



ENVIRONMENTAL BODY RUNNING COSTS



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

Consultation Paper for Environmental
Bodies & Landfill Operators

February 2010

Subject of this Consultation:	Environmental Body (EB) Running Costs
Scope of this Consultation:	<p>The aim of this consultation is to consider what limits should be made to EB running costs and it includes;</p> <ul style="list-style-type: none"> • The concept of reasonable and relevant running costs as a lead option; • The definition of reasonable and relevant running costs; • Proposed guidance on reasonable and relevant running costs; and • Other options for limiting EB running costs.
Who should read this:	Environmental Bodies and Landfill Operators.
Duration:	The consultation will run for 12 weeks. The closing date for responses is 03/05/10.
Enquiries:	For general enquiries relating to this consultation, please contact Hannah Williams, Regulations Manager on 01926 488 324.
How to respond:	<p>Responses to this consultation should be sent by email to:</p> <p>regulations@entrust.org.uk with 'Costs' in the email subject.</p> <p>or by post to:</p> <p>Pardeep Bansi ENTRUST 60 Holly Walk Royal Leamington Spa Warwickshire CV32 4JE</p> <p>or online at:</p> <p>http://www.surveymalaxy.com/surPublishes.asp?k=CWSD72HJ01CF</p>
Additional ways to become involved:	A focus group will be held to discuss this topic further. The location and date will depend on those expressing an interest in attending. If you wish to attend the EB Running Costs Focus Group, please express your interest to Pardeep Bansi by 15/03/10.
After the Consultation:	After reviewing the responses to this consultation, ENTRUST will issue a report and make any recommendations that it considers appropriate to HMRC. These recommendations will be published on the ENTRUST website.
Previous engagement:	ENTRUST last consulted on Administration Costs in 2008. HMRCs response was that they would like ENTRUST to develop the lead option that EB running costs are allowable if they are "reasonable and relevant".

1. Executive Summary

- 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 2009/2010, relating to the regulation of the Fund.
- 1.2** This consultation exercise considers options for the limitation of Environmental Body (EB) running costs (as defined in paragraph 3.2) which may lead to regulatory change. As a lead option, ENTRUST sets out a proposal that EB running costs should have a statutory limitation to the extent that they are reasonable and relevant. In addition consideration is given to what guidance might be given on 'reasonable' and 'relevant' to support this proposed regulatory change. The impact of this change on projects and EB reporting is then considered.
- 1.3** Stakeholder feedback will be used to understand the current position in order to gauge the possible impact of proposals and provide input into the development of more effective regulations and/or guidance on running costs.
- 1.4** This paper sets out the background and asks for information and suggestions surrounding the topic of EB running costs. The key areas of focus are:
- The concept of reasonable and relevant running costs as a lead option;
 - The definition of reasonable and relevant running costs;
 - Proposed guidance on reasonable and relevant running costs; and
 - Other options for limiting EB running costs.
- 1.5** ENTRUST is committed to listening to all feedback from all of our stakeholders.

Project: The Meeting Place, Rowlands Castle, Hampshire

Description: The project has seen a full refurbishment and extension which has greatly enhanced the hall, benefitting the local community.

Supported through: Veolia Environmental Trust



2. Gathering Evidence

2.1. ENTRUST will be seeking stakeholder feedback through the following methods:

- Written responses to this consultation document;
- Responses submitted through a dedicated internet survey; and
- A focus group that will be held to discuss the questions posed and the topic generally.

3. Reasons for the Consultation

3.1 The problems with the current position are that:

- Some EBs running costs exceed the best practice percentage of 10% of LCF monies, set out in the guidance. Where more funds are spent on running costs, less money is available for direct project works and there is a danger that the public perception of the scheme will fall;
- There is inconsistency in that some EBs will allocate some running costs to projects within the guidance 10% administration costs limit in projects, and others do not. This means that reported expenditure is not comparable between EBs; and
- Current guidance does not clearly define whether the percentage of running costs should be calculated in relation to income or expenditure. At present, Compliance Inspectors will consider both methods when undertaking inspections and testing compliance with the guidance.

3.2 This paper will refer to both EB running costs and project administration costs. The definition of these costs is as follows:

EB Running Costs – refer to the overheads and running costs of the EB as an organisation; and

Project Administration Costs – refer to ‘project management costs’ for which the current guidance is set out in paragraph 5.2 overleaf, and includes costs that are not solely related to the project or do not involve physical works.

4. The Landfill Tax Regulations 1996 (Regulations)

4.1 Running costs are determined within the Regulations as:

Regulation 30 (1)

“running costs” includes any cost incurred in connection with the management and administration of a body or its assets”.

4.2 **Regulation 33 (7)** states that EBs running costs can be regarded as an approved object, but the proportion of this is capped by Regulation 33(8) which limits this to a proportion if the EB has non-LCF monies.

Regulation 33 (7)

Where the objects of a body are or include any of the objects set out in paragraph (2) above, the following shall also be regarded as objects within that paragraph-

- (a) *The use of qualifying contributions in paying the running costs of the body, but this is subject to paragraph (8) below;*
- (b) *The use of qualifying contributions in paying a contribution to the running costs of the regulatory body.*

Regulation 33 (8)

The use of a qualifying contribution in paying the running costs of the body shall only be regarded as an approved object if the body determines so to use no more than such proportion of the total qualifying contributions, together with any income derived from them ... as the proportion of that total forms of the total funds at its disposal and does not use a greater amount.

Project: Community Kitchen at St. Peters & St. Johns, Rugby

Description: To provide energy efficiency appliances and refurbish the kitchen to give a service to the community groups that use the hall.

Supported through: The Community Kitchen Project



5. Guidance

- 5.1 The Regulations make provision for running costs of the EB to be compliant expenditure. This is outlined within the EB Guidance Manual 2) Spending LCF monies and Registering Projects, at paragraph 8:

8.1 *The Regulations allow some or all of an EBs running costs to be regarded as an approved object. This means an EB may spend LCF monies on its own administration costs.*

8.2 *Regulation 33(8) restricts an organisation with a number of different types of funding from using LCF monies to pay all the running costs – LCF monies can only pay the proportion of running costs that corresponds to the proportion of the organisations funding that comes from the LCF.*

Example

Your organisations total income from all sources in a year is £100,000, and your income through the LCF is £20,000. As 20% of your total income comes from LCF monies, under the regulations you can pay up to 20% of your running costs with LCF monies.

8.3 *As a matter of good practice, ENTRUST expects no more than 10% of an EBs LCF monies to be spent on administration costs. This should be financially justified and open to scrutiny by ENTRUST.*

- 5.2 The three main objects that are receiving almost all new funding are D – Public Amenity; DA - Conservation or Promotion of Biodiversity; and E - Restoring Places of Worship or Buildings or Structures of Architectural Interest. ENTRUSTs guidance provides:

“The focus of the project must be to undertake ‘direct project works’ on the amenity/project in question. ENTRUST will review applications to ensure that every proposal concentrates on direct project works and has acceptable project management costs.”

“‘Project management costs’ include elements such as any head office costs not solely related to the project, publicity for the amenity, opening ceremony and all other activities that do not directly result in physical work being undertaken. ENTRUST is not able to register projects that have excessive project management costs (i.e. more than 10% of total project expenditure).”

- 5.3** Whilst direct project works and project management costs are not defined within the Regulations, the guidance issued for each of the three main objects used for projects have the following definitions of direct project works:

Public Amenity

“Direct project works’ are defined as those that are solely attributable to the delivery of the project. This would include all costs that can be directly linked to improvements on site, such as contractor, volunteer management, signage and other interpretative materials that will be kept on site and improve the amenity itself”.

Conservation or Promotion of Biodiversity

“Direct project works’ are defined as those that are solely attributable to the delivery of the project. This would include all costs that can be directly linked to improvements on site, such as contractor, volunteer management, and other physical works on site and conserve the species or habitat in question.”

Restoring Places of Worship or Buildings or Structures of Architectural Interest

“Direct project works’ are defined as those that are solely attributable to the delivery of the project. This would include all costs that can be directly linked to improvements on site, such as contractor, volunteer management, signage and other materials that will be kept on site and restore the building or structure itself.”

Project: Westerhope park fitness trail

Description: Girls trying out the new bridge walk, part of the new fitness trail, encouraging youngsters to become more active.

Supported through: SITA Environmental Trust



6. Options Available for the Limitation of EB Running Costs

6.1 Options suggested following this consultation are;

1. To implement a statutory requirement that EB running costs are reasonable and relevant;
2. To implement a statutory requirement for the current 10% rule on running costs as laid down in guidance;
3. To implement a statutory requirement for some other percentage limit on running costs;
4. Adopt principles of Full Cost Recovery for the LCF; and
5. Do nothing.

6.2 The introduction of a statutory requirement could either be through a change to the Regulations or by imposing a binding condition on EBs. If a proposal for change is made, ENTRUST will have to consider the most appropriate method to recommend.

6.3 The Regulations do not distinguish between EBs and Distributive Environmental Bodies (DEBs) and so these options would apply to all EBs (both funding and receiving EBs).

6.4 Regulations set out what is required and allowable. Guidance issued by ENTRUST sets out interpretation and best practice on the Regulations. Funders will always have the discretion to have more restrictive policies if they wish.

7. Lead Option: To Implement a Statutory Requirement that EB Running Costs are Reasonable and Relevant

7.1 Background

7.1.1 The fundamental principle surrounding the introduction of the LCF scheme was for Landfill Operators (LOs) and EBs to work in partnership to create significant environmental benefits and to undertake projects which improve the lives of communities living near landfill sites. It is important that EBs do not take a disproportionate amount of LCF funds in managing their business. LOs may wish to comment on how they might like to see EBs running costs controlled.

7.1.2 ENTRUST consulted with EBs in 2008 and published results in 2009, with respect to the administration costs of an EB. HMRCs response to ENTRUSTs earlier report was that the concept of reasonable and relevant costs should be taken forward as a lead option for further consideration. The following paragraphs develop this concept in more detail for EB running costs.

7.2 Definition of Reasonable and Relevant

7.2.1 The Oxford Dictionary defines reasonable as:

1. *fair and sensible*
2. ***as much as is appropriate or fair; moderate***
3. *fairly good; average*

7.2.2 Definition two is felt to be most appropriate if a reasonable and relevant approach were adopted for the LCF.

7.2.3 The Oxford Dictionary defines relevant as:

1. ***closely connected or appropriate to the matter in hand***

7.2.4 Therefore only costs solely relating to LCF expenditure would be deemed relevant running costs.

7.3 Guidance on Reasonable and Relevant

7.3.1 A checklist of typical running costs derived from Treasury guidance is set out overleaf in the left hand column of Table 1. The right hand column sets out examples of the reasonableness of such costs. This has been formulated using consideration of the approach taken by the Big Lottery Fund and ENTRUSTs own experience. If reasonable and relevant were to be incorporated into the Regulations, then ENTRUST would be expected to produce guidance, and this might be along the lines of Table 1 overleaf.

Project: Priory Country Park Labyrinth

Description: New recreation area which reflected the historic past of the site and provided a focal point.

Supported through: WREN



Table 1: Checklist Of Reasonable And Relevant Running Costs

<i>Examples of Relevant Costs</i>	<i>Examples of Reasonableness</i>
Accommodation costs	<p>Market rents that can be compared to similar properties in the local area at the time of the lease agreement. In addition any rental agreements should be to the prevailing best practice on rent reviews.</p> <p>Accommodation can only be in respect of actual cash expenditure incurred such as rental or mortgage costs.</p>
Financial management, accounting and audit	To a comparable level as might be found in the third/public sector.
Furniture, fittings and equipment	To a comparable level of finish as might be found in the third/ public sector.
Governance, and registration and accreditation fees or membership fees of professional bodies	Of bona-fide professional bodies necessary for the pursuance of business.
Human resources, recruitment, training and development	<p>Human Resources and recruitment; to a comparable level as might be found in the third/public sector.</p> <p>Training and development; relevant to the job of the trainee, and only at a significant distance from the organisation if no local alternative.</p>
Insurance and bank charges	Organisations should exercise value for money monitoring demonstrated by periodic cost comparisons.
Monitoring, evaluation and reporting requirements	To a comparable level as might be found in the third/public sector.
Premises maintenance and management including fire and security	Organisations should exercise value for money monitoring demonstrated by periodic cost comparisons with market rates.
Corporate planning and senior management	To a comparable level as might be found in the third/public sector.
Directors costs	To a comparable level for other charitable organisations.
Staff costs – pay, pensions, NI contributions and redundancy payments where appropriate	<p>Comparable public sector pay rates should be used.</p> <p>If bonus payments are made they should be modest and not exceed 10% of salary.</p> <p>Pension provision should not exceed the best public sector schemes.</p> <p>Redundancy payments can exceed the statutory minimum but should not exceed three times the statutory minimum payment.</p>

Stocks and raw materials	All stock and raw materials should be tendered and quotes obtained in line with the best practice on tendering for contracts as set out in 2) Spending LCF Monies and Registering Projects, section 9.1 Tendering.
Sub-contracted services such as consultancy and legal services	All consultancy services should be tendered and quotes obtained in line with the best practice on tendering for contracts as set out in ENTRUST Guidance, currently at 2) Spending LCF Monies and Registering Projects, section 9.1 Tendering.
Telecommunications, postage, reprographics and IT	The equipment provided to staff should be no more than is necessary for their job, and used only for the purpose of their job.
Travel, subsistence and transport	Second class fares should be the norm. Leased cars should not exceed the cost of typical middle market family type cars.
Utilities such as heat, light and council tax	Organisations should exercise value for money monitoring demonstrated by periodic cost comparisons.
General	All expenditure should relate to an EBs activity of administering LCF funds. EBs which are in business but which are actively administering very few LCF funds should have very little expenditure and should be able to demonstrate that their cost base is reasonable for the level of activity.

7.3.2 If there is any doubt as to reasonableness or relevance of costs EBs would need to contact ENTRUST for advice. Good professional advice could be used to provide ENTRUST with evidence that costs are reasonable and relevant to the LCF. In practice, ENTRUST would have to decide if costs were reasonable and relevant and this would be determined on a case by case basis in a transparent and consistent manner. HMRC would also need to make their own assessment if cases are referred to them for enforced revocation. It might be appropriate to take into consideration the contributing LOs views, and LOs are asked for their views on this. If costs were deemed to be unreasonable or irrelevant, the EB would be subject to the sanctions framework.

7.4 EBs who receive non-LCF funds

- 7.4.1** When applying the reasonable and relevant approach, particular attention would need to be paid to Regulation 33(8) (paragraph 4.2). This Regulation sets out that an EB can only use LCF monies to pay for such a proportion of the running costs of the organisation that corresponds to the percentage of the organisations funding that comes from LCF.
- 7.4.2** Where an EB receives 50% of its funding through LCF, it can pay for up to 50% running costs with LCF funding. In doing this, the EB would also need to demonstrate that the running costs are reasonable and relevant (by applying the guidelines mentioned above).
- 7.4.3** There should be a clear apportionment between LCF and non LCF funded activity in calculating the percentage of running costs that can be attributed to the LCF as only running costs in relation to LCF activity are deemed reasonable and relevant and therefore allowable. This is really no different than the current arrangements.

8. The Impact of Reasonable and Relevant

8.1 Project costs which are not direct physical works

- 8.1.1** Project costs can be split into direct project costs which lead to physical works and those which do not lead to direct physical works.
- 8.1.2** The current guidance restricts all project costs which do not result in physical works to no more than 10% of the total project cost. To address the problem of inconsistency whereby some EBs charge some of their overhead/running costs to projects and others do not, within this 10% limit, it is proposed that project costs on the project registration form (Form 2) and annual statutory return (Form 4) should not contain any element of costs which do not directly relate to the project (i.e. head office overhead costs that are not clearly related to the project works cannot be included in project costs).
- 8.1.3** If no element of general EB administration/overhead is included in the project cost then should the current guidance limit of 10% for these costs be reduced? The costs which are non-physical works are primarily about promotion of a project, through publicity, leaflets and opening ceremonies. It is interesting to consider what an ordinary member of the public might consider a reasonable limit on this type of expenditure. In this context it is suggested that the guidance should be amended so that they should not exceed 5% of total project costs.

8.1.4 Some EBs who register projects do not carry out those projects themselves. These projects may include the running costs or overheads of the organisation that will carry out the works, within the 10% project administration costs. In effect the EBs who have registered the projects are paying the other organisations to carry out their projects. The implication of this proposal is that project costs cannot refer to these costs simply as 'administration', as 95% or more of the costs of a project should have a clear link to direct project works. The EBs who work in this way would need to consider a more formal arrangement for paying these costs which are in effect a fee to the organisation for project managing the funding EBs project.

8.1.5 It must be noted that the primary intent of objects D, DA and E is to deliver a physical improvement, which is why costs not necessary for the physical works should be monitored, and not be permitted to be unlimited.

8.2 When can the central costs of an EB be direct project works?

8.2.1 It is recognised that EBs will organise their operations in different ways. One EB could have a cost centre for project managers which included project managers for a number of projects, whereas another EB might allocate the project manager costs directly to a project. In each case a particular project manager would be doing exactly the same job ensuring the physical works of the project are achieved. It would be unreasonable to allow one EB to charge their costs direct to the project and not the other. Consequently there may be legitimate costs that are collected in a central cost centre which are an integral part of direct project works; and these should be charged to projects. This is no different to the situation at present. However, by disallowing an allocation of EB running costs to projects, it is necessary to make sure that EBs understand that centrally allocated costs are merely an accounting tool and do not always mean that such costs are overhead costs.

Project: Verwood Community Garden

Description: The Taste Garden, available to the local community.

Supported through: Veolia Environmental Trust



8.2.2 What is important about direct project works is that any reasonable person would be able to clearly make the link between the element of cost and the physical project works, and that the internal management accounting arrangements make no difference to an EBs ability to do this. It is also worth noting that costs which are direct project costs might be physically incurred on or off the project site. EBs would need to specify and justify by their record keeping the elements of any project costs that require an allocation.

8.3 Reporting Requirements for reasonable and relevant

8.3.1 ENTRUST envisage that if the reasonable and relevant approach were to be adopted, then all EB running costs would be declared on the Form 4 at question seven. No element of running costs could be allocated to projects as currently allowed.

8.3.2 The current guidance note for question seven of the Form 4 states that:

All LCF monies that have been spent on non-project specific costs, i.e. head office administration, professional fees that can not be related to a specific project should be detailed here.

8.3.3 EBs would need to keep records of any allocation as discussed in 8.2 above.

8.3.4 Costs not necessary for the physical works that are legitimate project costs would still be declared on the original project registration application, Form 2.

8.4 Evaluation of Reasonable and Relevant

8.4.1 If the reasonable and relevant proposal were to be implemented it would allow for more flexibility as each EB would be judged on its individual circumstances. It also avoids the problem of deciding if any 10% limit should be on income or expenditure. However, the option would be open to interpretation.

8.4.2 The reasonable and relevant approach does not address the current lack of consistency, unless the guidance on running costs is amended to disallow the allocation of any element of EB running costs to project costs. The advantages of implementing a statutory requirement to limit running costs rather than to issue guidance on the same, is that all EBs must adhere to the same Regulations, rather than they should adhere to the guidance.

8.4.3 Appendix A outlines the criteria that we have used in considering the advantages and disadvantages of this option and the other options set out in Paragraph 9 below, they are:

- Clear Regulation;
- No judgement in considering compliance;
- No or minimal administrative burden for EBs;
- Change(s) to the reporting forms are simple and clear;
- No or minimal changes to EB accounting systems;
- Recognises legitimate differences between EBs;
- Some EBs would find themselves immediately in breach of Regulation;
- Allows for consistent approach;
- Guidance can easily relate to the Regulations; and
- Applicable to EBs who receive non LCF funding.

It would appear that this lead option performs well against these criteria.

9. Other Options Available

9.1 To implement a statutory requirement for the current 10% rule on running costs as laid down in guidance

9.1.1 Whilst the practice of applying the 10% rule to both project administration costs and EB running costs are understood by most EBs, ENTRUST recognise that the rule itself is only given in guidance. If a statutory requirement was implemented, then this would provide EBs with a definitive limit for running costs, but there would be no flexibility within this option. This statutory limit could only apply to EB running costs as projects are not mentioned in the Regulations.

Project: St. Patricks Community Hall

Description: New kitchen facilities. The project allowed for the expansion and development of services provided to the public.

Supported through: Impetus Environmental Trust



9.1.2 The 2008/2009 consultation exercise that was undertaken on Administration Costs indicated that the majority of organisations base their calculation of running costs on the income received annually. A number of respondents stated that their own running costs when calculated through this method exceeded 10%, for reasons they felt were legitimate. A couple of respondents said that running costs are more closely linked to activity, rather than income. For this reason they calculate running costs for internal management purposes on an expenditure basis. However, if this approach were to be adopted by a statutory requirement, it would appear that the majority view would be that this should be based on a percentage of income received.

9.1.3 Under this option, 'project administration costs' would have to be addressed in best practice guidance in one of the following ways:

1. Continue to apply the 10% rule as at present, limiting project administration costs to 10% and allowing EBs to charge an element of their running costs within this 10% if they wish. This would retain the current inconsistency in the scheme as some EBs charge running costs to projects, whilst others do not.
2. Disallow any allocation of EB running costs to projects. This may change the current working practices of a number of EBs, but would allow constancy within the scheme. If this approach were to be applied, consideration would have to be given to a limit on non-direct project works costs for the reasons set about in paragraph 8.1.3.

9.1.4 There would be no change to reporting requirements if option 1 in 9.1.3 was adopted. The change would be the same as for the lead option if alternative 2 in 9.1.3 were adopted. The immediate impact of this option would be that a significant number of EBs would be in breach of the Regulation, and would need to consider how to address this.

9.2 To implement a statutory requirement for some other percentage limit on running costs

9.2.1 The results of the 2008/2009 exercise concluded that a small number of EBs felt that the 10% rule for EBs running costs was too restrictive and unworkable for their organisations, although an alternative percentage was not suggested.

9.2.2 The disadvantage of increasing the percentage is that the majority of EBs have a low percentage of running costs and by increasing the allowable percentage EBs may be encouraged to administer poor practice in cost control.

9.2.3 Project administration costs would have to be considered as outlined in paragraph 9.1.3 above.

9.2.4 The change to reporting requirements would be the same as in option 9.1 above.

9.3 Adopt principles of Full Cost Recovery for LCF

9.3.1 Full Cost Recovery (FCR) is a method of allocating running costs which has been adopted by funders such as the Big Lottery Fund. Further information on FCR can be found on the websites as outlined below.

Information available on full cost recovery

www.biglotteryfund.org.uk which includes guidance notes on full cost recovery and spreadsheets to calculate the full costs of projects

<http://www.acevo.org.uk> who provide a guide and a toolkit

<http://www.philanthropycapital.org> who provide a guide and a toolkit

<http://www.cash-online.org.uk> who provide a simple guide

9.3.2 If this method were introduced, all costs would have to be allocated to projects, including EB running costs.

9.3.3 In addition to this, there would need to be some measure of reasonableness of the costs and so this approach may offer more flexibility in allocating costs than the current 10% guidance.

9.3.4 In order to provide transparency, EBs would have to be able to apportion their running costs and project administration costs at project level on the Form 4.

Project: Heather, Pillwort & Pools on Beacon Common

Description: Heather survey taking place on the common.

Supported through: Radnorshire Environmental Trust



9.3.5 It is thought that this approach would add considerably more administrative burden to some EBs, and EBs that distribute funds to other EBs do not always have projects themselves, so this would not work well for them.

9.3.6 The Regulations do not make reference to projects and so introducing a statutory requirement for FCR would be difficult.

9.4 Do nothing

9.4.1 Doing nothing would not address the problems set out in paragraph 3.1.

9.5 Evaluation of other options

9.5.1 Appendix A evaluates the options in this section against the criteria in paragraph 8.4.3. It does not suggest that these options are a better alternative than the lead option.

10. Consultation Questions

10.1 Consultation Questions for Environmental Bodies

Question One: Do you think that the current guidance on limiting administration costs in projects and EBs running costs is reasonable? If not, please explain why.

Question Two: Do you have any comments surrounding the following options for an EBs running costs:

1. To implement a statutory requirement for the current 10% rule on running costs as laid down in guidance;
2. To implement a statutory requirement for some other percentage limit on running costs;
3. Adopt principles of Full Cost Recovery for LCF; and
4. Do nothing.

Question Three: Does your EB currently allocate an element of central running costs to projects within the project management allocation as outlined in paragraph 5.2?

- Question Four:** Do you agree that a revised limitation on EB running costs of reasonable and relevant, as opposed to 10% of an EBs LCF monies, is appropriate for EB running costs?
- Question Five:** Do you have any comments on the proposed definition of reasonable as outlined in sections 7.2.1 and 7.2.2?
- Question Six:** Do you have any comments on the proposed definition of relevant as outlined in section 7.2.3 and 7.2.4?
- Question Seven:** Do you have any comments on the guidance on reasonable and relevant set out in table 1 in paragraph 7.3.1?
- Question Eight:** Do you broadly support the option of reasonable and relevant?
- Question Nine:** If running costs were to be limited by the reasonable and relevant definition and guidance as set out in this paper would it make any change to the amount of administration costs and running costs that your organisation uses LCF monies to fund?
- Question Ten:** Would the reasonable and relevant proposal lead to any costs that you currently include in EB running costs to be limited more than at present?
- Question Eleven:** What impact would there be for your EB if the 10% running costs rule was removed and all EB running costs had to be reasonable and relevant as suggested in this paper? Please include details and costs of the following, including both increases and decreases on a one-off and ongoing basis:
- i) changes to systems;
 - ii) training and familiarisation;
 - iii) extra record keeping requirements; and
 - iv) other processes (please specify).
- Question Twelve:** What impact would there be if you could not allocate any element of reasonable and relevant EB running costs to project costs? Please include details and costs of the following, including both increases and decreases on a one-off and ongoing basis:
- i) changes to systems;
 - ii) training and familiarisation;

Question Thirteen: Does paragraph 8.1.3 cover all elements of costs that are not related to physical works?

Question Fourteen: How do you think project costs not relating to physical works should be controlled?

Question Fifteen: What impact would there be for your EB if a 5% limit on costs not related to physical works were introduced for projects? Please include details and costs of the following, including increases and decreases on a one-off and ongoing basis:

- i) changes to systems;
- ii) training and familiarisation;
- iii) extra record keeping requirements; and
- iv) other processes (please specify).

Question Sixteen: Does your EB make allocations as set out in paragraph 8.2?

Question Seventeen: Does your LO currently place restrictions on your EB on the use of LCF monies for EB running costs? If so, can you please provide further information?

Question Eighteen: Do you have any comments on the evaluation matrix at Appendix A?

Question Nineteen: Are there any additional comments that you would like to be considered with respect to the contents of this paper?

10.2 Consultation Questions for Landfill Operators

Question One: Do you currently place any conditions on funding agreements with EBs with respect to the amount of LCF monies that can be spent on EB running costs or project administration?

Question Two: Following on from question one, do you make any special conditions if the EB that you fund is allowed to pass the LCF monies to another EB?

Question Three: Are you aware of the amount of your qualifying contributions that are spent on EB running costs?

- Question Four:** Are there any limitations that you would wish to see in place in respect of the amount of running costs that an EB can charge to LCF funds, or costs not associated with direct physical works that should be charged to projects?
- Question Five:** Do you have any comments on the proposed interpretation of reasonable and relevant?
- Question Six:** If reasonable and relevant were introduced do you think that ENTRUST or HMRC should consult with the original contributing LO if they consider that an EB has spent the qualifying contribution on costs that are irrelevant or unreasonable, to gauge your views? If so, should this be on a case by case basis?
- Question Seven:** Are there any additional comments that you would like to be considered with respect to the contents of this paper?

11. Contact Details – How To Respond

11.1 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 can be returned through the following methods:

Email: Regulations (regulations@entrust.org.uk) with 'Costs' in the email subject.

Post to: Pardeep Bansi
ENTRUST
60 Holly Walk
Royal Leamington Spa
Warwickshire
CV32 4JE

Online: <http://www.surveygalaaxy.com/surPublishes.asp?k=CWSD72HJ01CF>

11.2 A focus group will be held to discuss this topic further. The location and date will depend on those expressing an interest in attending. If you wish to attend the Administration Costs Focus Group, please express your interest to Pardeep Bansi by 15/03/2010.

11.3 The closing date for responses is 03 May 2010.






















12. Publication Of Response

12.1 A paper summarising the responses to this consultation will be published together with any report to HMRC after approval by ENTRUST Board and in consultation with HMRC.

12.2 The outcomes of the consultation will be reviewed and any proposals will be subject to an impact assessment and publicised to stakeholders appropriately.

APPENDIX A

EVALUATION CRITERIA

	Implement a statutory requirement that EB running costs are reasonable and relevant	Implement a statutory requirement for the current 10% rule as laid down in guidance where EBs can also charge running costs to projects	Implement a statutory requirement for the current 10% rule as laid down in guidance where EBs cannot charge running costs to projects	Implement a statutory requirement for some other percentage limit where EBs can also charge running costs to projects	Implement a statutory requirement for the current 10% rule as laid down in guidance where EBs cannot charge running costs to projects	Adopt principles of Full Cost Recovery for LCF	Do nothing
Paragraph	7 and 8	9.1 and 9.1.3 option 1.	9.1 and 9.1.3 option 2. 9	9.2 and 9.1.3 option 1.	9.2 and 9.1.3 option 2.	9.3	9.4
EVALUATION CRITERIA							
Clear Regulation							
No judgement in considering compliance							
No/ minimal administrative burden for EBs							

Changes to the reporting forms are simple and clear							
No or minimal changes to EB accounting systems							
Recognises legitimate differences between EBs							
EBs would not be immediately in breach of Regulation							
Allows for consistent approach							
Guidance can easily relate to the Regulation							
Applicable to EBs who receive non-LCF funding							

KEY:



YES



NO



NO CHANGE