



1. Introduction

Students are sometimes taken ill before or during an exam or assessment deadline, or their performance is affected by other unexpected events that are beyond their control. Those students are generally able to ask their higher education provider to take those circumstances into account. Most higher education providers in England and Wales have a formal process for this, often called the “mitigating”, “extenuating”, “exceptional” or “special circumstances” procedures, or “factors affecting performance”.

In this discussion paper we use the term “asking for special consideration”.

Around half of the complaints we review are about the student’s academic status. Most of those complaints arise from academic appeals, and nearly half of those cases are directly related to a student asking for special consideration for not attending or underperforming in exams or assessments.

It is of course crucial that a provider’s approach to requests for special consideration does not compromise academic standards. The aim should be to give students a fair opportunity to show that they can reach those standards, not to lower them. It is also reasonable to expect students in general to be able to cope with normal life events, to manage their workloads properly, and to expect a level of stress and anxiety around assessments.

Our approach is always to look at whether the provider has followed its procedures correctly and whether its decision was reasonable in the circumstances. That involves looking at whether the procedures are themselves fair, as well as whether they have been applied fairly and have operated fairly in the individual case.

In March 2019 we held a forum to encourage conversation about how providers approach students’ requests for special consideration. In this discussion paper we set out some insights from that forum, from the many cases we have seen, and from other discussions we have had with providers and student representative bodies over the year.

We also ask some questions for providers, students, and student representative bodies to consider. We want people to tell us about what is currently happening in their provider and about their own experiences of these processes. But we also want people to think about why processes are designed in the way they are, what risks they are trying to manage, and whether the processes are proportionate to that risk.

We will be gathering comments on the discussion paper and responses to the questions we ask in it over the next few months, with a view to developing the paper and responses into a section of the Good Practice Framework.

2. Are students gaming the system?

There is always a balance between fairness to the student body and fairness to the individual student, between scepticism and trust. Setting the bar too low may lead to students gaming the system to spread out difficult assessments. Setting it too high will make a difficult situation even more difficult for students who may be at their lowest point. A process that focuses too tightly on preventing some students from gaining an unfair advantage may end up putting those with genuine difficulties at a disadvantage.

Some providers fear that students are routinely putting in “insurance claims” just in case they fail and, where this seems to be the culture, it is likely that other students will do the same so that they are not disadvantaged. But designing a process around students who may be gaming the system risks seriously disadvantaging those who don't.

Questions

1. Are students gaming the system?
2. If so, what is the scale of the problem?
3. Do providers have the right balance between encouraging responsible behaviour on the one hand, and preventing students from getting an unfair advantage on the other?
4. What more could be done to encourage a culture of trust?

3. What situations might need special consideration?

A student might ask for special consideration for something that has affected their performance in an exam, assessment or project, or on a practical placement. This might be an illness or accident, a bereavement, or something else that has affected their ability to prepare for or complete the assessment or exam. Usually the event or circumstance will be unexpected, and beyond the student's control. Sometimes a group of students will be affected by disruption to an exam, or a problem with the assessment itself.

Many providers give examples of things that may or may not be acceptable in a request for special consideration. This is good practice, but providers should look carefully at anything that is likely to have affected the student's performance. Some problems, for example technical issues, financial hardship or employment-related pressures, may not generally be acceptable reasons for giving the student special consideration. But for some students, in some circumstances, it might be fair to take those difficulties into account when looking at the student's performance, non-attendance, or late submission. For example, it might be fair to take into account a student's unexpected financial crisis (beyond ordinary budgeting difficulties) if the crisis got in the way of their studies.

Two different students might be affected very differently by what appear to be similar events, for example, the loss of a relative. It is the impact of the bereavement on the individual student that is relevant, not the bereavement itself.

Providers often take the view that students should only be given special consideration for circumstances that are unexpected. Some students will start their studies with family or caring responsibilities that are likely to affect their studies. It may be difficult for them to judge how big an effect those circumstances will have, and their situation may change during their studies. Their circumstances may not be “unexpected” and may not even be “out of their control”. But where those circumstances are putting the student at a disadvantage compared with other students, it is likely to be unfair to shut the student out of the special consideration process.

So, it is reasonable for providers to tell students the sort of event or issue that will or won't usually be considered, but they should be open to unusual situations that might justify special consideration.

Questions

1. Are providers giving enough guidance about what sort of circumstances they will consider?
2. Are they looking at the right circumstances?
3. How should providers deal with medical issues that might be considered minor, such as toothache, headache, feeling nauseous?
4. To what extent is it fair to consider the impact of life circumstances when those circumstances existed before the student began their studies?
5. Should a provider be concerned if it is upholding a high proportion of students' requests – might this indicate a problem with the process or culture?

4. How does the special consideration process fit in with support for study and fitness to practise processes?

A student who makes repeated requests for special consideration may have an underlying issue and may need additional support. It's important that providers can spot those students so that they get the help they need. This may mean involving the provider's mental health or disability support services or asking the student to seek medical help or advice.

Providers should have in place a support for study (or fit to study) process. Under this process the provider assesses whether students who have a pattern of ill-health or prolonged ill-health need additional support to continue with their studies, and whether they may need to take time out from their studies.

Students on professional courses need to be able to show that they are fit to practise. A pattern of ill-health or prolonged ill-health may give rise to concerns about the student's fitness for practice. In that case the provider's support for study process may lead to fitness to practise proceedings.

Where the student's fitness to continue with their studies, or fitness to practise, is in question, the provider may need to ask the student to provide more information and evidence about their ill-health and may ask the student to attend an occupational health assessment.

Question

1. What is the best way to identify students who need additional support when they are making repeated requests for special consideration?

5. What should happen when a student needs special consideration?

The starting point should be that a student who is ill, or injured, or bereaved, or has been through a difficult experience should be treated compassionately, and in a way that is fair and consistent across the student body.

Students who need special consideration may be at their lowest point. They may be very anxious, as well as distressed or unwell. They may find it difficult to talk about or to prove what has happened to them. The situation may be particularly sensitive for some reason, perhaps to do with the student's religion or culture.

It may not be reasonable to expect every student to fill in a form and obtain evidence to support their claim, or to do so by a set deadline.

Current pressures on the NHS mean that it can be difficult for people to get a GP appointment quickly, even where there is a dedicated local medical centre. Sudden but minor illness, such as a stomach bug or migraine, do not normally require medical attention, and we should not be telling students to go to their doctor if they do not need to. Sending otherwise healthy students to get evidence of an illness the doctor did not actually observe serves no real purpose. The cost of obtaining a medical certificate or letter, which varies significantly from one practice to another, can also be a barrier for some students.

Similarly, a student who has a long-term but fluctuating condition ought not to have to visit the doctor if sudden deterioration in their condition means that the support in place for them is no longer effective.

School children and employees are generally allowed to call in sick, and to self-certify short periods of illness. We think it is reasonable to allow students to phone or email a designated person or office if they are taken ill on the day of an exam, so that there is a record of it. Students who miss an exam or fail the exam having self-certified would still need to demonstrate that they had reached the necessary learning outcomes, so academic standards would not be compromised.

The fact that students would have to resit an exam at a later date, often during the summer vacation, would surely act as a disincentive to those who may be tempted to hedge their bets. But there are also checks that could be put in place to ensure that the process is working fairly. For example, there might be a cap on the number of requests the student can make without obtaining medical evidence. Equally, students who are using the special consideration process regularly may need additional support, for example through the provider's counselling or disability services, or support for study process. Where a student is found to have misused the process, that may be grounds for disciplinary action.

For some courses it is a requirement that students sit certain assessments together. This might be because the course is modular and the assessments change, or because the student needs to demonstrate a level of competence in several different aspects of their studies at once. That might mean that a student has to resit several assessments even though they have failed or missed only one. It is important that providers make this requirement clear to students so that they understand the implications of resitting modules or assessments.

Where medical evidence might be helpful, for example to support a longer period of absence or incapacity, or where the student has asked for special consideration several times, providers should give some thought to the purpose of that evidence, and what it should include. A template for doctors to complete or guidance notes might be helpful.

Providers should also be prepared to accept evidence from other sources, such as domestic violence services, the Improving Access to Psychological Therapies (IAPT) programme, or internal sources of support such as mental health advisers and personal tutors. A personal tutor who has supported the student through the long-term illness of a family member, or a domestic crisis, may be better placed to comment on how this has affected the student's studies than a doctor.

It's important to reassure students that information about their special circumstances will be kept secure, in line with data protection principles.

In cases of bereavement, it seems insensitive and may be pointless to ask the student to prove the death took place. Getting a certified copy of a death certificate or a translation can be expensive. The fact of the death tells you nothing about how it has affected the bereaved student. A statement from the student, with a supporting letter from a family member, friend or personal tutor may provide better information than a death certificate. It may be appropriate to allow a student to self-certify that they have been affected by a bereavement when the bereavement happens, but to expect more information about the effects of the bereavement if the student makes a request at a later date.

Students may also struggle to provide relevant information where they have been affected by the illness or personal circumstances of a relative or close friend. There are data protection issues around asking the student for information to support their request.

For international students it can be difficult and expensive to get documents translated. Providers with their own language expertise might be able to assist with this.

In short, we think that providers should give clear guidance to students about what they expect, but should be flexible in their approach, and look at the circumstances of the individual student asking for special consideration. A student who is grappling with serious circumstances that are very likely to have an impact on their performance should be given the benefit of the doubt.

Questions

1. (For those with experience of this) what effect does allowing students to self-certify for illness have on the number and nature of requests for special consideration?
2. What safeguards could be put in place to minimise the risk that students take advantage of self-certification?
3. What information is it reasonable to expect in cases of bereavement – or serious illness or circumstances affecting a student's relative or friend?
4. Where medical evidence is hard to come by, or is retrospective, is it reasonable to accept evidence from those who have been supporting the student, such as family members, friends and tutors?

6. What does a fair process look like?

These are some of the ingredients of a fair process for special consideration:

- It is easy to find, to understand and to follow;
- It is well-advertised – students are reminded about it at key points during their studies;
- It sets out expectations clearly so that students understand what circumstances and events are likely to be considered, and what sort of evidence they are likely to need to provide;
- It is flexible and considers each case on its individual facts;
- It explains what is likely to happen if the request is accepted – and what will happen if it is not;
- It tells students who will be considering their case, and how;
- It ends with a written decision, including reasons, being sent to the student;
- It includes a process for ensuring that decisions are consistent across the provider;
- It includes a process for identifying students who have asked for special consideration several times and who may need additional support or advice;
- It includes an appeal route;
- It includes an internal reporting process that allows the provider to identify trends; for example, if a large proportion of requests or appeals are being made or are being granted that might indicate that there is a cultural issue that needs to be tackled.

Questions

1. Are these the right ingredients? What have we missed?
2. How do you ensure that students know about the process when they need to?
3. How do you strike the right balance between giving guidance to students and telling them what they need to say?

7. Who should consider the request?

The person or people who look at a student's request for special consideration should have a good understanding of the provider's process. They should have access to previous decisions so that they can check that they are being consistent.

Deciding whether the student has presented a good case for special consideration does not involve academic judgment. It is a judgment about whether the student is telling the truth, and whether what has happened to them is likely to have had an impact on their ability to prepare for or perform well in an assessment or exam. Sometimes this will involve a critical evaluation of the evidence the student has provided.

In some cases it may be possible to assess the extent to which the student's performance has been affected. That assessment is likely to involve academic judgment.

The decision about what to do for a student who has asked for special consideration is likely to involve academic judgment.

Questions

1. Who is best placed to make decisions on requests for special consideration? Should providers be making their own assessment of how the circumstances have affected the student?
2. How should providers ensure that there is consistency across schools, departments or faculties?
3. How should providers balance the need for consistency with the risk that people dealing with these requests become case hardened?

8. What does a fair outcome look like?

The starting point is that all students should have a fair opportunity to show what they are capable of. If they don't get that opportunity because something has happened to them at the wrong moment, then they should get another chance.

We don't think that it is good practice routinely to add marks to assessments or exams when a student asks for special consideration: marks awarded should be based on evidence of the student's actual achievement. Most often it will be fair to offer the student a resit or reassessment opportunity for an uncapped mark.

In some cases, particularly for final year students, it might be possible to discount marks that have been affected. For example, a student taken ill during one exam might have that exam (or part of it) discounted in their final transcript. A student who submits work late because of illness might have the late submission penalty removed.

In some cases, it might be fair to allow a student to carry over a failed assessment or module to the following year.

For final year students it may be fair to allow an exceptional third attempt outside the normal assessment timetable, even if the provider doesn't normally give final year students resit opportunities.

If the student passes the assessments or exams, it may be fair to allow the student a resit attempt, an alternative assessment or an oral exam, to give them the opportunity to show their full potential.

Many providers have discretion to raise the classification of students who are very near the borderline between two classifications. It may be fair to define a wider zone of consideration for students with special circumstances.

Questions

1. Should providers be raising marks where a student's performance has been affected by their circumstances? How should that calculation be made?

2. What other steps can providers take when a student's performance has been affected?
3. Is it logical to accept that a student's performance has been affected by their circumstances, but not to permit them to resit exams they have passed?

9. Late requests

Most providers set a deadline for students who need to ask for special consideration. This is so that relevant information is available to examination and assessment boards which make decisions about results progression. Ultimately, the deadline is an administrative tool that makes it easier for the provider to run its assessment processes.

We think it is reasonable to have a deadline as long as:

- The provider tells students what the deadline is and why it is in place and reminds them about it at relevant points during the course – for example before exams; and
- Students who miss the deadline can still have their circumstances considered when it would be unfair not to.

We think it is unfair to refuse to consider a student's circumstances just because they missed the deadline if:

- The student's circumstances are serious, and it is very likely that their performance has been badly affected; and
- The student gives a good reason for why they missed the deadline.

We think it is sometimes fair to accept the student's explanation of why they missed the deadline even if they do not have medical evidence to support it. For example, the student may say they were so distressed as a result of what has happened to them that they didn't think about special consideration until too late. If the student has suffered a bereavement, or has mental health issues, that explanation is likely to be reasonable.

It is important that students know the outcome of their request in time to make decisions about submitting work and taking resits.

Questions

1. What is the purpose of setting a deadline?
2. If it is solely an administrative deadline, is it fair for providers to have a cut off after which it is too late for the student to ask for special consideration?
3. Many providers do not accept requests for special consideration once results have been released – but students with good reason for making the request late can make an academic appeal. Is that a reasonable approach?

10. Fit to sit policies

Many providers have a policy that students who attend an exam or submit work for assessment are declaring themselves fit to do so. We think it is reasonable for providers to do this, as long as:

- The provider explains this policy to students and why it is in place and reminds them about it at relevant points during the course – for example before exams; and
- Students who sit an exam or submit an assessment can still have their circumstances considered when it would be unfair not to.

We think it is unfair to refuse to consider a student's circumstances just because they sat the exam or submitted the assessment if:

- The student did not realise how ill they were at the time or were unable to make a rational decision about whether they were well enough; or
- The student knew they were ill but had good reasons for attempting the exam or submitting the work. For example, the student might have reasonably believed that they would not be able to sit the exam at the next opportunity for example because they were pregnant, or had a deteriorating health condition, or had visa difficulties. Or the student might have faced serious consequences if they delayed completing their course, such as the loss of a graduate job opportunity.
- The student reasonably believed that the provider might refuse their request for special consideration.

Questions

1. (For those with experience of this) are fit to sit policies effective, and do they serve a useful purpose?
2. When is it reasonable to allow students to retract their fit to sit declaration?

11. Special consideration and disability

Disabled students who study in an inclusive learning environment with good support in place will not normally need to ask for special consideration. They should be able to take assessments on an equal footing with their peers.

But disabled students may need to ask for special consideration in some situations, for example, where:

- Support is not put in place, or is put in place late;
- The student realises that agreed support is not working as intended;
- The student has a condition which fluctuates; or
- The student's request for special consideration is not related to their disability.

In those cases, the student's circumstances should be considered in the same way as any other student who feels their performance has been affected (although resit or resubmission

arrangements may need to be adjusted). It may be appropriate to offer additional support or make reasonable adjustments to the process for submitting a request for special consideration.

Questions

1. How does the special consideration process apply to disabled students?

12. Special consideration and placements

When students are on practical placements, they may need to follow a separate process to report absence or circumstances affecting their performance. Providers should explain this to students before the placement starts. It is important that students understand any professional standards that might apply. For example, students experiencing a common cold may be well enough to study, but not be allowed to attend a ward placement with vulnerable patients. Placements may also have more stringent processes for the prompt reporting of absence.

Providers should make it clear if students need to report their illness or circumstances to both a placement provider and to the provider itself using two separate processes.

The professional requirements of a course may affect how a provider deals with requests for special consideration and this should be explained to students. Sometimes, it is a requirement that students complete a specified number of days at a placement and in those cases the provider needs to explain to students whether a placement may be extended, or whether and when a new placement will be required.

Questions

1. (For those with experience of this) how should providers support students on placement when they make requests for special consideration?
2. What should happen when the provider's processes appear to conflict with the placement provider's expectations or requirements?

13. Some scenarios

How should providers approach these scenarios?

Scenario 1

A student finds out the day before a course deadline that their mother is seriously ill in Australia. The student tries to submit the final two pieces of work through the provider's intranet on the deadline and gets two electronic receipts. In fact, the student has accidentally submitted the same piece of work twice. The student goes directly to the airport and flies to Australia and does not check the receipts.

When the student arrives in Australia, they see an email from the provider saying that one piece of work has not been submitted and that it has applied a late submission penalty. They realise what has happened when they check the receipts. The student submits the missing piece of work, but it is late. They explain to the provider that they were so concerned about their mother, and catching the flight to Australia, that they did not check the receipts. They ask the provider for special

consideration, and to remove the late submission penalty.

Scenario 2

Just before their final exams, a student hears that a school friend has been killed in a car accident. The student has not seen the school friend for several years, but the sudden death brings back traumatic memories of a car accident in which the student was injured and their brother was killed four years before. The student struggles through their exams but feels that they did not do as well as they could have done because they were distracted during the exams and were not sleeping properly. After the exams the student sees their GP who recommends counselling but they cannot get an appointment with a counsellor for three months.

The student explains all of this to the provider and asks for special consideration when their degree classification is decided. The student is on the borderline between 2.1 and 2.2 but does not have enough final year marks of above 60% to be automatically lifted to 2.1.

Scenario 3

A student has a stomach bug, feels ill during one of their final year exams and has to leave early. The invigilator makes a note of this. The student misses the exam the following day. The student does not see their GP because people with sickness bugs are not supposed to go to the surgery.

The student explains this to the provider and asks for special consideration. They pass all the exams except for the one they missed but, although they passed it, they got their lowest mark in the exam they left early.

The provider does not normally allow students to retake final year exams, or to retake exams that they have passed.

Scenario 4

A student suffers from severe period pain. Their symptoms are unpredictable and make it very uncomfortable to sit for a long time. The student's end of year exams take place over the course of three days. The student has to leave one exam early, and performs unexpectedly badly in three other exams. An invigilator's report records that the student nearly passed out during one exam.

The student fails two exams and passes the other two. After the results are published, the student asks for special consideration for all four exams and gives the provider a note from their GP confirming a prescription for pain medication. The student explains that they were too embarrassed to ask for special consideration earlier because they are not allowed to speak about periods at home.

Scenario 5

A student who has dyslexia and ADHD sits exams in a small room with extra time. During one exam, another student in the room talks very quietly to themselves on and off throughout.

After the exam the student asks for special consideration because they found the other student's talking distracting. Nothing is recorded in the invigilator's report and the other students in the room did not notice anything.

Appendix: our approach

When considering a complaint about how a provider has handled a student's request for special consideration, these are the sort of questions we ask ourselves:

1. Does the provider have a clear procedure for students asking for special consideration?
 - 1.1. Is the procedure easy to find?
 - 1.2. Is it easy to understand?
 - 1.3. Is it easy to follow?
 - 1.4. Does it give the deadline for students asking for special consideration?
 - 1.5. Does it give examples of what may be accepted for special consideration, and what is unlikely to be accepted?
 - 1.6. Does it explain what will happen if the student's request is accepted?
 - 1.7. If the request is refused can the student appeal?
2. Has the provider drawn students' attention to the procedure, including the deadline, before assessment deadlines and examinations?
3. What are the student's circumstances?
 - 3.1. Are they compelling?
 - 3.2. What evidence has the student presented (this includes their own statement)?
 - 3.3. Do the circumstances fit the examples given in the procedures?
 - 3.4. If not, would it be fair to consider them anyway?
4. Has the student asked for special consideration at the right time?
 - 4.1. If not, has the student explained why not?
 - 4.2. Does the student have a good explanation?
 - 4.3. Would it be unfair to refuse to consider the student's request?
5. Does the provider have a fit to sit policy?
 - 5.1. Has the student explained why they sat the exam or submitted the assessment?
 - 5.2. Does the student have a good explanation?
 - 5.3. Would it be unfair to refuse to consider the student's request?
6. Has the provider followed its procedures correctly?
 - 6.1. Were the procedures fair in this case?
7. Has the provider given reasons for its decision?
 - 7.1. Were those reasons properly explained?
8. In every case, was the provider's decision fair to this student?