

BAR STANDARDS BOARD

REGULATING BARRISTERS

Bar Course Aptitude Test (BCAT)

Extenuating circumstances policy and procedures

1. Introduction

This policy is intended for any candidate who applies to take / or registers for the BCAT which is an entry requirement for the Bar Professional Training Course (BPTC). The purpose of the policy is to ensure that relevant candidates who have demonstrated extenuating circumstances are not disadvantaged.

2. Definition of 'extenuating circumstances'

Under this policy, extenuating circumstances are defined as: *"Circumstances normally exceptional and outside of the control of the candidate, which have prevented him / her from completing or registering for the BCAT, which is an entry requirement for the BPTC."*

2.1 The 'circumstances' mentioned in the definition above are usually personal or health related problems. Health related problems are inclusive of 'emotional wellbeing' and 'mental health', in addition to physical health. In paragraph 2.2 there is a list of examples of the types of extenuating circumstances which are likely to be accepted by the Bar Standards Board (BSB), the list is not exhaustive. In paragraph 2.3 there is a list of examples which the BSB are unlikely to accept as extenuating circumstances which prevented a candidate from taking the BCAT.

2.2 A **non-exhaustive** list of examples of circumstances that could have seriously affected the candidate's ability to complete or register for the BCAT which would normally justify special consideration (i.e. extenuating circumstances) by the BSB include:

- bereavement – death of a close relative / significant other (of a nature which, in an employment context, would have led to an absence in accordance with the compassionate leave regulations);
- serious short term illness or accident (of a nature which, in an employment context, would have led to an absence on sick leave);
- evidence of a long term health condition worsening;
- significant adverse personal / family circumstances (particularly where the candidate has a duty of care to a relative);
- other significant exceptional factors for which there is evidence of stress caused;
- unforeseen effect of a pregnancy related illness;
- late notification and unexpected loss of arrangements for care (e.g. childcare or carer);
- unforeseen effect of a disability where the impact of the disability is not anticipated (e.g. epileptic seizure).

2.3 A **non-exhaustive** list of circumstances that would **not** normally be acceptable to the BSB include:

- the illness of a distant relative;
- financial problems or difficulties with travel or living arrangements ;
- inadequate arrangements for baby-sitters, child-minders or other domestic or work situations;
- foreseeable transport difficulties, road works or private transport break downs;
- claims that candidates were unaware of dates or times of registering or completing the BCAT;
- any claim not supported by reliable evidence (e.g. a letter from a 'flatmate') – see *supporting evidence below*;
- alleged statement of a medical condition without reasonable evidence (medical or otherwise) to support it – see *supporting evidence below*;
- alleged medical condition supported by 'retrospective' medical evidence – that is, evidence that is not (contemporaneous) in existence at the same time as the illness, e.g. a doctor's note which states that the candidate was seen (after the illness occurred) and declared that they had been ill previously – see *supporting evidence below*;
- If there is a reasonable case that circumstances relied on were foreseeable or preventable;
- long term health condition for which the candidate has received reasonable or appropriate adjustments;
- minor illness or ailment, which in a work situation would be unlikely to lead to absence from work;
- holidays;
- confusion over time, date or location of the BCAT on the part of the candidate when this has been clearly notified, and not posed any problem to other candidate ;
- late disclosure of circumstances, including late disclosure of a disability without valid reason, in the appropriate format to the BSB;
- problems arising from failure to adhere to published relevant BSB policies and procedures.

3. Reporting extenuating circumstances

It is the sole responsibility of the candidate affected to ensure that the BSB are notified, preferably in advance, if they are unable to attend the BCAT on the day of their scheduled test due to extenuating circumstances. A candidate must complete and submit the BCAT extenuating circumstances form as soon as possible, but no later than **five working days** after any scheduled test sitting that may have been affected by extenuating circumstances in accordance with the definition above.

When completing the BCAT extenuating circumstances form you should include:

- (a) details of the extenuating circumstances;
- (b) the applicable time and date of the scheduled BCAT sitting;
- (c) the period of time to which the extenuating circumstances apply if beyond that of the test itself;
- (d) the impact the extenuating circumstances had on your ability to complete the BCAT ;
- (e) supporting medical / health related evidence applicable in accordance with the list below;
- (f) a statement of your preferred outcome.

4. **Supporting evidence**

Supporting evidence should normally be independent third party evidence, however the BSB may use its discretion in relation to the type of evidence deemed acceptable. Where evidence can be provided it should be provided, but there may be exceptional cases where, for a variety of confidential reasons (e.g. sensitive personal data), this is not possible.

4.1 The following **non-exhaustive** list will normally be accepted as supporting evidence:

- Medical / health certificate (with date relevant to the BCAT).
- Letter of support / explanation from a recognised / verifiable support service
- Letter of support / explanation from an independent third party
- Death certificate

(See Appendix A on page 5 of this document for further guidance)

5. **Outcome**

The BSB will normally respond in full within 10 working days from the date of receipt of a completed extenuating circumstances form and supporting evidence. The BSB considers all circumstances and reserves the right to use their discretion when deciding on a final outcome fairly and equitably.

5.1 Extenuating circumstances which **are not** accepted

If the extenuating circumstances submission is not accepted by the BSB, the decision is final. Please see the website for details of how to register for the BCAT. You will be required to pay at the point of scheduling the test.

5.2 Extenuating circumstances which **are** accepted

If the extenuating circumstances submission is accepted by the BSB, they will use their discretion to issue the most appropriate resolution given the details of the case. Each case will be dealt with individually.

6. How to submit extenuating circumstances

6.1 The Procedure:

- Candidates who wish to submit extenuating circumstances must complete an *extenuating circumstances form*, available from the [BCAT page of the website](#),
- Candidates must include relevant documentary evidence (see paragraph 4.1 and Appendix A on page 5 of this document) with their submission,
- Candidates who wish to submit extenuating circumstances must do so as soon as the 'circumstances' described in paragraph 2 and 2.1 arise,
- The completed *extenuating circumstances form* should be submitted together with relevant documentary evidence to the BCAT team at BCAT@barstandardsboard.org.uk,
- Candidates will receive an acknowledgement of receipt of their form by email normally within **5 working days**,
- The BSB will review the form and where necessary contact the candidate for further information,
- The candidate will normally receive a full response within **15 working days** as to whether their extenuating circumstances have been accepted (with reference to paragraphs 2.2 and 2.3) and the outcome will be confirmed by the BSB,
- The decision of the BSB is final; no further submissions may be made.

Supporting evidence explained

1. Medical / health related certificate

If your extenuating circumstances relates to physical health, mental health or emotional well-being, your supporting evidence should usually come from a medical practitioner who is registered with a **recognised professional body** within your relevant jurisdiction.

2. Letter if support / explanation from a recognised support service

If your extenuating circumstances can be supported by a recognised support service, your supporting evidence should usually be given in a letter outlining the support service's involvement and the period of time covering their involvement. A 'support service' for the purposes of this policy could include, but is not limited to:

- (i) a Disability Service,
- (ii) an educational and psychological student support service,
- (iii) a general student welfare service.

3. Letter of support / explanation from an independent third party

If your extenuating circumstances cannot be supported by any of the above, your supporting evidence should usually come from a relevant 'independent third party'. A letter of support / explanation should usually outline the third party's involvement and the period of time covering their involvement. An accepted 'independent third party' will be considered on its merits on an individual basis. Where a candidate submits a letter of support or explanation from a third party who is not a member of a recognized profession, in connection with a request for recognition of extenuating circumstances, the letter should provide information about the person writing the letter, together with their contact details. They and the candidate should be aware that the Bar Standards Board may contact the independent third party who has provided the letter of support if deemed necessary.

4. Death certificate

For bereavement, a death certificate should usually be provided as supporting evidence. However, where a death certificate cannot be provided the following will usually be accepted as supporting evidence: a signed and dated letter from a minister of religion, medical practitioner, police officer, solicitor, magistrate or other officer of the law or a person with equivalent professional standing.