

Criminal Declaration by Applicants (CDAP) policy 2019-2020

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1. Introductory statement

Goldsmiths admissions process aims to select students who have the ability and motivation to benefit from the programmes they intend to follow. The aim of this policy is to ensure that no prospective student or student should receive less favourable treatment on any grounds which are not relevant to good practice or to academic ability and attainment for students.

It is however important that these aims are achieved without impact on the safety and well-being of other members of staff, students and other members of the Goldsmiths community. These procedures are intended as a mechanism to consider any impact on the safety of the Goldsmiths community and to ensure that decisions regarding the admission of an applicant with criminal convictions are made fairly based on reliable evidence and in accordance with nationally recognised best practice. Applicants will have the opportunity to provide information not only about the conviction and sentence, but also about any mitigating circumstances, rehabilitation, reflections on the offence and work or other activities undertaken since. All this information will be taken into account when making a decision whether to admit an applicant and to enrol as a student.

Goldsmiths seeks at all times to operate procedures that are fair and are in accordance with the law of the United Kingdom and includes specific compliance with legislation relating to discrimination (e.g. the Rehabilitation of Offenders Act 1974, the Equality Act 2010, Race Relations Amendment Act, Sex Discrimination and the Disability Discrimination Act, Data Protection Act 2018 etc.) This document is intended to be publicly accessible, and sets out Goldsmiths' overarching policy on the admission of students to undergraduate, postgraduate (taught and research) and professional training programmes (such as Postgraduate Certificates in Education [PGCEs]) who have declared a criminal conviction or caution.

2. Scope and Definitions

Goldsmiths has a duty to ensure the safety of the general institution population and young or vulnerable people with whom students may come into contact as a part of their programme of study. The principle of considering the nature of criminal offences declared by applicants will be the same for programmes where there is a statutory and non-statutory requirement to assess fitness to train, notwithstanding the different legal requirement regarding the Rehabilitation of Offenders Act.

The term 'Criminal Offences' is used to cover all criminal offences, excluding motoring offences for which a fine and/or up to three penalty points were imposed. Offences may have resulted in a conviction, caution, warning or reprimand. Offences committed outside of England are included in the definition, even if they were not classified as a criminal offence in the country committed.

This policy will be followed in relation to any applications from an applicant declaring (or discovered to have) a criminal offence, which has not been spent under the terms of the Rehabilitation of Offenders Act. Under the terms of this act, sentences of more than four years (plus the 'rehabilitation period') or more are never spent while those of a lesser duration do not have to be declared once spent. In practice, this means that the more serious offences must always be declared.

Detailed guidance on which convictions are “spent” and which must be declared is available here www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974.

Under statutory instrument 1023 of the Rehabilitation of Offenders Act 1974, no conviction or police caution is ever considered spent in relation to programmes of professional training (e.g. social work, initial teacher training, dance movement therapy, art psychotherapy and community & youth work). For the purposes of entry to professional training in social work, initial teacher training, dance movement therapy, art psychotherapy and community & youth work Goldsmiths must be satisfied of an entrants ‘fitness to train’ and to work with young/vulnerable people. This includes consideration of any criminal offences, as well as information concerning cautions, warnings as well as relevant information provided by the Police, Department of Health and Department of Employment and Pensions. This information is generally collected through the Disclosure and Barring Service certificate (Adults and Children). A list of our fitness to train programmes can be viewed on our website: <http://www.gold.ac.uk/fitness-to-train/>

For all programmes where the institution has a statutory duty to assess fitness to train, the Rehabilitation of Offenders Act 1974 which enable criminal convictions to be ‘spent’ or ignored after a rehabilitation period, does not apply to applicants for these programmes who are exempted from the provisions of the act. All past criminal convictions, cautions, or bind-overs must be declared unless designated as ‘protected’ under The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013). These are not subject to disclosure under the Exceptions Order, nor do they appear on a standard or enhanced disclosure certificate issued by the DBS.

Where fitness to train is a requirement of the programme, the guiding principle will be that applicants will only be trained if they are rehabilitated to Goldsmiths’ satisfaction, are suitable to work with any young/vulnerable members of the public as part of their programme, and can meet any particular professional or statutory requirements that exist for the course. Meeting the Goldsmiths fitness to train condition will not in itself guarantee that a subsequent employer will take the same view of an offence.

3. Ascertaining ‘fitness to train’ where there is a statutory requirement

For programmes of professional training the ‘fitness to train’ condition will be evaluated through information provided on the enhanced disclosure certificate, information provided direct from the applicant and through advice from professional bodies and/or employment registration bodies. Where an applicant has lived outside of the UK since the age of 18 for six months or more, they will be required to obtain and provide an original copy (with a certified translation if necessary) of the equivalent information from the overseas authorities in the countries where they have lived.

Where an equivalent service to the DBS is not available in the country of residence (or former residence) then the applicant should contact the Admissions Office for further guidance on how to meet this requirement.

Where there is a charge to obtain a disclosure certificate, or equivalent overseas certificate then any fee is the responsibility of the applicant and not Goldsmiths.

4. Procedure

It is important to be clear that the initial assessment of applications is taken on academic grounds alone. If there are insufficient academic grounds for making an offer to the applicant, the application will be rejected in the normal way. Where an applicant is to be offered a place following academic consideration, they will either be required to provide additional information on any criminal offences prior to any recommendation to offer a place being confirmed or at the online pre-enrolment stage. In addition, applicants requiring a UKVI visa to study in the UK will be asked separately to declare any convictions at the beginning of the visa consideration stage with Goldsmiths.

The procedural timeline followed for those applicants who declare a relevant conviction will depend on the type of programme applied for. For applicants who apply for a programme with fitness to train requirements, any convictions must be declared at the application stage before a final decision is made on whether or not to offer a place on the programme. For all other programmes, applicants will be asked if they have any unspent relevant convictions at the online pre-enrolment stage which will normally begin in August for programmes starting in September. Where a relevant unspent conviction for any type of programme is declared then the same procedure will be followed as detailed below.

We welcome the disclosure of unspent convictions earlier than that detailed in the standard procedures. This can be done by emailing admissionsconfidential@gold.ac.uk giving details of the programme applied for and asking to begin the CDAP process. Where an applicant chooses to disclose earlier, the CDAP process will be followed upon declaration so the process can be completed much earlier in the application process.

The Admissions Operations Manager will request further information about the nature of the offence, which will include an opportunity for the applicant to confirm if an offence was declared in error on their application. This information may include asking the applicant to provide references from his/her Probation Officer and/or prison authorities which should include formal notification of the offence(s) for which the applicant was convicted, the sentence passed, and any other factors relevant, including any probation arrangements that may have been put in place and some assessment of the risk of further offending. If they were not subject to a probation order then they may be asked to submit a recent character reference from a person who is unrelated to them but is able to comment on the circumstances of the offence(s) and/or their conduct since. The applicant will also be able to comment on any mitigating circumstances relating to the offence, their reflections on their offence and what they have been doing since their conviction.

The documentation will be anonymised and will initially be reviewed by the Admissions Operations Manager who will complete a risk assessment form to consider the nature and severity of the offence(s) and the applicant's subsequent rehabilitation. Offences assessed as low risk according to the set criteria will be reviewed by the Head of Admissions who will make a decision whether to admit the applicant based on the information provided by the applicant and the risk assessment. Where the Head of Admissions is unable to make a decision or if the recommendation is to reject the applicant, the declaration will be escalated to the Associate Director (Student Recruitment)

and/or a virtual panel (for rejected candidates). Those assessed as medium or high risk according to the set criteria, will be reviewed by the Associate Director (Student Recruitment). If the Associate Director (Student Recruitment) is unable to make a decision or if the recommendation is to reject the applicant, the declaration will be reviewed by a virtual panel (membership detailed below). Where a unanimous decision cannot be reached the panel will meet in person to discuss further, at this stage a majority decision can be made.

CDAP Panel Membership

- Nominated Head of Department
- Associate Director (Student Support Services)
- Director of Student Experience
- Representative from the legal team

See below for membership of CDAP Appeals Panel

For Fitness to Train Programmes

For Fitness to Train programmes the information provided by the applicant and the risk assessment will be passed to the Head of Department to assess whether there would be any professional issues with admitting the applicant with the offence, this may require input from relevant stakeholder organisations (see section 6 below).

The final decision for Fitness to Train programmes will be signed off by the Head of Admissions, Associate Director (Student Recruitment) or CDAP panel as detailed above. Where it is not possible for the applicant to be admitted to a Fitness to Train programme an alternative offer on a programme with no such requirements may be made where appropriate.

Where there is no objection to entry on the basis of the criminal offence the offer shall be processed or commencement of enrolment will begin following the usual criteria. Where the decision of the CDAP is not to offer a place on the basis of the offence, the applicant will be notified by email and the reject decision will be processed.

Goldsmiths reserves the right to request that any applicant obtain a DBS disclosure certificate.

Where an applicant fails to respond to request(s) for additional information within a specified period, their application may be automatically be withdrawn from consideration.

Decisions will be made in a timely manner, having regard where possible to the start of programmes.

For Fitness to train programmes a DBS check will always be undertaken, for applicants with convictions a copy of the DBS certificate will be requested for comparison with the information given on the CDAP form.

5. Appeals

An applicant who declares a criminal offence and is subsequently rejected on the basis of their conviction and other relevant information or for not responding to the request(s) for information shall have an opportunity, should they wish, to appeal against that decision, to an appeals panel within 5 working days of notification.

The Panel shall comprise:

- The Deputy Warden (including Learning, Teaching and Enhancement)
- The Head of Secretariat and Legal
- The Registrar

The panel may, at its discretion, reconsider the decision of the CDAP in the following circumstances:

- If a candidate requests such reconsideration and provides adequate evidence which is acceptable to the appeals panel that his/her ability to submit the requested information was adversely affected by illness or other factors prior to a decision being reached.
- If there is clear evidence produced by the candidate or any other person of an administrative error or that the business of the CDAP was not conducted in accordance with this document.

In the event of an appeal, the appeals panel will aim to meet in person within two weeks of the appeal being submitted. The panel will review the CDAP form, risk assessment and any other information submitted prior to the initial decision as well as the appeal and any further documentation relating to it. The applicant can be invited to present their case to the panel in person if the applicant requests to do so. Applicants will be notified of the outcome of their appeal in a timely manner with regard to programme start dates. The decision of the appeal panel will be final unless new and significant information which could have affected the original decision is presented.

6. Organisations to consult for advice

Goldsmiths reserves the right to consult appropriate professional and stakeholder bodies on the significance of criminal offences in relation to its fitness to train requirements. In this case, all applicant information will be treated confidentially. These organisations might include:

- The Department for Education
- The Department for Health
- Members of the Goldsmiths Social Work consortium
- The nominated officer for police checks at the local authority
- Any other Professional, Statutory and Regulatory Bodies (PSRBs) relevant

Applicants going through the CDAP process and current Goldsmiths students can find support and advice from the following organisations:

Open Book

The Open Book Project at Goldsmiths aims to break down the barriers that discourage people from entering higher education. The project works to support people from a wide range of non-traditional backgrounds including those with criminal convictions, addiction and mental health problems, as well as those who have never truly considered further and higher education as any kind of route to enhancing their future career choices and personal development. Further information can be found at www.gold.ac.uk/open-book/.

Unlock

Unlock is an independent, award-winning charity for people with convictions which exists for two simple reasons. They assist people to move on positively with their lives by empowering them with information, advice and support to overcome the stigma of their previous convictions. Secondly, they seek to promote a fairer and more inclusive society by challenging discriminatory practices and promoting socially just alternatives. Further information can be found at www.unlock.org.uk/.

7. Undeclared offences and discrepancies between information provided by the applicant and that which appears on the DBS certificate

Before enrolment to Goldsmiths an applicant must comply with the entrance requirements laid down in the Admissions Policy and institution regulations. Any applicant who secures admission to Goldsmiths on the basis of qualifications, documents or statements which are subsequently found to be false, or who withholds information requested on the relevant application form, shall have his/her offer rescinded or enrolment terminated as appropriate as it will be deemed to be a fraudulent application.

In the event of an applicant having failed to disclose an offence which is later revealed the application or enrolment may be cancelled. For programmes with Fitness to Train requirements this may be an offence which appears on the DBS certificate that was not declared earlier. Both UCAS regulations and the institution's own procedures make provision for an offer to be withdrawn if it is based upon incomplete or misleading information. Such cases will be considered according to the CDAP process and should include reference to the applicant's failure to declare the offences concerned and any mitigation the applicant may give for not having declared the offence on application or enrolment.

If there is a discrepancy between an applicant's DBS certificate and the information they provided via the CDAP process, the applicant will be given the opportunity to query the discrepancy with the DBS and seek to rectify it if a mistake has occurred. If there is no error, the information on the DBS certificate will be considered according to the CDAP process, which should include reference to the applicant's failure to declare the offences concerned and any mitigation the applicant may give for not having declared the offence during the initial CDAP process. Where a programme is due to commence and any revised information is unlikely to be available prior to the start of the programme, the institute reserves the right to defer its final decision on suitability until the issue is resolved, but will, where suitability is upheld, seek to defer admission to the next session.

If subsequent to offer or completing the CDAP process, an applicant is convicted, or receives a reprimand, final warning, or caution, they will be required to declare this to us and undergo the CDAP process again. If information on criminal offences of a serious nature comes to light after enrolment the matter will be dealt with under the procedures for enrolled students.

8. Handling and retaining information relating to Criminal offences and DBS disclosure forms

Any information provided by applicants during the CDAP will be treated respectfully and confidentially. Only the individuals detailed in this policy will have access to this information, and it will not be passed to anyone else without the applicant's consent. Individuals involved with making decisions regarding criminal offences will have received appropriate training with regular refreshers and updates to take account of any changes in legislation.

See the Goldsmiths Records Retention policy for details of how information relating to criminal offences will be stored <http://www.gold.ac.uk/info-law/retention-implementation/>.