

How we secure and enforce travel plan targets

Travel plans are enforceable, but this is a last resort. The key to creating a successful plan is to include clear outcomes and a timetable and to appoint a Travel Plan Coordinator to take responsibility for it. Travel plans may be secured either by way of planning obligations or conditions.

Planning obligations

Planning obligations are often the most appropriate mechanism for securing an effective travel plan. This is because obligations:

- Allow for a greater level of detail to be agreed than could reasonably be achieved by a planning condition
- Provide the only mechanism which enables financial contributions to be secured, such as contributions towards travel plan assessment or monitoring
- Run with the land and are enforceable against the original covenantor and anyone subsequently acquiring an interest in the land. They therefore support a long term strategy such as a travel plan
- Better support the need to secure specific outcomes and targets as a basis for the travel plan

Travel plans should ideally be secured via Section 106 agreements (a legal document, executed as a deed, made pursuant to Section 106 of the Town and Country Planning Act 1990) in order to ensure that all the key elements of the approved travel plan are effectively protected and to facilitate monitoring and compliance with the outcomes anticipated.

We recommend that the following aspects of a travel plan are specified within the Section 106 agreement:

- A timetable for the preparation, implementation, monitoring and review of all stages of the travel plan
- The appointment and funding of a Travel Plan Coordinator to be responsible for the management and maintenance of the travel plan, including the relationship with the local planning authority and/or other key stakeholders
- The overall outcomes to be achieved by the travel plan; the performance indicators and targets

- Details of the travel planning requirements for occupiers and future occupiers; the process for the monitoring and review of targets and measures
- The measures to be implemented, such as the provision of transport infrastructure or services, or contributions with respect to their provision, parking controls and management and contributions towards other measures such as car and cycle clubs
- A monitoring and review programme, detailing the survey methods to be used and who is responsible for funding the surveys, undertaking and reporting results
- Any sanctions where the targets and indicators are not being met, and how and when they should be applied (eg a clause which sets what would happen in the event that the car mode share or total number of cars used - identified through monitoring - exceeds the target figure)
- Any procedure for the variation by means of amendment, substitution or addition of targets or measures

Example clauses for S106 agreements are provided below. The specific wording in S106 agreements is a matter for the local planning authority.

Example wording for S106 agreements

The following are examples of obligations from both within and outside London and are considered to accord with best practice. The examples presented should be used with caution. They are not exhaustive and any clauses should be drafted on a case by case basis and checked with a solicitor to ensure they are clear and enforceable.

More examples can be found in WestTrans Section 106 tool, [RObUST](#) (Reliable Obligations Used for S106 Travel plans) and the Appendix C of the DfT's [Good Practice Guidelines: Delivering Travel Plans through the Planning Process](#) (2009).

The travel plan (where not submitted with application)

The terms of the travel plan shall provide as a minimum:

- A timetable for the implementation of measures, identifying timescales and responsibilities for ensuring implementation
- A timetable for monitoring and review of the travel plan for a period of not less than X years from the date of occupation
- An initial baseline survey to be undertaken within six months of initial occupation of the development when 75% of units are occupied or when 75% of staff are on site (or other suitable threshold)
- A schedule of travel plan monitoring, which includes both surveys and monitoring reports to be submitted to the council. The length of the monitoring period shall not be less than five years from the date of occupation of the development
- The methods of carrying out the surveys for the purposes of monitoring to include details of the equipment to be used, the methods of collecting the data and the methods for calculating the modal shift

- The appointment and funding of a Travel Plan Coordinator

Appointing a Travel Plan Coordinator

Prior to the occupation of the development the owner/developer shall appoint a Travel Plan Coordinator and notify the council in writing of the name, address, telephone number and email address of the person appointed.

Interim travel plans

Within six months of first occupation of the site, the owner will submit a final travel plan showing the baseline survey results and any updated measures required.

Specifying targets

The travel plan shall achieve the following targets:

- That two years from first occupation of the development, the absolute number of car/van drivers to the site shall be no greater than the amount identified within the initial survey
- To further reduce the proportion of car/van drivers to the development by 5% in each of the two subsequent years
- That the proportion of car/van drivers to the development will not increase above the target specified in the travel plan or such other target as shall be agreed by the council and the owner (or any successor in title to the owner)

Specifying measures

The developer shall, before occupation of any dwelling/unit, ensure that each intending occupier is offered a personalised travel plan which is individual to that occupier and comprises at least a statement of that occupier's travel needs and future sustainable travel options.

The developer shall, prior to implementation, submit a draft scheme for the operation of a car club to the Head of Planning for their approval. Such scheme in its approved form being referred to herein as the 'Car Club Scheme' to include:

- The minimum number of car parking spaces in the development reserved for car club parking to be made available by the developer to residents of the development
- The timing of the start of the operation of the car club on the site
- A strategy to support take-up (eg incentives, marketing)
- A trigger for the provision of further car club spaces

Monitoring

The developer undertakes that it will each year submit an Annual Monitoring Report to the council for approval. This report shall demonstrate to the Council's reasonable satisfaction how the travel plan has been implemented during the previous 12-month period and include:

- Measures introduced and actions taken to promote the travel plan
- A statistical summary of the modal split of employees/residents/users disclosed by the monitoring surveys
- The progress of the travel plan in achieving targets and identifying any amendments to be agreed in writing by the council in the event that targets are not achieved
- A plan for future actions to be implemented

Sanctions

In the event that the vehicle trips to and from the site (as recorded by the said automated system) exceed XX in any calendar year, the owner shall, within 28 days of receipt of notice of the vehicle trips excess, pay a Trip Mitigation Sum to the local planning authority (ie a sum calculated by reference to the number of trips in excess of XX). For example, X% difference above target number of staff x max daily number of car movements per employee x £210 + 10% admin fee. The Trip Mitigation Sum shall be expended only upon trip mitigation measures.

Prior to the commencement of the development, the developer shall submit to the council a performance bond in accordance with the draft appended and to secure an amount not less than £X. This bond shall be executed as a deed and underwritten by a reputable assurance company to guarantee the performance of its obligations hereunder (the 'Performance Bond').

In the event that the Annual Monitoring Report shows that the travel plan has failed to meet its objectives/targets in any respect, then the developer shall implement the remedial measures proposed in the travel plan to the council's reasonable satisfaction. If the developer fails to implement the agreed remedial measures, the council shall use the Performance Bond to fund the delivery of the travel plan measures.

TfL considers that all full travel plans should be secured through a Section 106 agreement and we strongly recommend that where any monitoring is required to be undertaken for a travel plan statement, this is also secured through a planning obligation.

Planning conditions

Planning conditions can have the advantage of being simple and straightforward to impose. However, they can be rigid, limited in scope and cannot, for example, be used to secure payment of monies to fund the measures stated in the travel plan. They can also be overturned on appeal.

Use of a planning condition to secure a travel plan is generally only appropriate in limited circumstances. For example, for a small scale development with relatively minor transport implications or where the contents of the travel plan itself are straightforward.

An example of a planning condition:

"Prior to first occupation of the development, a travel plan which shall include clear objectives and modal split targets, together with a time-bound programme of implementation, monitoring, regular review and update; and be based on the particulars contained within the approved development, shall be submitted to and approved in writing by the local planning authority and thereafter operated in accordance with the agreed details."

Whether a condition or an obligation is used to secure the travel plan will depend on the location, type and scale of development and the planning or transportation context. Planning authority officers can help to make the process of developing and agreeing planning obligations as smooth and efficient as possible by hosting discussions with all stakeholders and agreeing the overall approach to be taken as early as possible.

Implementation of travel plans

Successful implementation of the travel plan is, in part, related to the level of commitment of the applicant to the process. Implementation of the travel plan will necessitate some financial costs which may be borne by the occupying organisation and/or developer, depending on the strategy set out within the travel plan.

It is important that discussions about the costs associated with the implementation of the travel plan (ie the funding of the management, measures and ongoing monitoring) occurs in the early stages of the planning process and that this is secured through a planning obligation. We recommend that an estimated budget is set out by the developer to help inform discussions on the S106 agreement.

The Travel Plan Coordinator (TPC) is responsible for the travel plan, including implementation, monitoring and progress reporting, and is the main point of contact for the travel plan. The TPC should ideally have knowledge and experience of sustainable travel initiatives and be supported by senior management.

In some cases a consultancy may be commissioned to undertake this role. However we recommend that the responsibility is given to someone involved in the day to day running of site as soon as reasonably possible. Previous experience has shown that it is vital that the TPC is briefed by the author of the travel plan as to its implementation, and the handover procedure for this should be articulated within the action plan.

The amount of time that the TPC will spend on the travel plan will depend on the size of the development. For example, it may be possible for the TPC to undertake the role on a part-time basis alongside other duties within the occupying organisation. However, in circumstances where the development is fairly large or employs a significant number of employees, it may be necessary for the TPC to be employed on a full-time basis.

The travel plan should describe how implementation of the plan will be managed and provide full details of the approach to travel plan coordination. The contact details of the TPC should be included regardless of the form of the travel plan and should be made known to the local planning authority (and to TfL in referred applications).

When a travel plan is secured through a S106 agreement, the responsibility for the travel plan and its requirement to be implemented and maintained as agreed within the planning permission is passed on to successors in title when the owner or occupier of a development changes.

Funding for monitoring travel plans

There are two options for securing the undertaking for monitoring surveys:

1. The occupier/developer commissions the surveys when they are due using methodology approved by TfL and the council. The company undertaking the surveys informs the council that they are carrying out the monitoring, and provides the results to the council following data collection within a specified timescale. If the occupier/developer fails to commission the surveys when they are due, the council will commission the surveys and recover the cost from the occupier/developer. This can be incorporated in the planning obligation
2. An agreed monitoring fee is secured through the planning obligation and paid prior to occupation. The council then uses the fee to commission surveys as and when these are due

Local planning authority assessment fees

In addition to survey fees, councils often secure an additional fee through the planning obligation to cover their administrative costs associated with reviewing travel plan monitoring results.

Section 93 of the Local Government Act 2003 provides the power to charge for discretionary services. These are services that an authority has the power, but not a duty, to provide. Charges, which should be published, must be on a not-for-profit basis (year by year) and local authorities would need to be able to demonstrate that any payment does not exceed the cost of providing the service.

These costs are dependent upon the nature and complexity of the development. Fees should reflect the amount of local authority officer time required to undertake evaluation of the initial plan, assess the monitoring data and participate in consequential reviews, and discussions to agree any amendments to the travel plan in the future. Increasingly, fees from developments with travel plans are used to help fund a travel plan monitoring officer position either within, or attached to, the local authority.

Local authorities may also work in partnership to assist with travel plans. These partnerships can undertake the following activities:

- Locate and track travel plans in the area
- Provide information for benchmarking and monitoring, including establishing and providing a standardised monitoring system
- Provide advice and technical expertise to applicants and local authorities
- Undertake evaluation of draft travel plans and provide feedback
- Ensure that travel plans are implemented and achieve the outcomes sought
- Use local information and collective expertise to inform policy development

Funding for such a partnership may be derived from fees or secured through Section 106 agreements for travel plan evaluation and monitoring. Some or all of that receipt can be used for the purpose agreed and pooled between the relevant local planning authorities. This has been promoted as a cost-effective way of all parties securing the service that they need.

An example of a successful partnership in London is WestTrans. This is a partnership of six west London boroughs: Ealing, Brent, Hammersmith and Fulham, Harrow, Hillingdon and Hounslow. The partnership is led by Ealing Council and the WestTrans team works closely with transport planners and planning officers at all six boroughs to ensure that the way in which the travel plans are secured, written and monitored promotes sustained and measurable behaviour change. For more information, please visit www.westtrans.org.

Failure to deliver agreed measures

Enforcement action or instigating default mechanisms can be used to deliver specific measures or outcomes but should be seen as a last resort in the event of a failure to achieve targets. Initially, the preferred option should always be negotiation between parties to agree amendments to the travel plan as part of the review process.

The planning obligation should set out the default mechanisms and remedial actions that will be activated in the event of failure to deliver agreed measures and outcomes, and a subsequent failure to agree an amendment to the travel plan, so that all parties are clear on the consequences of not complying with the secured travel plan.

We recommend that default mechanisms are tied both to a failure to meet outcome targets as well as a failure to deliver key measures. The details of the remedial measures will depend upon the nature, scale and severity of the transport impacts if the aims and targets are not achieved, and the sanctions and payments must be reasonable and proportionate.

There are a range of sanctions that might be used:

- Implementation of works expected to remedy the failure to achieve agreed outcomes (eg new cycle facilities, occupier resourced shuttle bus linking site to local transport hubs)
- Payments to the local authority to cover the costs of implementing measures, which were agreed but not implemented (eg improvements to junction design, introduction of a Controlled Parking Zone). This mechanism also includes payments to implement certain measures which have been identified previously in the Local Development Framework or Local Implementation Plan
- Payments to the local authority to cover the cost of taking action to deliver the agreed targets where these have not been achieved (eg payments to support improved public bus services)
- Limitations on the way the site can be used in the future, such as partial occupation or restriction on implementation of future phases of the development authorised by the planning permission, until the agreed targets or outcomes have been achieved
- Performance bonds can also be requested by the local authority prior to commencement of the development. These are used as an insurance measure to protect the local authority against loss if they have to undertake works relating to obligations that are not fulfilled (eg to undertake periodic monitoring). Bonds are more commonly used in relation to highway works that form part of a Section 278 agreement (under the Highways Act 1980) and must be underwritten by a reputable assurance company. The amount of the bond varies but should cover the costs incurred in undertaking surveys and implementing agreed measures in the travel plan. The bond (or any unused part of it) must be returned to the owner at the end of an agreed period.

Any default mechanisms put in place must meet the requirements set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 governing the use of planning obligations. It is important to emphasise that the payments associated with any default mechanisms put in place must not be punitive and are not financial penalties, but are a means of addressing any shortcomings and ultimately ensuring the travel plan's success. In some instances it may be more appropriate to use non-financial sanctions, such as more active or different

marketing of sustainable transport modes or additional traffic management measures.