



Llywodraeth Cymru
Welsh Government

Date

Dear

Award of Funding in relation to Active Travel Fund for Financial Year 2018-19 –

1. Award of Funding

- (a) We are pleased to inform you that your Application has been successful and funding of up to £XXX (XXX) (“the Funding”) is awarded to you for the Purposes (as defined in Condition 4(a)).
- (b) The Funding relates to the period 01st August 2018 to 31st March 2019 and must be claimed in full by 30th April 2019 otherwise any unclaimed part of the Funding will cease to be available to you.
- (c) If you have any queries in relation to this award of Funding or the Conditions please contact the Welsh Government Official who will be happy to assist you.

2. Statutory authority and State Aid

- (a) This award of Funding is made on and subject to the Conditions and under the authority of the Cabinet Secretary for Economy and Transport, one of the Welsh Ministers, acting pursuant to sections 31 of the Local Government Act 2003, 70 and 71(1) of the Government of Wales Act 2006 section 6 of the Transport for (Wales) Act 2013.
- (b) You must comply with the European Commission’s State Aid Rules.

3. Interpreting these Conditions

Any reference in these Conditions to:

‘you’, ‘your’ is to

'we', 'us', 'our' is to the Welsh Ministers;

'Welsh Government Official' is to

or such other Welsh Government official as we may notify you.

'Project Manager' is to

'Application' is to your application submitted 13th July 2018;

'Conditions' is to the terms and conditions set out in this letter;

'Costs Incurred' is to the cost of goods and services you have received regardless of whether you have paid for them by the date of your claim;

'Notification Event' is to any of the events listed in Schedule 3;

'Payment Profile' is to the payment profile set out in Schedule 4;

'Personnel' is to your management/employees and suppliers or any other person appointed or engaged by you in relation to the Purposes;

'Schedule' is to the schedules attached to this letter;

'State Aid Rules' is to the rules set out in Articles 107 to 109 of the Treaty on the Functioning of the European Union (or in those Articles that may succeed Articles 107 to 109), secondary legislation such as frameworks, guidelines and block exemptions produced by the European Commission derived from Articles 107 to 109, case law of the European Courts and decisions of the European Commission regarding the application of Articles 107 to 109; and

any reference to any legislation whether domestic, EU or international law will include all amendments to and substitutions and re-enactments of that legislation in force from time to time.

4. What you must use the Funding for

- (a) You must use the Funding solely for the purposes set out in Schedule 1 (the "**Purposes**").
- (b) You must achieve the targets and outcomes set out in Schedule 2 (the "**Targets**").

- (c) Any change to the Purposes or Targets will require our written consent which must be obtained from us in advance of implementing any change. Please note that we are not obliged to give our consent but we will consider all reasonable written requests.
- (d) You must not use any part of the Funding for: (1) party political purposes; (2) the promotion of particular secular, religious or political views; (3) gambling; (4) pornography; (5) offering sexual services; (6) purchasing capital equipment (other than as specified in the Purposes); (7) your legal fees in relation to this letter; (8) Costs Incurred or costs incurred and defrayed by you in the delivery of the Purposes prior to the period referred to in Condition 1 (b); (9) any kind of illegal activities; or (10) any kind of activity which in our opinion could bring us into disrepute.

5. Funding pre-conditions

- (a) We will not pay any of the Funding to you until you have provided us with the following information and documentation:
 - (i) this letter signed by you;
 - (ii) documentary evidence that the signatories who have signed this letter on your behalf are duly authorised to do so;
 - (iii) documentary evidence that you have appropriate systems in place to undertake due diligence before utilising any part of the Funding to provide a grant to or procure any goods or services from third parties;
 - (iv) record of signatories to be completed and returned to Welsh Government using the enclosed Register of Signatories form;
 - (v) confirmation that any required match funding is in place to ensure the success of the scheme(s).
- (b) Where you are required to provide information and documentation to us as evidence that you have satisfied a particular pre-condition, Condition or in support of a claim, the information and documentation must be in all respects acceptable to us. We reserve the right to reject any information and documentation which is for any reason not acceptable to us.

6. How to claim the Funding

- (a) The Funding will be paid to you quarterly in arrears based on Costs Incurred by you in the delivery of the Purposes as detailed in the Payment Profile.
- (b) You must claim the Funding in accordance with the dates set out in the Payment Profile. You must claim the Funding promptly. We reserve the right to withdraw any part of the Funding that you do not claim promptly.

- (c) You must submit your claims for payment of Funding to the Welsh Government Official.
- (d) You must use our current claim pro-forma (which is available from the Welsh Government Official) and set out in the guidance note and attach the information and documentation specified in the Payment Profile.
- (e) We will aim to pay all valid claims as soon as possible and typically within 28 days.

7. Your general obligations to us

You must:

- (a) safeguard the Funding against fraud generally and, in particular, fraud on the part of your Personnel and notify us immediately if you have reason to suspect that any fraud within your organisation whether or not it relates to the Funding has occurred or is occurring or is likely to occur. You must also participate in such fraud prevention initiatives as we may require from time to time.
- (b) comply with all applicable domestic, EU or international laws or regulations or official directives;
- (c) maintain adequate insurances to cover against the risks which may arise in connection with any property or any activity undertaken in delivery of the Purposes. We reserve the right to require you to provide proof of your insurance;
- (d) put in place and maintain appropriate systems to undertake due diligence before utilising any part of the Funding to provide a grant to or procure any goods or services from third parties;
- (e) co-operate fully with the Welsh Government Official and with any other employee of the Welsh Government or consultant appointed by us to monitor your use of the Funding and your compliance with these Conditions;
- (f) inform us immediately if any of the declarations made in Condition 8 is incorrect in any respect or, if repeated at any time with reference to the facts and circumstances then existing, would be incorrect.

8. Declarations

You declare that:

- (a) you have the power to enter into and to perform the obligations set out in these Conditions and you have taken all necessary action to

authorise the entry into and performance of the obligations under these Conditions;

- (b) no litigation or arbitration is current or pending or, so far as you are aware, threatened, which have or could have an adverse effect on your ability to perform and comply with any of these Conditions;
- (c) the information contained in your Application is complete, true and accurate;
- (d) you have disclosed to us all material facts or circumstances which need to be disclosed to enable us to obtain a true and correct view of your business and affairs (both current and prospective) or which ought to be provided to any person who is considering providing funding to you;
- (e) you have discussed and agreed the Targets with us and you are confident that they are realistic and achievable;
- (f) you will meet all future revenue and maintenance costs arising from your scheme(s);
- (g) you accept that the grant is awarded for a period of one year and shall cease on the 31 March 2019.

9. Notification Events and their consequences

- (a) You must notify us immediately if a Notification Event has occurred or is likely to occur but we also reserve the right to notify you where we believe a Notification Event has occurred or is likely to occur.
- (b) We will either (i) notify you that we consider that the Notification Event is not capable of remedy or (ii) if we consider that the Notification Event is capable of being remedied seek to discuss the Notification Event with you with a view to agreeing a course of action to be taken to address the Notification Event.
- (c) We will be entitled to take any of the actions listed in Condition 9(d) if:
 - (i) despite our reasonable efforts we have been unable to discuss the Notification Event with you; or
 - (ii) we notify you that the Notification Event is not capable of remedy; or
 - (iii) a course of action to address the Notification Event is not agreed with you; or
 - (iv) a course of action to address the Notification Event is agreed with you but you fail to follow it, or any conditions attached to it are not met (including without limitation the timescale for such course of action); or

- (v) the course of action fails to remedy the Notification Event to our satisfaction.
- (d) If any of the circumstances set out in Condition 9(c) occurs we may by notice to you:
 - (i) withdraw the award of Funding; and/or
 - (ii) require you to repay all or part of the Funding immediately; and/or
 - (iii) suspend or cease all further payment of Funding; and/or
 - (iv) make all further payments of Funding subject to such conditions as we may specify; and/or
 - (v) deduct all amounts owed to us under these Conditions from any other funding that we have awarded or may award to you; and/or
 - (vi) exercise any other rights against you which we may have in respect of the Funding.
- (e) All repayments of Funding must be made to us within 28 days of the date of our demand. If applicable, you must pay interest on any overdue repayments (on a compound basis) in accordance with the State Aid Rules.

10. Monitoring requirements

You must:

- (a) provide us with such documents, information and reports which we may reasonably require from time to time in order for us to monitor your compliance with the Conditions including without limit:
 - i) as set out in the Guidance Note;
- (b) meet with the Welsh Government Official and such other of our representatives as we may from time to time reasonably require; including without limit;
 - i) as set out in the Guidance Note;
- (c) ensure that the Project Manager (or such other person as we may agree) together with any other person we may require attends all meetings with the Welsh Government Official.
- (d) Provide us with data on scheme(s) outcomes achieved on an annual basis for a period of three years following the completion of the scheme(s).

11. Audit Requirements

- (a) You must:

- (i) maintain clear accounting records identifying all income and expenditure in relation to the Purposes;
- (ii) without charge, permit any officer or officers of the Welsh Government, Wales Audit Office or European Commission at any reasonable time and on reasonable notice being given to you to visit your premises and/or to inspect any of your activities and/or to examine and take copies of your books of account and such other documents or records howsoever stored as in such officer's reasonable view may relate in any way to your use of the Funding. This undertaking is without prejudice and subject to any other statutory rights and powers exercisable by the Welsh Government, Wales Audit Office or the European Commission or any officer, servant or agent of any of the above;
- (iii) retain this letter and all original documents relating to the Funding until we inform you in writing that it is safe to destroy them;

12. Capital Grant Related Provisions – Active Travel Fund

- (a) Our prior approval must be sought before any change of use for assets which have been funded in whole or part under this agreement.
- (b) You shall not raise a mortgage or other charge of assets purchased under the grant scheme(s) without obtaining our prior approval.
- (c) Where an asset, or an interest in an interest in an asset funded under this agreement is subsequently disposed of or ceases to be used for the approved purpose of which it was obtained, you shall notify us. If we then so demand, you will repay to us the full market value of the asset as the date of the disposal or cessation of approved use, or such lesser the sum as we in our absolute discretion may deem to be a fair of the market value.
- (d) We reserve the right to take possession of all assets funded in whole or in part under this agreement at its termination. We will pay an appropriate amount, as agreed with you, should we exercise our discretion in respect of assets only partly required from grant funding.
- (e) Agreement shall be sought from us before any publicly funded asset is used to generate income.

13. Third party obligations

- (a) Nothing in the Conditions imposes any liability on us in respect of any liability incurred by you to any third party (including, without limit, employees and contractors).

- (b) You must indemnify us against any liabilities, claims, proceedings, demands, losses, costs and expenses suffered or incurred by us directly or indirectly arising as a result of or in connection with any failure by you to perform fully or in part any obligation you may have to a third party.

14. Intellectual property rights and publicity

- (a) Nothing in these Conditions transfers to us any rights in any intellectual property created by you as a result of the Purposes.
- (b) You must acknowledge our support in relation to the Purposes. Such acknowledgement(s) must be in a form approved by us and must comply with the Welsh Government's branding guidelines.
- (c) You must provide the Welsh Government Official with details of all the acknowledgement(s) referred to in Condition 13(b) for our approval before any such acknowledgements are used and you may not use such acknowledgments without our prior written approval. We will endeavour to respond to all written requests for approval within 10 working days.
- (d) You agree that from the date of this letter until 5 years from the date of the final payment of Funding we may include details about your organisation and business, the Funding and the Purposes in Welsh Government promotional materials and you further agree to cooperate with our reasonable requests to achieve the production of such materials.

15. Information

- (a) You acknowledge that we are subject to the requirements of the Freedom of Information Act 2000 (the "FOIA"), the Environmental Information Regulations 2004 (the "EIR") and the Data Protection Act 1998 (the "DPA").
- (b) You acknowledge that we are responsible for determining in our absolute discretion whether:
 - (i) to disclose any information which we have obtained under or in connection with the Funding to the extent that we are required to disclose such information to a person making a disclosure request under the FOIA or the EIR; and/or
 - (ii) any information is exempt from disclosure under the FOIA or the EIR.
- (c) You acknowledge that we may share any data you provide to us with fraud prevention agencies and third parties for the purposes of preventing and detecting fraud. Any personal data we collect will be managed in accordance with our Privacy Notice which is available

to view here <https://gov.wales/docs/caecd/publications/180518-privacy-notice-en.pdf>

16. Buying goods and services

If you decide to buy any goods and/or services to deliver the Purposes, they must be purchased in a competitive and sustainable way so as to demonstrate that you have achieved best value in the use of public funds.

17. Giving notice

- (a) Where notice is required to be given under these Conditions it must be in writing (this does not include email but may include a letter attached to an email) and must prominently display the following heading:

“Notice in relation to the Active Travel Fund FY2018-19 – City and County of Swansea”.

- (b) The address and contact details for the purposes of serving notice under these Conditions are as follows

You: the Project Manager at the address stated in Condition 3.

Us: the Welsh Government Official at the address stated in Condition 3.

- (c) A notice will be deemed to have been properly given as follows:-

Prepaid first class post:	on the second working day after the date of posting.
By hand:	upon delivery to the address or the next working day if after 4pm or on a weekend or public holiday.
By email attachment:	upon transmission or the next working day if after 4pm or on a weekend or public holiday.

18. Equal opportunities

You must apply a policy of equal opportunities as employers, as users of volunteers, and as providers of services, regardless of race, gender/gender identification, sexual orientation, religion and belief, age or any disability.

19. Welsh language

Where the Purposes include or relate to the provision of services in Wales they must be provided in such a way as to not treat the Welsh language less favourably than English, in accordance with the Welsh Language (Wales) Measure 2011.

20. Sustainability

Your use of the Funding must (where reasonably practicable) meet the Welsh Government's current agenda for sustainable development and the environment.

21. Welsh Ministers' functions

You acknowledge that the Welsh Ministers have a range of functions which will continue to accrue and be amended and that decisions in relation to each such function are obliged to be taken in the light of all relevant and to the exclusion of all irrelevant considerations. You agree that nothing contained or implied in , or arising under or in connection with, these Conditions will in any way prejudice, fetter or affect the functions of the Welsh Ministers or any of them nor oblige the Welsh Ministers or any of them to exercise, or refrain from exercising, any of their functions in any particular way.

22. General

- (a) If at any time any of these Conditions is deemed to be or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.
- (b) No failure or delay on our part to exercise any power, right or remedy under these Conditions will operate as a waiver of any such power, right or remedy or preclude its further exercise or the exercise of any other power, right or remedy. The powers, rights or remedies hereby provided are cumulative and not exclusive of any powers, rights or remedies provided by law.
- (c) Any amendment or variation to these Conditions must be in writing and signed by us and you in the same manner as this letter.
- (d) You may not assign or otherwise dispose of in any way your rights, benefits, obligations or duties under these Conditions.
- (e) Conditions 7, 9, 11, 13, 14, and 21(e) and such other Conditions which by implication need to continue in force beyond the final payment of Funding will so continue in full force and effect.

- (f) The award of the Funding is to you alone and no one else is entitled to make any claim in respect of the Funding or seek to rely on or enforce any of these Conditions.
- (g) These Conditions are to be governed by and construed in accordance with the laws of Wales and England as applied in Wales and the parties hereto submit to the exclusive jurisdiction of the courts of Wales and England.

23. How to accept this offer of Funding

- (a) To accept this award of Funding you must sign and return a copy of this letter to the Welsh Government Official. None of the Funding will be paid to you until we have received your signed letter.
- (b) We must receive your signed letter within 14 days of the date of this letter, or this award of Funding will automatically be withdrawn.

Yours faithfully

Signed by

under authority of the Cabinet Secretary for Economy and Transport, one of the Welsh Ministers

SCHEDULE 1 The Purposes

The purpose of the Active Travel Fund is to increase levels of active travel, improve health & well-being, improve air quality, reduce carbon emissions, connect communities and improve active travel access to employment, education and key services, destinations and public transport

	Scheme Name	Scheme Purpose	ATF Award £	Percentage of the gross expenditure that will be paid (within maximum amount of ATF awarded)

To Note:

- The funding can be used to fund the cost of land purchase, but must not be used in respect of compensation claims arising from the land purchase of from the scheme(s) itself.
- Funding will be provided up to the amount awarded for actual eligible expenditure incurred on an accepted scheme(s)
- Funding will be capped at the level of the award and you will be required to carry the risk of any overspend that may occur
- Where increased costs arise due to exceptional circumstances outside of your control, we may consider additional funding
- For any scheme(s) that carry on beyond 31 March 2019 the responsibility for completing and meeting the associated costs lie with you
- All projects that include active travel infrastructure must comply with Design Guidance: Active Travel (Wales) Act 2013
- All transport projects that seek funding from the Welsh Government must demonstrate adherence to the Welsh Government Transport Appraisal Guidance (WeITAG)
- <https://beta.gov.wales/welsh-transport-appraisal-guidance-weltag>

SCHEDULE 2
The Targets

Description of the Target	Date by when it should be achieved?	Evidence required
Deliver the Scheme(s) as outlined in Schedule 1 of this document	31 March 2019	Completed quarterly progress reports in accordance with the requirements set out in the enclosed Guidance Note.
Monitor and evaluate the scheme(s) as outlined in Schedule 1 of the document	30 Sept 2019 30 Sept 2020 30 Sept 2021	You are required to provide us with data on scheme(s) outcomes achieved on an annual basis for a period of three years following completion of the scheme(s), with reports to be submitted to us by September of each year.

SCHEDULE 3

Notification Events

The Notification Events referred to in Condition 9 are listed below:

1. repayment of any part of the Funding is required under European Law (whether under State Aid Rules or otherwise);
2. you fail to comply with any of the Conditions;
3. the Funding, in full or in part, is not being used for the Purposes;
4. you fail to achieve any or all of the Targets;
5. there is unsatisfactory progress towards completing the Purposes, including meeting the Targets;
6. you fail to provide information about the Purposes requested by us, the European Commission or the European Court of Auditors, or any of their auditors, agents or representatives;
7. we have reason to believe that you and/or any of your Personnel are involved in fraudulent activity or have been involved in fraudulent activity [whilst the Purposes are/were being carried out];
8. we have made an overpayment of Funding to you;
9. any declaration made in Condition 8 is incorrect in any respect or, if repeated at any time with reference to the facts and circumstances then existing, would be incorrect;
10. any petition is presented or resolution passed or other action taken for your bankruptcy or winding-up or a petition is presented for an administration order against you;
11. a receiver or an administrative receiver is appointed in respect of you or in respect of all or any part of your assets;
12. a moratorium in respect of all or any of your debts or a composition or an agreement with your creditors is agreed, applied for, ordered or declared;
13. you are unable, or admit in writing your inability, to pay your debts as they fall due;
14. any distress, execution, attachment or other process affects any of your assets;
15. a statutory demand is issued against you;

16. you cease, or threaten to cease, to carry on all or a substantial part of your business;
17. there is a change in your constitution, status, control or ownership and/or your external auditors resign;
18. there is a change in your shareholders, directors, trustees or partners;
19. any event occurs or circumstances arise which in our opinion gives reasonable grounds for believing that you may not, or may be unable, to perform or comply with any of your obligations under these Conditions.

**SCHEDULE 4
Payment Profile**

Quarter	Claim Period	Claim to be submitted no later than
1	N/A	N/A
2	01 July 18 to 30 September 18	15 October 18
3	01 October 18 to 31 December 18	15 January 19
4	01 January 19 to 31 March 19	30 April 19

The following documents which must accompany each claim as detailed in the attached guidance note	
Annex A	Performance Report
Annex B	Financial Report
Annex C	Claim Form
Annex E	Schedule of Eligible Expenditure
	Copies of supporting evidence for items of £40,000 and over
	Nil Returns shall be made as appropriate

To Note:

- Electronic reports, claims and supporting information will only be accepted from the email addresses of those officers included in the Register of Signatories that is submitted by the authority when accepting this Award Letter.
- All of the completed forms shall be signed as follows:
 - Active Travel Fund – Project Manager
- Annex D – Final Claim Form shall be signed by the Chief Finance Officer.
- **All Signed completed template forms shall be emailed to:**
transportplanning@gov.wales / cynllunioTrafnidiaeth@llwy.cymru

TWO SIGNATORIES ARE REQUIRED

We hereby accept the award of Funding Active Travel Fund and the Conditions relating to the Funding

_____ Signature
An authorised signatory of

_____ Name

_____ Chief Finance Officer _____ Job Title

_____ Date

_____ Signature
An authorised signatory of

_____ Name

_____ Job Title

_____ Date