



## ENVIRONMENTAL BODY RECORDS KEPT RELATING TO LANDFILL OPERATORS



**REGULATING THE LANDFILL COMMUNITIES FUND  
BENEFITING PEOPLE AND THE ENVIRONMENT**

Consultation Paper  
June 2009

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Project: St Johns Baxenden - Renovation of the cellar.

Description: This project helped to create a modern purpose built venue for the whole community, especially youth groups.

Supported by: Lancashire Environmental Fund and SITA Trust.



## Introduction

### 1 Reasons for the review of records kept by environmental bodies relating to landfill operators

- 1.1** This review was carried out at the request of HMRC and considered the records kept by Environmental Bodies (EBs) relating to the Landfill Operators (LO) who fund their projects. This information is required to enable HMRC to have an indication of the adequacy of record keeping by EBs should there be non-compliant spend and HMRC looks to pursue the claw back of the tax credits foregone.

### 2 Regulations

- 2.1** Regulation 33A (1) states:  
“An approved body shall...  
(d) make and retain records of the following-...  
(v) in respect of each qualifying contribution and any income derived therefrom, including any such amount transferred to the body by another approved body, the date of and all other such details relating to its expenditure.”.

Project: Rainham Play Area.

Description: Installation of a new play area at Rainham Marshes.

Supported through: RSPB.



### 3 Guidance

- 3.1. ENTRUST does not prescribe details of records that must be kept by EBs in relation to expenditure under Regulation 33A (1) (d) (v).

### 4 Consultations with EBs

- 4.1 ENTRUST is committed to engaging stakeholders wherever possible, to ensure that the regulation of the LCF complies with best regulatory practice. The third consultation which was primarily about Regulatory change also asked about EBs records of LO contributions.

- 4.2 A consultation document was published and open for twelve weeks. Responses were welcomed electronically or by post. There were 24 respondents to this consultation. This represents less than 1% of the total stakeholder population. However, stakeholders that did respond were largely those organisations that are well funded under the LCF and therefore it is possible to approximate that in excess of 60% of LCF funding was represented through the stakeholder respondents.

- 4.3 The responses to the consultation are set out at Appendix A. With regards to the records kept by EBs attributing expenditure to the relevant contributing LO:

- 80% of respondents already separately record the receipt and expenditure of LCF monies from different contributing LO; and
- For the 20% of organisations that do not currently account for LO contributions separately, if they were to do so, this could require a fundamental change in their policy and renegotiation of contracts in place.

Project: Eaglestone Local Park.

Description: Play Improvements to the Park Area, Milton Keynes.

Supported through: Grantscape.



## 5 Recommendations

- 5.1.** It is necessary for EBs records to show a link between expenditure and the contributing LO, as HMRC cannot recover tax credits in the event of non-compliant spend if there is no clarity of the LO who should be subject to claw back.
- 5.2** It is therefore proposed that EBs must make and retain records that show a clear audit trail of which expenditure is funded by which LO contribution. This would apply to all expenditure from LCF funds, which includes project expenditure and EB running costs. It is necessary to make this requirement compulsory, and so a binding condition is recommended.
- 5.3** Recommendation 1: HMRC agree that ENTRUST implement a condition that EBs must make and retain records that show a clear audit trail of which expenditure is funded by which LO contribution.

## 6 EB Impact Assessment

- 6.1** This will have an impact on those 20% of EBs who will need to change their record keeping practices. ENTRUST staff can assist with guidance and training to ensure compliance with the condition.
- 6.2** In order to ensure that EBs are compliant with the new condition it will be necessary to give them prior warning, and coach them to compliance. This can be done through mailings, the e-bulletin, and training. It may also assist if those EBs who have systems which enable them to meet the new condition can share this with those who need to introduce a system. Consequently, HMRC are asked to give an early indication if the proposed condition is accepted.
- 6.3** Recommendation 2: HMRC are asked to give an early indication if the implementation of a condition is accepted, in order for coaching to compliance to take place.

Project: Red Squirrel Project, Fife.

Description: A programme of outdoor education and interpretation, awareness raising, research and monitoring.

Supported through: Fife Environment Trust.



## APPENDIX A

### The consultation paper and focus group responses.

#### 1. Summary

- 1.1** The second part of the 3rd consultation in 2008/2009 asked questions about the current records kept by EB and the ability of those EB to attribute expenditure to the relevant contributing LO. These questions were used to gather stakeholder feedback on the impact of enforcing a requirement to maintain records that allow expenditure to be attributed to the relevant contributing landfill operator.
- 1.2** A consultation document was published and open for twelve weeks. Responses were welcomed electronically or by post. There were 24 respondents to this consultation. This represents less than 1% of the total stakeholder population. However, stakeholders that did respond were largely those organisations that are well funded under the LCF and therefore it is possible to approximate that in excess of 60% of LCF funding was represented through the stakeholder respondents.
- 1.3** It is possible to draw a number of conclusions from the responses received regarding the records kept by EBs:
- 45% of consultation respondents receive funding from only one contributing LO;
  - LOs involvement in the expenditure of the contributed monies varies, however 80% of respondents currently keep and maintain records identifying the contributing LOs for each element of expenditure; and
  - The remaining 20% of respondents indicated that they cannot currently attribute LCF expenditure to the relevant contributing LOs due to the multiple sources of funding received and the methods by which this is currently recorded internally by the organisations.

- 1.4** It can therefore be summarised that at present the majority of organisations (80% of respondents) can currently attribute expenditure to the relevant contributing LOs. For these organisations, there would therefore be no impact of introducing this reporting requirement.
- 1.5** The remainder of respondents indicated that they cannot currently attribute expenditure to the relevant contributing LOs due to multiple sources of funding and therefore would be required to change their reporting systems.
- 1.6** The impact of change in these organisations varied from a simple administrative process to the central review of the EBs operations. A couple of respondents advised that being required to implement this change could jeopardise their current activities and would require a complete reform of how their EB operate.
- 1.7** Therefore, while the influence was found to be difficult to quantify, the implementation of this requirement would impact a minority of organisations.

**2. Do you return any unspent contributions to the LO, for example if a project costs less than forecast? Please provide any details/ comments on this.**

- 2.1** It is very rare that LCF contributions are returned to the LO. Any project under spends or any other unspent contributions are routinely returned to the organisation's central reserves for allocation to another project.

**2.2 Summary**

Only in very rare cases is money returned from an EB to the contributing LO.

**3. Do you keep and maintain records from which you can identify the contributing LO and how their contribution has been spent?**

- 3.1** The majority of respondents (80%) keep and maintain records to a sufficient level that allows that organisation to confirm which contributing LO is funding each project.
- 3.2** The remaining organisations are funded by a number of contributing LOs (or Distributive EBs) and do not currently account for the funding separately.

Please note: This report has been submitted to HMRC and any comments will be published in due course.

### 3.3 Summary

80% of respondents keep and maintain records identifying the contributing LO for each element of expenditure.

## 4. Please provide details of the records you maintain (including the length of time that these records are kept). Please provide details of the records you maintain (including the length of time that these records are kept).

4.1 The larger organisations are able to use their bespoke systems to record all contribution information and maintain detailed project files regarding the origin of funding and invoices accrued.

4.2 Other organisations use Excel Spreadsheets or individual project files for each project that is undertaken, including the contributing LO and the total LCF monies spent.

4.3 With regards to the length of time that records are kept, the most common length of time was six years. The only exception to this was if assets were involved that required the files to remain accessible for longer than six years.

### 4.4 Summary

The records kept by those organisations that identify expenditure to each contributing LO vary from simple excel spreadsheets to bespoke reporting systems that allow specific reports to be provided simply.

## 5. Please specify any difficulties you experience in meeting this requirement.

5.1 The only difficulty reported was that the requirement to maintain records often can't be cited in any project application and therefore is not work that receives direct funding.

### 5.2 Summary

It was reported that record keeping costs tended not to be recorded in a project funding application and therefore the record keeping costs were usually not directly funded.



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**6. Please estimate the staff time required in meeting this requirement and the status of the employees involved e.g. accounts clerk, accountant, and functional manager.**

**6.1** A number of different estimates were received from respondents regarding the staff time required to maintain appropriate records of the contributions received, varying from approximately two days a year to half a day a week.

**6.2** The majority of respondents stated that it was not possible to apportion the amount of time recording the contributing LO information.

**6.3** Summary

Estimated staff time varied from approximately two days a year to half a day a week.

**7. Please provide details of any external costs (for example accountant's fees) that are incurred in meeting this requirement?**

**7.1** There were no details provided of any external costs incurred in recording the relevant contributing LO.

**7.2** Summary

No details of external costs were received.

**8. Please provide details of any storage, postal, accounting software or labelling costs or that are incurred in meeting this requirement?**

**8.1** There were no details provided of any storage, postal, accounting software or labelling costs incurred in recording the relevant contributing LO.

**8.2** Summary

No details of storage, postal, accounting software or labelling costs were received.

## **9. If you currently do not maintain such records, would you foresee any significant problems with doing so?**

- 9.1** The issue was raised by one respondent that if EB were required to accurately record which contributing LO's contribution, then using the current funding processes, the funding would have to be spent on a first come, first spent basis. This would cause a problem in cases of an underspend of LCF money being returned for further funding. If the requirement to attribute funding to the relevant contributing LO was enforced, a change would be required to the current process of funding allocation.
- 9.2** Another organisation stressed that they had great concerns that if they were required to record expenditure in relation to each contributing LO, it would "drive them out of business". This was due to the fact that the organisation had been designed around the principle of a number of LOs contributing to the organisation as a whole and each LO being considered to be funding a proportion of every project. Amending this process to the separate contributor reporting would require a change to the principles of the company and the way it currently ran.
- 9.3** The organisation in question advised that the co-funding of projects is accepted by their contributors as being the most effective way of assisting the many small community projects across the area of operation. If they were required to restrict the funding of each project to a single operator in order to satisfy the proposal it would significantly reduce our ability to operate. As a possible solution to this problem and in some way meeting the audit trail requirement, a year end apportionment could be undertaken when all income, expenditure and commitments from the year's money is known.
- 9.4** **Summary**
- Those organisations that do not currently record expenditure against the relevant LO (20%) would be required to change their funding processes. In some cases this would simply increase the administrative burden whereas in other extreme, it would require a strategic review of the organisation's operations.

**10. Please estimate any additional staff time required in meeting this requirement and the likely status of the employees involved e.g. accounts clerk, accountant and functional manager?**

**10.1** All respondents advised that it was difficult to quantify the additional staff time and other costs that would be incurred.

**10.2** Summary

No details of staff time were received.

**11. Please provide details of any external costs (for example accountant's fees) that are likely to be incurred in meeting this requirement?**

**11.1** One respondent suggested that they would be subject to an increased audit fee if this requirement was enforced.

**11.2** Summary

The only external costs reported to be incurred would be a possible increased audit fee for the organisation.

**12. Please provide details of any storage, postal, accounting software or labelling costs that are likely to be incurred in meeting this requirement?**

**12.1** There were no details provided of any storage, postal, accounting software or labelling costs that could be incurred with the introduction of the requirement to attribute expenditure to the relevant contributing LO.

**12.2** Summary

No details of storage, postal, accounting software or labelling costs were received.

Please note: This report has been submitted to HMRC and any comments will be published in due course.



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