**Section Three – Organisational and Policy Information**

The purpose of this part of the application is to obtain details that provide basic information about your organisation and allow us to verify that it:

* is a legitimate VCFSE organisation;
* has acceptable levels of financial standing;
* promotes good practices in areas of employment, health & safety and environmental care & protection.

If your submission is for a partnership, each provider must complete Section 3 of this application. You must give details of the legal entity and relationship between members and identify the lead bidder.

**Section 3 will be assessed as either ‘Pass’ or ‘Fail’.**

Any application failing any of the below qualifying criteria, giving rise to concerns which cannot be satisfied, will not be evaluated further.

Providers who self-certify that they meet the requirements will be required to provide evidence at grant award stage. Please indicate your answer by marking ‘X’ in the relevant boxes.

* 1. **Provider details**

|  |  |  |
| --- | --- | --- |
| Full name of the Provider completing the application |  | |
| Registered address |  | |
| Registered company number |  | |
| Registered charity number |  | |
| Registered VAT number |  | |
| Name of immediate parent company |  | |
| Name of ultimate parent company |  | |
| Please mark ‘X’ in the relevant box to indicate your trading status | i) a public limited company | ▢ Yes  ▢ No |
| ii) a limited company | ▢ Yes  ▢ No |
| iii) a limited liability partnership | ▢ Yes  ▢ No |
| iv) other partnership | ▢ Yes  ▢ No |
| v) sole trader | ▢ Yes  ▢ No |
| vi) other (please specify) |  |
| Please mark ‘X’ in the relevant boxes to indicate whether any of the following classifications apply to you | i)Voluntary, Community and Social Enterprise (VCSE) | ▢ Yes  ▢ No |
| ii) Small or Medium Enterprise (SME) [[1]](#footnote-1) | ▢ Yes  ▢ No |
| iii) Sheltered workshop | ▢ Yes  ▢ No |
| iv) Public service mutual | ▢ Yes  ▢ No |

* 1. **Contact details**

|  |  |
| --- | --- |
| **Provider contact details for enquiries about this application** | |
| Name |  |
| Postal address |  |
| Country |  |
| Phone |  |
| Mobile |  |
| E-mail |  |

* 1. **Licensing and registration (please mark ‘X’ in the relevant box)**

|  |  |  |
| --- | --- | --- |
| 3.3.1 | Registration with a professional body  If applicable, is your business registered with the appropriate trade or professional register(s) in the EU member state where it is established (as set out in Annex XI of directive 2014/24/EU) under the conditions laid down by that member state). | ▢ Yes  ▢ No  If Yes, please provide the registration number in this box. |
| 3.3.2 | Is it a legal requirement in the state where you are established for you to be licensed or a member of a relevant organisation in order to provide the requirement in this Expression of Interest? | ▢ Yes  ▢ No  If Yes, please provide additional details within this box of what is required and confirmation that you have complied with this. |

* 1. **Grounds for Mandatory Exclusion**

You will be excluded from the application process if there is evidence of convictions relating to specific criminal offences including, but not limited to, bribery, corruption, conspiracy, terrorism, fraud and money laundering, or if you have been the subject of a binding legal decision which found a breach of legal obligations to pay tax or social security obligations (except where this is disproportionate e.g. only minor amounts involved).

If you answer “yes” to question 3.4.2 on the non-payment of taxes or social security contributions, and have not paid or entered into a binding arrangement to pay the full amount, you may still avoid exclusion if only minor tax or social security contributions are unpaid or if you have not yet had time to fulfil your obligations since learning of the exact amount due. If your organisation is in that position, please provide details using a separate Appendix. You may contact Action Together for advice before completing this form.

|  |  |  |
| --- | --- | --- |
| **3.4.1 Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences?** | **Please indicate your answer by marking ‘X’ in the relevant box.** | |
| **Yes** | **No** |
| 1. conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA on the fight against organised crime; |  |  |
| 1. corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906; |  |  |
| 1. the common law offence of bribery; |  |  |
| 1. bribery within the meaning of sections 1, 2 or 6 of the Bribery Act 2010; or section 113 of the Representation of the People Act 1983; |  |  |
| 1. any of the following offences, where the offence relates to fraud affecting the European Communities’ financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities: |  |  |
| (i) the offence of cheating the Revenue; |  |  |
| (ii) the offence of conspiracy to defraud; |  |  |
| (iii) fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978; |  |  |
| (iv) fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006; |  |  |
| (v) fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994; |  |  |
| (vi) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993; |  |  |
| (vii) destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969; |  |  |
| (viii) fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or |  |  |
| (ix) the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or the making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act; |  |  |
| 1. any offence listed— |  |  |
| (i) in section 41 of the Counter Terrorism Act 2008; or |  |  |
| (ii) in Schedule 2 to that Act where the court has determined that there is a terrorist connection; |  |  |
| 1. any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by subparagraph (f); |  |  |
| 1. money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002; |  |  |
| 1. an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996; |  |  |
| 1. an offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004; |  |  |
| 1. an offence under section 59A of the Sexual Offences Act 2003; |  |  |
| 1. an offence under section 71 of the Coroners and Justice Act 2009 |  |  |
| 1. an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or |  |  |
| 1. any other offence within the meaning of Article 57(1) of the Public Contracts Directive— |  |  |
| (i) as defined by the law of any jurisdiction outside England and Wales and Northern Ireland; or |  |  |
| (ii) created, after the day on which these Regulations were made, in the law of England and Wales or Northern Ireland. |  |  |
| **Non-payment of taxes**  3.4.2 Has it been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which your organisation is established (if outside the UK), that your organisation is in breach of obligations related to the payment of tax or social security contributions? | **Please indicate your answer by marking ‘X’ in the relevant box.** | |
| **Yes** | **No** |
| If you have answered Yes to this question, please use a separate Appendix to provide further details. Please also use this Appendix to confirm whether you have paid, or have entered into a binding arrangement with a view to paying, including, where applicable, any accrued interest and/or fines? |  |  |

**3.5 Grounds for Discretionary Exclusion – Part 1**

Action Together may exclude any Provider who answers ‘Yes’ in any of the following situations set out in paragraphs (a) to (i);

|  |  |  |
| --- | --- | --- |
| **3.5.1 Within the past three years, please indicate if any of the following situations have applied, or currently apply, to your organisation.** | **Please indicate your answer by marking ‘X’ in the relevant box.** | |
| **Yes** | **No** |
| 1. your organisation has violated applicable obligations referred to in regulation 56 (2) of the Public Contracts Regulations 2015 in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions listed in Annex X to the Public Contracts Directive as amended from time to time; |  |  |
| 1. your organisation is bankrupt or is the subject of insolvency or winding-up proceedings, where your assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State; |  |  |
| 1. your organisation is guilty of grave professional misconduct, which renders its integrity questionable; |  |  |
| 1. your organisation has entered into agreements with other economic operators aimed at distorting competition; |  |  |
| 1. your organisation has a conflict of interest within the meaning of regulation 24 of the Public Contracts Regulations 2015 that cannot be effectively remedied by other, less intrusive, measures; |  |  |
| 1. the prior involvement of your organisation in the preparation of the procurement procedure has resulted in a distortion of competition, as referred to in regulation 41, that cannot be remedied by other, less intrusive, measures; |  |  |
| 1. your organisation has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions; |  |  |
| 1. your organisation—   (i) has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria; or  (ii) has withheld such information or is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015; or |  |  |
| (i) your organisation has undertaken to |  |  |
| (1) unduly influence the decision-making process of the contracting organisation, or |  |  |
| (2) obtain confidential information that may confer upon your organisation undue advantages in the procurement procedure; or |  |  |
| (j) your organisation has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award. |  |  |

**Conflicts of interest**

Action Together may exclude the Provider if there is a conflict of interest which cannot be effectively remedied. The concept of a conflict of interest includes any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the application procedure.

Where there is any indication that a conflict of interest exists or may arise then it is the responsibility of the Provider to inform the Action Together, detailing the conflict in a separate Appendix. Provided that it has been carried out in a transparent manner, routine pre-market engagement carried out by Action Together should not represent a conflict of interest for the Provider.

**Taking Account of Past Performance**

Action Together may assess the past performance of a Provider (through a Certificate of Performance provided by a Customer or other means of evidence). Action Together may take into account any failure to discharge obligations under the previous principal relevant grants of the Provider completing this Expression of Interest. Action Together may also assess whether specified minimum standards for reliability for such grants / contracts are met.

In addition, Action Together may re-assess reliability based on past performance at key stages in the process (i.e. Provider selection, evaluation, grant award stage etc.). Providers may also be asked to update the evidence they provide in this section to reflect more recent performance on new or existing grants or contracts (or to confirm that nothing has changed).

**‘Self-cleaning’**

Any Provider that answers ‘Yes’ to questions 3.4.1, 3.4.2 and 3.5.1 should provide sufficient evidence, in a separate Appendix, that provides a summary of the circumstances and any remedial action that has taken place subsequently and effectively “self-cleans” the situation referred to in that question. The Provider has to demonstrate it has taken such remedial action, to the satisfaction of Action Together in each case.

If such evidence is considered by Action Together (whose decision will be final) as sufficient, the Provider concerned shall be allowed to continue in the process.

In order for the evidence referred to above to be sufficient, the Provider shall, as a minimum, prove that it has;

* paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;
* clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and
* taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

The measures taken by the Provider shall be evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct. Where the measures are considered by Action Together to be insufficient, the Provider shall be given a statement of the reasons for that decision.

**3.6 Grounds for Discretionary Exclusion – Part 2**

Action Together reserves the right to use its discretion to exclude a Provider where it can demonstrate the Provider’s non-payment of taxes/social security contributions where no binding legal decision has been taken.

“Occasion of Tax Non-Compliance” means:

1. any tax return of the Provider submitted to a Relevant Tax Authority on or after 1 October 2012 is found to be incorrect as a result of:
   * + 1. a Relevant Tax Authority successfully challenging the Provider under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
       2. the failure of an avoidance scheme which the Provider was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
2. the Provider’s tax affairs give rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a penalty for civil fraud or evasion

|  |  |  |
| --- | --- | --- |
| From 1 April 2013 onwards, have any of your company’s tax returns submitted on or after 1 October 2012; (Please indicate your answer by marking ‘X’ in the relevant box). | | |
| 3.6.1 | Given rise to a criminal conviction for tax related offences which is unspent, or to a civil penalty for fraud or evasion; | ▢ Yes  ▢ No |
| 3.6.2 | Been found to be incorrect as a result of:   * + - HMRC successfully challenging it under the General Anti-Abuse Rule (GAAR) or the “Halifax” abuse principle; or     - A Tax Authority in a jurisdiction in which the legal entity is established successfully challenging it  under any tax rules or legislation that have an effect equivalent or similar to the GAAR or the “Halifax” abuse principle; or     - the failure of an avoidance scheme which the Provider was involved in and which was, or should have been, notified under the Disclosure of Tax Avoidance Scheme (DOTAS) or any equivalent or similar regime in a jurisdiction in which the Provider is established. | ▢ Yes  ▢ No |
| If answering “Yes” to either 3.6.1 or 3.6.2 above, the Provider may provide details of any mitigating factors that it considers relevant and that it wishes Action Together to take into consideration.  This could include, for example:   * + Corrective action undertaken by the Provider to date;   + Planned corrective action to be taken;   + Changes in personnel or ownership since the Occasion of Non-Compliance (OONC); or   + Changes in financial, accounting, audit or management procedures since the OONC.   In order that Action Together can consider any factors raised by the Provider, the following information should be provided:   * A brief description of the occasion, the tax to which it applied, and the type of “non-compliance” e.g. whether HMRC or the foreign Tax Authority has challenged pursuant to the GAAR, the “Halifax” abuse principle etc. * Where the OONC relates to a DOTAS, the number of the relevant scheme. * The date of the original “non-compliance” and the date of any judgement against the Provider, or date when the return was amended. * The level of any penalty or criminal conviction applied. | | |

**3.7 Economic and Financial Standing**

|  |  |  |
| --- | --- | --- |
|  | **FINANCIAL INFORMATION** | |
| 3.7.1 | **Please state which of the following you can provide to demonstrate your economic/financial standing;** Please indicate your answer with an ‘X’ in the relevant box. Please attach these as a supporting document. | |
| 1. A copy of the audited accounts for the most recent two years |  |
| 1. A statement of the turnover, profit & loss account, current liabilities and assets, and cash flow for the most recent year of trading for this organisation |  |
| 1. A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position |  |
| 1. Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status).   Action Together reserve the right to judge whether the alternative means of demonstrating financial status is sufficient and may ask for further information. |  |
| 3.7.2 | **(a) Is your organisation part of a wider group (e.g. a subsidiary of a holding/parent company)?**  If yes, please provide the name below:   |  |  | | --- | --- | | Name of the organisation |  | | Relationship to the Provider completing the application |  |   If yes, please confirm that you can provide (if requested) Ultimate / Parent company accounts if available.  If yes, would the Ultimate / parent company be willing to provide a guarantee if necessary?  If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank?) | ▢ Yes  ▢ No  ▢ Yes  ▢ No  ▢ Yes  ▢ No  ▢ Yes  ▢ No |

**3.8 Insurance**

|  |  |
| --- | --- |
| Please self-certify whether you already have, or are willing to obtain (costed in proposal), prior to the commencement of the scheme, the levels of insurance cover indicated below:  Employer’s (Compulsory) Liability Insurance = £10m Public Liability Insurance = £5m  Professional Indemnity Cover of £250,000  \* It is a legal requirement that all companies hold Employer’s (Compulsory) Liability Insurance of £5 million as a minimum. | ▢ Yes  ▢ No |

**3.9 Compliance with Equality Legislation**

|  |  |  |
| --- | --- | --- |
| Equality | | |
| 1. | In the last three years, has any finding of unlawful discrimination been made against your organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)? | ▢ Yes  ▢ No |
| 2. | In the last three years, has your organisation had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds of alleged unlawful discrimination?  If you have answered “yes” to one or both of the questions in this module, please provide, as a separate Appendix, a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.  If the investigation upheld the complaint against your organisation, please use the Appendix to explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring.  You may be excluded if you are unable to demonstrate to the Action Together’s satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring. | ▢ Yes  ▢ No |
| 3. | If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations? | ▢ Yes  ▢ No |
| 4. | Does your organisation ensure fair employment, both as a direct employer and in the organisations in your supply chain by, for example:  Comply with National Minimum Wage (NMW) and National Living Wage (NLW) requirements, as defined in the NMW 2016 Regulations (Amendment)?  Comply with working time directives?  Encouraging training, employee relations, employee development, trade union recognition, consultation with the workforce, and dispute resolution?  Does your organisation pay all employees the Living Wage Foundation Rates (LWFR)?  If your answer to the above question is **No** please can you confirm;   * if your organisation is actively working towards paying all employees the LWFR? * the total number of staff in your organisation: * the total number of staff in your organisation that you pay the LWFR or above: * the total number of staff in your organisation that you do **not** pay the LWFR or above: * the lowest hourly rate that you pay your employees aged 18 or over, excluding apprentices: | ▢ Yes  ▢ No  ▢ Yes  ▢ No  ▢ Yes  ▢ No  ▢ Yes  ▢ No  ▢ Yes  ▢ No |

**3.11 Health and Safety**

|  |  |
| --- | --- |
| Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements. | ▢ Yes  ▢ No |
| Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?  If your answer to this question was “Yes”, please provide details in a separate Appendix of any enforcement /remedial orders served and give details of any remedial action or changes to procedures you have made as a result.    Action Together will exclude applicant(s) that have been in receipt of enforcement/remedial action orders unless the applicant(s) can demonstrate to Action Together’s satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches. | ▢ Yes  ▢ No |
| If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations? | ▢ Yes  ▢ No |

**3.12 Data Protection, Confidentiality and Human Rights**

|  |  |
| --- | --- |
| Please self-certify that under the Data Protection (Charges and Information) Regulations 2018 your organisation has paid a data protection fee to the Information Commissioner’s Office (ICO).  \*The new data protection fee replaces the requirement to ‘notify’ (or register) under the previous Data Protection Act 1998. Data controllers who have a current registration (or notification) under the 1998 Act do not have to pay the new fee until the registration has expired.  Please provide your ICO Registration number (if registration has not yet expired under the 1998 Act)  If no, explain what exemption applies: | ▢ Yes  ▢ No |
| Please self-certify that your organisation has a Data Protection Policy in place that complies with current legislative/best practice requirements and includes:  Information Security Management System  Extent of protective controls in place  Encryption standards whilst data is at rest and in transit  Resisting cyber-attack and malware prevention  Records Management  Business Continuity | ▢ Yes  ▢ No |
| Please self-certify that all personnel engaged by you receive Data Protection (GDPR), confidentiality and privacy training? | ▢ Yes  ▢ No |
| Has your organisation or any of its Directors or staff been in receipt of enforcement action for breaching the Data Protection legislation last 3 years?  If your answer to this question was “Yes”, please provide details in a separate Appendix of any enforcement action and give details of any remedial action or changes to procedures you have made as a result.    Action Together will exclude applicant(s) that have been in receipt of enforcement action orders unless the applicant(s) can demonstrate to Action Together’s satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches. | ▢ Yes  ▢ No |
| If you use sub-contractors, do you have processes in place to check that these organisations conform with the above assurances? | ▢ Yes  ▢ No |

**3.13 Policies**

Please confirm that your organisation has the following documented policies in place and have been reviewed within the last three years.

Action Together reserve the right to see training records to confirm staff and volunteers have received appropriate training.

|  |  |
| --- | --- |
| Equality and Diversity | ▢ Yes  ▢ No |
| Data Protection / Confidentiality   * Please add as an attachment | ▢ Yes  ▢ No |
| Health and Safety | ▢ Yes  ▢ No |
| Safeguarding policy and procedures   * Please add as an attachment | ▢ Yes  ▢ No |
| Volunteering Policy | ▢ Yes  ▢ No |

1. [↑](#footnote-ref-1)