

## **Criminal Records Policy**

### **FOR APPLICANTS AND REGISTERED STUDENTS**

### **Effective from September 2023**

<b>Policy owner:</b>	Rambert School Academic Quality & Standards Board
<b>Lead contact:</b>	Academic Registrar & Head of Compliance
<b>Audience:</b>	Applicants for Rambert School courses of study; students; staff
<b>Approving body:</b>	Rambert School Academic Quality & Standards Board
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<b>Related Statutes, Ordinances, General Regulations</b>	Rehabilitation of Offenders Act 1974; Data Protection Act 2018; General Data Protection Regulations 2018; Equality Act 2010
<b>Related Policies, Procedures and Guidance:</b>	Admissions Policies; Admissions Appeals and Complaints Policy & Procedure; Data Processing Statement; Emergency Powers of Exclusion & Suspension; Non-Academic Misconduct Policy; Policy on Sexual Misconduct, Harassment and Related Behaviours; PREVENT Policy; Equity, Diversity & Inclusion Policy
<b>UK Quality Code reference:</b>	Quality Code Expectations for Quality; Advice and Guidance: Admissions, Recruitment and Widening Access; Concerns, Complaints and Appeals; Enabling Student Achievement
<b>OfS Conditions reference:</b>	Conditions B1, B2, B3, C1, C2
<b>Equality and Diversity Considerations:</b>	Policy should be available in accessible format for all students. Appropriate support should be provided to any individual who is involved in the procedures under this policy, taking account of the particular and holistic circumstances of the individual.
<b>Date Equity and Diversity Assessment Completed:</b>	December 2022

#### **Further information:**

Where the School introduces a course that may necessitate or requires a criminal records check, this policy will need updating to include the relevant course details accordingly.

This policy and its procedures has been developed in line with good practice guidance from Unlock [www.unlock.org.uk](http://www.unlock.org.uk), UCAS Good Practice in Admissions (<https://www.ucas.com/providers/good-practice>), the ICO ([www.ico.org.uk](http://www.ico.org.uk)), Nacro ([Nacro - Data Protection & Use of Criminal Offence Data](#)), and government/DBS guidance on Regulated Activity: [Keeping Children Safe In Education \(2023\)](#); [Regulated Activity with Children in England](#); [Regulated Activity with Adults in England](#); [Regulated Activity \(Adults\) – NHS England \(2012\)](#); [Guidance on the Rehabilitation of Offenders Act 1974 and The Exceptions Order 1975](#)

## CRIMINAL RECORDS POLICY AND PROCEDURES FOR APPLICANTS AND REGISTERED STUDENTS

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## CRIMINAL RECORDS POLICY AND PROCEDURES FOR APPLICANTS AND REGISTERED STUDENTS

### A) Introduction

1. Rambert School is a Higher Education Institution independently registered with the Office for Students and is a registered Data Controller with the Information Commissioner's Office (ICO). As a dance conservatoire delivering higher education, our approach is that we only process criminal records data where strictly necessary, in accordance with the General Data Protection Regulation (2018) and Data Protection Act (2018).
2. This policy sets out the circumstances in which the School would deem it necessary to process special category criminal record data, the lawful bases and applicable schedules of the Data Protection Act which apply when we do process this data, our mechanisms for assessing this information, related School policies

### *Abbreviations*

3. The following abbreviations are used in this policy:

<b>CCP</b>	-	Convictions Consideration Panel
<b>DBS</b>	-	Disclosure and Barring Service
<b>HE</b>	-	Higher Education
<b>OfS</b>	-	Office for Students
<b>OIAHE/OIA</b>	-	Office of the Independent Adjudicator for Higher Education
<b>QAA</b>	-	Quality Assurance Agency
<b>SPA</b>	-	Supporting Professionalism in Admissions
<b>UCAS</b>	-	The Universities and Colleges Admissions Service

### *Related School Policies*

4. The following policies either apply to, or are linked with, this Policy and procedures, and should be read in conjunction with them:
  - **Rambert School Admissions Policies** (please see <https://www.rambertschool.org.uk/courses/policies-and-procedures/> to locate these)
  - [Rambert School Admissions Appeals and Complaints Policy & Procedure](#)
  - [Rambert School Emergency Powers of Exclusion and Suspension](#)
  - [Rambert School Non-Academic Misconduct Policy & Procedures](#)
  - [Rambert School Support Through Studies Policy & Procedures](#)
  - [Rambert School Policy on Sexual Misconduct, Harassment and Related Behaviours](#)
  - [Rambert School Data Processing Statement](#)
  - [Rambert School Safeguarding Policy](#)
  - [Rambert School PREVENT Policy](#)

## B) Definitions

4. The following definitions are used in this policy:

<b>‘Applicant’</b>	<b>Applicant</b> means any individual who has applied to study on a course of higher education with Rambert School. This includes applicants holding a provisional offer of a place to study on such a course, and applicants holding a confirmed offer of a place to study on such a course prior to initial registration and enrolment on that course.
<b>‘Registered student’</b>	<b>Registered student</b> means any individual who has successfully gained a place on a course of higher education with Rambert School, and is a registered student of the School. For registration to be current, the student must also be enrolled for that academic year.
<b>‘Convictions Consideration Panel’ (CCP)</b>	The <b>Convictions Consideration Panel</b> is the Panel that considers the details of criminal records (and where appropriate, criminal charges) to determine next steps for Rambert School. For details of the membership, remit and procedures of the Convictions Consideration Panel, please see Section D of this Policy ‘Convictions Consideration Panel’ and also <b>Appendices 1-4</b> to this policy.
<b>‘School Contact’</b>	The <b>School Contact</b> for the Criminal Records Policy is the Academic Registrar & Head of Compliance.
<b>‘Regulated activity’</b>	<p><b>Regulated activity</b> is defined by the UK government<sup>1</sup> as follows:</p> <p>The definition of regulated activity (i.e. work that a barred person must not do) in relation to children comprises, in summary:</p> <ul style="list-style-type: none"> <li>i. unsupervised activities: teach, train, instruct, care for or supervise children, or provide advice/ guidance on well-being, or drive a vehicle only for children;</li> <li>ii. work for a limited range of establishments (‘specified places’), with opportunity for contact: e.g. schools, children’s homes, childcare premises. Not work by supervised volunteers.</li> </ul> <p>Work under (i) or (ii) is regulated activity only if done regularly (see link at footnote 6 for details of how ‘regularly’ is defined).</p> <p>Regulated activity in the context of a course of study at one of Rambert School Schools normally (but not exhaustively) refers to activities which involve working closely with children/other vulnerable individuals such as caring for, training, supervising, or being solely in charge, which may exclude the normal criminal convictions exemptions under the Rehabilitation of Offenders Act 1974. For further details, please see the government guidance<sup>2</sup> at the following link:  <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299916/rehabilitation-of-offenders-guidance.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299916/rehabilitation-of-offenders-guidance.pdf</a></p>
<b>‘Relevant Criminal Convictions’</b>	Rambert School considers relevant criminal convictions to be those that indicate, on the balance of probability, that there may be a risk to our students and staff; our approach is informed by sector guidance, including <a href="#">this UCAS guidance</a> from the charity Unlock. <i>[Continued...]</i>

<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/550197/Regulated\\_activity\\_in\\_relation\\_to\\_children.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/550197/Regulated_activity_in_relation_to_children.pdf)

<sup>2</sup> For more in point definitions of regulated activity, see Government guidance for [adults](#) and [children](#)

	<p>For the purposes of this policy, relevant<sup>3</sup> criminal offences include convictions, cautions, admonitions, reprimands, final warnings, bind over orders or similar, involving one or more of the following:</p> <ul style="list-style-type: none"> <li>• Any kind of violence including (but not limited to) threatening behaviour, offences concerning the intention to harm or offences which resulted in actual bodily harm;</li> <li>• Sexual offences, including those listed in the Sex Offences Act 2003</li> <li>• The unlawful supply of controlled drugs or substances where the conviction concerns commercial drug-dealing or trafficking (drug offences only involving possession are not relevant offences);</li> <li>• Offences involving firearms</li> <li>• Offences involving arson</li> <li>• Offences listed in the Terrorism Act 2006.</li> </ul> <p>If you were convicted outside the United Kingdom for an offence listed above, this is also considered a relevant offence.</p> <p>For clarification, criminal convictions, for these purposes, exclude motoring offences that received a fine/three penalty points or <a href="#">a spent sentence as defined by the Rehabilitation of Offenders Act 1974</a>. Further clarification regarding relevant criminal convictions is provided in the following paragraphs of this policy.</p>
<b><i>‘Cautions, reprimands and final warnings’</i></b>	<p>For the purposes of this policy, <b>cautions, reprimands and final warnings</b> are considered as convictions. Penalty notices for disorder (PNDs), anti-social behaviour orders (ASBOs) or other orders are not convictions, unless an applicant/registered student has contested a PND or breached the terms of an ASBO or other order and this has resulted in a criminal conviction.</p> <p>Cautions, reprimands and final warnings relating to the listed ‘relevant’ offences above are considered as convictions. Any convictions, cautions, reprimands or final warnings that are ‘protected’ as defined by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013) (i.e. filtered and not displayed on a disclosure) do not need to be declared, and will not be taken into account in any admissions decision or under any disciplinary process in the event that an applicant or registered student chooses to disclose them to Rambert School.</p>
<b><i>‘Spent / unspent convictions’</i></b>	<p>A criminal conviction can become 'spent' after a period of time. <b>Convictions that are spent are not considered to be ‘relevant’</b> (please note that certain offences will never be deemed ‘spent’). Most cautions, reprimands and final warnings become spent immediately, so will not normally be 'unspent'. The definition of ‘spent’ is complex, being affected by such factors as the type of offence, age at which the person was convicted and sentence received. The length of time it takes to become spent is defined by the Rehabilitation of Offenders Act 1974 and depends on the sentence or disposal made by the court following the conviction. Until that period has passed, the conviction is considered 'unspent'. Further convictions can impact when other convictions become spent.</p>

<sup>3</sup> Where an enhanced DBS check is required as part of a course of study at Rambert School, this may disclose convictions which are not deemed ‘relevant’ but which may be material to the terms of undertaking regulated activities. In this instance, the Convictions Consideration Panel will normally consider any such disclosures to determine next steps as appropriate (please see Appendices 1-4 of this Policy for the criminal records consideration procedures and details of the Convictions Consideration Panel).

<b>'Spent Convictions': Further support and guidance</b>	<p>Further information to assist with understanding when a criminal conviction may become spent can be accessed using the charity Unlock's online 'Disclosure Calculator' <a href="http://www.disclosurecalculator.org.uk">www.disclosurecalculator.org.uk</a>.</p> <p>Unlock also has a poster <a href="https://unlock.org.uk/advice/spentposter/">https://unlock.org.uk/advice/spentposter/</a> which sets out when convictions are spent.</p>
<b>Additional information and guidance</b>	<p><b>Unlock Helpline</b> – confidential peer advice on overcoming the effects of criminal convictions</p> <p><b>Call:</b> 01634 247350</p> <p><b>Email:</b> <a href="mailto:advice@unlock.org.uk">advice@unlock.org.uk</a></p> <p><b>Write:</b> Helpline, Unlock, Maidstone Community Support Centre, 39-48 Marsham Street, Maidstone, Kent, ME14 1HH</p> <p>For online self-help information, visit <a href="https://unlock.org.uk/information-and-advice/">https://unlock.org.uk/information-and-advice/</a></p> <p>For information on Data Protection and the use of criminal offence data for employment and education purposes, see: <a href="https://www.nacro.org.uk/wp-content/uploads/2018/08/Nacro-briefing-Data-protection-and-the-use-of-criminal-offence-data.pdf">https://www.nacro.org.uk/wp-content/uploads/2018/08/Nacro-briefing-Data-protection-and-the-use-of-criminal-offence-data.pdf</a></p>

### C) General Principles and Scope of Policy

5. In accordance with the General Data Protection Regulations (2018) and Data Protection Act (2018), Rambert School recognises that criminal offence data (referred to in this policy as 'criminal record data') must be processed in accordance with the following principles [as set out by the ICO](#):
  - The UK GDPR gives extra protection to the personal data of offenders or suspected offenders in the context of criminal activity, allegations, investigations, and proceedings.
  - If you have official authority, you can process personal data about criminal convictions and offences, because you are processing the data in an official capacity.
  - If you do not have official authority, you can only process criminal offence data if you can identify a specific condition for processing in Schedule 1 of the DPA 2018.
  - You cannot keep a comprehensive register of criminal convictions, unless you do so in an official capacity.
  - You must determine your condition for processing criminal offence data, or identify your official authority for the processing, before you begin the processing, and you should document this.
  - You must still have a lawful basis for your processing under Article 6.
  - In many cases, you also need an '[appropriate policy document](#)' in place in order to meet a UK Schedule 1 condition for processing in the DPA 2018.



- You need to complete a data protection impact assessment (DPIA) for any type of processing which is likely to be high risk. You must therefore be aware of the risks of processing the criminal offence data.
6. This policy sets out Rambert School's approach for managing criminal record data in the following circumstances:
- i. Applicants applying for entry to a course of higher education with Rambert School that involves regulated activity<sup>4</sup> and thus necessitates an enhanced DBS check;
  - ii. Registered students on a course of higher education with Rambert School that involves regulated activity and thus necessitates an enhanced DBS check;
  - iii. Registered students on a course of higher education with Rambert School who are charged with and/or convicted of a relevant<sup>5</sup> criminal offence during the course of their studies;
  - iv. Related criminal matters relating to registered students (e.g. registration of a student on the Sex Offenders' Register)
7. Rambert School has a responsibility to provide a secure, safe environment for staff, students, visitors and others, and must balance this alongside any legal requirements, such as those to protect vulnerable individuals, when considering a criminal record in the circumstances laid out in Section C of this policy. Where after due consideration under its policies and procedures, the School determines that it is necessary to do so, it may determine not to admit an applicant, or to remove student status from a registered student, as a consequence of a criminal record.
8. Where a course of study requires students to be engaged in 'regulated activity' (such as working with children or adults as defined in the legislation<sup>6</sup>), Rambert School will require the student to undergo an enhanced Disclosure and Barring Service (DBS) criminal records check in order to ensure it meets any additional responsibilities relating to such activities<sup>7</sup> (further information regarding enhanced DBS checks can be found later in this policy).

### *Relevant criminal convictions*

9. Please see Section B 'Definitions' of this Policy for Rambert School's definition of 'relevant' criminal convictions.

### *Principle for consideration of convictions/criminal record data*

10. In any event, either when confirming conditional offers to applicants for admission to courses involving regulated activity that necessitates an enhanced DBS check as an admission requirement, or in any dealings with registered students, Rambert School will not take into account any criminal convictions which are deemed "spent"<sup>8</sup> under the terms of the

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<sup>4</sup> For information: 'Regulated activity' is defined in the Safeguarding Vulnerable Groups Act 2006, and amended by s. 64 and 66 Protection of Freedoms Act 2012 (see Government guidance for [adults](#) and [children](#)).

<sup>5</sup> 'Relevant' is defined by Rambert School using the UCAS definitions. Please see 'Definitions' in Section B of this policy.

<sup>6</sup> For information: 'Regulated activity' is defined in the Safeguarding Vulnerable Groups Act 2006, and amended by s. 64 and 66 Protection of Freedoms Act 2012 (see Government guidance for [adults](#) and [children](#)).

<sup>7</sup> [SPA guidance](#) page 21 'No placement involving regulated activity can take place before the official disclosure is received, and there should be no exceptions to this under any circumstances.'  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/299916/rehabilitation-of-offenders-guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/299916/rehabilitation-of-offenders-guidance.pdf)

<sup>8</sup> For more information, please see 'Definitions' at the front of this policy.

Rehabilitation of Offenders Act 1974 unless the requirements of the course of study means such convictions are deemed “exceptions” under the terms of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended in 2013) (the Order). Where such convictions are deemed “exceptions”, they will never become spent.

### *Admissions and criminal records data*

11. Rambert School's responsibilities include having systems and procedures for student admission which meet the relevant consumer law, data protection law, and equality law requirements along with the requirements of the Office for Students, the UK Quality Code, the OIAHE's Good Practice Framework and Rules, and the validating university's requirements.
12. In line with our [Contextual Admissions Framework](#), the School is committed to removing potential barriers to entry. Except where a course as outlined in Table 2 in this Policy sets out that an enhanced DBS check is a requirement for applicants due to regulated activity<sup>9</sup> being a course requirement, Rambert School will not require nor request that applicants undertake an enhanced DBS check or disclose whether they have a relevant criminal conviction at any point during the admissions process.
13. **Where a course of study has some regulated activity as an optional strand and is not a compulsory element of a course, applicants will not be required to undertake an enhanced DBS check prior to admission to the course.** However, registered students will not be able to participate in optional regulated activity as part of their course of study without first undertaking an enhanced DBS check, the results of which will be processed by the School in accordance with this Policy and following which the School is satisfied that the student is eligible to undertake such activity.
14. **For any course of study which includes some regulated activity as a compulsory part of the course, an enhanced DBS check will be an admission requirement.** This means applicants will need to undertake an enhanced DBS check, the results of which must be considered by the School via the procedures in this Policy, before admission to the course can be confirmed.
15. Where an enhanced DBS check is required to confirm admission to a course, the School will only ask an applicant to complete an enhanced DBS check in the event that they have satisfied all other entry criteria first, and therefore will not require applicants to undertake such a check until the School makes a conditional offer of a place to study on that course. However, where regulated activity is a course requirement meaning that an enhanced DBS check is an admission requirement, the check will need to be completed and the results of the check assessed by the Convictions Consideration Panel (CCP), before an applicant's place on the course can formally be confirmed. Where the CCP determines that the results of the check would prevent an applicant from being able to undertake the required regulated activity, the School will refuse admission to the course in question.

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<sup>9</sup> Please see 'Definitions' at the front of this policy for the definition of Regulated Activity.



### *Applicants and criminal charges/convictions subsequent to an enhanced DBS check*

16. **Where an applicant has undertaken an enhanced DBS check for a course requiring regulated activity, had an offer subsequently confirmed, and then is charged with or convicted of a criminal offence prior to formally registering as a student, the applicant must inform the School as soon as possible, as this may have a bearing on the individual's eligibility for the place** (please see Table 1 for further information, including the School's lawful basis and conditions for processing this data).
17. In such circumstances, the School will refer the known details of the criminal charge(s)/conviction to the Convictions Consideration Panel (CCP – see Section D and also Appendices 1-4 of this Policy) to determine whether:
- **The confirmed offer of a place may stand;**
  - **The confirmed offer of a place may stand but with conditions;**
  - **The confirmed offer of a place may be deferred;**
  - **The confirmed offer of a place needs to be withdrawn in light of the criminal charge(s)/conviction.**
18. **Failure on the part of an applicant to declare such a change in circumstances will normally be deemed by Rambert School to constitute a breach of this policy and thus a breach of contract** as laid out the Terms and Conditions (Section: 'Our Contract with You') signed by applicants at the point of accepting a confirmed offer, and may result in termination of that contract by the School in accordance with this Section 3 and Section: 'Termination of Contract and Enrolment' of the Terms and Conditions.

### *Voluntary disclosures of criminal records by applicants*

19. Where during the admissions process an applicant chooses to disclose that they have a criminal record but is not required to do so to satisfy an admission requirement to the course of study, this information will not be used by the School in determining whether an applicant may be admitted onto the course. However, at any point in the admissions process the School concerned may offer the applicant the option to enter into a dialogue, to give the applicant an opportunity to explore with the School whether any additional support might be needed. Such dialogue is not mandatory and it is up to the applicant as to whether they wish to avail themselves of such an opportunity.

### *Registered students who are charged with/convicted of a criminal offence during their studies*

20. In the event that a registered student is charged with and/or convicted of a criminal offence (including receiving a Police Caution, Reprimand or Final Warning), Rambert School does not require the student to disclose this. However, where such matters come to light (including via self-disclosure by a student), Rambert School will determine whether any action is necessary, in accordance with its obligations and duty of care towards all members of its community.
21. Where a registered student obtains or is charged with a criminal conviction that would normally lead to a custodial sentence during the course of their studies, this may constitute a disciplinary matter and the student's case may accordingly be referred under the [Non-Academic Misconduct Policy](#) for consideration. As necessary and appropriate, the student may also be referred into procedures under the [Support Through Studies Policy](#). Please see

Table 1 for further information including Rambert School's lawful basis and conditions for processing this data.

22. Where a registered student obtains or is charged with a criminal conviction that would normally lead to a custodial sentence during the course of their studies (including where a conviction does not in the individual's case lead to a custodial sentence), the School will determine whether it is necessary to also refer the matter to the Convictions Consideration Panel, as part of ensuring it meets its duty of care obligations and/or determining next steps.
23. Where a registered student is convicted of a criminal offence resulting in a custodial sentence, the matter will normally be referred to the Convictions Consideration Panel for assessment and School will consider whether it is possible for the student to continue with their studies, as well as whether disciplinary action is necessary or proportionate. Such considerations may include (but are not limited to), for example, whether the offence falls within one of the definitions of 'relevant' under this Policy (see 'Definitions' at the front of this policy), the length of the sentence and the duty of care to the School and Rambert School community.

#### *Voluntary disclosures by registered students*

24. Where a registered student chooses to disclose that they have a criminal record to Rambert School **that was incurred prior to registering as a student of Rambert School**, the matter may as necessary be referred to the CCP as part of assessing whether any additional support may be needed by that student, and any appropriate measures the School might need to take. Where the course of study has an optional element that involves regulated activity, the assessment of the CCP will not be taken in lieu of an enhanced DBS check. However, in these circumstances the School may hold a dialogue with the student about whether the student might undergo the enhanced DBS check, and what the alternatives are in the event that the student is unable to participate in the optional regulated activity.
25. Where a registered student discloses to Rambert School that they have been charged with and/or convicted of a criminal offence during their studies, they are under no obligation to do so by Rambert School even where their course has an optional element that involves regulated activity; in such cases where a student wishes to undertake regulated activity, an enhanced DBS check will be required which would disclose any unspent convictions.
26. In the event that a student chooses to make such a disclosure to Rambert School, as outlined above Rambert School will determine whether any action is necessary. Rambert School may as necessary refer the matter to the CCP. The fact that the student has chosen to disclose the charge/conviction may as appropriate be taken into account by Rambert School in determining next steps and/or in the event that the matter is referred into any other Rambert School procedures (e.g. the Non-Academic Misconduct policy; Emergency Powers of Exclusion and Suspension; Support Through Studies; Policy on Sexual Misconduct, Harassment and Related Behaviours).

## **D) Consideration of criminal records procedures: Convictions Consideration Panel (CCP)**

### *Convictions Consideration Panel Terms of Reference*

27. The **Convictions Consideration Panel** is the Panel that considers the details of criminal records (and where appropriate, criminal charges) to determine next steps for Rambert School.

28. The Terms of Reference for the Panel are as follows:

- To consider the details of criminal records and, if applicable, criminal charges, to support the School in its decision-making regarding:
  - the admission of an applicant to a course of study which comprises regulated activity as an entry requirement;
  - the continuation and support needs of registered students where a criminal record and/or criminal charges are disclosed or come to light.
- To make final decisions and/or recommendations to the School Principal and Senior Management Team regarding individual criminal records and criminal charges.

### *Membership of the Convictions Consideration Panel*

29. The Panel will comprise two appropriate senior members of staff normally from the School, with relevant expertise, who collectively have the necessary understanding of the course requirements and The Panel may be comprised of individuals drawn from a different course to that of the applicant or student, or if this is not possible, other officers of Rambert School.

30. To aid decision-making the Convictions Consideration Panel may seek the opinion of, or information from, another member of Rambert School staff.

31. With the consent of the individual applicant/student, where proportionate the Convictions Consideration Panel may also seek the opinion of, or information from, a third party (eg a Probation Officer; family member).

32. The Convictions Consideration Panel (CCP) will consider all criminal record data under the relevant procedure for either applicants or registered students, using the **Criminal Record Risk Assessment Form** (**Appendix 1** to this Policy).

33. In operating the Criminal Records Consideration Procedures, the Convictions Consideration Panel uses the **Criminal Records Consideration Criteria**. The Criteria are found in **Appendix 2** to this Policy.

34. The **Criminal Records Consideration Procedure for Applicants** is found in **Appendix 3** to this Policy.

35. The **Criminal Records Consideration Procedure for Registered Students** is found in **Appendix 4** to this Policy.

### *Final decision following consideration by the Convictions Consideration Panel*

36. Please see Appendix 3 for information on final decisions for applicants, and Appendix 4 to this Policy for final decisions for registered students. Please also see 'Related Criminal Matters', below.

### **Related Criminal Matters**

37. Where the Principal of the School has reasonable grounds to do so (such as significant safeguarding concerns), they may refer a related criminal matter that is not in itself a criminal charge or conviction to the Convictions Consideration Panel for assessment (eg where an individual is placed on the Sex Offenders Register whilst they are a registered student, and the School receives notification from the Police or other authority that the individual is considered to pose a significant safeguarding risk).
38. In this instance to restrict the disclosure of this information as far as possible, the School Principal will normally sit as a member of the Convictions Consideration Panel and will undertake the risk assessment, supported by the Academic Registrar & Head of Compliance or another member of the Senior Management Team in the event that the Academic Registrar & Head of Compliance is unavailable.
39. Where the Principal is unavailable, they will nominate another member of the School Executive Team to act on their behalf. The Principal/their nominee will ultimately have the final say with regard to the outcome of the Panel's assessment. In these circumstances, the Panel's decision may where necessary and appropriate act as the final decision of the School, unless the matter warrants referral into other School procedures in which case the final decision of the School shall be reached under the respective procedures.

### **E) Circumstances for the processing of criminal record data under this policy**

40. There are five circumstances identified by Rambert School under which the School may process criminal record data set out in Table 1 below:

**Table 1** Circumstances for the processing of criminal record data under this Policy

No .	Status of Individual	Circumstance necessitating processing of criminal record data	What this means	Lawful basis and Condition for processing this data
1.	Applicant	Where the course of study includes some regulated activity as a compulsory part of the course.	<p>Applicants will need to undergo an enhanced Disclosure and Barring Service (DBS) criminal records check (referred to in this Policy as an 'enhanced DBS check') before they may be offered a place to study on the course.</p> <p>Where the results of the enhanced DBS check disclose a criminal record, the School will refer it to the Convictions Consideration Panel (CCP) for assessment under this Policy, to determine whether the student can be admitted to the course.</p>	Please see Table 3 in this policy for the lawful basis and condition under which Rambert School process this data.

2.	Applicant	Where an applicant, having accepted a confirmed offer on a course that includes some regulated activity, is charged with a criminal offence or obtains a criminal conviction before registering as a student.	This would necessitate an assessment of the known details of the case by the CCP, in order to ascertain whether the offer could still stand, whether the offer might reasonably be deferred, whether the offer of an alternative course of study may be suitable, or whether the offer to study with the School must be fully withdrawn.	In accordance with Article 10 of the GDPR, Rambert School's lawful basis for processing this data is the <b>public task basis</b> in <b>GDPR Article 6(1)(e)</b> . The conditions for processing this data are: <b>Section 18 'Safeguarding of Children and Individuals at Risk'</b> , and <b>Section 12 'Regulatory requirements relating to unlawful acts and dishonesty etc'</b> of <b>Schedule 1 Part 1 DPA 2018</b> .
3.	Registered student of Rambert School	Where a course of study includes some regulated activity that is an optional strand and not a compulsory part of the course.	Should the student choose an optional strand of their course of study that includes some regulated activity, the student will need to undergo an enhanced Disclosure and Barring Service (DBS) criminal records check (referred to in this Policy as an 'enhanced DBS check') to determine whether they are eligible to participate in the activity.  Where the results of the enhanced DBS check disclose a criminal record, the School will refer it to the CCP for assessment under this Policy, to determine whether the student is eligible to undertake the regulated activity.	In accordance with Article 10 of the GDPR, Rambert School's lawful basis for processing this data is the <b>public task basis</b> in <b>GDPR Article 6(1)(e)</b> . The conditions for processing this data are: <b>Section 18 'Safeguarding of Children and Individuals at Risk'</b> , and <b>Section 12 'Regulatory requirements relating to unlawful acts and dishonesty etc'</b> of <b>Schedule 1 Part 1 DPA 2018</b> .  Please see also Table 3 in this policy for the lawful basis and condition under which Rambert School process this data.
4.	Registered student of Rambert School	Where a registered student is charged with or obtains a criminal offence during the course of their studies (including cautions, reprimands and final warnings) as defined in Section B of this Policy, or where a related criminal matter comes to light (including via self-disclosure by the student).	As part of the School's duty of care and in order to inform and/or decide any necessary next steps, the School may determine that the matter should be referred to the CCP for assessment. The matter may also be referred for consideration under the <a href="#">Non-Academic Misconduct Policy</a> and/or the <a href="#">Emergency Powers of Exclusion and Suspension</a> and/or the <a href="#">Support Through Studies Policy</a> as deemed appropriate by Rambert School.	In accordance with Article 10 of the GDPR, Rambert School's lawful bases for processing this data are: <b>Contract</b> in <b>GDPR Article 6(1)(b)</b> , and <b>legitimate interests</b> in <b>GDPR Article 6(1)(f)</b> . The conditions for processing this data are: <b>Section 18 'Safeguarding of Children and Individuals at Risk'</b> , and <b>Section 12 'Regulatory requirements relating to unlawful acts and dishonesty etc'</b> of <b>Schedule 1 Part 1 DPA 2018</b> .



5.	Registered student of Rambert School	Where a registered student discloses a criminal record obtained prior to registration as a student of Rambert School.	As part of the School's duty of care and in order to inform and/or decide any necessary next steps, the School may determine that the matter should be referred to the CCP for assessment. The matter may also be referred for consideration under the <a href="#">Emergency Powers of Exclusion and Suspension</a> and/or the <a href="#">Support Through Studies Policy</a> as deemed appropriate by Rambert School.	In accordance with Article 10 of the GDPR, Rambert School's lawful basis for processing this data is the <i>public task basis</i> in <b>GDPR Article 6(1)(e)</b> .  The conditions for processing this data are: <b>Section 18</b> 'Safeguarding of Children and Individuals at Risk', and <b>Section 12</b> 'Regulatory requirements relating to unlawful acts and dishonesty etc' of <b>Schedule 1 Part 1 DPA 2018</b> .
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41. In all such considerations of criminal convictions, Rambert School shall take into account its safeguarding policy, and any other relevant policies (for example, but not limited to, the PREVENT Policy).

### **Enhanced DBS Checks**

42. Most courses of study at Rambert School Schools do not require any criminal records data to be processed in order for an applicant to be accepted onto the course, or for a registered student to complete the requirements of the course. However, some courses involve 'regulated activity' such as working with children or adults as defined in UK legislation<sup>10</sup> (see 'Definitions' at the front of this Policy for further information).

43. Table 2 shows the circumstances under which, subject to the structure of the course of study, an enhanced DBS check may be done (please see Table 3 for the specific details of courses of study that involve regulated activity):

**Table 2** Circumstances and arrangements for enhanced DBS checks

Status of individual	Circumstance requiring enhanced DBS check	When is the enhanced DBS check undertaken?	What this means
<b>Applicants</b>	Where the course includes some <b>regulated activity</b> as a <b>compulsory</b> part of the course.	At the end of the admissions process, before a provisional offer of a place to study on the course can be confirmed.	An enhanced DBS check must be undertaken and the results of the check will be assessed by the CCP. This is in order to satisfy the School that there is nothing arising from the check that would prevent the applicant from being able to undertake the regulated activity and meet the course requirements. The School may refuse admission to the course if a check is not undertaken or if the CCP identifies that the results of the check would prevent the applicant from undertaking the regulated activity.

<sup>10</sup> For information: 'Regulated activity' is defined in the Safeguarding Vulnerable Groups Act 2006, and amended by s. 64 and 66 Protection of Freedoms Act 2012 (see Government guidance for [adults](#) and [children](#)).



<b>Registered students</b>	Where a course includes some <b>regulated activity</b> that is an <b>optional</b> strand and not a compulsory part of the course.	After an individual has become a registered student, prior to enrolment on the module(s) that require regulated activity.	If a student wishes to partake in an optional strand of the course that involves regulated activity, an enhanced DBS check must be undertaken and the results of the check will be assessed by the CCP. This is in order to satisfy the School that there is nothing arising from the check that would prevent the student from being able to undertake the regulated activity. Where the CCP determines the results of the check would prevent the student from undertaking the regulated activity, the student will not be able to undertake this option on the course, and the School will inform the student of their alternative options.
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44. Table 3 below shows Rambert School courses that routinely require the processing of criminal record data along with the lawful bases and condition(s) upon which they have determined to do so:

**Table 3** Rambert School courses requiring the processing of criminal record data

Course of Study & reason for processing	Point at which criminal record data will be processed by the School	Lawful basis and condition for processing this data under GDPR
<b>MA Professional Dance Performance</b>  The course involves regulated activity (normally placements in primary / secondary schools), necessitating an enhanced DBS check	Once registered on the course, within the first six months	Rambert School of Ballet & Contemporary Dance lawful basis for processing this information is the <b>Consent basis</b> in <b>GDPR Article 6 (a)</b> . The <b>conditions</b> for processing this data are: <b>Section 18 'Safeguarding of Children and Individuals at Risk'</b> , and <b>Section 12 'Regulatory requirements relating to unlawful acts and dishonesty etc'</b> of <b>Schedule 1 Part 1 DPA 2018</b> . Rambert School's responsibility is to carry out the DBS check at the necessary (Enhanced) level and inform the relevant placement school when this has been done. Whilst Rambert School is not obliged to share information relating to the issue date or certificate number of DBS checks with schools or other relevant placement provides where activity requires an enhanced DBS check, Rambert School may do so provided the consent of students has been obtained. Rambert School cannot, however, share information about the content of DBS certificates in terms of criminal record information.

45. Statistical data on enhanced DBS checks may be shared by Rambert School for statutory monitoring purposes.

#### *Delays in enhanced DBS check results*

46. No regulated activity can be undertaken by a student for whom the results of an enhanced DBS check have not been received and assessed by the School. It is a legal requirement for persons undertaking regulated activity to undertake an enhanced DBS check which must satisfy the requirements of the activity, before they can be permitted to engage in that activity.
47. Complaints raised by a student regarding a delay in processing DBS data where the reason for the delay in processing is outside of the School's control will not normally be considered.
48. Where a student has completed all of the necessary steps for an enhanced DBS check but there is a delay which is outside of their control, the student does not have the right to attend placements or complete any activity for which the DBS check is required. The Principal of the School may exercise discretion in granting or refusing permission for the individual to partake in any non-regulated activity element of such School-related activity pending any delayed results, taking account of the circumstances of the case, and subject to any requirements and due diligence.
49. Where there is a delay in receiving the results of a DBS check which could reasonably have been avoided by the student, the student does not have the right to attend placements or complete any activity for which the DBS check is required. The Principal of the School may exercise discretion in granting or refusing permission for the individual to partake in any such activity pending any delayed results, taking account of the circumstances of the case, and subject to any requirements and due diligence.

#### **F) Delegation of powers**

50. The Principal of Rambert School may delegate their powers under these procedures to a nominee either generally or in respect of a particular case, providing always that any person to whom these powers may be delegated will be in a position to act and be seen to act impartially, either generally or in respect of a particular case. Normally, the nominee will be a member of the School Senior Management Team, but may be from Rambert School's wider staff team where appropriate. Please see the respective procedures set out in Appendix 3 and Appendix 4 for procedural roles and responsibilities.

#### **G) Data processing, confidentiality and record keeping**

51. All data will be handled sensitively, confidentially, and in accordance with the Data Protection Act (2018), and Rambert School's [Data Processing Statement](#), and each School's Data Processing Statement (see individual Member School websites for each School's individual Data Processing Statement). From May 2018, this will be in accordance with the General Data Protection Regulations (GDPR). Some Schools involve third parties in the delivery of their courses; further information about how your data will be managed in this regard should be sought from the School.
52. Generally, no information on an unsuccessful applicant's criminal record will be kept for longer than six months after completion of the admissions process.

53. Generally, once admitted onto a course of study, no personal data on a student's criminal record will be kept for longer than six months after completion of that course by the student.
54. Rambert School is a Data Controller, which means it collects, holds and otherwise processes "personal data" (which may include "sensitive personal data" as defined by the Data Protection Act 2018 or "special category personal data" as defined by the General Data Protection Regulation 2018) about applicants and students of the Schools which is provided to them by the applicant/student (or which is otherwise received from third parties) for their own, separate purpose(s), in accordance with each Controller's Data Processing Statement.
55. This personal information is generally processed by the School for the following general purposes:
- to administer admissions, courses of study and pastoral care;
  - to monitor student performance; to send communications to students;
  - to compile statistics for internal monitoring and enhancement purposes or for publication; and to make required returns to external bodies, including to the regulator (the Office for Students) and agencies of UK Government (eg as a condition of leave to remain in the UK).
56. More specific details are set out in the School's [Data Processing Statement and Schedules](#).
57. Please note that by providing your personal information to Rambert School, we will, in accordance with our student-related [Data Processing Statement](#) and any other information and/or consent form(s) provided to you from time to time, process your data in accordance with the identified lawful bases as set out in our Data Processing Statement. This includes where your personal information is disclosed as a result of an enhanced DBS check.

### *Retention periods*

58. In accordance with Rambert School's duties under the General Data Protection Regulations (2018) and the Data Protection Act (2018) and in keeping with OIA recommendations, excepting criminal record data as outlined above, student records will be retained for a minimum of 15 months and for no longer than is reasonably necessary (i.e. no longer than 6 years after the final action on the student's case, at which point the individual student file will normally be destroyed unless there is an identified necessary basis for retaining part or all of the file).
59. Some deviation from this schedule can be expected for cases which, in the judgement of the School and/or the central office of Rambert School, are unique or complex and therefore require shorter or longer record retention periods.
60. Where a student registers for more than one course of study with the School, the retention period relating to the student file will re-set from the start of the subsequent registration period. For example, if a student registers for a 2 year Foundation Degree and then leaves the School at the end of the 2-year period, **the retention period will apply from the date of graduation until and unless the student registers for a subsequent course with the School** (eg BA Hons Top Up, or a postgraduate course).
61. If the student registers for a subsequent course with the School before the retention period in place has expired, then the original retention period will cease to apply and a new retention period will apply that is linked to the completion date of the course (or, in the event of

withdrawal/non-completion for any reason, the date the student is formally recorded as being withdrawn from the course).

#### H) Liaison/Contacts regarding criminal records

62. For queries relating to this policy and/or criminal records, applicants should contact the Academic Registrar & Head of Compliance, a member of the Senior Management Team who is not involved in the admissions selections decision-making.
63. Current/Registered students who have any queries regarding this policy and/or criminal records should contact the Head of Admissions, Registry & Student Support or another member of Student Support staff, or they can contact the Academic Registrar & Head of Compliance.
64. In assessing individual cases, where the CCP deems it necessary, the School may seek to involve (as is relevant and appropriate in the circumstances) third parties such as probation officers, medical practitioners, professional bodies and character referees. Applicants may also be asked to provide a character reference.

#### I) Complaints

65. Applicants who wish to raise a complaint in regards to this policy or any of the matters falling within its scope, should consult **Appendix 3** to this policy (**Criminal Records Consideration Procedure For Applicants**).
66. Registered students who wish to raise a complaint in regards to this policy or any of the matters falling within its scope should use the [Student Complaints Procedure](#) to raise a complaint. The School's expectation is that complaints will normally be raised under the informal stage (Stage 1 of the Student Complaints Procedure) before a formal complaint will be considered. Please contact the Academic Registrar & Head of Compliance, or the Head of Admissions, Registry & Student Support, with any queries regarding making a complaint. Please also see **Appendix 4** to this policy (**Criminal Records Consideration Procedure For Registered Students**).
67. Complaints raised by a student regarding a delay in processing DBS data where the reason for the delay in processing is outside of the School's control will not normally be considered, and may be dismissed as vexatious under the Student Complaints Procedure.
68. Complaints by third parties on behalf of a registered student will not normally be considered except if they satisfy the grounds set out in the [Student Complaints Procedure](#).

#### J) Right of Appeal

69. For details of rights to appeal against a decision concerning a criminal record,:
  - **Applicants** should consult **Appendix 3** to this policy (**Criminal Records Consideration Procedure For Applicants**);
  - **Registered students** should consult **Appendix 4** to this policy (**Criminal Records Consideration Procedure For Registered Students**).