



Framework for reviewing, monitoring and managing the level of Administration Costs and Unspent Funds held by Environmental Bodies in line with HMRC's guidance levels

1 November 2018

1. Introduction

- 1.1 In accordance with the Landfill Tax Regulations 1996 (Regulations), ENTRUST is required to satisfy itself that Landfill Communities Fund (LCF) monies are spent compliantly.
- 1.2 Additionally, HMRC has set as two of its strategic priority objectives for the LCF:
- The level of administration costs incurred by Environmental Bodies (EBs), should be at or below the guidance level of 7.5 per cent of project expenditure; and
 - The value of unspent funds held by EBs should be reducing year on year.
- 1.3 In ensuring that ENTRUST supports HMRC in delivering these priorities, we have formalised and enhanced our previous activities into a framework, to scrutinise, monitor and implement appropriate intervention action to ensure EBs comply with these requirements.

2. Framework

- 2.1 At the end of each reporting year, ENTRUST carries out an analysis of Form 4s (Statutory Annual Returns) submitted by EBs. This analysis provides the foundation for the framework, which we hope will result in the small number of EBs which have not addressed these issues to take appropriate action to meet HMRC's requirements. It also provides the information for the annual Form 4 data report to HMRC, which ENTRUST is required to submit each year.
- 2.2 The framework is split into the two different areas, with different assumptions and timelines.
- 2.3 ENTRUST will report to HMRC at end of June each year the results of the work regarding EB administration costs and unspent funds held at each financial year end.

3. Administration Costs

- 3.1 In ensuring that all EBs comply with the 7.5 per cent administration costs guidance, ENTRUST recognises that administration costs may be over the guidance level:
- Due to the timing of the receipt of funds, some EBs may incur some administration costs in a particular year, while not investing in projects in that year; and
 - In certain years, EBs may incur one off additional costs, which increase their administration charge, for example reorganisation costs.
- 3.2 The framework is built upon a number of steps, which reflect the willingness of EBs to take positive action to comply with the 7.5 per cent guidance:
- Form 4 analysis of administration costs will be completed by the first week in May each year;
 - Those EBs which have breached the 7.5 per cent guidance level, will be issued with an information request asking them to advise ENTRUST by the end of May:
 - The reason(s) for their failure to comply with the administration costs guidance;
 - A breakdown of their administration costs where appropriate;
 - The action that they intend to take in the current year to comply with the guidance; and
 - Their budget for the forthcoming year including forecast LCF administration costs.

3.3 ENTRUST will complete its assessment of responses by the middle of June each year. Depending upon the EB's response, their performance in the prior year, and the overall level of administration costs, the following action will be taken:

- Administration costs are less than £1,000, ENTRUST will issue an advice and guidance letter that it expects the EB to comply with the 7.5 per cent guidance in the following year;
- The EB has not previously exceeded the guidance level and administration costs are over £1,000, however, the EB confirms that they have the necessary safeguards and plans in operation to comply with the 7.5 per cent guidance level in the next reporting year, ENTRUST will note their response;
- The EB has previously exceeded the guidance level, or administration costs are over £1,000 and the EB fails to demonstrate that necessary plans are in place to comply with the 7.5 per cent guidance level, the EB will be placed on a quarterly monitoring and review programme. This programme will require the EB to provide ENTRUST with details of its financial performance;
- The quarterly monitoring and review programme will include ENTRUST meeting with the EB's Board to explain the reason for this action;
- ENTRUST will consider appeals from EBs concerning their inclusion in the quarterly monitoring and review programme where the EB has evidence concerning exceptional circumstances; and
- During the year the EB's performance will be reported to HMRC and with a view to informing the funding Landfill Operators (LOs).

4. Unspent Funds

4.1 In monitoring the levels of funds held by EBs at the year end, ENTRUST recognises that the level of funds held by EBs may fluctuate due to the:

- Timing of the receipt of funds to commence a project;
- EBs receiving more funding than they were expecting from their contributing LO during the year;
- EBs receiving funding at the year end, which means they are unable to spend the monies before the year end;
- Due to the nature of certain projects, for example construction projects, unplanned and unforeseen activities such as the weather / planning / building problems may impact the ability of an EB to spend the funding it receives in a particular period;
- A project deliverer may be unable to deliver a project after it has received its funding and therefore monies may not be spent on a project and it is cancelled and the monies are returned to the funding EB;
- Exceptionally where EBs have received significant income from sale of assets;
- Exceptionally where EBs have funding returned from non-compliant projects;
- Some projects may take more than one year to complete, for example, construction of wildlife environments but monies are held as committed to these projects: and
- Delays to a project being completed due to circumstances outside of the EBs control.

- 4.2 Based on experience, ENTRUST would expect EBs to hold a maximum level of funding, which as a benchmark should normally be between 12 and 18 months and not exceed at the yearend 1.5 times of the income it receives during that year.
- 4.3 The framework is built upon a number of steps, which reflect the willingness of EBs to take positive action to ensure that the value of LCF funds they hold does not exceed at the yearend 1.5 times of the income it receives during that year:
- Form 4 analysis of unspent funds will be completed by the middle of May each year;
 - Those EBs who have exceeded the guidance level of unspent funds, will be issued with an information request asking them to advise ENTRUST by the middle of June:
 - The reason(s) why their unspent funds have exceeded the guidance level;
 - The action that they intend to take in the current year to comply with the guidance;
 - Their forecast income for the year; and
 - Their forecast spending plans.
- 4.4 ENTRUST will complete their assessment of responses by the end of June each year. Depending upon the EB's response, their performance in the prior year and the overall level of unspent funds, the following action will be taken:
- ENTRUST will issue an advice and guidance letter that it expects the EB to reduce the level of the monies its holds to reflect its project plan. ENTRUST will review the EB at the end of the period to ensure it has complied with its plans;
 - If an EB's unspent funds have increased due to the failure of the EB to take sufficient positive action to invest in projects, the EB will be placed on a quarterly monitoring and review programme. This programme will require the EB to provide ENTRUST with details of its financial performance;
 - The quarterly monitoring and review programme will include ENTRUST meeting with the EB's Board to explain the reason for this action;
 - ENTRUST will consider appeals from EBs concerning their inclusion in the quarterly monitoring and review programme where the EB has evidence concerning exceptional circumstances; and
 - During the year the EB's performance will be reported to HMRC with a view to informing the funding LOs.

5. Conclusions

- 5.1 This proposed framework consolidates existing activities into a robust strategic framework that will ensure our actions are in line with HMRC's strategic direction for the LCF in relation to administration costs and unspent funds.