



### 3. Now you are enrolled as an Environmental Body

#### 3.1 What happens next?

Once you are successfully enrolled as an EB you will be able to use ENTRUST online (EOL) to submit project applications, update your organisations details and complete other required activity such as statutory annual reporting to ENTRUST. Each EB is required to nominate a main contact who will be given access to complete all activities on EOL.

EB directors and trustees are also able to submit forms on EOL such as the Statutory Annual Return (Form 4). Any named contact can submit a project for approval provided they have their own unique EOL log on. Main contacts can give other individuals within their organisation access to EOL as long as they have a unique email address. Once set up, users will receive an email with their individual password. It is important that the contact details of your EB are kept up to date as we communicate with EBs predominantly using the email address of main contacts.

#### 3.2 Qualifying contributions

**Landfill Operators can only give qualifying contributions to enrolled EBs. The qualifying contributions given by LOs can only be spent in accordance with the Regulations.** See Section 4: Submitting a project for ENTRUST approval for more information on project eligibility.

HMRC expect a LO to make its contribution to an EB subject to a written condition that the EB spends the payment or any derived income only on approved objects. This condition should be enforceable by contract. HMRC expect the LO to take action to recover their contribution if the EB fails to honour the contractual obligation. Therefore EBs should ensure that they honour their contractual obligations in order to avoid the LO seeking to recover its contribution.

**When an EB receives a qualifying contribution directly from an LO the EB must submit a Form 3: Contribution received directly from a LO within 7 calendar days of receipt of the funds.** This form should be submitted via EOL.

**EBs must pay a levy to ENTRUST on the full contribution they receive from LOs. This levy must be paid within 14 days following notifying ENTRUST of the contribution.** The levy is set by HMRC each year. To see what the current levy is please see your dashboard on EOL or our website. Once we have received your contribution notification we will issue an invoice for the levy outlining the amount due and the payment process. **The levy must be paid out of the original contribution. The levy funds the Regulation of the LCF scheme and ENTRUST's running costs.**

If LCF money is not spent in accordance with the Regulations then HMRC have the power to recover from the funding LO the tax credit claimed by the LO against the relevant qualifying contribution. This recovery is known as clawback.

### 3.3 Payments made by funding EBs

When an EB makes a payment to another EB this is classed as a transfer, for example when a funding EB makes a payment to an EB running a project. The transferring EB must complete and return a Form 7: Transfer notification to ENTRUST within 7 calendar days of making the payment. Any LCF funds transferred between EBs must be reported to us, regardless of the reason the money is being moved.

### 3.4 Ringfencing LCF monies

**Qualifying Contributions must only be used against approved objects contained within the Regulations and therefore must be regarded as ‘restricted funds’.** Any LCF monies should be ringfenced from an organisation’s operational expenditure and cannot be used for non LCF purposes such as supporting the organisation’s general financial liabilities. We advise EBs that LCF monies should be held in a separate bank account so that they are kept apart from other monies that the EB may have.

EBs are reminded that a failure to spend LCF monies in accordance with the Regulations may lead to ‘clawback’ of relevant contributions from the Landfill Operator. This also could lead to your organisation being forcibly revoked from the LCF scheme by HMRC.

### 3.5 Committing funds to a project

LCF monies should be committed to a specific project within one year of receipt. The term committed means that there is a contractual agreement in place, providing that the funds will be spent on a particular project. This is separate to the duration of the project itself which is covered in section 4.

### 3.6 Unspent funds

EBs should ensure that LCF monies are reaching communities and the environment. In line with HMRC’s priorities for the scheme EBs should ensure that the level of unspent funds held is proportionate to the size of the Fund and level of EB activity. We monitor this and report to HMRC on the performance of EBs as a whole and for individual EBs.

We understand that there are reasons why the funds held by an EB may fluctuate at year end and ENTRUST would expect EBs to hold a maximum level of funding of between 12 and 18 months of income. Therefore, EBs should not hold a level of total unspent funds at year end (31 March) that exceeds 1.5 times the LCF income it has received during that financial year. Income includes contributions and transfers received plus any income derived from LCF monies received in that year. EBs will be monitored against this requirement using the information submitted on the Statutory Annual Return.

For more information on unspent funds and our monitoring approach see the [Administration Costs and Unspent Funds Framework on our website](#).

### 3.7 Contributing Third Parties (CTPs)

When a LO makes a contribution to an EB it can only claim a tax credit from HMRC on 90% of this contribution and is therefore left with a 10% shortfall. Some LOs will absorb this cost, or a portion of it, themselves. In some cases LOs will require EBs to find a separate third party,

termed a Contributing Third Party (CTP) to provide the 10% shortfall, or a portion of it, to limit the cost to them of participating in the scheme.

It is expected that all LOs will absorb some or all of the 10% shortfall. EBs will be expected to report to ENTRUST how much of the shortfall is being met by their contributing LO. This information will be monitored by HMRC and the relevant data may be published.

EBs will need to check with their funder to ascertain whether a CTP payment will be required for their project. **EBs must record the names and addresses of any CTPs and information relating to the contribution the payment secured.**

If the LO, or the funding EB requires you to arrange a CTP who can make payment of the required amount, you should bear in mind the following:

**The CTP must be an entity which is entirely separate from the EB which receives the LCF funding**

**The CTP must be a person or entity which is legally separate from the EB receiving LCF funding.** It cannot be a committee of the EB.

Where the project applicant is separate from the EB (for example where a funding EB has registered the project on behalf of an organisation), it is acceptable for the project applicant to be the CTP for the project, provided it is clear that the CTP payment is not made from LCF monies.

A number of persons or entities may combine to make the CTP payment but they all must be legally separate from the EB. All of those persons will be regarded as being a CTP and the names and addresses of each must be recorded.

**The CTP payment should be made directly to the relevant LO to avoid any confusion between this payment and LCF monies held by the EB**

**The CTP payment should be made directly to the relevant LO.**

In certain circumstances we allow the EB to act as an intermediary for the CTP payment to the LO. However, this is only acceptable where the EB can demonstrate that it is not feasible for the CTP to make a direct payment. For example, because the payment has been raised through a specific fundraising campaign managed by the EB and there are a large number of CTPs.

If an EB acts as an intermediary for the payment then the EB must ensure that the CTP payment is at all times kept separate from its own funds. Where it acts as an intermediary, an EB must still comply with its record keeping requirements where possible, recording the names and addresses of each CTP, and identifying the qualifying contribution which the CTP's payment has secured.

**The CTP must have the intention of making the payment to the LO in order to secure the LCF qualifying contribution**

**The CTP must have the intention of making the payment to the LO in order to secure the LCF qualifying contribution.** Where the CTP payment is raised through a fundraising

appeal the appeal advertising must make it clear that the intention is to use the proceeds of the appeal as the payment to a LO.

**The CTP must not receive a unique benefit from the project going ahead or from having made the CTP payment**

**A CTP cannot derive a benefit from the project going ahead, except a benefit derived from being one of a class of persons who benefits.** See our Unique Benefit guidance in Section 6 for further information.

**Once a CTP has made a CTP payment in respect of a project, that person will be regarded always as being a CTP for that EB. Therefore, that EB must consider whether there is a unique benefit to any CTP who has ever made a CTP payment to secure funding, however long ago that payment was made.**

**The source of the funds for the CTP payment to the LO cannot be LCF monies or derived from LCF monies**

**The CTP must be able to clearly demonstrate that its payment to the LO does not come from LCF monies.** LCF monies (including any income derived) cannot be used to provide the CTP payment to the LO.

There is a decision tree to aid EBs in determining whether a potential CTP meets the requirements and further guidance on the [CTP page](#) of our website.

**3.8 The obligations and responsibilities of an enrolled EB**

EBs must report the following activity to ENTRUST as and when required. This information should be provided through EOL to help minimise the administration burden on EBs. It also allows EBs to check that the information has been received by ENTRUST as failure to report information within the statutory timeframe represents non-compliance with the Regulations.

Form	What's it for	When do I fill it in	How do I complete the form
<b>Form 1:</b> Applying to enrol as an Environmental Body (EB)	<b>To submit an enrolment application to ENTRUST for approval</b>	Following receipt of a funding offer and before applying to register a project.	On EOL.
<b>Form 2:</b> Applying to Register a Project	<b>To submit details of a project to ENTRUST for approval.</b>	<b>Before any work has started or expenditure incurred on the project.</b>  Projects can be submitted for approval at any time during the year.	On EOL.

Form	What's it for	When do I fill it in	How do I complete the form
Project Extension Request	<b>To extend an estimated end date for a project after it has been approved.</b>	As soon as it is apparent that the end date provided on the project's original Form 2 application will not be met. <b>LCF money cannot be spent on a project that has passed its end date.</b>	A first extension of 3 months can be done by the EB on EOL. ENTRUST's Registrations team should be contacted for further extensions.
<b>Form 3:</b> Contribution Received Directly From a Landfill Operator (LO)	<b>To report the receipt of LCF funds directly from a LO.</b>	<b>Within 7 calendar days of receipt of the money. This is a statutory deadline.</b>	On EOL.
<b>Form 4:</b> Statutory Annual Return	<b>To report all LCF funds held, received, transferred or spent in the last financial year (1 April to 31 March).</b> A nil return should still be submitted even if the EB has not carried out any LCF activity during the year. The Form 4 details the amount of LCF funds spent on each project; EB running costs if appropriate and the dates individual projects were completed.	<b>By 28 April each year (even if a nil return). This is a statutory deadline. If you do not submit your Form 4 within the required timescale your status as an EB will be frozen, restricting your LCF activity.</b>	On EOL. The Form will pre-populate fields with information already reported. For example, if an EB has transferred money (see Form 7) this will show in the recipient's Form 4.
<b>Forms 5 &amp; 6:</b> Not in use			
<b>Form 7:</b> Transfer of Monies Between	<b>To report the transfer of funds from one EB to another EB.</b> It is the responsibility of the transferring EB to	<b>Within 7 calendar days of transferring the money. This is a statutory deadline.</b>	On EOL.

Form	What's it for	When do I fill it in	How do I complete the form
Environmental Bodies	notify ENTRUST of the transfer of LCF funds to another EB. EBs receiving transfers from other EBs only need to report the receipt of funds on their annual return.		
<b>Form 8:</b> Not in use			
<b>Form 9:</b> Project Completion	To provide details of the outcomes of a finished project after reporting the project as completed on a Form 4.	A completion form must be submitted within three months of the date of the final payment of LCF funds on a project	On EOL.

### Compiling the Statutory Annual Return (Form 4)

The LCF reporting process is based on a 'cash at bank' basis and requires EBs to report available funds as stated on bank statements as at 31 March each year. Uncleared transactions (for example, uncleared cheques) should be reported in the 'Committed Funds' line on the Annual Return (Form 4) and not reported as 'spent funds'.

This LCF statutory reporting requirement is separate from any other form of accounting practice which EBs may be required to comply with as a result of also being charities or limited companies. The requirements of all regulators should be complied with and are not mutually exclusive.

For further details on the ENTRUST reporting forms and how to complete them, please refer to our ['How To'](#) guides on our website or contact ENTRUST directly.

### 3.9 Change of Directors, Contacts and governing document

An enrolled EB is required to inform ENTRUST of any changes to the people who sit on the organisation's management committee (or Board of Directors/Trustees) or changes to the rules governing that committee (or Board). This notification should take place within seven days of the change. All changes to directors and other contacts can be performed on EOL by the nominated main contact.

### 3.10 Notifying ENTRUST regarding winding-up or changes in an organisation's status

If an EB intends to cease trading, wind up, or has become insolvent ENTRUST must be informed. Any Administrator or Liquidator appointed in respect of an EB must notify us of his/her appointment.

### 3.11 Record keeping

**In accordance with Regulation 33A an enrolled EB must make and retain records relating to each qualifying contribution it receives and any income derived from that contribution. An EB must also keep records of any amount transferred from another EB. The records must include all accompanying dates and all other details relating to the LCF expenditure.**

#### Types of records

ENTRUST consider there to be three main types of financial records held by EBs:

1. Project financing and funding information. This includes records of CTP payments, LO contributions and transfers.
2. Documents which demonstrate how LCF monies were spent. This includes all invoices and relevant timesheet summaries.
3. Other supporting documents, such as tender documentation, purchase orders and procedural documentation.

**These records must be kept for 6 years as they are required to determine whether the expenditure of LCF funds was compliant. The 6 year retention period commences on the day the record is made.** For convenience, if EBs wish to group records together (such as all records relating to a particular project) then the EB could consider the record retention period as starting on the day the last record relating to that project was made. This is at the discretion of EBs as it would involve keeping some records for longer than 6 years.

For information regarding record keeping requirements for any assets funded by LCF monies, please see the section on assets in the guidance manual.

EBs should ensure that they adhere to any other record keeping responsibilities that may apply to their organisation. Such requirements may originate from other legislation such as charity or company law and can relate to ownership records, deeds, board minutes, declarations of interest and historical records of directors, amongst others.

#### How records are kept

The EB may hold paper or electronic records. Where records are held electronically, the EB must be able to convert the data into a satisfactory, legible form on request. Therefore, the onus is on the EB to keep programmes or make appropriate arrangements to enable the reconstruction of historic data if programmes or formats are altered or upgraded. EBs must ensure that the documents held can provide a full audit trail of how funds have been spent.

### Collection of personal data

When obtaining quotes from third party contractors and suppliers, successful applicants may be required to collect and process personal data (e.g. when dealing with sole traders). From time to time, ENTRUST may access this personal data to conduct an audit and ensure compliance with the Landfill Tax Regulations 1996. Notwithstanding the obligations of successful applicants [and funders] to comply fully with applicable data protection laws in the UK (including the General Data Protection Regulation and the Data Protection Act 2018), successful applicants [or funders] shall provide (as a minimum) the following information to third party contractors and suppliers when collecting their personal data (e.g. when requesting a quote):

“We are required to retain copies of all quotes, invoices and other correspondence (**communications**) we receive pursuant to the conditions of our funding arrangement. Such communications will be shared with [name of funder] and from time to time, may also be shared with HMRC and ENTRUST, who is the regulator of the Landfill Communities Fund appointed by HMRC. If you are operating as an individual or sole trader, some limited personal data may be contained within these communications. We will only use this personal data on the basis of considering whether to enter into a contract with you, to comply with our legal obligations under the [Landfill Tax Regulations 1996] and/or for the purpose of our legitimate interests in obtaining competitive quotes, keeping financial records and complying with the conditions of our funding arrangement. These communications may be retained in our business records and those of our funder, HMRC and ENTRUST indefinitely. For further information on how your personal data will be processed, please see [our privacy policy here], [funder’s privacy policy here] and ENTRUST’s privacy policy available here [insert link]. If you have any queries, please contact us here [insert link] or contact [funder] or ENTRUST via their respective websites.”

### 3.12 Running costs

**Regulation 33(7) allows some or all of an EB’s running costs to be regarded as an approved object. Regulation 30(1) defines running costs as those “incurred in connection with the management and administration of an EB or its assets”. Running costs are reported to ENTRUST via the Statutory Annual Return (Form 4) and are reported as LCF Expenditure for the reporting period.**

**The running costs of EBs cannot be included as the costs of administering or running a project.** See Section 4 of our guidance for object specific advice on allowable project expenditure. The ENTRUST levy is not part of an EB running cost or project expenditure.

Running costs should be reasonable and relevant to the administration of the LCF and not exceed 7.5% of the organisation’s actual funding spent during the year on LCF expenditure. LCF expenditure includes funds spent via three methods:

1. An EB’s compliant expenditure of LCF monies on projects for which they hold approval.
2. An EB’s compliant expenditure of LCF monies on projects where another EB holds the approval.
3. An EB’s compliant expenditure in transferring LCF monies to other EBs.

All costs should be reasonable, relevant and comparable to similar organisations, by both sector and size of organisation. EBs who manage no or very few live projects should have minimal or zero running costs. For more information on running/administration costs and our monitoring approach see the [Administration Costs and Unspent Funds Framework on our website](#).

**It is important to note that Regulation 33(8) restricts an organisation with a number of different types of funding from using LCF monies to pay all the organisation's running costs. LCF monies can only pay the proportion of running costs that corresponds to the proportion of the organisation's funding that comes from the LCF.** For example, if 40% of an EB's total funding is from the LCF (both contributions and income derived), no more than 40% of the EB's running costs should be met from LCF monies.

### **What are considered running costs?**

Running costs include routine costs plus the provision of, and the use of, any funds for winding up. See our guidance on winding-up for more information on this element of running costs.

Routine running costs should comprise the normal business expenses and include the following:

- Salaries and remuneration
- Office rental
- Utilities
- Travel costs
- Telephone
- Insurance
- Bank charges
- Accountancy
- Legal
- IT
- Directors' fees and remuneration
- Other - Operations (Plaques & meetings)
- Other - Governance (e.g. Meetings, AGM)

Running costs should not exceed 7.5% of LCF expenditure per annum. Running costs will be monitored for all EBs by ENTRUST. All running costs must be justified and open to scrutiny by ENTRUST and may be subject to inspection. **Under Regulation 33A (1)(d) of the Landfill Tax Regulations 1996, EBs are required to keep records detailing how all LCF funds have been spent.** See Section 3 of our Guidance Manual for more information on record keeping.

ENTRUST routinely report running costs to HMRC. HMRC will monitor the level of running costs incurred by EBs and the reported level will influence future reform of the LCF including any changes to the size of the fund. For more information on running/administration costs and our monitoring approach see the [Administration Costs and Unspent Funds Framework on our website](#).

### 3.13 Retaining funds for winding-up

In some instances EBs may retain funds for the winding up of their business. The funds put aside each year for winding-up must be within the 7.5% running costs cap as LCF funds used for the winding-up of an organisation when it is closing are classed as running costs of an EB.

An EB should be able to justify and explain their reserves position and demonstrate why a particular level of reserve is retained at that point in time. We recommend that an EB maintains a reserve policy which includes the following:

- The legal or other justification why the EB needs to provide for the liability in its reserves;
- The level of reserves the Directors, or Trustees, consider is appropriate for an organisation of its size;
- The process that the EB is taking to establish, or maintain reserves at the agreed level; and
- Arrangements for monitoring and reviewing the policy.

**LCF funds held for winding up must be reported under the ‘funds held for winding up’ section of the Statutory Annual Return (form 4).** We expect these costs to be reported in the EB’s annual accounts.

The allowable wind-up costs which an EB may make provision for include:

- The cost of employees undertaking tasks that are not part of the day to day running of the EB, but are required to wind down the EB;
- Contractual redundancy payments;
- Outplacement costs, such as costs relating to support given to individuals who are being made redundant;
- Pension liabilities, set at a reasonable level;
- Office rental payments which are required to the end of a lease period;
- Dilapidations due at the end of a lease period; and
- Costs relating to legal and financial advice which is likely to be required when winding up.

**Where the EB receives funds from other sources, the LCF funds can only pay the proportion of winding-up costs that corresponds to the proportion of the EB’s funding that comes from the LCF.** For example, if your organisation’s total income from all sources in a year is £100,000 and your income through the LCF is £20,000 then 20% of your income comes from LCF monies. Therefore you can fund up to 20% of your winding up costs with LCF monies.

Prior to any decision to leave the scheme or if your organisation is winding up, you should notify ENTRUST of your intentions and discuss with us how you will deal with any outstanding monies and/or assets. We would normally expect these to be passed on to another EB with similar objects to ensure that they remain compliant with the Regulations. However, if you are asked to return any unspent contributions to the contributing LO, you should contact

ENTRUST for advice. The LO must also make arrangements to repay any tax credits to HMRC as outlined in HMRC's guidance notice LFT1 to LOs.

### 3.14 Revocation

Where an EB no longer wishes to remain enrolled, it can request voluntary revocation. Once an EB requests revocation, we will undertake checks to ensure that the EB has complied with all regulatory requirements and that projects and assets remain in compliant use of continued benefit to communities. For more information please see the [Revocation](#) page of our website.

### 3.15 Overview of the Small Grants Scheme (SGS)

Please note that this section of our guidance only applies to eligible accredited EBs and eligible EBs who have been enrolled for 3 years or more.

The Small Grants Scheme enables an EB, usually a funding EB, to make a number of small grants, up to £5,000 each, under a single, umbrella project registration with ENTRUST. A SGS registration is for one year only. Eligible EBs may apply for a new SGS project registration each LCF accounting year (1 April to 31 March). The aim of the SGS is to reduce the administrative burden of applying for, and giving, small grants.

The Small Grants Scheme (SGS) is available to accredited EBs and EBs who have been enrolled for 3 years or more. The maximum amount of LCF funds which can be allocated by a registered EB each year under a Small Grants Scheme registration is:

- £100,000; or
- 10% of the EB's total LCF income in the previous LCF accounting year, whichever is the lower amount.

Funding provided under the SGS can only be used for projects under Object D. Any work funded can't exceed one year in duration and the work must complete within the financial year that the umbrella project was registered. All of the existing conditions and guidelines issued by ENTRUST must also be adhered to for the SGS. See Section 4: Submitting a Project for ENTRUST Approval for more information on project eligibility.

LCF funding provided under a SGS should be for a discrete scheme which must not form part of a larger venture. For example, installing benches into a park could be funded under the SGS, but if the whole park is being improved and the benches form only part of the improvement, the benches would not be eligible for separate funding under the SGS.

An EB must register its SGS in advance of entering into any contract or obligation to provide LCF funding under the SGS. If the SGS registration is not approved then any monies spent prior to the approval will have been spent in breach of the Regulations.

EBs with a registered SGS will be required to keep records of all aspects of the grants.

The key information that ENTRUST requires for each grant are as follows:

- A brief description of the project;
- Nearest postcode to the site;

- Nearest landfill site;
- Type of amenity;
- The month/year of expenditure;
- The value of the grant; and
- Volunteering information.

We will provide EBs with a template spreadsheet which sets out all the information required. This will be sent to EBs upon approval of their SGS.

An EB who has registered a SGS is responsible for ensuring the grants it awards are for works which are compliant with the Regulations. In order that ENTRUST can be assured that each grant is compliant, EBs should keep on file the following information:

- A photograph of the works once completed;
- All invoices relating to expenditure;
- Written assurance from the grant recipient that the works have been completed; and
- Assurance that the EB making the grant has inspected the completed works to ensure compliance.

**October 2020**