



## Consultation on Specific User Group Projects

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October 2008

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# 1. Executive Summary

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- 1.1 ENTRUST is fully committed to engaging stakeholders wherever possible to ensure that the regulation of the Landfill Communities Fund (LCF) complies with best regulatory practice. As part of this process, ENTRUST will be running a number of stakeholder consultation exercises during 2008/2009, relating to the regulation of the Fund.
- 1.2 The second consultation exercise is to review the issue of currently un-registerable projects that are only open to specific user groups and not the general public as a whole. The aim will be to establish the range of projects that are not being registered in the LCF due to their restricted availability to the general public.

## 2. Introduction

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- 2.1 The Landfill Tax Regulations 1996 (Regulations) require all LCF expenditure to fit an approved object.
- 2.2 The Regulations prescribe that in order to be compliant under Object D; Public Amenities are required to be open to the general public. This requirement means that ENTRUST is prohibited from registering projects, which do not meet this requirement, for example,
- A disabled riding school that offers no facilities to an able bodied rider; and
  - Improvements to a rural school assembly hall which had no confirmed public access policy.
- 2.3 Additionally, this requirement also precludes ENTRUST from registering projects, which aim to improve the school environment for school pupils, for example a school sports hall that does not have a regular public opening period.
- 2.4 ENTRUST has received a number of applications to register the type of projects described above indicating that the support of these projects is being requested by the communities in the vicinity of Landfill Sites.
- 2.5 This consultation paper aims to gather empirical evidence to assess whether there is the appetite in the LCF stakeholder community to undertake or fund projects that are not open to all elements of the general public. It will focus on the following areas:
- The types of projects that cannot currently be registered due to public access limitations;
  - The rate of occurrence of refusing these projects, whether that be
    - i) by ENTRUST; or
    - ii) by Environmental Bodies (EBs) before submission to ENTRUST;
  - The appetite of stakeholders to fund projects that are not open to all elements of the general public; and
  - Any shortfall of funding that exists from other sources for projects of this type.
- 2.6 This paper provides background to this subject and then asks a number of questions regarding the issues to be reviewed.

### 3. Gathering Stakeholder Feedback

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3.1 ENTRUST will be seeking stakeholder feedback through the following methods:

- This consultation document, which outlines the issues themselves;
- A focus group allowing the further discussion of points raised. (Additional details are outlined later in the document);and
- The LCF Online Forum on the ENTRUST website will allow discussion to continue, and will include points raised at the focus group.

3.2 Following the consultation period, a summary document will be published covering the issues discussed.

### 4. The Regulations

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4.1 The Regulations governing the registration of Object D projects are as follows:

Regulation 33(2)(d) allows LCF expenditure:

*“where it is for the protection of the environment the provision, maintenance or improvement of –*

- (i) a public park; or*
  - (ii) another public amenity in the vicinity of a landfill site, provided the conditions in paragraph (6) below are satisfied;*
- (6) The conditions mentioned in sub-paragraphs (d) and (e) of paragraph (2) above are-*
- (a) in a case falling within sub-paragraph (d), that the provision of the park or amenity is not required by a relevant condition; and*
  - (b) in a case falling within wither of those sub-paragraphs, that the park, amenity, building or structure (as the case may be) is not to be operated with a view to profit.*

4.2 Following the introduction in April 2007, of Regulation 34(1)(aa) that allowed the Regulator to impose agreed conditions, an EB's registration of a project before expenditure commences is now a statutory requirement.

## 5. Policy

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5.1 In accordance with the governing Regulations, ENTRUST Guidance specifies:

3) *Object D Guidance*

3.1 *“a public amenity is interpreted as a place where the general public can go for leisure or recreation”*

5.2 Where an amenity is open to the public only a portion of the time, it is possible to fund under the LCF the proportion of the time that the project is open to the general public.

## 6 Impact

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6.1 The governing regulations and guidance have resulted in the refusal of a number of projects, including:

- A disabled riding school that was not open to all members of the general public as it did not provide facilities for able-bodied riders;
- A relaxation garden in the grounds of a mental health facility, accessible only by the patients and their families;
- A play park at a health care centre that provided facilities for the patients and their families;
- Improvements to a rural school assembly hall which did not have confirmed public access policy;
- Provision of a wildlife garden in school grounds which is not accessible by the public, only the school pupils;
- Allotment projects that have a limited number of spaces available and do not provide an amenity to those members of the public who do not own a plot; and
- Community greenspace project that would be a local space where individuals could grow food but, once planted, would not be open to members of the general public.

6.2 These projects do not qualify under Object D due to their respective restrictions to public access. As they would also not fit any other object, they are unable to receive funding under the LCF.

6.3 Projects such as those listed above are often very well regarded by the public, and would have the support of the public even if they were not benefitting directly from them going ahead. This would be particularly true in cases such as the aforementioned disabled riding school that is not compliant due to the focus it has on providing an amenity for disabled groups.

- 6.4 To address this issue, ENTRUST is committed to reviewing this area and if necessary making recommendations to HMRC. This consultation document aims to gather stakeholder's opinions on the topic of specific user group projects that are not open to the general public.

## 7. Consultation Questions

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- 1) Has your organisation had any projects refused by ENTRUST or have you refused the funding of any projects in the past due to the fact that they were not open to the general public? If so, please give a summary and indicate the approximate value of these projects
- 2) Do you feel it is appropriate for the LCF to support projects that benefit only specific elements of the public, such as only disabled users or schoolchildren?
- 3) Does your organisation have an appetite to fund or undertake projects of this type?
- 4) Would you like to be able to devote an element of your resources to these projects i.e. if you are a funder of LCF projects, would you dedicate a proportion of your funding to this type of activity?
- 5) Please outline any projects that would currently be rejected that you feel should be registerable under the LCF, and why.
- 6) Have you any views on whether it would be beneficial if the LCF was able to fund projects that are open, or providing an amenity, to sections of the general public only and not the general public at large?
- 7) Please outline any further points you would wish to add regarding potential projects that are currently not considered compliant under the governing Regulations due to their restricted access to the general public.

## 8. Contact details/ How to respond

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- 8.1 The consultation is open to all stakeholders of the LCF. Any feedback submitted will be treated in strictest confidence and will be considered anonymous unless you state otherwise. Responses to the questions raised can be returned through the following methods:

Email: McNabb Laurie (m.laurie@entrust.org.uk)

Post to: McNabb Laurie  
ENTRUST,  
2nd Floor,  
Acre House  
2 Town Square  
Sale  
Cheshire  
M33 7WZ

Through the LCF Online Forum: <http://www.entrust.org.uk/home/lcf/lcf-forum>

Please note that a fully editable MS Word version of this questionnaire is also available on the ENTRUST website, or simply respond by email to the questions asked.

- 8.2 The closing date for responses to this document is the **16 January 2009**.
- 8.3 To further discuss the issues raised in this consultation document, ENTRUST will be holding a focus group during the consultation period. The location of this event will depend upon the delegates expressing an interest in attending. If you wish to attend the focus group, please contact McNabb Laurie at ENTRUST (email m.laurie@entrust.org.uk) by **5 January 2009**.

## 9 Publication of response

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- 9.1 A paper summarising the responses to this consultation will be published within two months of the closing of the consultation.
- 9.2 The outcomes of the consultation will be reviewed and any proposals will be publicised to stakeholders appropriately.

**Thank you for taking the time to contribute to this consultation.**