

Dated

2023

**(1) WEST MIDLANDS COMBINED AUTHORITY**

**(2) BIRMINGHAM CITY COUNCIL**

**AGREEMENT FOR THE PROVISION OF FUNDING RELATING TO  
THE UK SHARED PROSPERITY FUND**



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**Date:**

**Parties**

- (1) **WEST MIDLANDS COMBINED AUTHORITY**, whose principal address is at 16 Summer Lane, Birmingham, United Kingdom, B19 3SD (**Funder**).
- (2) **BIRMINGHAM CITY COUNCIL**, whose principal address is Council House, Victoria Square, Birmingham, B1 1BB (**Recipient**).

**Introduction**

- A The Department for Levelling up, Housing & Communities (DLUHC) has allocated funding to the Funder under the UK Shared Prosperity Fund (UKSPF).
- B This agreement sets out the terms and conditions on which the Grant is made by the Funder to the Recipient in respect of the Programme.
- C At the date of execution this agreement governs the provision of funding for the first year of the UKSPF allocation. DLUHC has provided indicative allocations for financial years 2023/24 and 2024/25 but these are not yet confirmed. Further funding for the second and third years of the UKSPF programme will therefore be addressed by way of extensions and alterations to this agreement as set out more particularly in clauses 3.2 to 3.5.
- D These terms and conditions are intended to ensure that the Grant is used for the purpose for which it is awarded.

**Agreed terms**

**1 Definitions**

In this agreement the following terms shall have the following meanings:

<b>AEB Supply Chain Rules and Funding Rules</b>	means the WMCA Skills Programmes Supply Chain Funding Rules available from the Authority's website from time to time.
<b>Bribery Act</b>	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
<b>Commencement Date</b>	the date of this agreement.
<b>Controller</b>	shall have the same meaning as set out in the Data Protection Legislation.
<b>Data Protection Legislation</b>	all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the DPA 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 ( <i>SI 2003/2426</i> ) as amended and the guidance and codes of practice issued

	by the Information Commissioner or other relevant regulatory authority and applicable to a party.
<b>Data Subject</b>	shall have the same meaning as set out in the Data Protection Legislation.
<b>Delivery Partner</b>	any third party or parties appointed or funded by the Recipient to deliver the Local Projects using the Grant.
<b>DLUHC</b>	the Department for Levelling up, Housing & Communities.
<b>DPA 2018</b>	The Data Protection Act 2018.
<b>Eligible Costs</b>	any costs which are not Ineligible Costs.
<b>Exit Plan</b>	the exit plan prepared by the Recipient in accordance with clause 7.9 of this agreement.
<b>Financial Irregularity</b>	includes, regardless of the amount and without limitation, any fraud, other impropriety, or mismanagement in relation to the Grant or the Programme or any Local Project, including the use of the Grant for purposes other than the Programme.
<b>First Grant Period</b>	the period beginning on the Commencement Date and ending on 31 March 2023.
<b>Grant</b>	the maximum sum to be paid to the Recipient in accordance with this agreement as set out in Schedule 1.
<b>Grant Conditions</b>	the Memorandum of Understanding, grant determination letters and related documents issued to the Funder by DLUHC in November and December 2022 and attached as Schedule 4 to this agreement, including from time to time agreed changes to the Grant Conditions and any subsequent grant determination letters and other related documents issued by DLUHC to the Funder in respect of Subsequent Grant Periods.
<b>Grant Period</b>	each of the First Grant Period and any Subsequent Grant Period(s) as applicable.
<b>Ineligible Costs</b>	the costs specified as ineligible in Schedule 3.
<b>Intellectual Property Rights</b>	all patents, copyrights and design rights (whether registered or not) and all applications for any of the foregoing and all rights of confidence and Know-How however arising for their full term and any renewals and extensions.
<b>Investment Plan</b>	the UKSPF Investment Plan produced by the Funder.
<b>Know-How</b>	information, data, know-how or experience whether patentable or not and including but not limited to any technical and commercial information relating to research, design, development, manufacture, use or sale.

<b>Law</b>	any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, the laws of England and Wales and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the Project or with which the Recipient is bound to comply.
<b>Local Project(s)</b>	the project or projects to be delivered by the Recipient or the Delivery Partners in accordance with the Programme Delivery Schedule.
<b>Operational Plan</b>	the operational plan at Schedule 2 setting out more details of the Programme and the Recipient's obligations.
<b>Participant</b>	any individual, group of individuals, or any other entity whatever its legal form which is engaged in any manner in relation to the Programme or a Local Project, including for the avoidance of doubt, service users and other participants or beneficiaries of a Local Project and sub-contractors of the Recipient or a Delivery Partner.
<b>Personal Data</b>	shall have the same meaning as set out in the Data Protection Legislation.
<b>Prevent Duty</b>	the duty to have due regard to the need to prevent people from being drawn into terrorism as contained within section 26(1) of the Counter-Terrorism and Security Act 2015.
<b>Prohibited Act</b>	<p>(1) offering, giving or agreeing to give to any servant of the Funder any gift or consideration of any kind as an inducement or reward for:</p> <ul style="list-style-type: none"> <li>(a) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this agreement or any other contract with the Funder; or</li> <li>(b) showing or not showing favour or disfavour to any person in relation to this agreement or any other contract with the Funder;</li> </ul> <p>(2) entering into this agreement or any other contract with the Funder where a commission has been paid or has been agreed to be paid by the Recipient or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Funder;</p>

(3) committing any offence:

- (a) under the Bribery Act;
- (b) under legislation creating offences in respect of fraudulent acts; or
- (c) at common law in respect of fraudulent acts in relation to this agreement or any other contract with the Funder; or
- (d) defrauding or attempting to defraud or conspiring to defraud the Funder.

<b>Project</b>	the distribution, coordination, monitoring and reporting on the UKSPF by the Funder.
<b>Programme</b>	the management and delivery of the Local Projects undertaken by the Recipient and/or Delivery Partners in accordance with the Programme Delivery Schedule. The term 'Programme' shall include the Local Projects which form part of that Programme.
<b>Programme Delivery Schedule</b>	Schedule 1 to this agreement and any replacement for Schedule 1 produced in accordance with clause 3.3 or 3.4.
<b>Programme Targets</b>	the objectives to be met by the Recipient as set out in Schedule 1 and any amendment thereto as agreed between the parties.
<b>Project Manager</b>	the individual who has been nominated to represent the Funder for the purposes of this agreement.
<b>Regulated Activity</b>	in relation to children shall have the same meaning as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and in relation to Vulnerable Adults shall have the same meaning as set out in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.
<b>Secretary of State</b>	the Secretary of State for Levelling Up, Housing and Communities.
<b>State Subsidy</b>	has the meaning set out in the definition of 'subsidy' in the Subsidy Control Rules applicable at the time any such State Subsidy is made.
<b>Subsequent Grant Period</b>	means any period of twelve months for which the Grant is awarded subsequent to the First Grant Period, in accordance with clause 3.2.
<b>Subsidy Control Rules</b>	means all Laws of the United Kingdom limiting State Subsidy, including the Subsidy Control Act 2022, any relevant secondary legislation and government guidance, any relevant case law or decisions of the courts and tribunals of England and Wales interpreting or regarding the application of such

laws and to the extent relevant, the Protocol on Ireland/Northern Ireland in the EU withdrawal agreement together with such rules, agreements, protocols and Laws as may replace them from time to time.

<b>Term</b>	the term of this agreement, starting on the Commencement Date and ending on expiry of the First Grant Period or any Subsequent Grant Period (as applicable) unless terminated earlier or extended in accordance with clause 3.2.
<b>UK GDPR</b>	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018.
<b>UKSPF</b>	has the meaning given in Recital A.
<b>UKSPF Grant</b>	the grant funding received by the Funder and more particularly described in Recital A.
<b>UKSPF Guidance</b>	the guidance issued by DLUHC in respect of UKSPF as referred to in the Operational Plan and as updated from time to time, together with any further guidance or other documents relating to UKSPF notified to the Recipient by the Funder from time to time.
<b>VAT</b>	value added tax or any equivalent tax chargeable in the UK.
<b>Vulnerable Adult</b>	has the meaning given to it in s.60 of the Safeguarding Vulnerable Groups Act 2006.

## 2 Interpretation

- 2.1 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 2.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 2.3 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
- 2.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 2.5 Unless the context otherwise requires, words in the singular shall include the plural and words in the plural shall include the singular.
- 2.6 This agreement shall be binding on, and ensure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 2.7 A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.



- 2.8 A reference to legislation or a legislative provision shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- 2.9 A reference to writing or written includes email.
- 2.10 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 2.11 The term 'subcontractor' includes subcontractors of any tier and Delivery Partners.
- 2.12 A reference to this agreement or to any other agreement or document is a reference to this agreement or such other agreement or document, in each case as varied from time to time.
- 2.13 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 2.14 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

### **3 Duration and Extension**

- 3.1 This agreement shall take effect on the Commencement Date and shall continue for the Term or for so long as any of the Recipient's obligations under this agreement remain unfulfilled. For the avoidance of doubt, should the agreement continue beyond the end of the Term in accordance with this clause 3.1, this will not:
  - 3.1.1 give rise to any Subsequent Grant Period;
  - 3.1.2 give rise to any increase in the Grant; or
  - 3.1.3 permit the Recipient to spend or claim any part of the Grant allocated to the relevant Grant Period outside that Grant Period,and this agreement shall only continue in force for the purposes of enforcement of its terms rather than for the provision of additional grant funding. Subsequent Grant Periods and the associated additional grant funding will only arise if the Funder elects to extend the Term in accordance with clause 3.2.
- 3.2 The Funder may at any time prior to expiry of the First Grant Period or any Subsequent Grant Period give notice to the Recipient that it is extending the Term of this agreement on the same terms mutatis mutandis for a further period of one (1) year, up to a total maximum term of three (3) Grant Periods (being the First Grant Period and up to two (2) Subsequent Grant Periods). Should the Funder elect to extend the Term of this agreement it will confirm the Grant available in respect of the relevant Subsequent Grant Period.

- 3.3 The Funder will require the Recipient to produce a new Programme Delivery Schedule for any Subsequent Grant Period. The Recipient shall promptly (and in any case within the timescales required by the Funder) produce such a Programme Delivery Schedule and provide it to the Funder for approval.
- 3.4 Notwithstanding the generality of clause 3.2 above, if the Funder elects to extend this agreement, it may also:
- 3.4.1 request such changes to the agreement or the Programme Delivery Schedule as it considers are reasonably necessary; and/or
  - 3.4.2 request information from the Recipient in order to demonstrate the compliance of the Programme or any Local Project with the Subsidy Control Rules; and/or
  - 3.4.3 propose new arrangements in relation to payment of the Grant.
- 3.5 Payment of the Grant in any Subsequent Grant Period shall be subject to:
- 3.5.1 agreement between the parties of any changes, Programme Delivery Schedule or new payment arrangements requested by the Funder in accordance with clauses 3.3 or 3.4; and
  - 3.5.2 the Funder being satisfied that the Programme and each Local Project is compliant with the Subsidy Control Rules.
- Any such arrangements or changes described in or agreed as a result of this clause 3.5 shall form part of this agreement once agreed and confirmed in writing between the parties.
- 3.6 Any obligations under this agreement that remain unfulfilled following the expiry or termination of the Agreement shall survive such expiry or termination and continue in full force and effect until they have been fulfilled.
- 3.7 Although this agreement shall take effect on the Commencement Date, the parties agree that the Grant can be applied to Eligible Costs incurred by the Recipient and/or the Delivery Partners in respect of activity which took place prior to the Commencement Date provided it took place on or after 1 April 2022. The parties agree that the terms of this agreement will apply to the use of the Grant in respect of such Eligible Costs as if it had been in effect at the time the relevant activity was undertaken. This shall only apply during the First Grant Period and will not apply in any Subsequent Grant Period.

#### **4 Grant Conditions**

- 4.1 The Recipient acknowledges that the Funder is subject to the Grant Conditions. The Recipient agrees that it shall, and that it shall ensure that the Delivery Partners shall:
- 4.1.1 provide such assistance as the Funder reasonably requires to enable it to comply with the Grant Conditions;
  - 4.1.2 not take any action, or fail to take any action that would put the Funder in breach of the requirements of the Grant Conditions

(regardless of the enforceability of the Grant Conditions as between the Funder and DLUHC);

- 4.1.3 comply with any processes, procedures and/or ways of working established by the Funder in relation to the UKSPF including in relation to information sharing and any other relevant matters in connection with UKSPF fund management and technical delivery aspects; and
- 4.1.4 comply with the Operational Plan for the Programme set out within Schedule 2.
- 4.2 The Recipient accepts and agrees that it shall be responsible to the Funder for the acts and/or omissions of its Delivery Partners as if they were the acts and/or omissions of the Recipient.

## **5 Purpose of Grant**

- 5.1 The Recipient shall, and shall ensure that the Delivery Partners shall, use the Grant only for the delivery of the Programme and in accordance with the terms and conditions set out in this agreement. The Grant shall not be used for any other purpose without the prior written agreement of the Funder.
- 5.2 The Recipient shall only apply the Grant to the Eligible Costs. The Recipient shall not apply the Grant to Ineligible Costs and shall ensure that the Delivery Partners do not apply the Grant to Ineligible Costs.
- 5.3 The Recipient shall not make any change to the Programme, nor shall it allow any Delivery Partner to make any change to a Local Project, which would result in any Local Project falling outside the scope of the Programme Delivery Schedule or result in the Programme Targets not being achieved without the Funder's prior written agreement.
- 5.4 Where the Recipient or any Delivery Partner intends to apply to a third party for other funding for the Programme, the Recipient will notify the Funder in advance of its/their intention to do so and, where such funding is obtained, it will provide the Funder with details of the amount and purpose of that funding. The Recipient agrees and accepts that neither it, nor the Delivery Partners shall apply for duplicate funding in respect of any part of the Programme or any related administration costs that the Funder is funding in full under this agreement.

## **6 Payment of Grant**

- 6.1 Subject to clause 16 and clause 3.5, the Funder shall pay the Grant to the Recipient in each Grant Period accordance with Schedule 1 and Schedule 2 (as may be amended or replaced from time to time), subject to the necessary funds being available when payment falls due. The Recipient agrees and accepts that payment of the Grant can only be made to the extent that the Funder has available funds.
- 6.2 No Grant shall be paid unless and until the Funder is satisfied that such payment will be used for proper expenditure in the delivery of the Programme, in accordance with the Investment Plan and only applied to the Eligible Costs.

- 6.3 The Funder agrees that the Grant may be spent on Eligible Costs incurred by the Recipient or any Delivery Partner in respect of activities undertaken from 1 April 2022 in the First Grant Period.
- 6.4 The amount of the Grant shall not be increased in the event of any overspend by the Recipient or its Delivery Partners in their delivery of the Programme.
- 6.5 The Recipient shall not, and shall not allow its Delivery Partners to transfer any part of the Grant to bank accounts which are not ordinary business accounts within the clearing bank system, without the prior written consent of the Funder.
- 6.6 The Recipient shall promptly repay to the Funder any money incorrectly paid to it either as a result of an administrative error or otherwise. This includes (without limitation) situations where either an incorrect sum of money has been paid or where Grant monies have been paid in error before all conditions attaching to the payment of the Grant have been complied with by the Recipient. Any such repayment shall be made by the Recipient within ten (10) working days of it becoming aware of the incorrect payment or within any period reasonably required by the Funder if sooner.
- 6.7 The payment of the Grant by the Funder under this agreement is believed to be outside the scope of VAT, but if any VAT shall become chargeable, then all payments of funding shall be deemed to be inclusive of all VAT, and the Funder shall not be obliged to pay additional sums in respect of VAT.
- 6.8 Should the Recipient be subject to a S114 Notice under the Local Government Finance Act 1988 or Statutory Commissioner Intervention under the Local Government Act 1999, the Funder may vary or withhold any or all of the payments and/or require repayment of any Grants already paid or a proportion thereof. If the Funder permits the Recipient to retain all or some of the Grant or continue to receive Grant payment it may impose additional controls and conditions on the Recipient in light of notice or intervention.

## **7 Use of Grant**

- 7.1 The Grant shall be used by the Recipient for the delivery of the Programme.
- 7.2 Where the Recipient or a Delivery Partner has obtained funding from a third party in relation to its delivery of the Programme (including without limitation funding for associated administration and staffing costs), it shall notify the Funder. Details of the funding shall be included in the information provided to the Funder in accordance with clause 10 and Schedule 2.
- 7.3 The Recipient shall not and shall ensure that the Delivery Partners do not, use the Grant to:
  - 7.3.1 make any payment to its or their (as the case may be) employees, directors, shareholders or members, save in respect of any salary costs which are claimed as Eligible Costs;
  - 7.3.2 apply any funds designated as capital funds in the Programme Delivery Schedule to revenue costs; or

- 7.3.3 pay for any expenditure commitments entered into before 1 April 2022,
- unless this has been approved in writing by the Funder.
- 7.4 No part of the Grant shall be spent on the delivery of the Programme after the Term.
- 7.5 The Recipient shall, and shall ensure that Delivery Partners, adopt such policies and procedures as are necessary in order to ensure all works, goods and/or services funded through the Grant represent value for money and that all third parties paid using the Grant are paid no more than market rates for their works, goods and/or services and are engaged on arm's length market terms.
- 7.6 Notwithstanding the generality of clause 7.5 the Recipient shall, and shall ensure that the Delivery Partners shall, use procedures for the procurement of goods, works and services in connection with the Programme which:
- 7.6.1 are compliant with the Public Contracts Regulations 2015; and
- 7.6.2 are sufficient to ensure that all goods, works and services funded by the Grant represent value for money.
- 7.7 At the end of the First Grant Period and each Subsequent Grant Period (if applicable) the Recipient shall ensure that any Grant monies paid to the Recipient during the relevant Grant Period and which remains unspent (whether by the Recipient or any Delivery Partner) are returned to the Funder unless agreed in writing by the Funder.
- 7.8 Any liabilities arising at the end of the Programme including any redundancy liabilities for staff employed by the Recipient or Delivery Partners to deliver the Programme must be managed and paid for by the Recipient or the Delivery Partner using the resources of the Recipient or Delivery Partner other than the Grant. There will be no additional funding available from the Funder for this purpose.
- 7.9 The Recipient shall produce an Exit Plan in accordance with the requirements of Schedule 2 upon request by the Funder.
- 7.10 The Recipient shall refresh the Exit Plan at such intervals as are requested by the Funder.
- 7.11 On the expiry of the Term or if this agreement is terminated for any reason, the provisions of the Exit Plan shall come into effect.
- 7.12 The Recipient shall ensure that its Delivery Partners are subject to terms equivalent to clauses 7.9 to 7.11.
- 7.13 The Recipient shall, and shall ensure that the Delivery Partners shall, comply with all Law relevant to this agreement at all times during the Term of this agreement.
- 7.14 The Recipient shall, and shall ensure that the Delivery Partners shall, comply with the UKSPF Guidance at all times in respect of delivery of the Programme.

## **8 Subsidy control**

- 8.1 The Recipient shall comply with, and shall ensure that all Delivery Partners shall comply with, all Subsidy Control Rules, and shall ensure that all requirements of the Subsidy Control Rules are met in relation to the Programme and each Local Project.
- 8.2 The Recipient shall not take any action or fail to take any action, or (insofar as it is reasonably within its power) permit anything to occur that will cause the Funder to be in breach of its obligations under the Subsidy Control Rules.
- 8.3 The Recipient shall provide such reasonable assistance as is requested by the Funder to enable the Funder to comply with its obligations under the Subsidy Control Rules, and shall provide information to demonstrate the compliance of the Programme and each Local Project when requested by the Funder. No payments shall be made to the Recipient if a decision of a court or any body with responsibility for enforcing the Subsidy Control Rules imposes a requirement for the Funder to withhold and/or recover any funding from the Recipient, or for the Recipient to repay any funding to the Funder.
- 8.4 The Funder may vary or withhold any or all of the payments and/or require repayment of any Grants already paid or a proportion thereof, together with interest from the date of payment, if:
- 8.4.1 the representations and warranties made by the Recipient under this agreement do not remain materially true and correct;
  - 8.4.2 variation, repayment or recovery is, in the reasonable opinion of the Funder, required under or by virtue of the Subsidy Control Rules; or
  - 8.4.3 the Funder or the Recipient is otherwise required to vary, repay or recover such funding in whole or in part by a court or any body with responsibility for enforcing the Subsidy Control Rules,
- and the interest rate payable by the Recipient will be set by the Funder at a level sufficient for the Funder to comply with any such recovery, requirement or obligation.
- 8.5 The Recipient shall ensure that its Delivery Partners are subject to terms equivalent to those set out in clauses 8.1 to 8.4.

## **9 Accounts and records**

- 9.1 The Recipient shall, and shall ensure that each Delivery Partner shall, keep separate, accurate and up-to-date accounts and records of the receipt and expenditure of the Grant monies received by it.
- 9.2 The Recipient shall, and shall ensure that the Delivery Partners shall, obtain and keep all invoices, receipts, and accounts and any other relevant documents relating to the expenditure of the Grant for a period of at least six (6) years following receipt of any Grant monies to which they relate. The Funder shall have the right to review, at the Funder's reasonable request, the Recipient's accounts and records that relate to the expenditure of the Grant and shall have the right to take copies of such accounts and records. The Recipient shall include a right for the Funder to review and take copies of

such accounts and records held by the Delivery Partner within its contracts with Delivery Partners.

- 9.3 The Recipient shall provide the Funder with a copy of its annual accounts, and the annual accounts of any Delivery Partner within six (6) months (or such other period as the Funder may reasonably require) of the end of the relevant financial year in respect of each Grant Period in which the Grant is paid if requested to do so by the Funder. The Recipient shall provide further copies of its audited accounts, and the accounts of any Delivery Partner as they become available if this is requested by the Funder;
- 9.4 The Recipient shall comply and facilitate the Funder's compliance, and shall ensure that the Delivery Partners shall comply, and facilitate the Funder's compliance, with all statutory requirements as regards accounts, audit or examination of accounts, annual reports and annual returns applicable to itself and the Funder.
- 9.5 Should there be any significant changes to the Recipient's financial position, or the financial position of any Delivery Partner, then the Recipient shall report this to the Funder as soon as possible.
- 9.6 The Recipient shall submit any claim for payment or management information provided to support a claim for payment to be audited by an independent auditor chosen by the Funder if reasonably requested to do so by the Funder.

## **10 Monitoring and reporting**

- 10.1 The Recipient shall closely monitor the delivery and success of the Programme throughout the Term to ensure that the aims and objectives of the Programme are being met and that this agreement is being adhered to.
- 10.2 The Recipient shall provide the Funder with the monitoring and evaluation information in accordance with Schedule 2, together with such additional information on the delivery of the Programme, its expenditure of the Grant and its progress and the progress of its Delivery Partners against the agreed outputs in such formats as the Funder may reasonably require. The Recipient shall provide the Funder with such additional information within the timescales reasonably required by the Funder, including where such information is held by its Delivery Partners.
- 10.3 Notwithstanding the generality of clause 10.2 the Funder reserves the right at any reasonable time and as it may deem necessary to require the Recipient at its own cost to:
  - 10.3.1 provide such assurance as the Funder may require that the delivery of the Programme complies with the requirements of this agreement;
  - 10.3.2 obtain a report by an independent accountant of the Funder's choice on:
    - (a) the financial systems and controls operated by the Recipient and/or its Delivery Partners and/or its subcontractors;



- (b) the accuracy and regularity of the claims in respect of Grant claimed or received under this agreement;
  - (c) the evidence held by the Recipient, Delivery Partners or the contractors of either of them to support delivery of the Programme in accordance with the terms of this agreement;
- 10.3.3 provide information, including where such information is held by its Delivery Partners, in order to enable the Funder to exercise its responsibilities and/or to fulfil requirements to provide information to the Secretary of State or to account to Parliament.
- 10.4 Where the Funder requires a report in accordance with clause 10.3.2, the Recipient must agree the instructions for such a report with the Funder. The report and the work required in order to produce the report shall be carried out to the satisfaction of the Funder, and the Funder must be able to place reliance on it. The Recipient shall provide a copy of any interim report and the final report to the Funder as soon as they are available. The Funder reserves the right to require the Recipient to publish the report.
- 10.5 Where the Recipient or any Delivery Partner has obtained funding from a third party for its delivery of part of the Programme, the Recipient shall provide the Funder with details of what that funding has been used for on request.
- 10.6 The Recipient shall on request provide the Funder with such further information, explanations and documents as the Funder may reasonably require in order for it to establish that the Grant has been used properly in accordance with this agreement.
- 10.7 The Recipient shall permit, and shall ensure that its Delivery Partners shall permit, any person authorised by the Funder such reasonable access to its/their (as the case may be) employees, agents, volunteers, sub-contractors, premises, facilities and records (however such records are held), for the purpose of discussing, monitoring and evaluating the Recipient's fulfilment of the conditions of this agreement and its use of the Grant and shall, if so required, provide appropriate oral or written explanations from them.
- 10.8 The Recipient and its Delivery Partners shall permit access to any person authorised by the Funder for the purpose of visiting the Recipient once every quarter to monitor the delivery of the Programme. Where, in its reasonable opinion, the Funder considers that additional visits are necessary to monitor the Programme, it shall be entitled to authorise any person to make such visits on its behalf.
- 10.9 The Recipient shall permit, and shall ensure that its Delivery Partners shall permit, the Funder and/or DLUHC (or their appointed representatives) free access at all reasonable times to all documents (including computerised documents and data) and other information in connection with the Grant, or the purposes for which the Grant was used, which may be reasonably required by the Funder and/or DLUHC (or the appointed representatives of either):
  - 10.9.1 for the purposes of financial audit, or



- 10.9.2 for the purposes of carrying out examinations into the economy, efficiency and effectiveness with which any department or public body has used its resources.
- 10.10 The Recipient shall, and shall ensure that its Delivery Partners shall, provide the Funder and/or DLUHC, (or their appointed representatives) with such further explanations as are reasonably required for the purposes set out at paragraphs 10.9.1 and/or 10.9.2.
- 10.11 The Recipient acknowledges that DLUHC may appoint a third party to undertake an evaluation of the Project including the Programme. Where requested by the Funder, DLUHC or DLUHC's representative, the Recipient shall, and shall ensure that its Delivery Partners shall,:
- 10.11.1 provide all reasonable assistance;
- 10.11.2 respond to all reasonable requests; and
- 10.11.3 provide such information,
- in each case in a timely manner and otherwise as may be reasonably required by the Funder or DLUHC in relation to such evaluation.
- 10.12 The Funder shall, where practicable give the Recipient reasonable advance notice in writing of proposed visits to the Recipient or any Delivery Partner, but shall not be obliged to do so.
- 10.13 The rights of access afforded at clauses 10.7 to 10.9 shall include rights to:
- 10.13.1 examine, audit or take copies of any original or copy documentation, accounts, books and records of the Recipient, its Delivery Partners and/or its sub-contractors that relate to this agreement and/or the Programme;
- 10.13.2 visit, view or assess the design, management and delivery of the Programme at any premises where the Programme is carried out (including those of subcontractors) and conduct relevant interviews, including interviews with Delivery Partners and/or Participants during these visits at any reasonable time;
- 10.13.3 carry out examinations into the economy, efficiency and effectiveness with which the Funder and/or Recipient and/or Delivery Partner has used the Grant;
- 10.13.4 receive information at the times and in the formats requested; and/or
- 10.13.5 the Recipient shall, and shall ensure that its Delivery Partners shall, comply with any such requests. The information provided shall be of sufficient quality to meet the purposes for which it has been requested.

## **11 Acknowledgment and publicity**

- 11.1 The Recipient shall acknowledge the Grant in its annual report and accounts, including an acknowledgement of the Funder as the source of the Grant.
- 11.2 The Recipient shall, and shall ensure that its Delivery Partners shall, comply with all reasonable instructions of the Funder in relation to branding, publicity, engagement and communications with regard to the Programme and Grant funded activity, including without limitation:
  - 11.2.1 using appropriate Funder, DLUHC and UKSPF logos prominently in all communications, materials and public facing documents relating to Programme activity funded through the Grant, which shall include (without limitation printed, digital and electronic documents);
  - 11.2.2 following any guidelines that the Funder or DLUHC may require in relation to branding, publicity, engagement and communications; and
  - 11.2.3 using any toolkit provided by the Funder or DLUHC in relation to branding, publicity, engagement and communications.
- 11.3 The Recipient agrees, and shall procure that the Delivery Partners agree, to participate in and co-operate with promotional activities relating to the Programme that may be instigated and/or organised by the Funder.
- 11.4 The Funder may acknowledge the Recipient or Delivery Partners' involvement in the Programme as appropriate without prior notice.
- 11.5 The Recipient shall, and shall ensure that the Delivery Partners shall, comply with all reasonable requests from the Funder to facilitate visits, attend meetings and events, provide reports, statistics, photographs and case studies that will assist the Funder in its promotional and fundraising activities relating to the Programme.
- 11.6 The Recipient shall, and shall ensure that its Delivery Partners shall, support the Funder to share best practice in connection with the delivery of UKSPF. The Recipient shall, and shall ensure that its Delivery Partners shall, comply with all reasonable requests of the Funder in this regard and shall, where requested by the Funder (without limitation):
  - 11.6.1 participate in networking opportunities;
  - 11.6.2 share information, practice and methods; and
  - 11.6.3 share materials produced using the Grant.

## **12 Intellectual Property Rights**

- 12.1 For the avoidance of doubt, the Recipient will retain all Intellectual Property Rights that are:

- 12.1.1 vested in or licensed to the Recipient prior to the Commencement Date; or
  - 12.1.2 developed by the Recipient during the Term but which do not fall within clause 12.2.
- 12.2 The Funder or DLUHC (as applicable) will retain any Intellectual Property Rights owned by, controlled by, vested in or licensed to the Funder or DLUHC prior to the Commencement Date.
- 12.3 The Recipient will retain Intellectual Property Rights in all reports, materials, documents and other products produced in whole or in part by the Recipient using the Grant.
- 12.4 Ownership of any third-party software or Intellectual Property Rights necessary to deliver activities, products or services pursuant to the Programme will remain with the relevant third party, save to the extent otherwise provided by any relevant agreement(s) entered into in relation to these.

### **13 Confidentiality**

- 13.1 Subject to clause 14 (Freedom of Information), each party shall during the Term of this agreement and thereafter keep secret and confidential all Intellectual Property Rights or Know-How or other business, technical or commercial information disclosed to it as a result of the agreement and shall not disclose the same to any person save to the extent necessary to perform its obligations in accordance with the terms of this agreement or save as expressly authorised in writing by the other party.
- 13.2 The obligation of confidentiality contained in this clause shall not apply or shall cease to apply to any Intellectual Property Rights, Know-How or other business, technical or commercial information:
  - 13.2.1 which at the time of its disclosure by the disclosing party is already in the public domain or which subsequently enters the public domain other than by breach of the terms of this agreement by the receiving party;
  - 13.2.2 which is already known to the receiving party as evidenced by written records at the time of its disclosure by the disclosing party and was not otherwise acquired by the receiving party from the disclosing party under any obligations of confidence;
  - 13.2.3 which is at any time after the date of this agreement acquired by the receiving party from a third party having the right to disclose the same to the receiving party without breach of the obligations owed by that party to the disclosing party;
  - 13.2.4 to the extent that the Funder is required to disclose it to the DLUHC or Secretary of State in accordance with the Funding Conditions; or
  - 13.2.5 to the extent that the party holding the relevant information is required to disclose it by a court, regulator or government body.

- 13.3 The Recipient shall ensure that its Delivery Partners are subject to terms equivalent to those set out in clauses 13.1 and 13.2.

#### **14 Freedom of information**

- 14.1 The Recipient acknowledges that the Funder is subject to the requirements of the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIRs) and the information disclosure obligations under the Subsidy Control Act 2022.

- 14.2 The Recipient shall, and shall ensure that its Delivery Partners shall:

14.2.1 provide all necessary assistance and cooperation as reasonably requested by the Funder to enable the Funder to comply with its obligations under the FOIA, EIRs and Subsidy Control Act 2022;

14.2.2 transfer to the Funder all requests for information relating to this agreement that it receives as soon as practicable and in any event within two (2) working days of receipt;

14.2.3 provide the Funder with a copy of all information belonging to the Funder requested in the request for information which is in its possession or control in the form that the Funder requires within five (5) working days (or such other period as the Funder may reasonably specify) of the Funder's request for such information; and

14.2.4 not respond directly to a request for information unless authorised in writing to do so by the Funder.

- 14.3 The Recipient acknowledges that the Funder may be required under the FOIA, EIRs or Subsidy Control Act 2022 to disclose information without consulting or obtaining consent from the Recipient or its Delivery Partners. The Funder shall take reasonable steps to notify the Recipient of a request for information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA where relevant) to the extent that it is permissible and reasonably practicable for it to do so but (notwithstanding any other provision in this agreement) the Funder shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the FOIA, the EIRs and/or the Subsidy Control Act 2022.

#### **15 Data protection**

- 15.1 The Funder and the Recipient consider that they are each independent Controllers of the Personal Data processed in connection with this agreement.

- 15.2 Each Party shall comply with its responsibilities under the Data Protection Legislation, and the Recipient shall ensure that the Delivery Partners shall comply with their responsibilities under the Data Protection Legislation. To the extent a Party is processing Personal Data which originated from another Party, each Party will safeguard such data and treat it in the same manner as it would treat its own data to comply with the requirements of the Data Protection Legislation.

- 15.3 The Recipient will, and shall ensure that the Delivery Partners will, permit the Funder, DLUHC and any persons, including crown bodies and auditors (including third party auditors) to access any records, data and information collected by it in relation to the Programme (**Records**) and to inspect such Records on reasonable notice. This may include making copies of such Records and sharing the same with other government agencies.
- 15.4 Notwithstanding the generality of clause 15.3 the Recipient shall only provide Personal Data to the Funder or DLUHC:
- 15.4.1 to the extent necessary to perform their respective obligations under this agreement, or the Grant Conditions (regardless of the enforceability of the Grant Conditions); and
  - 15.4.2 in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR).
- 15.5 The Recipient shall be responsible for its compliance, and for the compliance of the Delivery Partners with the Data Protection Legislation in respect of the processing of Personal Data for the purposes of the Programme and complying with this agreement, including ensuring that they have a lawful basis for the processing and sharing of Personal Data.
- 15.6 Taking into account the state of the art, the costs of implementation and the nature, context, and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the Recipient shall implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including as appropriate the measures referred to in Article 32(1)(a)(b)(c) and(d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.

#### Subject Access Requests

- 15.7 Where the Recipient receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation it shall provide any information and/or assistance as reasonably requested by the Data Subject to respond to the request or correspondence.
- 15.8 Where the request or correspondence is directed to the Recipient and/or relates to the Funder's processing of the Personal Data, the Recipient shall:
- 15.8.1 promptly, and within five (5) working days of receipt of the request or correspondence inform the Funder that it has received the request and shall forward the request and correspondence to the Funder; and
  - 15.8.2 provide any information and/or assistance as reasonably requested by the Funder to help it respond to the request or correspondence in the timeframes specified by the Data Protection Legislation.

15.9 The Recipient shall promptly notify the Funder upon becoming aware of any Personal Data Breach and shall:

15.9.1 do all things reasonably necessary to mitigate the effects of the Personal Data Breach;

15.9.2 implement any measures necessary to restore the security of any compromised Personal Data;

15.9.3 make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out); and

15.9.4 not do anything which may damage the reputation of the Funder, DLUHC or their relationship with the Data Subjects, save as required by law.

## **16 Withholding, suspending and repayment of Grant**

16.1 The Funder's intention is that the Grant will be paid to the Recipient subject to the terms of this agreement and in accordance with Schedule 1 and Schedule 2. However, without prejudice to the Funder's other rights and remedies, the Funder may at its discretion withhold or suspend payment of the Grant and/or require repayment of all or part of the Grant (including Grant paid in the current and any prior Grant Periods) if:

16.1.1 the Recipient fails to comply with any of the terms and conditions set out in this agreement and fails to rectify any such failure within thirty (30) days of receiving written notice detailing the failure;

16.1.2 the Recipient or any Delivery Partner fails to achieve the Programme Targets;

16.1.3 the Recipient or any Delivery Partner uses the Grant for purposes other than those for which it has been awarded;

16.1.4 if the Funder or DLUHC consider that there are grounds to carry out an investigation into the delivery of the Programme by the Recipient or the Delivery Partners or any other matter in connection with the Grant or the Programme;

16.1.5 the delivery of the Programme does not start by:

(a) 28 February 2023 in the First Grant Period; or

(b) the date falling three (3) weeks after the start of any Subsequent Grant Period,

16.1.6 the Funder considers that the Recipient and/or any Delivery Partner has not made satisfactory progress with the delivery of the Programme or a Local Project as the case may be;

16.1.7 the Recipient is, in the reasonable opinion of the Funder, delivering the Programme in a negligent manner;

- 16.1.8 any Delivery Partner is, in the reasonable opinion of the Funder, delivering a Local Project in a negligent manner;
- 16.1.9 the Recipient is, and/or any Delivery Partner is, in the reasonable opinion of the Funder, delivering the Programme or a Local Project as the case may be in a manner likely to bring the Funder or DLUHC into disrepute;
- 16.1.10 the Recipient or any Delivery Partner obtains duplicate funding from a third party for the Eligible Costs;
- 16.1.11 the Recipient fails to comply with its obligations in clauses 8 and/or 10;
- 16.1.12 the Recipient or any Delivery Partner obtains funding from a third party which, in the reasonable opinion of the Funder, undertakes activities that are likely to bring the reputation of the Programme or the Funder into disrepute;
- 16.1.13 the Recipient or any Delivery Partner provides the Funder with any materially misleading or inaccurate information in any statement made by or on behalf of the Recipient or any such Delivery Partner;
- 16.1.14 the Recipient or a Delivery Partner commits or has committed a Prohibited Act;
- 16.1.15 any overpayment of the Grant is made (including where advance Grant Payments exceed the value attributable to the achieved Programme Targets at the end of any Grant Period) or an amount is paid to the Recipient in error;
- 16.1.16 the Funder is subject to a withdrawal, reduction, repayment, suspension or deduction (or other like circumstance) of funding under the Grant Conditions (or would be if the Grant Conditions were enforceable) in respect of the Programme;
- 16.1.17 the Funder is subject to a reduction or withholding of future funding from the DLUHC as a result of any action or inaction of the Recipient or any Delivery Partner;
- 16.1.18 any employee, director, shareholder, member or volunteer of the Recipient or any Delivery Partner has (a) acted dishonestly or negligently at any time and directly or indirectly to the detriment of the Programme; or (b) taken any actions which, in the reasonable opinion of the Funder, bring or are likely to bring the Funder's name or reputation into disrepute;
- 16.1.19 the Recipient or any Delivery Partner ceases to operate for any reason, or it passes a resolution (or any court of competent jurisdiction makes an order) that it be wound up or dissolved (other than for the purpose of a bona fide and solvent reconstruction or amalgamation);
- 16.1.20 the Recipient or any Delivery Partner becomes insolvent, or it is declared bankrupt, or it is placed into receivership, administration



- or liquidation, or a petition has been presented for its winding up, or it enters into any arrangement or composition for the benefit of its creditors, or it is unable to pay its debts as they fall due or a restructure of the Recipient occurs;
- 16.1.21 there is a change in ownership or control (other than political control) of the Recipient;
  - 16.1.22 if at any time, the proposed or actual use or operation of the Programme or any Local Project ceases to materially comply with the Programme Delivery Schedule;
  - 16.1.23 in the Funder's reasonable opinion, there is a significant change in the nature or scale of the Programme;
  - 16.1.24 if at any time, the Recipient or any Delivery Partner has acted fraudulently in relation to this agreement or the Programme or any Partners, beneficiaries or sub-contractors of the Recipient or a Delivery Partner have acted fraudulently in respect of the Programme;
  - 16.1.25 any information provided by the Recipient or a Delivery Partner to the Funder is materially incorrect or misleading;
  - 16.1.26 there is a finding of illegal State Subsidy in respect of the Programme or any Local Project; or
  - 16.1.27 a court, tribunal or other competent body requires the funding to be withheld, suspended or repaid.
- 16.2 Should the Funder be required by the Secretary of State to repay any amount of the Grant as a result of any act or omission of the Recipient or any Delivery Partner, the Recipient shall repay to the Funder a sum equal to such sum. Any such sum shall be paid by the Recipient to the Funder within ten (10) days of request.
  - 16.3 The Recipient shall make any payments due to the Funder without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise.
  - 16.4 Should the Recipient or any Delivery Partner be subject to financial or other difficulties which are capable of having a material impact on its effective delivery of the Programme or compliance with this agreement it will notify the Funder as soon as possible so that, if possible, and without creating any legal obligation, the Funder will have an opportunity to provide assistance in resolving the problem or to take action to protect the Funder and the Grant monies.
  - 16.5 The Funder may retain or set off any sums the Recipient owes (whether because of repayment required under this clause 16 or otherwise) against any sums due from the Funder to the Recipient under this agreement or any other agreement the Funder may have with the Recipient.



## **17 Anti-discrimination**

- 17.1 The Recipient shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment or otherwise and at all times shall comply with the provisions of the Equality Act 2010 in the performance of this agreement.
- 17.2 The Recipient shall take all reasonable steps to secure the observance of clause 17.1 by Delivery Partners and all servants, employees or agents of the Recipient or Delivery Partners and all suppliers and sub-contractors engaged on the Programme.

## **18 Human rights**

- 18.1 The Recipient shall (and shall use its reasonable endeavours to procure that its staff and Delivery Partners and their staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this agreement in each case as if the relevant party were a public body (as defined in the Human Rights Act 1998).
- 18.2 The Recipient shall, and shall ensure that the Delivery Partners shall, undertake, or refrain from undertaking, such acts as the Funder requests so as to enable the Funder to comply with its obligations under the Human Rights Act 1998.

## **19 Fraud**

- 19.1 The Recipient shall, and shall ensure that its Delivery Partners shall, at all times comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption, including but not limited to, the Bribery Act.
- 19.2 If the Recipient has any grounds for suspecting Financial Irregularity in relation to its organisation, any Delivery Partner or any other third party involved in delivery of the Programme, whether in the use of any part of the Grant or in relation to the Programme or otherwise, it must notify the Funder immediately upon becoming aware of the same. The Recipient must explain to the Funder what steps are being taken to investigate the suspicion, and keep the Funder informed about the progress of the investigation. Any grounds for suspecting Financial Irregularity includes what the Recipient, acting with due care, should have suspected as well as what is actually proven.
- 19.3 The Recipient shall put in place sufficient and proportionate management controls to mitigate the risk of fraud.

## **20 Limitation of liability**

- 20.1 Nothing in this agreement limits either party's liability for:
- 20.1.1 personal injury or death which is caused by that party's negligence;
  - 20.1.2 fraud or misrepresentation; or
  - 20.1.3 any other matter in respect of which liability cannot, by applicable law, be limited.

- 20.2 Subject to clause 20.1, the Funder accepts no liability for any consequences, whether direct or indirect, that may come about from the Recipient running the Programme, the use of the Grant or from withdrawal, suspension or repayment of the Grant in accordance with this agreement. Without prejudice to the generality of the foregoing, the Funder will not be liable to (without limitation) any third party with whom the Recipient has entered into any contract for the provision of goods and/or services to it for the Programme, or to whom the Recipient has sub-granted or delegated in relation to the Programme or to any Delivery Partner. The Recipient will ensure that any contracts and agreements with third parties include a provision to the effect that the third party's recourse is to the Recipient itself.
- 20.3 The Recipient shall indemnify and hold harmless the Funder, its employees, agents, officers or sub-contractors with respect to all claims, demands, actions, costs, expenses, losses, damages and all other liabilities arising from or incurred by reason of the actions and/or omissions of the Recipient and/or its Delivery Partners in relation to the Programme, the non-fulfilment of obligations of the Recipient under this agreement, its obligations to third parties or any clawback of grant funding under the Grant Conditions.
- 20.4 Subject to clause 20.1, the Funder's liability under this agreement is limited to the payment of the Grant.

## 21 Warranties

- 21.1 The Recipient warrants, undertakes and agrees that:
- 21.1.1 it has all necessary resources, approvals, powers and expertise to deliver the Programme (assuming due receipt of the Grant);
  - 21.1.2 it has not committed, nor shall it commit, any Prohibited Act;
  - 21.1.3 it shall at all times comply with all relevant Law and all applicable codes of practice and other similar codes or recommendations, and shall notify the Funder immediately of any significant departure from such Law, codes or recommendations;
  - 21.1.4 it shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to employees and other persons working on the Programme;
  - 21.1.5 it has and shall keep in place adequate procedures for dealing with any conflicts of interest;
  - 21.1.6 the use of the Grant in relation to the Programme and any Local Project is compliant with the Subsidy Control Rules;
  - 21.1.7 to the extent that it has been delivering the Programme prior to the Commencement Date, such Programme delivery has been in all respects in accordance with the terms of this agreement;
  - 21.1.8 it shall at all times comply with the AEB Supply Chain Rules to the extent that it is carrying out interventions in the people and skills investment priority;

- 21.1.9 it shall at all times comply with the Funding Rules and any other policies of the Funder notified to it from time to time;
- 21.1.10 it has and shall keep in place robust systems and processes for quality assurance in relation to the services provided to Participants;
- 21.1.11 it has and shall keep in place systems to deal with the prevention of fraud and/or administrative malfunction;
- 21.1.12 it has and shall keep in place systems to ensure the safeguarding of Participants who are Vulnerable Adults;
- 21.1.13 all financial and other information concerning the Recipient which has been disclosed to the Funder is to the best of its knowledge and belief, true and accurate;
- 21.1.14 it is not subject to any contractual or other restriction imposed by its own or any other organisation's rules or regulations or otherwise which may prevent or materially impede it from meeting its obligations in connection with the Grant;
- 21.1.15 it is not aware of anything in its own affairs, which it has not disclosed to the Funder or any of the Funder's advisers, which might reasonably have influenced the decision of the Funder to make the Grant on the terms contained in this agreement;
- 21.1.16 since the date of its last accounts there has been no material change in its financial position or prospects; and
- 21.1.17 It shall obtain warranties equivalent to those set out at clauses 21.1.1 to 21.1.16 from any Delivery Partner.

## **22 Safeguarding**

22.1 The Recipient shall, and shall ensure that the Delivery Partners shall:

- 22.1.1 ensure that all individuals engaged in Regulated Activity in respect of the Programme are subject to a valid enhanced disclosure check for Regulated Activity undertaken through the Disclosure and Barring Service (DBS);
- 22.1.2 monitor the level and validity of the checks under this clause 22 for each individual engaged in Regulated Activity;
- 22.1.3 not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Participants involved in the Local Projects;
- 22.1.4 ensure all activities under the Programme are undertaken in such a way as to ensure the Funder, the Recipient and any other third parties to which the duty applies, comply with the Prevent Duty; and

- 22.1.5 ensure any Participants in receipt of training or education as part of a Local Project are engaged in safe and appropriate learning environments and are protected from extremism.

## **23 Insurance**

- 23.1 The Recipient shall ensure that any Delivery Partners maintain an appropriate level of public liability insurance and employer's liability insurance for the Local Projects they will deliver.

## **24 Termination**

- 24.1 The Funder may terminate this agreement and any Grant payments on giving the Recipient three (3) months' written notice should it be required to do so by financial restraints or for any other reason.
- 24.2 Without prejudice to clause 16.1 and in addition to any other remedies under this agreement, the Funder may terminate this agreement immediately upon giving written notice should any of the occurrences listed in clauses 16.1.1 to 16.1.27 occur.

## **25 Assignment**

- 25.1 The Recipient may not, without the prior written consent of the Funder, assign, transfer, sub-contract, or in any other way make over to any third party the benefit and/or the burden of this agreement or, except as contemplated as part of the Programme, transfer or pay to any other person any part of the Grant.
- 25.2 The Funder has discretion to assign this agreement to another public sector organisation should they wish to do so.

## **26 Waiver**

No failure or delay by either party to exercise any right or remedy under this agreement shall be construed as a waiver of any other right or remedy.

## **27 Notices**

All notices and other communications in relation to this agreement shall be in writing and shall be deemed to have been duly given if personally delivered, e-mailed, or mailed (first class postage prepaid) to the address of the relevant party, as referred to above or otherwise notified in writing. If personally delivered or if e-mailed all such communications shall be deemed to have been given when received (except that if received on a non-working day or after 5.00 pm on any working day they shall be deemed received on the next working day) and if mailed all such communications shall be deemed to have been given and received on the second working day following such mailing.

## **28 Dispute resolution**

- 28.1 In the event of any complaint or dispute (which does not relate to the Funder's right to withhold funds or terminate) arising between the parties to this agreement in relation to this agreement the matter should first be referred

for resolution to the Project Manager or any other individual nominated by the Funder from time to time.

28.2 Should the complaint or dispute remain unresolved within fourteen (14) days of the matter first being referred to the Project Manager or other nominated individual, as the case may be, either party may refer the matter to the Executive Director of Economic Delivery, Skills and Communities and Director of Employment and Skill of the Funder and the officer of the Recipient with primary responsibility for the aspect of the Programme which relates to the dispute with an instruction to attempt to resolve the dispute by agreement within twenty eight (28) days, or such other period as may be mutually agreed by the Funder and the Recipient.

28.3 In the absence of agreement under clause 28.2, the parties may seek to resolve the matter through mediation under the CEDR Model Mediation Procedure (or such other appropriate dispute resolution model as is agreed by both parties). Unless otherwise agreed, the parties shall bear the costs and expenses of the mediation equally.

**29 No partnership or agency**

This agreement shall not create any partnership or joint venture between the Funder and the Recipient, nor any relationship of principal and agent, nor authorise any party to make or enter into any commitments for or on behalf of the other party.

**30 Joint and several liability**

Where the Recipient is not a company nor an incorporated entity with a distinct legal personality of its own, the individuals who enter into and sign this agreement on behalf of the Recipient shall be jointly and severally liable for the Recipient's obligations and liabilities arising under this agreement.

**31 Variation**

No variation to this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

**32 Contracts (Rights of Third Parties) Act 1999**

This agreement does not and is not intended to confer any contractual benefit on any person pursuant to the terms of the Contracts (Rights of Third Parties) Act 1999.

**33 Governing law**

This agreement shall be governed by and construed in accordance with the law of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

**34 Severability**

34.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.

34.2 If any provision or part-provision of this agreement is deemed deleted under clause 34.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

**35 Entire agreement**

This agreement (together with all documents attached to or referred to within it) constitutes the entire agreement and understanding between the parties in relation to the Grant and supersedes any previous agreement or understanding between them in relation to such subject matter.

**36 Counterparts**

This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one deed.

This agreement has been entered into as a deed on the date stated at the beginning of it.

## Schedule 1 Programme Delivery Schedule & Grant Allocation

### Programme Delivery Schedule & Grant Allocation Year 1

### Birmingham City Council

#### Funding Allocation – Year 1 2022/23

Funding Area	Value
Capital	£1,738,950
Revenue	£380,000
Management Fee	£55,000
<b>TOTAL</b>	<b>£2,173,950</b>

#### Area's covered

Birmingham - all areas

#### Interventions, Outputs and Outcomes - Community and Place

##### E1: Improvements to town centres & high streets

Output	Year 1
Number of commercial buildings developed or improved (numerical value)	1
Amount of commercial buildings developed or improved (m2)	50
Amount of public realm created or improved (m2)	1000

##### E2: Community & neighbourhood infrastructure projects

Output	Year 1
Number of organisations receiving grants (numerical value)	5
Number of organisations receiving non-financial support (numerical value)	5
Number of facilities supported/created (numerical value)	1
Number of local events or activities supported (numerical value)	10

##### E3: Creation of and improvements to local green spaces

Output	Year 1
Amount of green or blue space created or improved (m2)	6000
Number of new or improved cycleways or paths (numerical value)	1

##### E4: Enhancing existing cultural, historic & heritage institutions offer

Output	Year 1
Number of facilities supported/created (numerical value)	2

Amount of green or blue space created or improved (m2)	6000
Number of Tourism, Culture or heritage assets created or improved (numerical value)	1
Number of events/participatory programmes (numerical value)	5

#### **E6: Local arts, cultural, heritage & creative activities**

<b>Output</b>	<b>Year 1</b>
Number of organisations receiving grants (numerical value)	20
Number of organisations receiving non-financial support (numerical value)	5
Number of local events or activities supported (numerical value)	5
<b>Outcome</b>	<b>Year 1</b>
Jobs created (numerical value)	5
Jobs safeguarded (numerical value)	10
Increased footfall (% increase)	33
Increased visitor numbers (% increase)	20
Improved perception of facilities/amenities (% increase)	33
Improved engagement numbers (% increase)	33
Number of community-led arts, cultural, heritage and creative programmes as a result of support (numerical value)	10

#### **E11: Capacity building & infrastructure support local groups**

<b>Output</b>	<b>Year 1</b>
Number of facilities supported/created (numerical value)	2
<b>Outcome</b>	<b>Year 1</b>
Increased users of facilities/amenities (% increase)	10





UK Government



West Midlands  
Combined Authority

# UK SHARED PROSPERITY FUND

## OPERATIONAL PLAN

Version 2 – 30th January 2023

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## • Purpose

This document has been produced to support successful UK Shared Prosperity Fund (UKSPF) project leads in managing and delivering UKSPF projects (as set out in West Midlands Combined Authority Back-to-Back Grant Agreements). It will set out the universal fund wide conditions and expectations for appropriate spend of the UKSPF core allocations.

It includes additional information on the programmes' management, monitoring, and control requirements and should be used as a tool to support the delivery and management of projects.

This Operational Plan is intended for use in the first year of delivery only and will be reviewed and updated as necessary in this or any subsequent contract years. This should be read in conjunction with your grant agreement, the [UKSPF Investment Prospectus](#), [UKSPF Additional Information](#). From time to time these guides will be updated and we ask that you endeavour to remain up to date with government guidance. We will work with you by flagging when guidance has been updated to WMCA.

## Funding

The UK Shared Prosperity Fund is intended to help communities, support people living or working in the UK, and help businesses operating in the UK. Investment funding for interventions is available from 1st April 2022 to March 2023 and is confirmed for year 1 (2022-23) and indicative for years 2 (2023-24) and 3 (2024-25).

All interventions must end by March 2025. The fund can be used flexibly to support interventions via

- Grant to public or private organisations
- Commissioning third-party organisations
- Procurement of service provision
- In-house provision

## Match Funding

Although match funding is not a requirement of funding all lead local authorities are strongly encouraged to consider match funding from the private, public and third sectors and leverage options when selecting communities and place and supporting local business interventions to fund. This will maximise the value for money and impact of the Fund.

Where it will aid overall programme or project management, or to reflect the availability of funding from partners, lead local authorities can use the UKSPF in one period, and match funding the next, or vice versa. This is subject to the UKSPF being used solely

for agreed UKSPF activities and taking account of the overall UKSPF spend profile for the given year.

## • **Limitations**

Local Authorities and delivery providers should ensure they are aware of the limitations of the UKSPF funding to prevent spend on ineligible costs. The list below provides examples of costs that are not to be included in a UKSPF intervention,

- Political or religious activity
- Statutory or funded activities
- Fines or debt
- Gifts
- Contingencies
- VAT reclaimable from HMRC

This list is not exhaustive, and you should refer to your funding agreement, in particular in relation to schedule 3 for further details or contact the SPF programme team ([UKSPF@wmca.org.uk](mailto:UKSPF@wmca.org.uk)) if further clarification is required.

Management Fees that have been allocated to you as Lead Authority are only permitted to be spent on projects directly relating to UKSPF funding. Monitoring guidance, evidence requirements and reporting will be contained within WMCA UKSPF Monitoring and Evaluation Return.

## • **Management Information**

Your ability to demonstrate the activity within the delivery plans you have provided is largely dependent on the records you set up and maintain. Putting in place and maintaining orderly and comprehensive records will enable you to not only assess project status, and progress and complete the WMCA Monitoring and Evaluation Return but will provide evidence of compliance and support financial claims.

The need for projects to be able to provide records to substantiate claims and prove you have satisfied various UKSPF requirements is essential. WMCA or Department for Levelling Up, Housing and Communities (DLUHC) may, at any time, during the life of your project and for a period of 6 years after, carry out spot checks or request evidence for audit purposes. This could also include evidence of procurement and branding/publicity compliance. The onus of proof will sit with lead delivery partners/organisations.

To compile the data required for UKSPF interventions, as programme leads you will need to put in place the necessary forms and processes to gather this data from local authorities and other UKSPF delivery partners. The WMCA will not be issuing templates for this purpose, as we know many of you already have these in place for other externally funded projects you have delivered. We will be happy to review or provide feedback on any templates you are developing to monitor UKSPF activity if you feel this will be of benefit to you.

## • **Payments to Partners**

Assessment and monitoring of any under or over the performance of delivery activity will be carried out monthly in line with WMCA submission dates provided here in Annex 1, against your programme and project templates.

### **Payments Schedule Year 1**

<b>UKSPF</b>	<b>50% in Advance*</b>	<b>50% Outcome Payment **</b>
<b>Year 1</b>	From January 2023	31 <sup>st</sup> March 2023

Clause 16 of your Grant Funding Agreement contract should be referred to regarding conditions of withholding, suspending or repayment of Grant funds.

\* Payment in advance is subject to a signed and returned Grant Funding Agreement. Commencement of delivery of activity will be expected to commence no later than 28 February. Failure to meet this commencement deadline may result in a financial clawback of grant payments made in advance.

\*\* Final payment will be subject to the WMCA UKSPF Monitoring and Evaluation Return submissions and a review and reconciliation of actual spend, as per the Underspend section below.

In April 2023 WMCA will submit a Grant Statement of Usage to DLUHC confirming underspends for the 2022-2023 contract year. Any necessary deductions will then either be made from the 2023 – 2024 contract year allocation (subject to timescales for review by government) or clawback. This may also include a review of payment profiling for each of the contract years by WMCA, allowing recovery of funding across previous financial years. This would include circumstances where a recipient fails to achieve the programme targets. Local authorities and delivery leads will be asked to update programme and project templates for subsequent delivery years.

## Performance Data

Projects will be asked to report data to ensure allocations are being spent to agreed timescales and milestones, including achievement of outputs and outcomes at programme, project, local authority and UK parliament constituency level.

As the lead bidder you will be required to ensure that delivery partners and/or sub-contractors are capturing and monitoring the required data and evidence and reporting back to you in a timely manner, to support your monthly updates and project evaluation. Whilst we will endeavour to keep any changes to data and performance requirements to a minimum it should be noted that from time to time there may be necessary changes in order to respond to requests from the DLUHC and to ensure compliance with Data Protection Legislation.

Moving forward the WMCA will be looking to develop an online UKSPF reporting tool in order to make reporting and performance monitoring activity easier to manage. We are aiming to have this in place for year 2 delivery.

In the interests of transparency and clarity in year reporting will be required by WMCA to DLUHC in two ways; Quarterly qualitative reporting and 6 monthly formal reporting - See Annex 2.

Reporting to WMCA from delivery partners will be required as follows:

### **Completion of the WMCA UKSPF Monitoring and Evaluation Return**

To capture performance data and all other required information for the UKSPF projects we will require completion of the WMCA UKSPF Monitoring and Evaluation Return monthly.

Submissions should be sent to [UKSPF@wmca.org.uk](mailto:UKSPF@wmca.org.uk) and marked "UKSPF Return" in the title heading.

Please ensure you have saved your file with the following naming convention: WMCA UKSPF\_Lead Partner name\_DDMMYY (date of completion). Please feel free to use abbreviations if this does not fit the file name character restrictions. As returns may contain sensitive data we require them to be returned via secure document transfer such as <https://wettransfer.com/>

See Annex 1 for further details and WMCA submission dates. Whilst we will endeavour to minimise changes to the template currently in use, however, we may have to make changes from time to time based on the requirements of DLUHC.

## Evidence Requirements

In addition to the WMCA UKSPF Monitoring and Evaluation Return that you will be returning, WMCA lead bidders and delivery partners will also be expected to gather and hold information to support monitoring.

WMCA will not be issuing template documents for you to use to gather this data but would expect you to set up the necessary forms to compile evidence

The WMCA do not anticipate for this to be submitted but as lead bidder you will be expected to collect, review, check and approve all supporting evidence as part of your monthly submissions to the WMCA. We may from time to time require inspection of this documentation.

## Outputs and Outcomes

Investment plan deliverables are as set out in your Grant Funding Agreement Schedule 1 Programme Delivery and definitions can be referred to in the [updated list of outputs and outcomes](#) issued by DLUHC.

WMCA will require reporting on Outputs and Outcomes as follows:

**Baseline data** - Local authorities and delivery partners will be responsible for identifying and reporting baseline data for outcomes and outputs (where appropriate, for some outputs the baseline may be 0). This needs to be measured before any Interventions have taken place. Baseline data will be critical for providers to evidence the change as a result of the intervention.

**Substantiation data** - Local authorities and delivery partners will be responsible for the collection and storage of evidence to substantiate output and outcomes in line with the unit of measure as detailed in the UKSPF indicative deliverables. Data should be captured to measure the impact of the intervention against the Baseline data.

Evidence could include but is not limited to;

- Photographs of visible change e.g., construction or regeneration activity.
- Formal documentation e.g., Energy performance certificates, memorandum of understandings, floorplans, enrolment registers etc.
- Evidence from contractors e.g., emails certifying completion.

Projects must be able to demonstrate that the output is a direct cause of the intervention, whilst acknowledging this will be harder for outcomes, it is expected that Local Authorities and delivery partners will only record those outcomes impacted by UKSPF and not those directly or clearly influenced by other factors.

In some cases, participant or business data will be used to monitor and evaluate projects. Lead bidders should collect data which could include (but is not limited to); project location data (e.g., postcodes) and unique identifiers for people or business information (e.g., National Insurance numbers or Company Registration Numbers)

For further guidance please refer to the link here:

<https://www.gov.uk/guidance/uk-shared-prosperity-fund-outputs-and-outcomes-definitions-2>

## • **Performance Monitoring**

To ensure the success of the UKSPF projects WMCA will support, develop, and maintain effective working relationships with all delivery Partners, encouraging collaboration and consistency of delivery, the sharing of best practice and lessons learnt through regular engagement with partners and stakeholders.

On a monthly basis, we will meet with the Local Authorities and lead delivery partners, to review ongoing activity and delivery via one of the following methods:

- Telephone,
- Email,
- Virtual or face-to-face meetings,
- Partner Network Discussions

DLUHC and WMCA will commission evaluation of the project across the term. Further detail can be found in the Monitoring & Evaluation section here [UKSPF Additional Information](#) and in Clause 10 of your Grant Agreement

We welcome and encourage the sharing of best practice, identification and sharing of case studies, highlighting good news and discussions about what is working well and what is not working as planned. We will work proactively with local authorities and lead delivery partners to identify solutions, discuss concerns and to agree actions and share best practice. Action plans will be set up to on the WMCA UKSPF Monitoring and Evaluation Return in order to capture and monitor these.

## • **Financial Monitoring**

As detailed in Clause 10 of your Grant Funding agreement local authorities and lead delivery partners are responsible for managing and monitoring UKSPF expenditure and approving that of delivery partners and/or sub-contractors.

We would expect you to set up financial management processes to support this and retain documents that provide a clear audit trail demonstrating the expenditure, for example, invoices or bank statements.



As part of your financial monitoring, we would also expect you to keep evidence of procurement, evidence of accountable match funding, staff resource & salary costs, receipts and invoices. You will be responsible for ensuring that partners and/or sub-contractors adhere to the financial requirements as set in your UKSPF Grant Funding agreement. A tab is included on the WMCA UKSPF Monitoring and Evaluation Return where you will be required to provide monthly financial updates of forecast and actual expenditure.

Further information will be provided to Local Authorities and lead delivery partners including detail on submission of evidence for reconciliation.

## • **Management of Underspends and Underperformance**

The WMCA and Local Authority Partners have considered and agreed principles in respect of underspends and underperformance to local allocations of SPF funds.

As per guidance from Government, eligible spend for UKSPF should include spend invoiced and paid in the period. Adjustments (i.e. accruals) for goods and / or services received within the period are allowable and must comply with the relevant accounting standards. Commitments for goods or services which will be received beyond 31st March can only be recognised in the new financial year and must not form part of the year end UKSPF position.

Given the potential risk of future funding being reduced or withheld by government if underspends are identified or concerns are raised around future spending plans based on experience of local delivery date including performance, the following principles have been agreed:

- Local authorities and the WMCA will ensure that SPF funds and activity is monitored and managed by a dedicated resource within their organisation. The individual/s will be responsible for providing a programme level overview against delivery and spend to the WMCA on a monthly basis.
- The WMCA will provide local authority partners with a dedicated SPF lead contact, who will be responsible for reviewing and co-ordinating local data, collating reports for central government and working with local authorities to review progress.
- In a full delivery year, local authorities and the WMCA will do a full review of project level spends and forecast data to year end during Quarter 3 each financial year.
- Toward the end of Quarter 3, local authorities will provide the WMCA SPF lead with either confirmation that all spends/performance will be achieved as set out in local delivery plans or advise of potential underspends or underperformance,

and if credible plans can be developed to mitigate any risks of future payments being reduced or claw back.

- The WMCA SPF Lead will co-ordinate responses and consider impacts of spends and performance across the wider programme and provide an update report to West Midlands Finance Directors and Economic Growth Board on position.
- If a local authority is significantly underperforming and no credible plans are put in place to improve this, consideration will need to be given by the Economic Growth Board about how amendments to the annual allocations (between delivery bodes) could be made to maximise the deployment across the programme.
- Where a local authority has confirmed an underspend, there is an opportunity for this funding to be allocated to other LA's early in Quarter 4.
- The WMCA will establish a light touch process to utilise emerging regional underspends, which LA's will be able to submit to. This will be considered by Economic Growth Board and will include a review of performance and delivery to date against original allocations.
- Where Economic Growth Board are unable to agree approaches to underspends or reallocation of funds, or due to meeting cycles decisions cannot be made within appropriate timescales, the Chair of EGB, with the Executive Director for Economic Delivery, Skills and Communities with the Executive of Director of Finance and Business Hub, will have delegated authority to make decisions.
- The WMCA will work within existing governance frameworks to agree a process for approving changes to local allocations and moving money across/within the programme.
- If a local authority fails to notify the WMCA of underspends or requests to submit plans to government in order to seek agreement to carry forward this funding, which in turn is not approved, this amount will be reduced from their next year financial allocation or clawed back in year 3, in line with reduced awards/claw back to the WMCA.
- Local authorities will be responsible for drafting any plans to secure carry forward of funding from government, these will be submitted to the WMCA for consideration. If agreed, the WMCA will collate requests and submit at a programme level. If plans are agreed local delivery plans will be reprofiled aligned to this.
- If following the period of extension (subject to government guidance and approval) the local authority still fails to spend the full amount or achieve outputs

- the respective local authority will be responsible for claw back or reductions to their local allocations.

For year 1 delivery the WMCA accepts that a condensed/streamlined approach is required due to the limited delivery time available. Therefore, the following approach will apply to managing year 1 underspends and underperformance:

<b>Timescale</b>	<b>Actions</b>
6th January	Local authority partners to provide year 1 programme level breakdown including but not limited to interventions, outputs, outcomes and financials including any potential underspends.
w/c 9 <sup>th</sup> January – 20 <sup>th</sup> January	WMCA to review returns against the WMCA UKSPF Investment Plan, MoU and year 1 funding award and carry out clarification meetings with local authority leads as required. Underspends identified during this stage will be logged with WMCA Finance Directors.
31 <sup>st</sup> January	Local authority partners to provide 3-year programme and individual project level breakdowns, including but not limited to interventions, outputs, outcomes and financials.
w/c 13 <sup>th</sup> February	WMCA SPF Programme Team to hold first performance review meeting, to review progress against the year 1 plan and delivery activity as set out in the Grant Funding Agreement Schedule. Local authorities will be asked to confirm forecast slippage and/or underspend is anticipated and provide confirmation of mitigation plans in place to manage these.
w/c 13 <sup>th</sup> February	The WMCA SPF Programme Team will engage with local authorities in order to compile a list of potential projects that could deliver against the year 1 interventions, outputs and outcomes as set out in our UKSPF Investment Plan (a template will be issued for this).
w/c 6 <sup>th</sup> March	WMCA SPF Programme Team to hold second performance meeting to review year 1 delivery progress and actual spends. Local authorities will be asked to confirm any underspends.
16 <sup>th</sup> March	All year 1 underspends will be totalled and reported to the WMCA Finance Directors including a summary report of delivery and performance data for all local authorities to date and the list of potential alternative projects. Finance Directors will be asked to agree for underspends to be allocated to other local authorities and will undertake a review and agree which of the proposed projects can be supported. The Chair of EGB, with the Executive Director for Economic Delivery, Skills and

	Communities with the Executive of Director of Finance and Business Hub, have delegated authority to make decisions for final approval.
w/c 3 <sup>rd</sup> April	Local Authorities are asked to submit a final year 1 M&E return including financial evidence to the WMCA and clarification meetings will be held.

## • Branding and Publicity

As detailed in Clause 11 of your Grant Funding Agreement, UK Government and Levelling Up publicity and branding requirements must be followed for all UKSPF projects. Detailed guidance can be located in the Branding & Publicity section here [UKSPF Additional Information](#). This covers such areas as logo use, production of plaques, print and digital materials, and co-branding. Co-branding is only permitted with lead local authorities (or any strategic geography branding) or funders. WMCA branding is also required on projects and the link to this is here [WMCA Brand Guidelines](#)

Further requirements are detailed as follows:

### Digital materials including websites and social media:

- Where details of fund activities are published on websites, a clear and prominent reference to the funding from the UKSPF is to be included as follows: *'This project is [funded/part-funded] by the UK Government through the UK Shared Prosperity Fund.'*
- Where practical, lead local authorities and project deliverers should also include a link to the UK Shared Prosperity Fund [webpage](#), and the following text (which must also be used for notes to editors): *The UK Shared Prosperity Fund is a central pillar of the UK government's Levelling Up agenda and provides £2.6 billion of funding for local investment by March 2025. The Fund aims to improve pride in place and increase life chances across the UK investing in communities and place, supporting local business, and people and skills. For more information visit <https://www.gov.uk/government/publications/uk-shared-prosperity-fund-prospectus>*
- When describing or promoting Fund activities on social media such as Twitter, the following hashtag (#) should be used #UKSPF. This will be re-tweetable by UK Government allowing others to follow Fund activities.

### Press and media including press releases and notes to editors:

- Press releases must include a clear and prominent reference to the UKSPF, in the main body of the press release as follows:  
*'[This project/Name of project] has received £[INSERT AMOUNT] from the UK Government through the UK Shared Prosperity Fund'.*
- It is a requirement to also use set notes to editors in all media activities. The text to use has been provided above in the Digital Materials section.

We do not require sight of any branding and publicity activities undertaken by lead local authorities and project deliverers while delivering Fund activities, but evidence of compliance with branding and publicity guidance should be retained for monitoring and audit purposes. Please also ensure that you keep WMCA informed of any future publicity opportunities, via your Project Manager.

## • **Policies, Due Diligence and Data Protection**

WMCA require Lead Authorities to apply proportional due diligence across all aspects of UKSPF programmes and comply with Public Contracts Regulations 2015 and Public Sector Equalities Duty, ensuring that you comply with legislation to ensure individuals' safety and well-being, equal treatment and access to provision and correct handling of data and information.

As Lead Local Authority you must ensure that key areas of due diligence are identified for projects in which you invest. Reporting and monitoring throughout the term of delivery and ensure safe storage of all work undertaken on due diligence in the event of any issues or audit requirements.

Lead local authorities shall also be responsible for ensuring that Fraud is a key consideration in all spend activity and that the following minimum standards are met:

- follow Grants Functional Standards on Fraud Risk Assessment (FRA) – pages 15-19.
- undertake FRAs at an appropriate level to each individual project dependent on risk.
- ensure that UKSPF spend is undertaken in accordance with effective authority fraud prevention policy and procedure, and via engagement with colleagues specialising in this area.
- ensure that relevant evidence and data to prevent fraud is gathered as part of due diligence undertaken ahead of releasing funds.
- implement reporting and monitoring requirements that will identify irregularities or issues in use of funds which can be investigated further.

- store and file all work undertaken on FRA in the event of any issues or audit requirements.

Each local authority and lead delivery partners will be expected to ensure they have in place evidence in the form of policies, which may from time to time be required for audit & compliance purposes to WMCA or DHLUC.

Policies that will be required are listed but not limited to:

- Safeguarding,
- Prevent,
- Health & Safety,
- Equality & Diversity,
- GDPR,
- Data Protection,
- Freedom of Information and Whistleblowing.

Local Authorities and Lead delivery partners will also be required to complete risk registers that are thorough and up-to-date and demonstrate actions and improvements.

The requirements around intellectual property, confidentiality, and freedom of information between WMCA and Local Authorities and other relevant parties are detailed in Clauses 12 (Intellectual Property), 13 (Confidentiality) and 14 (Freedom of Information), respectively of your grant Agreement.

Further information regarding data protection is contained within Clause 15 of your grant agreement.

## • **Procurement, Subcontracting & Supply Chain**

Projects are expected to ensure that all investment is made in line with the Public Contracts Regulations 2015 and follows the local constitution and grant rules, processes and procedures.

The WMCA understands that both supply chain and partnership relations can have an important role to play in the delivery of UKSPF projects.

The WMCA considers the term 'supply chain delivery member' to encompass all third-party arrangements you have with other organisations where they are managing and delivering a proportion of your WMCA UKSPF project.

The Grant Recipient or any of their Representatives involved in the UKSPF Project activities will adopt such policies and procedures that are required to ensure that value

for money has been obtained in the procurement of goods or services funded by the Grant.

Where the Grant recipient is a contracting authority within the meaning of the Procurement Regulations the Grant Recipient will comply, as necessary, with the Procurement Regulations when procuring goods and services in connection with the Project Activities and the WMCA shall not be liable for the Grant Recipients failure to comply with their obligations under the Procurement Regulations.

If providers intend to source, through procurement or otherwise, additional supply chain members the responsibility of this activity and any associated risks would sit with the lead body. Therefore, we ask that you ensure compliance with onward procurement / subcontracting activity against the Grant Funding Agreement issued.

## • **Subsidy Control**

UK subsidy control guidance has been issued for public authorities to help them interpret the UK's international obligations on subsidy control; this is also applicable for non-public organisations to understand how its principles must be applied.

For more detail, lead local authorities and applicants should refer to <https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities>.

There are four key characteristics of a support measure that are likely to indicate that it would be considered a subsidy, all of which would need to be met:

- the support measure must constitute a direct or indirect financial (or in-kind) advantage such as a grant, loan or guarantee and must be provided by a 'public authority', including, but not limited to, central, devolved, regional or local government from public funds;
- the support measure must confer an economic advantage on one or more enterprises;
- the support measure is specific insofar as it benefits one or more enterprises over one or more other enterprises with respect to the production of goods or the provision of services; ; and
- the support measure must have, or have the potential to have an effect on:
  - competition or investment within the UK;
  - trade between the UK and a country or territory outside the UK; or
  - investment as between the UK and a country or territory outside of the UK.

Local Authorities are responsible for ensuring that the use of the Grant is compliant with the subsidy control regime in all respects. This means that Local Authorities must



consider the subsidy control compliance of projects which they are self-delivering, and those which are delivered by their Delivery Partners. In Year 1, WMCA requests that Local Authorities confirm in writing that the Programme and each Local Project is compliant with the Subsidy Control Rules. WMCA reserves the right to take a different approach to confirming subsidy control compliance in subsequent years, and may require additional information from Local Authorities to demonstrate compliance. Your grant agreement contains further information on subsidy control, in particular at clause 8.

## • **Impact and evaluation**

Information collected will be used in both the process and impact evaluation of the UKSPF programme. As a delivery partner, you will be required to provide information to facilitate evaluation activity carried out by either DLUHC or WMCA.

The UKSPF will be evaluated by DLUHC based on a theory of change aligned to the objectives of the Levelling up white paper, there will be a national approach to the DLUHC evaluation in partnership with the What Works Centre for Local Economic Growth. It is fully expected that WMCA will be included in any national evaluation due to the value of the investment.

The WMCA will commission a region wide evaluation of UKSPF provision, and we will be keen to learn from your projects to understand what works well in our region and how your activity has supported and delivered against local, regional, and national priorities.

We are keen to bring projects together to share learning and experiences whilst also providing an opportunity for you to feedback on processes that have been put in place to support you to help us shape future similar activity.

## • **Change Requests & Exit Planning**

Clause 5.3 of your grant agreement states that Local Authorities and lead delivery partners must not make any substantial change to the programme and/or the information contained within the programme delivery schedules without initially consulting with the WMCA. Substantial change may include but is not limited to changes to the scope of the interventions, changes to expenditure and financial profiles, variation to volumes of outcomes and outputs.

The WMCA will review any change requests in line with governments SPF change processes before confirming if these are accepted.

If there are substantial changes to your Grant Funding Agreement Schedule 1 Programme Delivery, which could include change to the scope of the interventions,



changes to expenditure and financial profiles, variation to volumes of outcomes and outputs. The WMCA may be required to submit a formal change request to Government for their approval.

The local Authority and Lead delivery partner must ensure that all delivery of UKSPF interventions have exit planning arrangements in place, ensuring the continuation of funded activities (where appropriate) in the event of expiry or termination. DLUHC are still to confirm the extent of exit planning requirements and WMCA will clarify as soon as we can. These will be discussed with your project manager and recorded on the WMCA UKSPF Monitoring and Evaluation return as needed.

- **Key Contacts**

You can contact us through our query mailbox [UKSPF@wmca.org.uk](mailto:UKSPF@wmca.org.uk)

You can also contact your assigned Project Manager

For disputes or complaints please contact your Project Manager in the first instance.

## Annex 1 - WMCA Reporting Schedule

Reporting Periods	Report Type	Report Due Date
Activity to date	To be confirmed	March – actual date still to be confirmed by DLUHC
1 January to 31 March 2023	6 Month Report	Friday 14th April 2023 Noon
April 2023	Monthly Return	Thursday 4 <sup>th</sup> May 2023
May 2023	Monthly Return	Thursday 8 <sup>th</sup> June 2023
June 2023	Monthly Return	Friday 14 <sup>th</sup> July 2023
1 April to 30 June 2023	Quarterly Report	Friday 14 <sup>th</sup> July 2023 Noon
July 2023	Monthly Return	Thursday 3 <sup>rd</sup> August 2023
August 2023	Monthly Return	Thursday 7 <sup>th</sup> September 2023
September 2023	Monthly Return	Friday 13 <sup>th</sup> October 2023
1 July to 30 September 2023	6 Month Report	Friday 13 <sup>th</sup> October 2023 Noon
October 2023	Monthly Return	Thursday 9 <sup>th</sup> November 2023
November 2023	Monthly Return	Thursday 7 <sup>th</sup> December 2023
December 2023	Monthly Return	Friday 19 <sup>th</sup> January 2024
1 October to 31 December 2023	Quarterly Report	Friday 19 <sup>th</sup> January 2024 Noon
January 2024	Monthly Return	Thursday 8 <sup>th</sup> February 2024
February 2024	Monthly Return	Thursday 7 <sup>th</sup> march
March 2024	Monthly Return	Friday 19 <sup>th</sup> April 2024
1 January to 31 March 2024	6 Month Report	Friday 19 <sup>th</sup> April 2024 Noon

- **Annex 2 - DLUHC Reporting Schedule**

Reporting Periods	Report Due Date	Report Type
Activity to date	March 2023	Quarterly (summary report only)
1 January to 31 March 2023	1 May 2023	Sixth monthly
1 April to 30 June 2023	1 August 2023	Quarterly (summary report only)
1 July to 30 September 2023	1 November 2023	Sixth monthly
1 October to 31 December 2023	1 February 2024	Quarterly (summary report only)
1 January to 31 March 2024	1 May 2024	Sixth monthly
1 January to 31 March 2025	1 May 2025	Sixth monthly and final reporting of the SR funding cycle

### Schedule 3 Breakdown of Grant

#### Ineligible Costs

The following are Ineligible Costs:

- contributions in kind;
- depreciation, amortisation or impairment of fixed assets owned by the Recipient or any Delivery Partner;
- input VAT reclaimable by the Recipient or any Delivery Partner from HM Revenue and Customs;
- interest payments or service charge payments for finance leases;
- gifts;
- entertaining (which for this purpose means anything that would be a taxable benefit to the person being entertained, according to current UK tax regulations);
- statutory fines, criminal fines or penalties;
- any activities that the Recipient or any Delivery Partner would otherwise be able to access free of charge;
- paid for lobbying, entertaining, petitioning or challenging decisions, which means using the Grant to lobby (via an external firm or in-house staff) in order to undertake activities intended to influence or attempt to influence Parliament, government or political activity including the receipt of UKSPF funding; or attempting to influence legislative or regulatory action;
- payments for activities of a party political or exclusively religious nature;
- VAT reclaimable from HMRC;
- gifts, or payments for gifts or donations;
- statutory fines, criminal fines or penalties;
- payments for works or activities which the Recipient, Delivery Partner, end beneficiary, or any member of their partnership has a statutory duty to undertake, or that are fully funded by other sources;
- contingencies and contingent liabilities;
- dividends;
- bad debts, costs resulting from the deferral of payments to creditors, or winding up a company;
- expenses in respect of litigation, unfair dismissal or other compensation; or

- costs incurred by individuals in setting up and contributing towards private pension schemes.

## Schedule 4 Grant Conditions

EXECUTED as a DEED

by the affixing of the COMMON SEAL of

**WEST MIDLANDS COMBINED AUTHORITY**

in the presence of:

.....

Authorised Signatory

.....

Name

EXECUTED as a DEED

by the affixing of the COMMON SEAL of

**the Recipient**

in the presence of:

.....

Authorised Signatory

.....

Name