim for extenuating circumstances **must** be accompanied by valid and independent evidence, demonstrating the impact of the circumstances on your ability to sit an examination. However, there are rare situations where no evidence is required (see below).
9. A statement from a parent / guardian / spouse / partner / employer / member of your Chambers will **not** be accepted as evidence without additional, independent documentary evidence.
10. Absence through illness must be evidenced by a statement from medical practitioner and we may seek to verify such evidence. Medical self-certification is not acceptable evidence for an extenuating circumstances submission.

## Examples of acceptable evidence

11. Examples that would be typically accepted (although not exhaustive and other examples will be considered on a case-by-case basis):

|                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Illness or accident resulting in hospitalisation or urgent medical attention/treatment relating to yourself or your unborn child</b>                          | Medical certificate / hospital report / report from qualified medical practitioner. These should be produced whilst the symptoms were still apparent to the medical practitioner. A prescription cannot be submitted as evidence. An attendance report from the Accident and Emergency department of a hospital (A&E) cannot be submitted as evidence unless it explicitly refers to the extenuating circumstances to which your claim refers. |
| Illness or accident (as described above) of a member of your immediate family (eg mother, father, sister, brother, son, daughter, spouse, guardian, grandparent) | A report from qualified medical practitioner / letter from qualified medical professional. This should be accompanied by a statement from you explaining why your personal attention was necessary and no other family member could be expected to provide support.                                                                                                                                                                            |
| <b>Infectious disease that could put others at risk</b>                                                                                                          | Medical certificate / hospital report / report from qualified medical practitioner / positive Covid test result. These should be produced whilst the symptoms were still apparent to the medical practitioner.                                                                                                                                                                                                                                 |

|                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>An acute episode of a chronic medical condition</b>                       | Medical certificate / hospital report / report from qualified medical practitioner. These should be produced whilst the symptoms were still apparent to the medical practitioner. A prescription cannot be submitted as evidence. An attendance report from the Accident and Emergency department of a hospital (A&E) cannot be submitted as evidence unless it explicitly refers to the extenuating circumstances to which your claim refers. |
| <b>Childbirth or miscarriage</b>                                             | Medical certificate/hospital report/report from qualified medical practitioner.                                                                                                                                                                                                                                                                                                                                                                |
| <b>Diagnosed psychological illness</b>                                       | Report from a psychiatrist or clinical/neuro psychologist, who has the expertise to determine whether a candidate had the mental capacity to sit the examination or to determine that a candidate was fit to sit the examination.                                                                                                                                                                                                              |
| <b>Bereavement (death of a close family member, partner or close friend)</b> | Production of a copy of Death Certificate, or Coroner's report (and confirmation from your Chambers regarding your (compassionate) leave if you are not working).                                                                                                                                                                                                                                                                              |
| <b>Attendance at a funeral</b>                                               | Order of service and confirmation from your Chambers regarding attendance at the funeral.                                                                                                                                                                                                                                                                                                                                                      |
| <b>Severe adverse personal/family difficulties</b>                           | Appropriate documentary evidence dependent on circumstances (for example confirmation from your Chambers regarding your (compassionate) leave).                                                                                                                                                                                                                                                                                                |
| <b>Being the victim of a crime</b>                                           | <p>Crime report and number, or evidence from alternative reporting routes as appropriate. Letter from medical professional / counsellor.</p> <p>In circumstances where no evidence is available, claims should still be submitted and considered without a request for evidence (for example, evidence is not required if you are the victim of a sexual assault).</p>                                                                         |
| <b>Legal proceedings requiring attendance</b>                                | Documentary evidence from the court or tribunal confirming attendance requirement.                                                                                                                                                                                                                                                                                                                                                             |

|                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>at court as a witness or jury service</b></p>                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                           |
| <p><b>Technical difficulties during the examination which could not be resolved by the invigilator/proctor or BTL</b></p>                                                                                                                                                                                                     | <p>Documentary evidence showing that you tried to remedy the situation from the guidance given (ie screenshots of chat with the invigilator/proctor/ProctorExam or an email sent to the BSB at the time of the exam).</p> |
| <p>Other exceptional and personal circumstances</p> <p>If you believe you have experienced severe and exceptional circumstances that are not listed here but would reasonably be considered as valid extenuating circumstances, you should seek advice from the BSB in good time to meet any stated submission deadlines.</p> | <p>Where the extenuating circumstances are considered to be valid by the BSB, we will advise you of the nature of the evidence required to support your submission.</p>                                                   |

## Case studies

Candidate A is taken ill on the day of his Ethics examination and is taken to hospital as a precaution. He recovers fully. He submits an EC form together with the hospital discharge note which states the date of his admission to hospital and why he was unfit to sit the exam at the time. This is approved by the EC panel, and he can take his Ethics examination at the next available opportunity without any penalty.

Candidate B is dyslexic and struggles to complete her Ethics examination. She submits an EC application together with a statement confirming her dyslexia. Her application is rejected on the basis that this is not a valid EC. She had been diagnosed with dyslexia for some time and had arranged for reasonable adjustments in her examinations which had been put in place.

Candidate C's grandmother died on 20 June with the funeral being held on 28 June. He does not voluntarily withdraw from the exam and sits his online Ethics examination at home on 25 July and applies for extenuating circumstances. He submits a copy of the death certificate and the order of service along with his EC application. This is not approved by the EC panel as he was not taking compassionate leave or sick leave on the examination date.

Candidate D is pregnant and planned to sit an exam on 25 July. However, she experiences premature labour on 23 July; her baby is admitted to the neonatal unit. Her partner contacts the examination team to explain the circumstances and states that evidence will be submitted when possible. Candidate D duly submits her hospital discharge note and a report from the neonatologist. This is approved by the EC panel and she can take her Ethics examination at the next available opportunity without any penalty.

Candidate E has caring responsibilities for their mother. Their mother has an accident on the morning of the Ethics exam and is taken to hospital. Candidate E attends and is given a letter from the hospital confirming the admission. They submit this to the BSB. This is accompanied by a statement explaining that their personal attention was necessary as they have no other family members. This is approved by the EC panel and they can take their Ethics examination at the next available opportunity without any penalty.

Candidate F is dyslexic and expects to receive additional time in his examination as he had requested reasonable adjustments in accordance with his educational psychologist's report. On the day of the examination, he is not given the additional time he had anticipated. He submits an extenuating circumstances claim and does not need to submit evidence. It is found that he had submitted his reasonable



adjustments application correctly and had been awarded additional time but then had been allocated to the wrong room on the day of the exam. This is accepted by the panel as the evidence made it clear that there had been a material error in his assessment.

### **Timing of an extenuating circumstances application**

12. An extenuating circumstances application must be made before the relevant Extenuating Circumstances Panel meeting. Meetings will be held before results are issued; extenuating circumstances submissions may not be made after you receive your results. Any extenuating circumstances submissions made after the Panel meeting may not be considered.

### **How and when to submit your Extenuating Circumstances**

13. If you are submitting extenuating circumstances, you should submit all relevant evidence before the deadline which is 10 working days from the examination date. We understand that there may be delays in obtaining death certificates and will liaise with you if an extension to the deadline is needed. Please ensure that you submit the extenuating circumstance application form within 10 working days, even if you need to submit the relevant evidence later. If you are unable to meet the deadline (for example due to exceptional circumstances such as to being admitted to hospital), you must submit evidence which documents this.
14. The completed [extenuating circumstances form](#) should be submitted, together with the relevant documentary evidence, to the exams team at [EthicsExam@barstandardsboard.org.uk](mailto:EthicsExam@barstandardsboard.org.uk)
15. Senior Examinations Officers will be involved in the initial review of the evidence provided and in determining whether your claim will be put to the Extenuating Circumstances Panel. Your extenuating circumstances claim will remain confidential.
16. You will receive email confirmation of receipt of your extenuating circumstances form from the exams team.

### **Extenuating Circumstances Panel**

17. The Senior Examinations Officer will convene the Panel and arrange for meetings to be held regularly in order to consider candidate submissions and provide timely decisions. The meetings will usually be held four weeks after

an examination. The Panel will typically consist of the Examinations Manager, the Assessment Lead and the Head of Authorisation.

18. All personal details relating to the candidate will be anonymised for the Panel (and also during any appeals process).
19. The Panel will not make a judgement on the extent to which a particular set of circumstances has impacted on a candidate's performance. Therefore, in considering submissions, panel decisions will be influenced solely by:
  - Whether the application meets the definition of extenuating circumstances given in paragraph 3 above, and whether the applicant has stated the grounds for their application (in line with paragraph 4).

### **Extenuating Circumstances Panel outcomes**

20. The Panel's decision will be entirely based on the evidence you have submitted. The Panel cannot endorse extenuating circumstances where no evidence has been submitted or is not within the remit of the BSB (however, see rare exceptions above).
21. Where they deem it necessary, the Panel may exceptionally require you to submit further evidence. However, panels will not interview you as part of the decision-making process.
22. The possible outcomes are:
  - **Accepted.** Where the Panel accepts the circumstances and associated evidence as valid, then the Panel has the discretion to disregard your assessment result if a pass is not achieved and offer you an opportunity to sit the assessment again (at the first available sitting). The Panel has no other discretion available and may not amend grades in any circumstances.
  - **Rejected.** Where the Panel does not accept the circumstances and/or associated evidence as valid, then the Panel will not disregard your assessment result and your result will stand.
  - **Pending.** A decision on an outcome can be "pending" where exceptional circumstances mean there has been a delay in obtaining evidence (eg death of a family member).
23. If your extenuating circumstances are accepted, this means that the relevant attempt is disregarded. If the disregarded attempt was either your first or second attempt, your next attempt will be free of charge. However, if the disregarded attempt was either a third or subsequent attempt, any following

attempts must be paid for. Your written pupillage agreement will usually set out an agreement between your Chambers or employer as to who will pay for this.

24. If your extenuating circumstances are accepted, any fees relating to the attempt (for example if the attempt was a third or subsequent attempt, or your extenuating circumstances resulted in your absence from the exam without withdrawing) will be cancelled.
25. If your extenuating circumstances for your second attempt are rejected, this means that any subsequent attempts must be paid for.
26. We will ensure that you are informed of the decision of the Extenuating Circumstances Panel as soon as possible and informed about the appeal procedure.

### **Candidate appeals against the decision of an Extenuating Circumstances Panel**

27. You may appeal against a decision of the Extenuating Circumstances panel only on the following grounds: *“Where new, relevant, extenuating circumstances are presented and are supported by appropriate evidence, that for good reason were not originally made available to the Extenuating Circumstances Panel.”* Please refer to the Extenuating Circumstances appeals policy.

### **Complaints**

28. If you feel that your extenuating circumstances were not properly reviewed by BSB staff, you can submit a service complaint. Your complaint will be reviewed, and appropriate action will be taken. This may include the sit being discounted, fee reimbursement (where a fee has been paid), formal apology issued, any other appropriate action, or no action taken.
29. Full information on how to submit a service complaint can be found in our [Service Complaints Policy](#) on the BSB website.

### **Confidentiality and Data Protection**

30. We will record and evaluate all candidate requests, outcomes and feedback to ensure consistency.
31. We will record, in an anonymised format, when a claim for extenuating circumstances is submitted and whether it is approved or rejected on your

profile in our data management system. This data will be retained until you are issued with a Full Practising Certificate.