

FWinc Screening Policy



Funny Wonders Inc.
Community Interest Company
Company No: 06814964

1. Purpose

Funny Wonders Inc. (FWinc), as an organisation, aims to provide opportunities for people to experience and participate in creative arts in a supportive, safe environment. The purpose of this policy is to ensure FWinc take necessary steps during recruitment to ensure the safety of its members and associates and to prevent those with a history of relevant and significant offending from contact with vulnerable groups and they do not have the opportunity to influence the policies or practices of FWinc. This policy, in particular, focuses on conducting a check with the Disclosure and Barring Service (DBS) and should be used in conjunction with the FWinc Recruitment and Selection Policy.

2. Scope

This Policy applies to all workers and volunteers of FWinc.

3. Definitions

The Disclosure and Barring Service has replaced the Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) which have been merged. The DBS is an executive non-departmental public body of the Home Office. It provides criminal record checks and barring functions for safer recruitment and protection.

Four workforces of paid and unpaid workers have been defined by the DBS: the Child Workforce which works with children, the Adult Workforce which works with adults, the Child and Adult Workforce which works with children and adults and the Other Workforce which doesn't carry out specific work with children or adults. Workforces apply across all organisations.

The DBS Barred Lists are lists of people who are unsuitable for working or volunteering with vulnerable groups, previously the Independent Safeguarding Authority (ISA) Barred Lists.

Vulnerable groups include children (under 18 years) and vulnerable adults.

A vulnerable adult is now defined as any adult who partakes in an activity that leads to the adult being considered vulnerable at that time; therefore focusing on the activity rather than the characteristics or circumstances of the adult. The activities during which adults are considered vulnerable are detailed in the definition of 'regulated activity for adults'. Those who manage or supervise those engaged in regulated activity are also deemed to be in regulated activity.

A regulated activity for adults is an activity that causes the adult to be considered vulnerable at that particular time. It is irrespective of the setting in which it is carried out and needs only be carried out once to classify (i.e. it does not have to be regular). Regulated activities include: the provision of health care by or under the direct supervision of a health care professional; provision of personal care; provision of social care; provision of financial assistance for general household matters; provision or assistance in the conduct of a person's affairs; and conveyance. Please see Appendix A for definitions of these terms. The definition continues to exclude activities carried out in the course of family relationships and personal, non-commercial relationships (i.e. no money changes hands) and does not include: provision of

first aid if the provider is employed for other purposes; peer support group meetings; staff who work in health care establishments but are not regulated health care professionals (e.g. receptionist, cashier).

A regulated activity for children is an activity of a specified nature or in a specified place which provides an opportunity for contact with a child or children and which occurs 'regularly'. Activities considered 'regulated activities' when unsupervised include: teaching, training, supervising and instructing; caring (personal care, child-minding, foster-care); guiding or advising on physical, emotional or educational well-being; moderating interactive communication services used by children; and driving. The definition continues to exclude activities carried out in the course of family relationships and personal, non-commercial relationships.

Specified places include: schools, pupil referral units, nursery schools, detention institutions, children's homes, adult care homes, children's hospitals, children centres and childcare premises.

Regular activity is defined as occurring at least once a week, on four or more days in a thirty day period or overnight (between 2am and 6am with an opportunity for face-to-face contact with children).

An unsupervised activity is defined as an activity carried out by adults who are not present principally to supervise a regulated activity.

A supervised activity is an activity that would be a regulated activity (listed above) if not supervised. Supervision is carried out by a person for whom employment or arrangements exist principally for the activity carried out and who is in regulated activity. The supervision must be reasonable in all circumstances to ensure the protection of children and must consider the age and number of children, how many workers are helping to look after the children, the nature of work, the vulnerability of the children and how many workers are supervised by each supervisor. If the work is in a specified place such as a school, paid workers remain in regulated activity even if supervised.

Peer exemption is when a person in a group assisting, acting on behalf of or under the direction or supervision of another person engaged in regulated activity with children is exempt from the definition of regulated activity i.e. the activity is supervised.

A barred person is someone on the DBS barred lists and must not carry out regulated activities.

A DBS Approved Person (DBS-AP) is a person within FWinc which is designated and trained to check DBS forms and the documentary evidence provided by applicants.

A Regulated Activity Provider (RAP) is any person who is responsible for the management or control of regulated activity for an organisation and who engages another to perform that regulated activity.

A Registered Body is an umbrella organisation which provides access to DBS checks for organisations that require disclosure checks and offer guidance and support for all aspects of the process. Our Registered Body is Volunteer Centre Glossop.

According to the DBS, a volunteer is a person engaged in any unpaid activity that involves spending time in doing something that seeks to benefit a third party other than (or in addition to) a close relative. A specified exclusion to this is a student on a placement.

4. Statement

The first priority of FWinc is to ensure the safety of its members and associates during FWinc activities. FWinc is fully committed to ensuring the suitability of its applicants, workers and volunteers to the activities provided and to comply fully with the Safeguarding Vulnerable Groups Act 2006 (see section 5.1) and Protection of Freedoms Act 2012 (section 5.3).

FWinc will ensure that all persons involved on its behalf in making decisions or recommendations with respect to DBS checks are themselves subject to similar vetting and are properly trained, with full knowledge of all the relevant statutory requirements and codes of practice.

FWinc will treat all applicants and existing workers and volunteers fairly and will not discriminate against an individual on the basis of a disclosure of conviction or other information received from the DBS.

FWinc does not automatically assume that a criminal record makes someone unsuitable to work or volunteer with the organisation and that that previous offenders are not necessarily going to re-offend. However, the outcome of a DBS check may rule them out regardless of their other skills and talents should the offence(s) be significant and relevant.

FWinc will make all decisions in the best interests of the organisation and its members and associates and will balance the relevance and significance of the offence(s) and the rehabilitation of the offender with the need to keep vulnerable groups safe.

FWinc recognises that people who offend against vulnerable groups may not have been caught and may not have a criminal record or even a history of allegations against them. The DBS check will therefore only form part of the assessment of a person's suitability to the role. Please refer to the FWinc Recruitment and Selection Policy for details of the more comprehensive procedure.

Information regarding DBS disclosures and their content will be kept confidential in accordance with the FWinc Data Protection and Confidentiality Policy.

5. Legislation

5.1 Safeguarding Vulnerable Groups Act 2006

This Act makes provision in connection with the protection of vulnerable groups; establishes the legal basis for the ISA who manage the two lists of people barred from working with children and/or vulnerable adults (Working with Children, Working with Vulnerable Adults); and places a statutory duty on all those working with vulnerable groups to register and undergo an advanced vetting process with criminal sanctions for non-compliance.

5.2 Vetting and Barring Scheme

In line with the Safeguarding Vulnerable Groups Act 2006, the Vetting and Barring Scheme (VBS), was launched on 12th October 2009 to increase the protection afforded to vulnerable members of society.

As of 12th October 2009, any person involved in 'regulated activity' with children or vulnerable adults must undergo an Enhanced CRB Disclosure check.

As of 12th October 2009, a person who is barred (on the ISA barred lists) from working with children or vulnerable adults will be breaking the law if they work or volunteer, or try to work or volunteer with those groups: any level of engagement is sufficient.

As of 12th October 2009, an organisation which knowingly employs someone who is barred to work in regulated activity will also be breaking the law.

As of 12th October 2009, if an organisation that works with children or vulnerable adults dismisses a worker (paid or unpaid) because they have harmed a child or vulnerable adult, or would have done so if they had not left, the RAP must tell the ISA.

It is also the duty of the RAP to refer to ISA if a person: engages in relevant conduct; endangers a child or vulnerable adult; is likely to endanger a child or vulnerable adult; involves sexual material, sexual images or is of a sexual nature; satisfies the harm test; causes harm to a child or vulnerable adult causes a child or vulnerable adult to be harmed; puts a child or vulnerable adult at risk of harm attempts to harm a child or vulnerable adult; incites another to harm a child or vulnerable adult; or receives a caution or conviction for a relevant offence.

As of 15th June 2010, the July 2010-intended personal registration with the ISA is no longer a requirement as part of the VBS.

5.3 Protection of Freedoms Act 2012

This Act amends the Safeguarding Vulnerable Groups Act 2006 and came into effect on 10th September 2012. Most amendments are relevant to screening checks and include: a new definition of vulnerable adult and of regulated activity; repeal of the controlled activity category; repeal of registration and continuous monitoring (as planned in the VBS but never enforced); repeal of additional information (enforced under the Police Act 1997); change to the minimum age for CRB checks to 16 or above; and a better relevancy test applied by local police before disclosing information: information will now be 'reasonably believed to be relevant', rather than 'may be relevant'.

As of 10th September 2012, an organisation must request the appropriate barred list check (children and/or adult lists) when applying for an Enhanced CRB check.

As of 10th September 2012, an applicant of a CRB check can ask the Independent Monitor to review their certificate if they believe information has been included that is not relevant. Applicants should inform FWinc if they request such a review and provide updates as to what happens with their certificate.

As of 10th September 2012, persons other than the CRB check applicant can apply to the CRB to decide whether information disclosed on their certificate is accurate.

5.4 Disclosure and Barring Service

In line with the Protection of Freedoms Act 2012 the DBS was launched on 17th June 2013 to provide organisations in England and Wales with access to criminal records and other relevant information and to help organisations make decisions when recruiting people to work with vulnerable groups. Three levels of DBS check are available: 'standard' which checks for spent and unspent convictions, cautions, reprimands and final warnings and is for roles not in association with vulnerable groups; 'enhanced' which includes the same as the standard check plus any additional information held by local police that's reasonably considered relevant to the workforce being applied for; and 'enhanced with a barred lists check'.

As of 17th June 2013, it is a criminal offence to apply for a barred lists check for a role that is not defined as regulated activity.

As of 17th June 2013, 16-17yr old volunteers or employees are excluded from being in regulated activity.

As of 17th June 2013, disclosure certificates can now be taken from role to role within the same workforce (including between organisations).

As of 17th June 2013, copies of Disclosure certificates will no longer be sent to the Registered Bodies but only to the applicant.

As of 17th June 2013 there is a new online Update Service. This service enables disclosure certificates to be updated online so new checks for roles within the same workforce are not required except in certain circumstances. This service is employed by the individual, not by organisations, and requires a small annual subscription. Organisations can access the service for free to carry out a status check on individuals registered with the Update Service and to check the level (standard/enhanced/barred lists) and type (workforce) of their check so long as they have the individual's permission.

As of 17th June 2013 the workforce the applicant is applying for a role within must be stated on the DBS application form in the first line of Question 61 and the second line is to be used to provide more details about the position applied for.

As of 17th June 2013 the status of applications can be tracked online via the DBS website (see section 14).

6. Requirements and Exceptions for a DBS Check

FWinc provides a range of activities not all of which are now defined as regulated activities, particularly those for adults. Consequently, not all applicants to work or volunteer with vulnerable groups with FWinc will require an Enhanced DBS check or barred lists check. Applicants to work or volunteer for activities defined as regulated and will be unsupervised (i.e. if they are the supervisor of the activity) will require an Enhanced DBS check with barred lists check. Applicants to work or volunteer for activities defined as regulated but which will be supervised will require an Enhanced DBS check without a barred lists check as peer-exemption is appropriate. The DBS-AP should be consulted as to whether the nature of the activity is deemed as 'regulated activity' and whether a check and which checks are necessary.

For volunteers, FWinc will accept an Enhanced CRB or DBS Disclosure taken by another organisation that is less than three months old providing: it can be supported by references including one from the DBS-AP of that organisation; the former supervisor can confirm that the name, number and date on the Disclosure certificate presented by the applicant are correct; and the Disclosure is for the relevant workforce. In this circumstance, a record of the references and risk assessment will be kept by FWinc. FWinc will accept an older DBS check if they are registered with the online update service.

For professional workers, FWinc will accept an Enhanced CRB or DBS Disclosure if it is less than three years old and it can be supported by references or if they are registered with the online update service.

When deciding whether to accept a former CRB disclosure, FWinc will also consider whether the applicant has committed any recent offences and other disclosures that may be available.

Applicants to work or volunteer in roles not in association with vulnerable groups are eligible for a Standard DBS check. If sufficient references or referees or work history are not provided by an applicant the DBS-AP may request a Standard DBS check.

Members of the FWinc team who require a DBS certificate for their roles, such as those in regulated activity, must be re-checked at least every three years unless they are registered with the online update service or have a DBS check through another organisation within three years of their last check.

7. DBS Check Procedure

CBR and DBS checks have no official expiry date and information included is only accurate at the time of the check. DBS checks are to be carried out only as part of the recruitment and selection procedure of

workers and volunteers. A check is not required at any other time. Applicants must meet in person with the FWinc DBS-AP to fill out the form and have their identification documents checked. Please see Appendix B for the required information.

The DBS-AP must see the original DBS Disclosure Certificate for that person to be deemed 'checked'. As Registered Body umbrella organisations no longer receive copies of the disclosure certificates they will no longer notify us if any information has been disclosed. It is therefore imperative that the Approved Person sees the applicant's certificate. DBS certificates are known to be forged in order to gain roles with access to children and vulnerable adults. All certificates must be checked thoroughly and compared to a real one to ensure they are genuine.

Any disclosures will be discussed initially by the DBS-AP and the applicant. The FWinc Safeguarding Officer (FWincSO) should be informed of all disclosures. The DBS-AP and FWincSO should then determine whether any further discussion with others or if any action is necessary to make a decision regarding their recruitment. Any risk must be assessed and any terms of working-volunteering must be established and recorded.

CRB and DBS Disclosures will not be kept by FWinc - they are for recruitment purposes only. FWinc will keep a record of who has been checked, when the application was submitted, when the disclosure result was received and checked, the unique disclosure reference number, details of the recruitment decision and of any risk assessment undertaken: this includes the occurrence of a disclosure, however, the details of the disclosure will not be recorded.

8. Disclosed Crimes and/or Convictions

FWinc will not, under any circumstances, take on any person who has been convicted of a sexual crime or a crime of violence, regardless of when the crime took place.

With regard to all other offences, applications for work or volunteering will be considered on a case-by-case basis; the following will be considered:

- whether the conviction or other matter revealed is relevant to the position in question
- the nature and circumstances of the offence and the relationship of the victim (where relevant) to the offender
- the risk to others in the organisation
- whether the position offered presents opportunities for re-offending
- the length of time since the offence or other matter occurred
- whether the applicant has a pattern of offending behaviour or other relevant matters
- whether the applicant's circumstances have changed since and in a way relevant to the offending behaviour or the other relevant matter.
- the circumstances surrounding the offence and the explanations offered
- the supervision arrangements in place in the Company or arrangements that could be put in place
- the reputation of the Company if it became known that FWinc had employed that person or taken on that volunteer
- the impact on that individual if the offence became known in the Company widely
- implications for insurance cover

If it is found that an existing worker or volunteer has offences that have not previously been revealed, FWinc will suspend the worker or volunteer immediately, pending an investigation into the circumstances of the offence, the reason for non-disclosure and any other relevant matters. The DBS-AP will co-ordinate an investigation and will make a recommendation to the FWinc Board of Directors about what action the Company should take. If necessary, the FWinc Board of Directors will take legal advice. The investigation,

recommendation to the FWinc Board of Directors and decisions made should occur within the shortest amount of time possible.

9. Exceptions to Confidentiality

Information received through the DBS check should be disclosed by the DBS-AP and/or FWincSO only where there is a specific reason for doing so. Anyone recruited with a criminal record must be told who within the organisation is aware of the conviction and why. This information must be limited to those normally involved in the recruitment process. The FWinc Board of Directors and the project manager will be informed only if the offence is directly connected with the work or volunteering role.

Any person working or volunteering with FWinc or trying to work or volunteer with FWinc that is found to be on either of the DBS barred lists will be reported to the DBS and all those involved in the recruitment process will be made aware of their status to prevent future applications.

10. Implementation of this Policy

All those within FWinc involved in the recruitment process will be made aware of this policy, the content of this Policy and the procedure outlined within it.

This Policy will be available at permanent premises used by FWinc and on the FWinc website. A summary of this policy will be available to all people applying to work or volunteer with FWinc. Contact details of DBS-AP will be in the FWinc Offices Contact Details Table and made available to all members and associates of FWinc.

11. Responsibilities

It is the responsibility of the FWinc Board of Directors to appoint a DBS-AP who will receive the appropriate training from the Volunteer Centre Glossop, our local DBS Registered Body. No more than two people should deal with processing DBS applications, one person for paid workers and one person for volunteers (if FWinc is positioned to have paid workers).

It is the responsibility of the DBS-AP to: check DBS Disclosure application forms, verify applicant identities, oversee the screening stage of the recruitment process; handle any issues regarding disclosures; contact appropriate authorities; keep records of the screening process; and keep up to date with training, new legislation and screening procedures.

12. Complaints

Complaints regarding the procedures or handling of the procedures mentioned in this Policy, the Policy itself or any other matter should follow the FWinc Complaints Procedure outlined in the FWinc Complaints Policy.

13. Review

This Policy will be reviewed annually by the FWinc Board of Directors or as-and-when issues arise.

14. External Contacts

DBS: www.gov.uk/dbs; 0870 9090811; 08709090344; customerservices@dbs.gsi.gov.uk
Government Information: www.direct.gov.uk
Business Link: www.businesslink.gov.uk

15. Policy History

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Appendix A - Further Definitions

A health care professional is a person who is regulated by one of the following professional regulators: General Medical Council, General Dental Council, General Optical Council, General Osteopathic Council, General Chiropractic Council, General Pharmaceutical Council, Pharmaceutical Society of Northern Ireland, Nursing and Midwifery Council, Health Professions Council.

Health care includes all forms of health care relating to physical and mental health and includes medical, surgical and palliative care, psychotherapy, counselling, diagnostic tests, investigative procedures and care not in connection with a medical condition (e.g. blood donation, cosmetic surgery). It also includes first aid when on behalf of an organisation established for the purpose of providing first aid (e.g. St John's Ambulance Service).

Personal care includes: the provision, instruction, guidance or supervision of physical assistance (including eating, drinking, bathing, going to the toilet, dressing, skin-hair-nail care or oral care) required due to age, illness or disability or the inability to make the decision to carry out these actions due to age, illness or disability. One exception to this relates to the cutting of hair (i.e. hairdressers). Provision for those who would like assistance rather than for those who require it is not considered regulated activity e.g. a manicure.

Social care includes the assessing or reviewing the need for health or social care services to clients or potential clients and providing support.

Financial assistance for general household matters due to an adult's age, illness or disability includes the day to day management of cash money, paying bills or shopping on their behalf.

Assistance in the conduct of an adult's own affairs includes: being appointed the lasting power of attorney, enduring power of attorney or adult's deputy under the Mental Capacity Act 2005; being an Independent Mental Health or Mental Capacity Advocate; providing independent advocacy services under the National Health Service Act 2006 or National Health Service (Wales) Act 2006; or receiving payments on behalf of that person under the Social Security Administration Act 1992.

Conveyance includes drivers or assistants who transport an adult because of their age, illness or disability to or from places where they receive health, personal or social care and includes hospital porters, patient transport services, ambulance technicians and emergency care assistants. This definition excludes licensed taxi or private hire drivers and trips for purposes other than to receive health, personal or social care.

Appendix B - DBS Form Required Information

Please follow it to the letter - forms will be returned if the information is incorrect or incomplete.

Items/information required are:

- a) any previous names
- b) full addresses of the places you have lived over the past 5 years and times lived at each address with absolutely no gaps in the dates. If you have lived abroad (extended holiday or work) or have had no fixed accommodation please bring all the available information you have and inform the DBS Approved Person who is checking your information.
- c) national insurance card/number - the actual card or an official letter with the number on is required
- d) one form of photographic ID e.g. passport, drivers licence including the paper counterpart. Please ensure that they are in date - expired forms of identification are not acceptable.
- e) one form of ID with your current address on that is less than three months old e.g. bank/building society statement, utility bill, government letter
- f) one other form of ID with your full name on it e.g. birth certificate, another letter or photographic ID
- g) other acceptable forms of identification include (all letters/forms must be less than 3 months old unless otherwise stated): EU National Identity Card, HM Forces ID card, UK Firearms licence, adoption certificate Marriage/Civil Partnership Certificate, Vehicle registration document, P45/P60 statement issued within the last 12 months, Exam certificate, TV license issued within the last 12 months, addressed payslip, credit card/store card statement, NHS Card, mortgage statement issued within the last 12 months, Benefit/Council Tax statement, Insurance certificate issued within the last 12 months

Filling in the form:

- use black ink
- use block capitals
- one letter/number per box with an empty box between words
- make choices by marking with an X (not a tick)
- to correct mistakes put a line through it and write in the nearest available space.
- do not write over the edges of boxes
- do not stick or stamp anything onto the form or use staples
- do not cross out irrelevant sections/questions - just leave them blank
- do not use correction fluid
- ensure your signature is completely within the box
- continuation forms are available if required