Article 22

Trusted Flaggers

Application Form

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# **Application Form and Guidance**

# Section (1) General Information: Applicant Entity

|  |  |
| --- | --- |
| **Trading Name of Entity** | **Name of Entity**, **Company Number & Registration Number** |
|  |  |
| **Entity Type –** *please tick*  | **Registered address** and principal place of business (if different) |
| Public (non-regulatory) body Private entity NGONetwork/Alliance Trade Union |  |
| What is your organisation’s **mission/purpose?** Describe the **activities** or (where applicable) **services** your entity provides and to whom they are made available.  |
|  |
| Provide the reasons why you wish to apply for the award of Trusted Flagger status? |
|  |
| Outline the structure of your entity/organisation and provide details of the number and roles of staff and/or volunteers that work with you. The structure in diagrammatical format should also be submitted with your application. |
|  |
| Does your organisation currently undertake or has it previously undertaken activities relating to the detection, identification and notification to online platforms of illegal content?If yes, state the date of commencement and end (if not current).  | Please indicate YES or NO here. (Further information is requested in section 2.) |

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| **Contact person** who will liaise with Coimisiún na Meán in respect of this application. |
| **Name** |  |
| **Position** |  |
| **Email** |  |
| **Phone** |  |
| **Address** (if different) |  |

**Award Details**

|  |  |
| --- | --- |
| Confirm that you wish to apply for Trusted Flagger status for a3-year period.  |  Yes  |
| No – please specify |
| List the **particular areas** **of illegal content** (from the list at Appendix 3) for which your entity is applying for Trusted Flagger status.  |
|  |
| List the **(a)** **types of online platforms, (b) areas of illegal content** and **(c)** **language/s** whichyou will monitor for the purpose of the detection, identification and notification of illegal content? |  |

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| ***Guidance*** *The information requested in this section helps us to process your application swiftly and efficiently. The DSA does not impose a maximum period for the award of Trusted Flagger status. Coimisiún na Meán will grant the award of Trusted Flagger status for a period of 3 years. You must continue to comply with the certification conditions and the other obligations under Article 22 for the entire period.* ***Note:*** *Further details about your areas of expertise are requested in section 2.* ***A list of documentary evidence that may be requested under this heading is set out in the Schedule at Appendix 1 and in the checklist below.***  |

Please map the requested documents from the checklist below to the documents you provided to support this section of the application. If more than one document is provided under a single category, please clarify the relevance of each. Documents may be provided via links or attachments. Please reference page numbers where relevant (for longer documents).

|  |  |  |
| --- | --- | --- |
| Documents requested | Attachment reference/page number  | Link (if applicable) |
| The entity’s certificate of incorporation |  |  |
| The entity’s Constitution |  |  |
| Company registration office details |  |  |
| If any of the requested documents are not provided, please present a rationale below. |
|  |

# Section (2) Expertise and Competence: Detecting, Identifying and Notifying Illegal content

**Previous Experience in detecting, identifying and notifying illegal online content** *\*Where an entity does not have direct previous experience in this field, please provide other relevant experience.*

|  |  |  |
| --- | --- | --- |
| * 2.1
 | List the **specific area/s of illegal content** (from the list at Appendix 3) in which your entity has flagging **expertise**. |  |
| * 2.2
 | List any other relevant **expertise** your entity has that you consider relevant to this application (e.g., digital technologies, legal experience, regional etc.) |  |
| * 2.3
 | What relevant **prior** **experience,** if any, does your entity have in **detecting, identifying and notifying illegal content** online under each of the area identified?  |
|  |  |
| * 2.4
 | Where applicable, provide details of the **areas of illegal content** and **types of online platforms** you have monitored and/or with whom you have TF or equivalent status. |
|  |  |
| * 2.5
 | Give a brief description of the **methods** and **technology** used for detecting, identifying and notifying illegal content. |
|  |  |

**Experience: Personnel detecting and notifying illegal online content**

|  |  |
| --- | --- |
| 2.6 | Confirm your entity will engage with the **online platform/s onboarding process** and training programmes offered to trusted flaggers. |
|  |  |
| 2.7 | Give a brief description of any additional **training** that will be provided to individuals engaged in flagging activity on behalf of your entity, including **technology and assessment tools** employed for this activity. |
|  |  |
| 2.8 | Summarise the general **background and qualifications**, if any, of **senior managers and director-equivalent roles** responsible for overseeing the entity’s proposed flagging service. |
|  |  |
| 2.9 | Summarise the general **expertise, qualifications, or certifications** that you require of **TF** **staff** or training you will require TF staff to undertake on appointment and over the course of their tenure.  |
|  |  |

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| ***Guidance*** *Understanding* ***your entity’s experience in providing or facilitating access to Trusted Flagger services*** *helps us assess whether you have the knowledge, expertise, and experience to meet the requirements set out in Article 22. You should provide details of all relevant expertise to support your application, for example, legal expertise on relevant Union law, as well as national law(s) of the countries in which you are/intend to be active.**However,* ***if your entity is newly established*** *or does not have prior experience in identifying, detecting and notifying illegal content online this will not necessarily work against you. In this case, we may place a greater emphasis on assessing the capabilities and expertise of your staff and individuals carrying out this activity.* *Trusted Flaggers are expected to engage with the platform/s to ensure best practices in flagging activity are followed. Online platforms may request that you engage with their ‘onboarding’ process and may also as a matter of best practice provide training to enhance your understanding of the platform’s technical tools and monitoring. This contributes to the efficiency and effectiveness of the flagging process and the swift removal of illegal content.* *A non-exhaustive list of areas of illegal content (with main and subheadings) is at Appendix 3.**You should be as clear as possible when you provide this information as this will determine the scope of the issues for you will be awarded Trusted Flagger status if your application is approved and the scope of any notices submitted to you to online platforms. Trusted Flaggers must maintain flagging activity within the designated area of their expertise to maintain the integrity of the award process. In the case a Trusted Flagger identifies illegal content outside its area of expertise, it could submit it but only through the standard notification and reporting procedure. Where your entity expands its expertise and can demonstrate new/additional Trusted Flagger expertise, it can apply for the award of Trusted Flagger status that permits your entity to identify, detect and/or notify this illegal content.* *You should be able to demonstrate and ensure that your staff possess an excellent understanding of the applicable law and the necessary knowledge, expertise and skills in the type of illegal content for which you are seeking Trusted Flagger* *status. Details of any training you provide (on appointment or ongoing) should be set out and Coimisiún na Meán may also require details of such training activity to be included in your annual report.* ***A list of documentary evidence that may be requested under this heading is set out in the Schedule at Appendix 1 and in the checklist below.***  |

Please map the requested documents from the checklist below to the documents you provided to support this section of the application. If more than one document is provided under a single category, please clarify the relevance of each. Documents may be provided via links or attachments. Please reference page numbers where relevant (for longer documents).

|  |  |  |
| --- | --- | --- |
| Documents requested | Attachment reference/page number  | Link (if applicable) |
| Policies / procedures for the appointment of individuals engaged in flagging activity. |  |  |
| Where individuals are identified, a description of the range of experience and expertise (qualifications, accreditations etc.) |  |  |
| Any records or reports published by your or another entity in relation to previous experience in detecting, identifying and/or notifying illegal content. |  |  |
| If any of the requested documents are not provided, please present a rationale below. |
|  |

# Section (3) Independence

**Organisational Independence: Flagging activities**

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| 3.1 | If you are a company limited by shares, who are your **shareholders?**If you are a company limited by guarantee or other membership structure, please identify your **members.[[1]](#footnote-2)** |  |
| 3.2 | Is your entity a company in a larger **company group structure?** If yes, provide details of this group.  |  |
| 3.3 | What is your entity’s relationship with, or interests[[2]](#footnote-3) in, any **other undertakings**? |  |
| 3.4 | Who are the **directors of the Board** of your entity and do any of the directors sit on the Board in a representative capacity for any of your shareholders?  |  |
| 3.5 | List any **policies, procedures and/or measures** you have in place that demonstrate your entity and its personnel are independent of providers of online platforms and will remain so for the duration of this award.  |  |
| 3.6 | Where your entity provides **other (non-Trusted Flagger) services**, how will you ensure that the provision of these other services, and the remuneration or funding of such services, will not impinge on the independence or impartiality of your Trusted Flaggers?  |  |
| 3.7 | Confirm that individuals engaging in the flagging activity **will not be staff or connected to staff of an online platform (or of a consultancy firm working for an online platform).** | * Please indicate YES or NO here.
 |
| 3.8 | Provide details of any **current relationships or channels** with online platforms for the purpose of detecting, identifying and notifying illegal content.  |
|  |  |
| 3.9 | Confirm you have clear procedures and rules regarding managing **conflicts of interest for members of your entity and staff or individuals engaged in flagging activity.** | * Please indicate YES or NO here.
 |
| 3.10 | How will you appoint flaggers e.g., detail any background/verification checks you carry out and the nature of the legal relationship you will have with them?  |
|  |  |
| 3.11 | How will you ensure that:1. Flaggers are **independent of** online platforms and will remain so for their term of office.
2. Flaggers undertake their activities in **an impartial and objective** manner.
 |
|  |  |
| 3.12 | Confirm if you have a Code of Ethics / Principles or equivalent for flaggers working with your entity.  |  |
| 3.13 | Please outline the funding model for your entity. Details of the following sources (as applicable) should be included: * Fees for services provided.
* Funding from industry sectors.
* Public funding (from the Irish State, EU or other).
* Non-public grant income.
* Share capital and investors (where applicable).
* Other sources.
 |  |
| 3.14 | If the funding model comprises a combination of the above, detail the approximate **percentages** and **proportion** of each source of funding and identify each such source.  |  |
| 3.15 | Provide details of any **pre-existing contract/agreement with any online platform(s) or other external sources of funding** (on a confidential basis if it has a non-disclosure clause). |  |
| 3.16 | In the case of any funding received from online platforms, you must confirm that **funding is not conditional** on the relevant online platforms having a right of supervision over your flagging activity, which would limit and/or affect/alter the scope of this activity. | * Please indicate YES or NO here.
 |

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| ***Guidance*** *Article 22 requires that any entity applying for Trusted Flagger status is* ***independent*** *of online platforms.* *We request information in relation to the members of your entity (as applicable) because it is important for Coimisiún na Meán to understand who owns your entity and the extent of your control or influence over the decision-making and operations of your entity.**We also request information about your Board of Directors (or equivalent) because it is important for Coimisiún na Meán to understand who makes strategic decisions for your entity and whether such decisions may be made on behalf of another person (for example a shareholder in your entity).**It is important that Coimisiún na Meán understands your* ***formal and informal*** *relationship/s, if any, with other persons (both individuals and entities) to assess whether the arrangements and controls you put in place to ensure the independence of your entity and the impartiality of your trusted flagging activities are appropriate. Likewise, if you are a public entity, it is important for us to understand your legal objectives and to ensure you do not have obligations that might impact on your independence.**You should have concrete measures and policies in place, in line with best practice, to ensure your entity and anyone who works for it satisfies the* ***independence requirements*** *appropriately and will continue to do so for the duration of the certification period.* *The funding of the entity is a matter to which Coimisiún na Meán will also have regard when* ***assessing the independence of your entity****. It is important for us to understand how your entity is financed and any ongoing arrangements and controls you have in place regarding funding to ensure your independence.* *An entity may receive public funding or rely on a diversity of funding sources, including funds from third parties/entities. In the latter case, there should be no dependency on any one source of funding that could give rise to a conflict of interest or call into question the independence of the entity or the impartiality of the entity’s flagging activities. Where you accept funding from external sources or other entities you must explain how you ensure there is no influence exercised by such entities on your flagging activity.* *You must provide full details of any commercial, financial and/or institutional relationship your organisation has with the state, politicians or political parties in the country or countries you cover. Should you have any such relationship, you must set out how you will ensure the independence of your flagging activity.**Coimisiún na Meán will also have regard to information available to it from its own independent information-gathering and research about third-party funders identified and the relationship between the entity and such funders.* ***A list of documentary evidence that may be requested under this heading is set out in the Schedule at Appendix 1 and in the checklist below****.*  |

Please map the requested documents from the checklist below to the documents you provided to support this section of the application. If more than one document is provided under a single category, please clarify the relevance of each. Documents may be provided via links or attachments. Please reference page numbers where relevant (for longer documents).

|  |  |  |
| --- | --- | --- |
| Documents requested | Attachment reference/page number  | Link (if applicable) |
| **Organisational Independence** |
| For all members, shareholders and directors please detail any interests or involvement they have in other entities. |  |  |
| Rules of Procedure on terms of office of TFs and rules on conflicts of interest for all directors, members, employees and TFs. |  |  |
| Code of Ethics or Code of Principles or equivalent. |  |  |
| A copy of the Share Register / Commercial Register. |  |  |
| Shareholders’ Agreements. |  |  |
| Illustration, in diagrammatic format, of the group structure, in the case of a group of companies. |  |  |
| Copies of policies or other documents to ensure the Trusted Flaggers you appoint are independent of online platforms and their recipients and will make decisions impartially. |  |  |
| **Funding and financial independence** |
| Financial reports and audited accounts for the preceding financial year. |  |  |
| For newly created organisations, provisional annual budgets and financing plans for 2 years identifying main items of expenditure and expected sources of revenue. |  |  |
| Affidavit of a director or equivalent position verifying the sources of funding and that no conditions are attached to funding arrangements that would impact on the independence of the bodies or the impartiality of its decision making.  |  |  |
| Letters of financial commitment from third parties (where applicable). |  |  |
| Copies of written agreements between the entity and funders. |  |  |
| Copies of the entity’s policies on funding. |  |  |
| If any of the requested documents are not provided, please present a rationale below. |
|  |

# Section (4) Trusted Flaggers: Diligent, Accurate, Objective

*Here you need to demonstrate you have sufficient human, technical and/or financial resources, where relevant, to flag content on a regular basis. TFs must carry out activities for the purpose of submitting notices in a timely, diligent, and objective manner*

**Flagging Process: Methodology, Accuracy & Technology**

|  |  |
| --- | --- |
| 4.1 | Provide full details of the **methodology** to detect, identify (and assess) and notify illegal content. Include here full details of **human resources, procedures (including standards of assessment), tools and systems** you use or will use. |
|  |  |
| 4.2 | Detail the number and quality of the **sources of evidence** that will be used in the flagging activity and the sources’ possible vested interests (as these could influence the accuracy of the evidence provided). |
|  |  |
| 4.3 | If already providing **content flagging services**, provide the average number of flags your entity submits on a daily/weekly basis. Include the number of flags rejected by the platform and if available, reasons for any refusals provided. |
|  |  |
| 4.4 | Please detail the **correction policy** you will use, to correct the possible mistakes in the detection and identification of illegal content. |
|  |  |
| 4.5 | Do you have an online mechanism for the **public** to report illegal content to your entity?  | Please indicate YES or NO here. |
| 4.6 | Detail the criteria you will apply for **triaging illegal content** detected and notified to the platform.  |
|  |  |
| 4.7 | Provide details of any **reviews** conducted in respect of flagging activity (where applicable). |
|  |  |
| 4.8 | What measures will you take to ensure the procedure you provide is secure, user-friendly, accessible and complies with applicable **privacy and data protection law** (i.e., data protection impact assessment etc.) |
|  |  |
| 4.9 | Explain your policies or equivalent in relation to the health, safety and **wellbeing** for flaggers in your entity.  |
|  |  |

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| ***Guidance****In this section we request details of your flagging methodology, how you select content and platforms to monitor, how you identify and assess the legality of content (including primary and secondary sources of evidence) and notify illegal content to an online platform and how you triage the content to be prioritised and notified. You should also explain how you ensure you do not unduly concentrate your monitoring on any one side, you apply appropriate standards of assessment taking all legitimate rights and interests into account.* *The information you provide will enable Coimisiún na Meán to understand how you will make decisions about flagging activities and how you will ensure that all activity is diligent, accurate and conducted in an impartial and objective manner.*  *The criteria you apply for triaging illegal content should not unduly discriminate against certain categories of users or certain illegal content.**Trusted Flaggers and the platforms should also work together to maximise the use of technology and engage all methods available to protect the wellbeing of TFs detecting and identifying grievous forms of illegal content.* ***A list of documentary evidence that may be requested under this heading is set out in the Schedule in Appendix 1 and in the checklist below.***  |

**Transparency, Reporting and Cooperation**

|  |  |  |
| --- | --- | --- |
| 4.10 | Confirm that you can comply with the **annual reporting obligation**. | * Please indicate YES or NO here.
 |
| 4.11 | Confirm that all details about your entity (i.e., mission, staff, funding sources etc. will be made available to the public (on your website)). | * Please indicate YES or NO here.
 |
| 4.12 | Please detail your policy of publication of information relating to your flagging activity (including methodology, detection statistics, correction and complaints policies etc.) |  |

|  |
| --- |
| ***Guidance****Full details of your entity, its purpose, areas of expertise, procedures, sources of funding etc must be easily and publicly accessible.* *The information that you are required to provide annually in your report is set out in Article 22.3 Coimisiún na Meán may specify additional matters to be reported on. Where Coimisiún na Meán specifies additional information that may be required in an annual report it will provide notice of this requirement.* *Coimisiún na Meán may require additional information from you and/or action/s to be taken on foot of the information provided in the report.*  |

Please map the requested documents from the checklist below to the documents you provided to support this section of the application. If more than one document is provided under a single category, please clarify the relevance of each. Documents may be provided via links or attachments. Please reference page numbers where relevant (for longer documents).

|  |  |  |
| --- | --- | --- |
| Documents requested | Attachment reference/page number  | Link (if applicable) |
| If your entity has already worked with platforms in flagging content, reports or letters of recommendation from platforms in support of your application. |  |  |
| Documented procedures for detecting, identifying and notifying illegal content. |  |  |
| Copies of correction and complaints policies. |  |  |
| Reports or descriptions of previous activities and campaigns in which the organisation has been involved. |  |  |
| Sample Data protection Impact Assessment |  |  |
| If any of the requested documents are not provided, please present a rationale below. |
|  |

# Section (5) Declaration

|  |
| --- |
| **By signing this Declaration, I confirm that:** I have been authorised by [name of entity] to provide the information requested in this application form.  I confirm that all of the information, including statements of facts provided herein and in any appended documentation are true and accurate and no relevant information has been withheld.  I [name of entity] will notify Coimisiún na Meán immediately if there is a material change in the information provided.     |
| **Name and Title:**  | **Signed:**  | **Date:**  |
|   |         |   |

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| **Data Protection** Coimisiún na Meán shall comply with their obligations under the Data Protection Bill 2018 and any other applicable data privacy laws and regulations.  |

1. Members may be the founders of an entity or persons with a monetary or other interest in the entity. The definition of members will depend on the type of legal entity you have established and its founding documents. [↑](#footnote-ref-2)
2. Interests may be direct or indirect and can include directorships and/or shareholdings (including beneficial) held in another entity. [↑](#footnote-ref-3)