

# Criminal Declaration by Applicant (CDAP) Policy

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# 1 Introduction

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- 1.1 The Goldsmiths admissions process aims to select students who have the ability and motivation to benefit from the programme they intend to follow. The aim of this policy is to ensure that decisions regarding the admission of applicants with unspent criminal convictions to programmes requiring fitness to train checks, or applicants to any programme where they have specific Licence conditions which may prevent study with Goldsmiths, are made fairly and based on reliable evidence.
- 1.2 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 on whether to admit an applicant.
- 1.3 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.)

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# 2 Scope and definitions

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- 2.1 This policy will be applicable to any applicant coming on to a programme with a compulsory placement requiring fitness to train checks including, but not limited to, teacher training and social work. These programmes will be clearly marked on the Goldsmiths website. For any other programme disclosure will only be necessary if an applicant has Licence conditions relevant to their enrolment or study at Goldsmiths.
- 2.2 Goldsmiths has a duty to ensure that any student accepted onto a programme of study is likely to be able to take part in any mandatory placements in order to complete the programme. Goldsmiths also has a responsibility to ensure that all prospective students have been through the required checks in order to train with adults at risk, young people and/or children.

- 2.3 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 (obtained as an adult or youth), caution, warning or reprimand (adult only). Offences committed outside of England are included in the definition, even if they were not classified as a criminal offence in the country committed.
- 2.4 Under provisions of the Rehabilitation of Offenders Act 1974, no conviction or adult police caution is ever considered spent in relation to programmes of professional training.
- 2.5 For the purposes of entry to professional training programmes Goldsmiths must be satisfied of an entrant's 'fitness to train' and to work with adults at risk, young people and/or children. This includes consideration of any criminal offences, as well as information concerning cautions or warnings as well as relevant information provided by the Police, Department of Health and Department for Work 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/>
- 2.6 For all programmes where Goldsmiths has a statutory duty to assess fitness to train, the Rehabilitation of Offenders Act 1974, which enables 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, adult cautions, or bind-overs must be declared unless designated as 'protected' under The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2014). 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. Under the 2020 amendment youth reprimands, final warnings and cautions are considered separately to those received over the age of 18 and will not be disclosed on a DBS so do not have to be declared.
- 2.7 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 adults at risk, young people and/or children as part of their programme and can meet any 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.**

- 2.8 Goldsmiths will not routinely carry out DBS checks on behalf of other organisations. Where a student takes part in a placement which is not mandatory to their programme, the DBS check must be obtained in conjunction with the external organisation they are seeking a placement with. The results of the DBS check will be between the student and the organisation and subject to any requirements the organisation may have.

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

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- 3.1 For professional training programmes, 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.
- 3.2 Applicants who are not resident in the UK or who have resided outside of the UK for a period of 6 months or more in the last five years (excluding PGCE applicants) will be required to undergo a DBS check and to obtain criminal record check documentation from whichever country or countries outside of the UK which have been resided in. PGCE applicants who have resided outside of the UK for a period of six months or more will be required to provide documentation where the residence was past their eighteenth birthday.
- 3.3 This is normally called a letter of good conduct or police check and must be submitted to the institution either in English or as a certified translation. 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.
- 3.4 Where there is a charge to obtain a disclosure certificate, or equivalent overseas certificate, any fee is the responsibility of the applicant and not Goldsmiths.

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## 4 Procedure

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- 4.1 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 accordance with Goldsmiths Admissions Policy. Where an applicant is to be offered a place following academic consideration, they will be required to provide additional information on any relevant criminal offences prior to any recommendation to offer a place being confirmed. In addition, applicants requiring a UKVI visa to study in the UK will be asked separately to declare any and all convictions at the beginning of the visa consideration stage with Goldsmiths. Any declaration to UKVI will form part of the visa approval process.
- 4.2 For applicants who apply for a programme with compulsory placements requiring fitness to train checks, any convictions must be declared as part of meeting the conditions of an offer. A decision on the CDAP must be made before a decision can be made on whether or not to confirm a place on the programme.
- 4.3 For all other programmes, applicants will only be required to declare any unspent relevant convictions prior to enrolment if the applicant has Licence conditions which could impact the applicant's ability to enrol on and complete a programme of study. When the applicant accepts an offer of study, they will be required to contact Goldsmiths to begin the CDAP process. Further details are provided in the applicant offer letter.
- 4.4 The first stage of the process is for further information to be requested regarding any offence(s) from the applicant. Alongside this, additional supporting statements may be submitted. This can include a recent character reference from a person who is unrelated but is able to comment on the circumstances of the offence(s) and/or their conduct since or a Probation Officers report. Where a Probation Officer's report is sought this could include information on formal notification of the offence(s) and any other factors relevant in applying to higher education. The applicant will also be able to comment on any extenuating circumstances relating to the offence, their reflections on their offence and what they have been doing since their conviction. There will be an opportunity for the applicant to confirm if a conviction was inaccurately declared on the application.

- 4.5 The documentation will be anonymised and will initially be reviewed by an Admissions Manager who will complete an assessment form based on the information submitted. The information provided by the applicant and the assessment form will be passed to a senior member of staff within the relevant academic 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). Decisions are made in consultation with internal and external stakeholders to ensure an appropriate decision is made both for Goldsmiths and the applicant.
- 4.6 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.
- 4.7 Where there is no objection to entry on the basis of the criminal offence or Licence conditions, the offer shall be processed or commencement of enrolment will begin following the usual criteria. Where the decision taken under this policy is not to offer a place on the basis of the offence or Licence conditions, the applicant will be notified by email and will have the opportunity to appeal the decision.
- 4.8 Where an applicant fails to respond to request(s) for additional information within a specified period, their application may be automatically withdrawn from consideration.
- 4.9 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. It is important that the information submitted on the CDAP form matches the information provided on the DBS. In cases of divergence the DBS will be taken as the formal notification of offences and Goldsmiths reserves the right to reassess the CDAP outcome previously agreed.

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## 5 Appeals

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- 5.1 An applicant who declares a criminal offence and is subsequently either rejected or offered an alternative programme on the basis of their conviction and other relevant information, or for not responding to the request(s) for information, shall have an opportunity to appeal against that decision to an appeals panel within 5 working days of notification.
- 5.2 The Panel shall comprise:
- The Pro Warden Academic
  - Director of Governance and Legal Services

- Chief Operating Officer

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

- If a candidate 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 of an administrative error or that the CDAP policy was not followed correctly.

5.4 In the event of an appeal, the appeals panel will aim to meet within two weeks of the appeal being submitted. The panel will review the CDAP form, the assessment form and any other information submitted prior to the initial decision as well as the appeal and any further documentation relating to it. The applicant may be invited to present their case to the panel if the applicant requests to do so. The applicant will have the opportunity to bring someone in a support capacity to this meeting. Applicants will be notified of the outcome of their appeal within one week of the appeal panel meeting. The decision of the appeal panel will be final.

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## 6 Organisations to consult for advice

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6.1 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

- 6.2 Applicants subject to the CDAP process and enrolled Goldsmiths students can seek support and advice from the Goldsmiths Open Book project if they wish. Open Book supports people from a wide range of non-traditional backgrounds, including those with criminal convictions, addiction and mental health problems and those who have never considered further and higher education as a route to enhancing their future career choices and personal development. Further information can be found at [www.gold.ac.uk/open-book/](http://www.gold.ac.uk/open-book/).
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## **7 Undeclared offences and discrepancies between information provided by the applicant and that which appears on the DBS certificate**

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- 7.1 Before enrolment to Goldsmiths an applicant must comply with the entrance requirements laid down in the Admissions Policy and terms and conditions of enrolment. Per section 4.15 of the Admissions Policy, 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, may have their offer rescinded or enrolment terminated as appropriate as it will be deemed to be a fraudulent application.
- 7.2 In the event of an applicant having failed to disclose an offence which is later revealed the application or enrolment may be cancelled. This may be an offence which appears on the DBS certificate that was not declared earlier or a misrepresentation of an offence. In such cases, enrolment will be suspended and the case will be considered according to the CDAP process.
- 7.3 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 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, Goldsmiths 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.
- 7.4 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 and undergo the CDAP process again.



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

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- 8.1 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. Where an applicant with Licence conditions indicates an intention to reside in Goldsmiths-owned accommodation, their CDAP information may be shared with Accommodation Services for the purposes of assessment. Individuals involved with making decisions regarding criminal offences will have received appropriate training and updates to take account of any changes in legislation.
- 8.2 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/>.

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## 9 Related policies

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- 9.1 The Admissions Office has a number of related policies and procedure documents to aid in the fair and transparent handling of all applications and to provide the best experience to our applicants. These include:
- Admissions policy
  - Feedback, Appeals and Complaints (pre-enrolment) Policy
- 9.2 All students are subject to Goldsmiths' Regulations (as set out in the terms and conditions) once enrolled at Goldsmiths. Under the terms of the Goldsmiths' Regulations any student who receives a conviction while an enrolled student is obliged to inform Goldsmiths and this information will be considered under the Student Conduct regulations (section 2.4 of the Goldsmiths Academic Manual).
- 9.3 All policies and regulations can be found on our website: [www.gold.ac.uk/gam/](http://www.gold.ac.uk/gam/)
- 9.4 In addition to this, further details on Goldsmiths fitness to train requirements can be found on the Goldsmiths website: [www.gold.ac.uk/fitness-to-train](http://www.gold.ac.uk/fitness-to-train).