# Findings of compliance inspections 2017/2018

## Number of findings

During April to September 2017 we issued 109 Compliance reports, compared to 171 for the same period in 2016/2017. A total of 123 recommendations were raised (218 in 2016/2017) of which 34 (27.6%) were made to correct issues of non compliance (85 (39%) in 2016/2017) and 89 (72.4 %) were guidance recommendations (133 (61%) in 2016/2017). As in 2016/2017, the highest number of non-compliance findings raised with a single EB during the first half of 2017/2018 was 4.

## Non-compliant recommendations

The most common non-compliant issues identified included:

- Inaccurate Annual Returns (Form 4)
- Use of ineligible funds for CTP donations;
- Lack of CTP donor records;
- Failure to maintain records;
- Non compliant use of LCF funds;
- Spending outside of the prescribed period.

Non-compliant recommendations are categorised and ranked in order of frequency as detailed in the following table:

| Compliance Issue | No. of recommendations | | | | | % of Non Compliant recommendations |
|---|---|---|---|---|---|---|
| | Q1 | Q2 | Q3 | Q4 | Total | |
| Statutory reporting - Form 4 | 3 | 7 | | | **10** | 29.4 |
| Project expenditure outside of the prescribed period | 5 | 2 | | | **7** | 20.6 |
| Failure to maintain records of LCF expenditure | 3 | 2 | | | **5** | 14.7 |
| Failure to maintain CTP records | 1 | 2 | | | **3** | 8.8 |
| CTP compliance | | 2 | | | **2** | 5.9 |
| Non compliant use of LCF funds | | 2 | | | **2** | 5.9 |
| Failure to maintain records of LCF income derived | 1 | | | | **1** | 2.9 |
| Failure to maintain records of LCF income | 1 | | | | **1** | 2.9 |
| Failure to meet criteria for enrolment | 1 | | | | **1** | 2.9 |
| Statutory reporting - Form 7 | 1 | | | | **1** | 2.9 |
| Other - Non compliant | | 1 | | | **1** | 2.9 |
| Project non compliance | | | | | **0** | 0 |
| Statutory reporting - Form 3 | | | | | **0** | 0 |
| Unapproved project expenditure | | | | | **0** | 0 |
| Unique benefit to a contributor | | | | | **0** | 0 |
| **Totals** | **16** | **18** | | | **34** | **100%** |

## Guidance recommendations

The majority of guidance issues identified were due to EBs failing to notify ENTRUST of changes to their organisation. These included Trustee and Main Contact records; changes to governance documents and the legal status of organisations. A number of recommendations were also raised concerning the correct reporting of project information to ENTRUST via both annual returns and project completion forms.

Guidance recommendations are categorised and ranked in order of frequency as detailed in the following table:

| Compliance Issue | No. of Recommendations | | | | | % of Guidance recommendations |
|---|---|---|---|---|---|---|
| | Q1 | Q2 | Q3 | Q4 | Total | |
| Failure to maintain EB records with ENTRUST | 15 | 6 | | | **21** | 17.1 |
| Governance | 5 | 8 | | | **13** | 10.6 |
| Guidance required - Projects | 5 | 5 | | | **10** | 8.1 |
| Project completion reporting - Form 9 | 3 | 5 | | | **8** | 6.5 |
| Business continuity | 4 | 2 | | | **6** | 4.9 |
| Project completion reporting - Form 4 | 2 | 4 | | | **6** | 4.9 |
| Administration costs | 2 | 3 | | | **5** | 4.1 |
| Unspent funds | 2 | 3 | | | **5** | 4.1 |
| Guidance required - Other | 3 | 1 | | | **4** | 3.3 |
| Project file documentation | 2 | 2 | | | **4** | 3.3 |
| Guidance required - Voluntary revocation | | 3 | | | **3** | 2.4 |
| Asset monitoring | | 2 | | | **2** | 1.6 |
| Guidance required - EB procedures | | 2 | | | **2** | 1.6 |
| Guidance required - Funding Agreement | | | | | **0** | 0 |
| **Totals** | **43** | **46** | | | **89** | **100.0** |

## Analysis of recommendations made during 2017/2018:

Analysis of the recommendations raised during the first six months of 2017/2018 shows that the most frequent issues identified are with EBs failing to notify ENTRUST of changes to Main Contacts and/or Trustees. Without a current Main Contact, EBs will no longer receive regular contact from ENTRUST on Regulatory issues which may affect the EB. Also, the knowledge and understanding of the LCF and what needs to be done to remain compliant is lost to the EB.

We have also identified a number of cases where EBs have amended their constitutions and / or legal status without informing ENTRUST. Many EBs also fail to formally confirm that Trustees and Directors are eligible to serve on their Boards, which is a requirement within the regulations and is also a point of good governance practice. EBs need to be aware that it is a requirement of the Regulations that they continue to meet the eligibility criteria and so any governance changes, including changes to Boards/management committees, should be notified to ENTRUST so that we can confirm that EBs remain eligible to receive LCF funds. Obligations of enrolled EBs are set out in Section 3 of the EB Guidance Manual.

Our Compliance reviews continue to identify errors and omissions with annual return submissions. Various issues have been identified but most arise from a lack of sufficient records being maintained by EBs and a lack of understanding of the reporting requirements. Guidance on how to complete the annual return is signposted to EBs through all ENTRUST communications during the Annual Return reporting period and in Section 3 of the EB Guidance Manual. The data provided to ENTRUST by EBs via the annual return is the basis of our reporting to HMRC on the performance of the Fund and inaccurate reporting could adversely affect our reporting.

Cases have also been identified where EBs have used LCF funds for non-LCF purposes. LCF funds must only be used against approved objects contained within the Regulations and therefore must be regarded as ‘restricted funds’. Any LCF monies should be ring-fenced from an organisation’s operational expenditure and cannot used for non LCF purposes such as supporting the organisation’s general financial liabilities. EBs should maintain separate records of LCF funds and where practicable hold LCF funds in separate bank accounts to prevent non-compliant use of these restricted funds.

A significant number of EBs are continuing to spend LCF monies outside of the prescribed period, despite the change to the Regulations being introduced in April 2015, which makes any expenditure outside of the prescribed period non compliant. Our findings suggest that EBs are not adequately monitoring projects to identify potential delays with project completions and not therefore able to request extensions before the approved completion date has passed. Guidance on delivering compliant projects has previously been issued to all EBs and is available in the ENTRUST Guidance Manual section 5.4, Extending a Project.

## Recommended actions to address common compliance findings:

Recommended corrective actions to the five most frequently raised findings are detailed below for EBs to consider:

| Recommendation type | ENTRUST recommended action |
|---|---|
| Director/Main Contact updates (Guidance) | • EBs' governance procedures should note requirement to notify ENTRUST of retiring Trustees and new appointments at the same time as Companies House and/or Charities Commission are notified (where applicable)<br>• Main Contacts to carry out regular review of EB data held on EOL |
| Non compliant expenditure – spend outside of prescribed period (Non compliant) | • EBs reminded to monitor the completion of projects and request extensions to projects approaching their completion date<br>• EBs reminded to obtain project approval before spending LCF monies<br>• EBs to ensure LCF monies are only spent on the areas detailed in the project cost breakdown approved at registration |
| Governance - lack of checks on excluded individuals (Guidance) | • EBs' governance procedures should include a declaration by new appointees that they are not an excluded individual<br>• EBs' recruitment processes to include a check for excluded individuals |
| Form 4 – inaccurate, non reconciled or late (Non compliant) | • EBs must review their financial records and re-submit an updated and accurate Form 4<br>• EBs must provide start and end dates for projects<br>• EBs reminded they can make adjustments and corrections to their Form 4 on EOL<br>• Deadline for submitting the annual return should be recorded on EB management team calendars/agendas |
| Failure to maintain records of expenditure (Non compliant) | • EBs should retain documentary evidence or financial systems to evidence all financial transactions |