

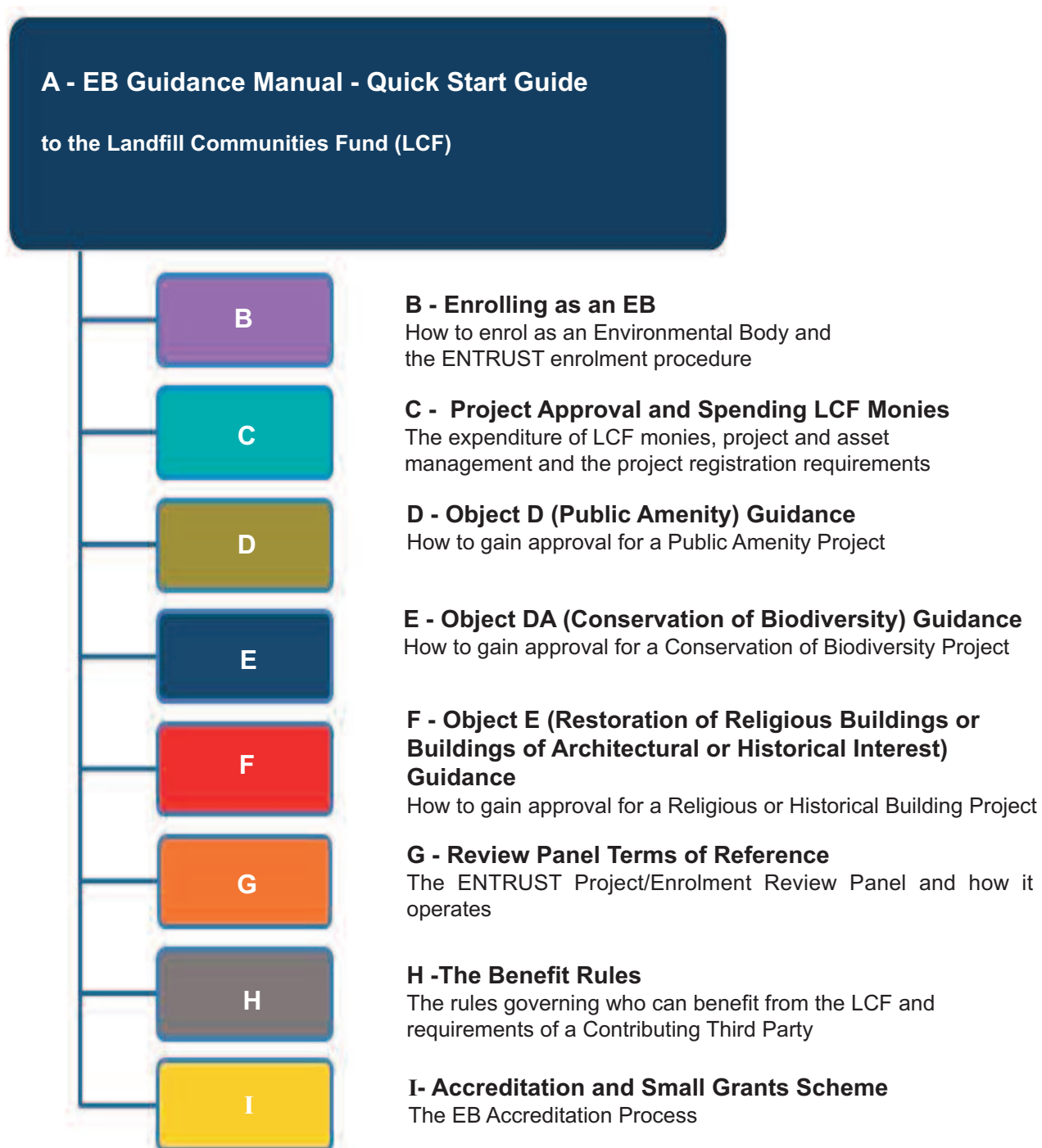
The Landfill Communities Fund

Environmental Bodies Guidance Manual



Introduction to the Environmental Bodies Guidance Manual

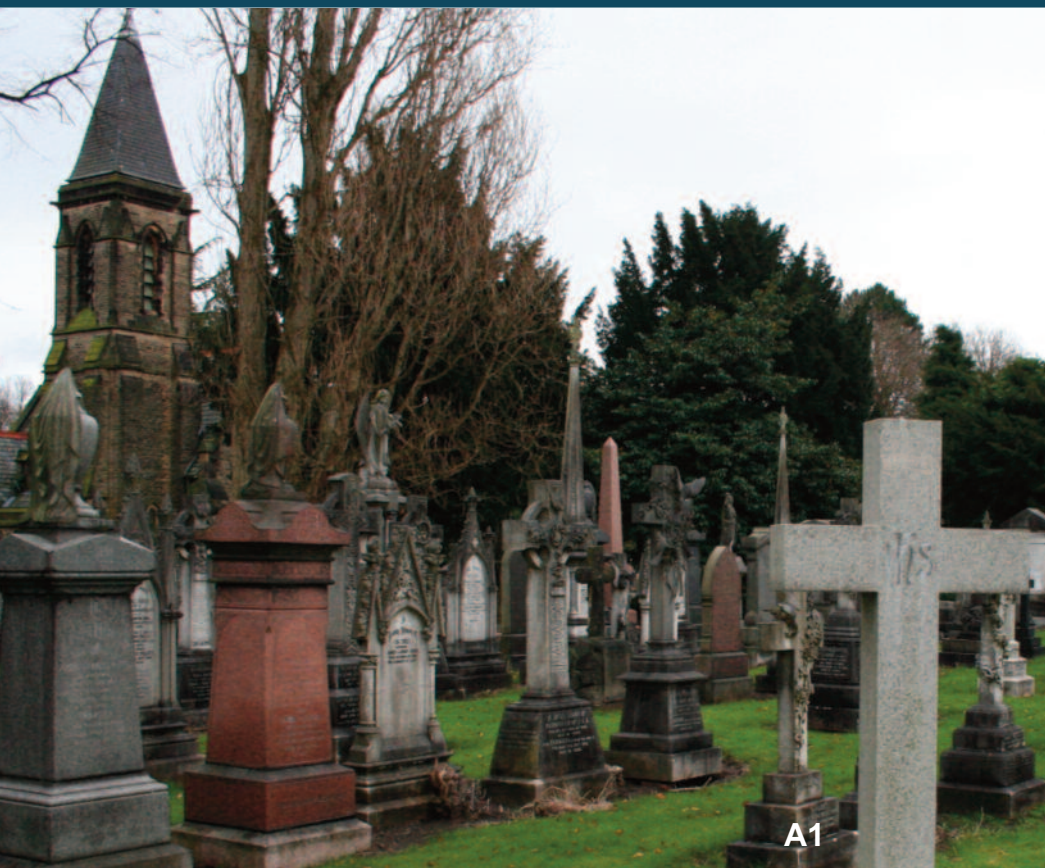
This manual has been drawn up as outlined in the diagram below, the intention being that it allows the reader to review the relevant information easily without having to obtain or read the whole manual. If you have any queries at all, please contact the Regulations Department at ENTRUST on 01926 488 323.





A - Quick Start Guide to the Landfill Communities Fund

An overview of the Landfill Communities Fund and a guide of who to contact



January 2012

Quick Start Guide to the Landfill Communities Fund

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January 2012

To ensure this is the most up-to-date version please check the ENTRUST website.

1 Background to the Landfill Communities Fund (LCF)

- 1.1 The LCF (formerly known as the Landfill Tax Credit Scheme) is an innovative tax credit scheme that allows Landfill Operators (LO) to use some of their landfill tax to directly fund not-for-profit organisations. The LCF allows LOs to contribute a portion of the monies paid as Landfill Tax directly to projects that improve the lives of communities living in the vicinity of the landfill sites themselves.
- 1.2 The LCF is regulated by ENTRUST and managed by Her Majesty's Revenue & Customs. It is ENTRUST's role to ensure that the LCF monies are received and spent by organisations on projects within the governing Landfill Tax Regulations 1996 (Regulations).
- 1.3 ENTRUST regulates the LCF in a number of ways including reviewing and enrolling each organisation before they receive LCF monies, evaluating each project proposal before expenditure starts and undertaking visits to ensure organisations are acting compliantly within the Regulations.
- 1.4 ENTRUST has drawn up this Guidance to assist organisations and individuals to comply with the governing Regulations, and provide assistance in obtaining funds.

2 Receiving money through the LCF

There are two methods of receiving funding through the LCF.

2.1 Directly from a Landfill Operator (LO)

- 2.1.1 You might be able to find LOs who will give landfill tax money directly to your organisation. While many LOs take part in the LCF, not all do. Not all LOs are potential sources of funding for your work. The only way to find out is to contact them directly.
- 2.1.2 The availability of funding directly from LOs varies across the country, lists of applicable Landfill sites can be found on the HMRC website (www.hmrc.gov.uk) or through the relevant registering authority, e.g. Environment Agency.

2.2 From a Distributive Environmental Body (DEB)

- 2.2.1 The most common way to receive funding is to approach a DEB. These bodies distribute funds on behalf of the LO or for more than one LO. DEBs help others to access the LCF monies.
- 2.2.2 Most DEBs will require your organisation to meet certain conditions about the way you will spend the LCF money they may give you.
- 2.2.3 Some DEBs may fund in only one geographical area or across the country and each will have their own policies and application forms. There is a list of all the DEBs, their funding policies and contact details that may fund in your area. You can find this on the ENTRUST Website under 'Funders' Directory' (<http://www.entrust.org.uk/home/lcf/funders-directory>)
- 2.2.4 The DEB will be looking to make sure your expenditure complies with the Landfill Tax Regulations and ENTRUST guidelines. However, their criteria for accepting applications may be more stringent than the governing Regulations as enforced by ENTRUST. This may be because there is a high level of demand for the monies or that they have specific areas of the LCF that they wish to focus on.

3 Do I need to enrol as an Environmental Body (EB)?

It will depend on who you are approaching for funding.

- 3.1** If you are approaching a LO directly, you will need to enrol your organisation as an EB with ENTRUST.
- 3.2** If you are approaching a DEB, you may need to enrol with ENTRUST. This will depend on who you are approaching for funding or the value of the project. Enrolling as an EB will allow you to register your own project under your organisation's enrolment. Due to the enrolment charge and the administrative requirements as outlined below, we recommend you confirm with the proposing funder if you are required to enrol before undergoing the process of becoming an EB yourself.

4 Applying to enrol as an Environmental Body (EB)

- 4.1** In order to enrol as an EB, your organisation must comply with the following criteria:
- It must be a not-for-profit organisation;
 - It must not be controlled either by a Landfill Operator or a Local Authority as stipulated in the Regulations (please note that a Parish Council is deemed to be a Local Authority); and
 - It must share an aim/objective with the aims/objectives of the LCF (as outlined in section 5 - Projects that can be undertaken with LCF monies)
- 4.2** To enrol as an EB, it is necessary to complete a Form 1: Applying to enrol as an Environmental Body. In support of the application, ENTRUST require the most up to date version of your governing document, a copy of your accounts and an application fee of £100 made payable to ENTRUST. This application fee is non-refundable and covers the cost of enrolling your organisation into the LCF.
- 4.3** Due to the administrative and financial cost of enrolling as an EB, ENTRUST recommend you consult the funders in your area as identified above to ensure that enrolling is required, before submitting your application.
- 4.4** For further details on how to enrol as an 'Environmental Body' and what is required, please consult the separate ENTRUST guidance note: *B - Enrolling as an EB*.



5 Projects that can be undertaken with LCF monies

5.1 OBJECT A: Remediation of Land

- 5.1.1** The remediation or restoration of land, which cannot now be used because of a ceased activity.
- 5.1.2** The work must be on a single site where there was once something that took place that now stops it being used. The site may have been contaminated in some way. The principle is that the person who polluted the land must not own or operate from the land. LCF monies must not be used to fulfil any statutory orders that the current landowner is under from the Environment Agency, or similar organisation.
- 5.1.3** When submitting an application, an organisation will be asked to confirm the following:
- The ceased activity;
 - Who carried it out;
 - When it stopped;
 - How the person who polluted the land will not benefit (financially or through obligations being met); and
 - How the ceased activity caused or is causing pollution.
- 5.1.4** For further details regarding Object A projects, please contact the ENTRUST Project Registration Department.



5.2 OBJECT B: Reduction of Pollution

- 5.2.1** The reduction, prevention or mitigation of effects of pollution that has resulted, or may result, from an activity which has now ceased.
- 5.2.2** An organisation must be able to demonstrate that the pollution identified by the project is directly linked to help mitigate, prevent or reduce pollution (as opposed to Object A that is concentrating on reclaiming or remediating the land, Object B focuses on the pollution itself).
- 5.2.3** When submitting an application, you will be asked to confirm the following:
- The ceased activity;
 - Who carried it out;
 - When it stopped;
 - How the person who polluted the land will not benefit (financially or through obligations being met); and
 - How the ceased activity caused or is causing pollution.
- 5.2.4** For further details regarding Object B projects, please contact the ENTRUST Project Registration department.

5.3 Object C/CC: Sustainable Waste Management and developing markets for recycled waste

5.3.1 Objects C and CC were removed from the Regulations in 2003 and following the 2007 amendments, no new projects can be approved and expenditure can only continue on these objects when undertaken in accordance with a written agreement. If you have any queries regarding a C/CC project, please contact ENTRUST's Registration Department.

5.4 OBJECT D: Public Parks and Amenities

5.4.1 The primary intent of this object is to facilitate the protection of the environment by the provision, maintenance or improvement of a public park or amenity. The site where the work takes place must be open and accessible to the general public.

5.4.2 You will therefore be asked to confirm the following points:

- How the amenity that you are providing, maintaining or improving makes the environment more pleasant or comfortable and/or improves the aesthetic qualities of an area for the general public;
- That the park or amenity directly benefits the general public and they have open access to, or use of, it;
- It is somewhere where the general public can go, join or use without any unreasonable limit or restrictions of use (or with "reasonable" access costs) being in place;
- The costs of the project directly relate to the actual improvement, maintenance or provision of the identified park or amenity, rather than its management or its administration;
- How the park or amenity is for the protection of the environment;
- The project site is in the vicinity of a landfill site;
- The works are not a requirement of a relevant condition placed on the Landfill Operator;
- The park or amenity must be set up on a not-for-profit basis and any income made as a result of the LCF funded works must be returned to the EB as LCF derived income; and
- The project is looking to work on a single park, amenity or defined area.

5.4.3 For further details on public park or amenity projects which can be approved under the LCF, please consult the ENTRUST Guidance Note: *D - Object D (Public Parks and Amenities) Guidance*.

5.5 OBJECT DA: Conservation of Biodiversity

5.5.1 The primary intent of this objective must be for the conservation of identified species or habitats. It is best practice that the species or habitats in question are detailed in a Biodiversity Action Plan (BAP) or a Local Biodiversity Action Plan (LBAP). If not, ENTRUST will be looking to ensure that the proposal is looking to protect a habitat or species that is otherwise deemed significant. The proposed costs of the work must be related to the identified species or habitats and the actual place where it naturally occurs.

5.5.2 You will be asked to confirm the following:

- Which species or habitats are going to be conserved directly by the project going ahead;
- The costs of the works solely relate to the conservation of the species or habitats; and
- The costs of the works you propose relate to the place where the species or habitat naturally occurs.



5.5.3 For further details of projects that can be approved under this element of the LCF, please consult the ENTRUST Guidance Note: *E - Object DA (Conservation of Biodiversity) Guidance*.

5.6 OBJECT E: Restoration of Religious Buildings or Buildings of Architectural or Historical Interest

5.6.1 The primary intent of this objective is to maintain, repair or restore a place of worship; or a building or structure that must have listed status (or equivalent), where the general public can access the building. This objective does not allow works to private residences.

5.6.2 You will be asked to confirm the following:

- The building or structure is open and accessible to the general public;
- The works you propose are to repair, restore or maintain the place of worship or structure of architectural interest (i.e. no new works); and
- All the costs of the works relate to the actual place of worship or structure of architectural interest.

5.6.3 For further details on the requirements of an Object E project, please consult the ENTRUST Guidance Note: *F - Object E (Restoration of Religious Buildings or Buildings of Architectural or Historical Interest) Guidance*.

5.7 OBJECT F: Administrative Services to another EB

5.7.1 The provision of financial, administrative or other similar services by one organisation enrolled with ENTRUST to another.

5.7.2 This objective allows an enrolled EB to provide certain services to other EBs. These services may include core administrative or similar services to assist in the running of the other EB.

5.7.3 You will be asked to confirm the following:

- That your EB is going to provide a service to another EB, or you are going to pay a contractor to provide a service to another EB; and
- You are not simply transferring money to another EB to cover its administration costs.

5.7.4 For further details regarding Object F projects, please contact the ENTRUST Registration Department.



6 Project Approval Process

- 6.1 The project approval process is set up by ENTRUST to allow the proposed LCF expenditure to be managed and controlled to ensure compliance with the Regulations. Following the 2007 Landfill Tax (Amendment) Regulations, project approval is now a regulatory requirement and all works must be registered with and approved by ENTRUST before any LCF expenditure is incurred.
- 6.2 Project approval is obtained by completing the Form 2: Applying to Register a Project and the relevant object specific section for the LCF object that your work falls under. An enrolled EB is not limited in the number of projects that it can register. There is no fee for project approval.
- 6.3 Within ten working days of Form 2 submission you will receive a response from ENTRUST, either confirming the project has been approved or asking for further details to allow ENTRUST to ensure compliance with the Regulations. If there is a change to the original application after a project has been approved, or the project does not go ahead, ENTRUST must be informed.
- 6.4 For further details on the ENTRUST project approval process, asset management and project management requirements, please consult the Guidance Note C - *Project Approval and Spending LCF Monies*.

7 Project/Enrolment Review Panel

- 7.1 If, upon review by ENTRUST, the project is not deemed to be compliant with the Landfill Tax Regulations, ENTRUST will refuse the project and this will automatically be referred to the Review Panel. This panel meets every month to review any project or enrolment applications that have been refused and ensures that the correct decision has been made in accordance with the Regulations. The project applicant is invited to attend the review panel to make their case for approval.
- 7.2 For further details on the workings of the Review Panel, please consult the ENTRUST Guidance Note G - *Review Panel Terms of Reference*.



- 8.1 In accordance with the Regulations, all enrolled EBs are required to submit statutory returns to ENTRUST. These returns are as follows:

Regulation 33A(1) An approved body shall –

- (e) provide the following information to the regulatory body ...within seven days of the receipt by it of any qualifying contribution—
 - (i) the amount of the contribution;
 - (ii) the date it was received;
 - (iii) the name and registration number of the person making the contribution;
 - (iv) the name and address of any contributing third party in relation to the contribution notified to it by virtue of regulation 32(2B) above;
- (f) notify the regulatory body within seven days of any transfer to or by it of qualifying contributions or of income derived therefrom of—
 - (i) the date of the transfer;
 - (ii) the enrolment number of the approved body by which the transfer was made;
 - (iii) the amount transferred;
 - (iv) the name and registration number of the person who made the qualifying contribution;
 - (v) the name and address of any contributing third party in relation to the contribution; and
 - (vi) the approved objects to which the transferred funds are to be applied;
- (h) submit to the regulatory body.....within 28 days of the end of the relevant period determined in accordance with paragraph (2) below details of—
 - (i) qualifying contributions and any other income or profit whatsoever received by it,
 - (ii) any expenditure made by it during the period, and
 - (iii) any balances held by it at the end of the period;



8.2 The ENTRUST forms are as follows:

Form 1: Applying to Enrol as an Environmental Body.

This form is completed when an organisation initially applies to enrol as an EB. This form is to be submitted with a £100 enrolment application fee made payable to 'ENTRUST', the current governing documents of the organisation and, if available, the most recent copy of accounts.

Form 2: Applying to Register a Project

This form is to be completed to register LCF project expenditure with ENTRUST before the expenditure takes place. To the back of each of these forms, the relevant Form 2 Object Specific Section must be affixed depending on the LCF object that applies to your project proposal.

Form 3: Contributions from a Landfill Operator (LO)

This **statutory** return is to be completed and submitted to ENTRUST by the receiving EB within seven days. Upon receipt of the form, ENTRUST will invoice you a proportion of the amount you receive from the LO in accordance with the Regulations.

Form 4: Statutory Annual Return

Every enrolled EB must complete this **statutory** return within 28 days of the 31st March, **even if a zero balance is to be reported**. This outlines your LCF activities in the last year, on an income and expenditure basis. Please note that it is not necessary to change your organisation's year-end to correspond with these dates.

Form 4A: Annual Return – C/CC Liabilities

This form is to be completed annually in addition to the Form 4: Statutory Annual Return only if you have ongoing C/CC (Waste minimisation) projects and therefore are required to apportion an element of the funds you hold as 'OLD scheme' money to be spent on these activities. Please note that you can only continue spending on an Object C/CC project if you have a written agreement in place. Please contact the ENTRUST Registration Department if you have any queries.

Form 7: Transfer of LCF monies between EBs

This **statutory** form has to be completed by the transferring EB and submitted to ENTRUST within seven days of the transfer of monies taking place. The recipient is no longer required to inform ENTRUST at the time of transfer, however the funds received will be recorded on the relevant Form 4: Annual Return.

Responsible Officer Update Form/Change of Director/Change of Main Contact Form

An enrolled EB is required to inform ENTRUST of any changes to the make up of the organisation's management committee (or Board of Directors). This notification should occur within seven days of the change taking place. This is required to allow ENTRUST to ensure each organisation is not controlled by a Local Authority, a LO or an individual who has been previously removed from the LCF.

While the responsible officer form is required to be completed for each change to the management committee, it should also be used to advise of changes to the main contact or any other individuals involved with LCF monies.

- 8.3 For further details on the ENTRUST reporting forms and how to complete them, please consult the Guidance Notes on the back of each of the forms or contact ENTRUST directly. Please note that failing to return any of the above forms within the statutorily defined timeframe in most cases represents non-compliance with the governing Regulations.

- 9.1** The contributing LO does not receive 100% tax relief for the amount given to the EB. For every £100 given to the scheme, the LO receives a £90 tax credit, i.e. each contribution made to the LCF costs the LO 10% of the amount given.
- 9.2** In some cases the LO will absorb this loss themselves, aware of the benefits that can be derived from participating in the LCF.
- 9.3** In other cases, often with the major contributors to the LCF (for whom the 10% difference can be a significant amount of money), the LO requires a third party to provide the 10% to make the transaction 'cost neutral'. This Contributing Third Party then provides the required amount to the LO.
- 9.4** If the LO, or the DEB providing the LCF monies on behalf of the LO, requires that you provide a Contributing Third Party, the following points should be considered:
- 9.4.1** The Contributing Third Party payment cannot be:
- LCF monies or derived from LCF monies; or
 - Anyone who will derive a unique benefit from the project going ahead.
- 9.4.2** The Contributing Third Party amount should pass directly to the relevant LO to avoid any confusion with LCF monies.
- 9.5** For further details on the definition of unique benefit and what is considered acceptable Contributing Third Parties, please consult the ENTRUST Guidance Note H - *The Benefit Rules*.

10 Compliance and how ENTRUST manages breaches in the Regulations

- 10.1** ENTRUST ensures that activities undertaken under the LCF comply with the governing Regulations through the following methods:
- 10.1.1** All organisations that apply to ENTRUST for enrolment are reviewed to ensure they meet the required criteria as set out in the Regulations.
- 10.1.2** ENTRUST assesses the work EBs wish to undertake by reviewing individual proposals at the project approval phase (as referred to above), prior to landfill monies being spent.
- 10.1.3** ENTRUST undertakes compliance reviews to verify the project expenditure and the controls in place at the organisation. Before a visit takes place you will be advised of the details that will be required at the visit and upon completion you will receive a report confirming the visit findings; and will be expected to address any findings.
- 10.1.4** Finally, ENTRUST will investigate allegations of breaches of the Regulations.
- 10.2** You must maintain clear records to demonstrate that projects have been carried out in line with their project approval, and that contributions have been spent in compliance with the Regulations. ENTRUST will examine these records during the compliance review.



Regulations:

33A(1) An approved body shall –

- (d) make and retain records of the following:
 - (i) the name, address and registration number of each registered person making a qualifying contribution to the body;
 - (ii) the name and address of any contributing third party in relation to a qualifying contribution received by the body;
 - (iii) the amount and date of receipt of each qualifying contribution and the amount and date of receipt of any income derived therefrom;
 - (iv) in the case of a transfer of the whole or part of any qualifying contribution or income derived therefrom to or from the body, the date of the transfer, the amount transferred, the name and enrolment number of the body from or, as the case may require, to which it was transferred, the name, address and registration number of the person who made the qualifying contribution and the name and address if any contributing third party in relation to the contribution;
 - (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 details relating to its expenditure.

10.3 EBs are required to keep and maintain a clear audit trail to show a link between expenditure and the contributing LO, and any Contributing Third Parties relating to the LO contribution. All records must clearly indicate which expenditure is funded by which LO contribution. This applies to all expenditure funded by the LCF, including both project expenditure and legitimate EBs running costs. Furthermore, EBs must also track all derived income against the original LO contribution. These records should be kept indefinitely.

10.4 The Regulations state the following:

34(1) The regulatory body:-

- (i) shall satisfy itself, by reference to such records or other documents or information that it thinks fit, that all the qualifying contributions received by the body have been spent by it only in the course or furtherance of its approved objects;

10.4.1 Therefore, EBs will be required to produce their records for inspection by ENTRUST on request.

11 Revocation and Clawback

11.1 Where an EB no longer wishes to remain enrolled, they can request voluntary revocation by writing to the Compliance Manager. Once an EB requests revocation, the Compliance Team will make certain checks to ensure that the projects and assets remain in compliant use and continue to benefit communities.

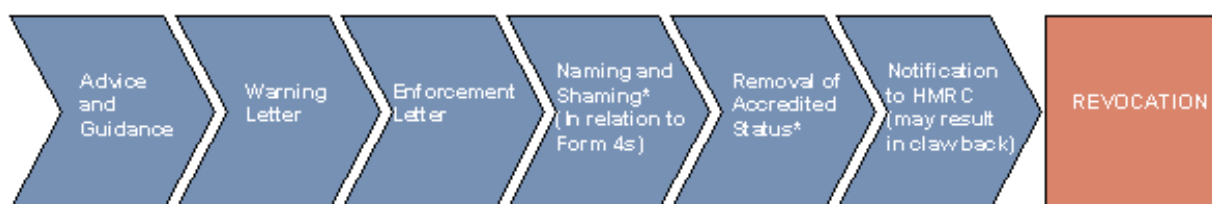
11.2 Where a serious breach of Regulations occurs and an EB is found not to have met its obligations as an approved body, HMRC have the power to compulsorily revoke an EB.

- 11.3** Where HMRC are not satisfied that an EBs expenditure is compliant or when an EB breaches a condition HMRC have the power to recover the tax credit claimed by the LO against their qualifying contribution. Re-payment of credit is known as clawback.
- 11.4** LOs can seek to reclaim their contributions from an EB, for example, if the EB failed to honor a contractual obligation that the contribution was spent on approved objects.
- 11.5** Where an EB transfers a contribution to another EB, the LO is still treated as the contributor. Therefore the LO is still liable to clawback even if a contribution is transferred. Consequently, as a matter of best practice, EBs should ensure that there are adequate arrangements in place to protect the LOs interests against clawback.
- 11.6** HMRC have issued comprehensive notes to LOs with respect to clawback and the LCF. Of particular note they advise LOs that;
- “The precautions you have taken to ensure that money is spent on approved objects will be an important factor in our decision on repayment of tax credits”*
- The HMRC guidance notes for LOs on the LCF are in Section 11 of the general guide to landfill tax found at:
<http://customs.hmrc.gov.uk>
- 11.7** For other details on the LCF and the activities of ENTRUST, please either consult the website, contact ENTRUST or find further information in the following guidance notes as outlined in this document.

12 ENTRUST Enforcement Sanctions

- 12.1** The responsibility for managing breaches in Regulations is split between ENTRUST and the Commissioner of HMRC.
- 12.2** If an EBs expenditure is found to be non-compliant, HMRC can administer clawback and/or compulsory revoke an EB.
- 12.3** Where ENTRUST considers that an EBs actions and responses suggest that regulatory breaches are evident or could become evident, a series of events will take place, under the general heading of the Enforcement Process. Whilst a diagrammatic representation of the enforcement process is shown below, it may not be a linear process as the most appropriate sanction will be applied.

Diagrammatic Representation of the Enforcement Process:



**Only if applicable.*

12.4 ENTRUST has a policy of 'Naming and Shaming' EBs who do not return their Statutory Annual Returns (Form 4) in the first instance.

12.5 The decision to impose sanctions against an EB is a serious step. A fair, transparent and proportionate enforcement framework is essential to the maintenance of stakeholder confidence in the regulation of the LCF. Each case identified by ENTRUST is unique and will be considered on its own facts and merits. However, there are a number of principles that apply in all circumstances and which ENTRUST will adopt:

- ENTRUST must demonstrate that the process applied in arriving at a decision, is fair, independent and objective;
- The person or organisation with legal responsibility must be made accountable for the breach; and
- In assessing the case it is important that the relevant part of the Regulations is applied.



13 Further Information and Contacting ENTRUST

Please consult the following guidance notes for further information:

Please consult the following guidance notes for further information:

B - Enrolling as an Environmental Body (EB)

The governing Regulations and detailed guidance on what is required to enrol as an EB.

C - Project Approval and Spending LCF Monies

Guidance on the project approval process as a whole with project management requirements and asset management guidance.

D - Object D Guidance

How to ensure your Object D: Public Amenities project is compliant.

E - Object DA Guidance

How to ensure your Object DA: Conservation of Biodiversity project is compliant.

F - Object E Guidance

How to ensure your Object E: Restoration of Religious Buildings and Buildings of Architectural Interest project is compliant.

G - Review Panel – Terms of Reference

The Terms of Reference covering the Review Panel.

H - The Benefit Rules

Guidance on the definition of 'benefit' and further details on Contributing Third Party restrictions.

I - Accreditation and Small Grants Scheme

The EB Accreditation process.

Contacting ENTRUST

ENTRUST can be contacted through the following methods

Post to: ENTRUST
60 Holly Walk
Royal Leamington Spa
Warwickshire
CV32 4JE
Telephone: 01926 488 300
Fax to: 01926 488 388
Email to: information@entrust.org.uk

Photos: ENTRUST, and by kind permission of WREN, SITA Trust, and Grantscape.

Other Contacts connected to the LCF

The Landfill Tax Regulations (1996, amended 1999).

- Available from bookshops or www.opsi.gov.uk

Landfill Operators registered for tax purposes

- HMRC website www.hmrc.gov.uk
- Tel: 0845 010 9000

Landfill Operators in your area

- Environment Agency (England and Wales) www.environment-agency.gov.uk
- Scottish Environmental Protection Agency (Scotland) www.sepa.gov.uk
- Environment and Heritage Service (N. Ireland) www.ehnsi.gov.uk

Directory of LCF Funder (Distributive Environmental Bodies)

- ENTRUST website www.entrust.org.uk

Application to Enrol

- Form 1: Applying to Enrol as an EB available on ENTRUST website www.entrust.org.uk

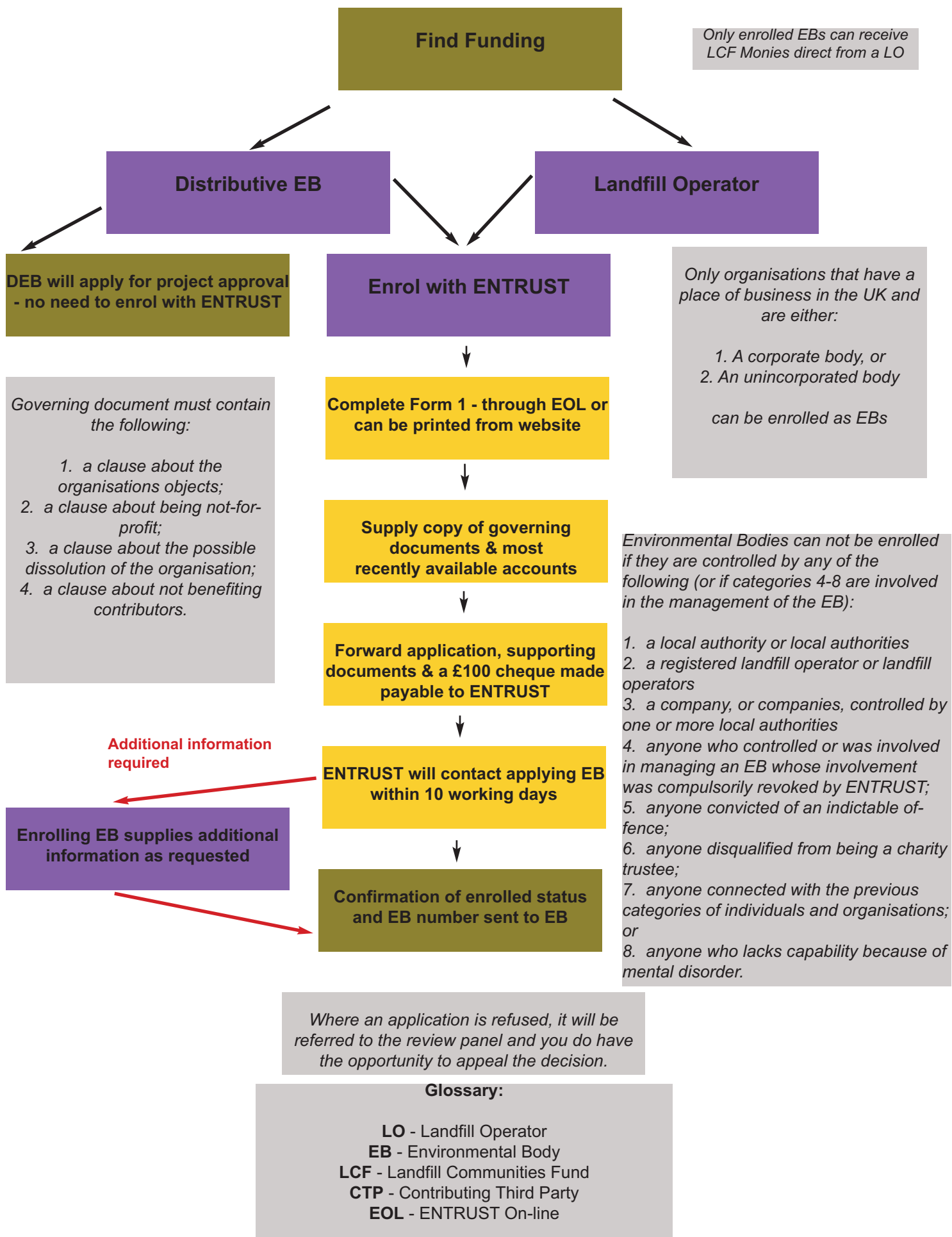


B - Enrolling as an Environmental Body (EB)

The Regulations governing which organisations can receive Landfill Communities Fund monies and the ENTRUST enrolment procedure



Quick start to the Enrolment Process



B) Enrolling as an Environmental Body

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1 Introduction

- 1.1** The Landfill Tax Regulations (Regulations) specify the criteria that organisations wishing to receive Landfill Communities Fund (LCF) monies must comply with. Through ENTRUST's enrolment procedure, checks are made to ensure these criteria are met.

2 The Regulations

- 2.1** The Regulations provide the following:

- 33 (1) A body is eligible to be approved if –
- (a) it is –
 - (i) a body corporate, or
 - (ii) a trust, partnership or other unincorporated body;
 - (b) its objects are or include any of the objects within paragraph (2) below (approved objects);
 - (c) it is precluded from distributing and does not distribute any profit it makes or other income it receives;
 - (d) it applies any profit or other income to the furtherance of its objects (whether or not approved objects); and
 - (e) it is precluded from applying any of its funds for the benefit of any of the persons –
 - (i) who have made qualifying contributions to it, or
 - (ii) who were a contributing third party in relation to such contributions, except that such persons may benefit where they belong to a class of persons that benefits generally.

3 The Regulations in practice

3.1 Status of organisation

An organisation can be enrolled by ENTRUST as an EB if it has a place of business in the UK and is either:

- A corporate body (such as a limited company or a corporation) or
- An unincorporated body (such as an association, a club or a trust).

4 Governing Document

- 4.1** An organisation must demonstrate to ENTRUST that it continues to meet the criteria in the Regulations. Organisations must maintain documentation that sets out their governing rules. For companies, this is usually the Memorandum and Articles of Association. For other organisations, a constitution, a document entitled Rules or a trust deed are acceptable.

5 Governing Document Requirements

- 5.1** The following points will be reviewed by ENTRUST in your governing documents. If the following points are not present or explicit in your governing documents, ENTRUST may ask for either an amendment or alternative confirmation that your organisation fits the following principles.



5.1.1 A clause about the organisation's objects

An organisation's governing document must include objects for the organisation that match, or closely match, one or more of the objects in the Regulations. An organisation's governing document must also state that the organisation can only spend its money to "further its objects". This means the organisation is limited to spending landfill tax money on works that are covered by the objects stated in the governing document, and which continue to mirror the objects within the Landfill Tax Regulations.

5.1.2 A clause about being not-for-profit

An organisation's governing document must state that the organisation is not allowed to distribute income or profit. In practice, this means no bonus, shares, profit or dividends may be issued. However, this requirement will be dispensed with where the governing documents confirm that the organisation has charitable status.

5.1.3 A clause about the possible dissolution of the organisation

If there is a dissolution clause in your governing document then it should continue to state that after outstanding liabilities have been met, surplus assets must not be distributed amongst the organisation's members and must remain in the LCF.

ENTRUST are looking to ensure that LCF assets are protected if the organisation was to dissolve. This includes all assets that the LCF retains an interest in, LCF cash and LCF monies held in bank accounts.

5.1.4 A clause about not benefiting contributors

Your organisation must have a clause about preventing benefit to contributors in the governing document, stating that the organisation is precluded from using its funds for the benefit of its contributors. Section H -The Benefit Rules of the Guidance Manual outlines the restrictions of benefit under the LCF.

6.1 What the Regulations say

33 (1) A body is eligible to be approved if –

- (f) it is not controlled by one or more, of the persons and bodies listed in paragraphs (1A) and (1B) below;
- (g) none of the persons or bodies listed in paragraph (1B) below is concerned in its management;
- (h) it pays to the regulatory body an application fee of £100 or such lesser sum as the regulatory body may require.

(1A) The persons and bodies mentioned in paragraph (1)(f) above are:

- (a) a local authority;
- (b) a body corporate controlled by one or more local authorities;
- (c) a registered person;
- (d) a person connected with any of the persons or bodies mentioned in sub-paragraphs (a) to (c) above.

(1B) The persons and bodies mentioned in paragraph 1(f) and (g) above are:

- (a) a person who controlled or was concerned in the management of a body the approval of which was revoked otherwise than under regulation 34(1)(ee);
- (b) a person who has been convicted of an indictable offence;
- (c) a person who is disqualified for being a charity trustee or a trustee for a charity by virtue of section 72 of the Charities Act 1993;
- (d) a person connected with any of the persons or bodies mentioned in sub-paragraphs (a) to (c) above;
- (e) a person who is incapable by reason of mental disorder.

(1C) For the purpose of paragraph 1(B)(e) above, a person shall be treated as incapable by reason of mental disorder where –

- (a) in England and Wales, the person lacks capacity within the meaning of the Mental Capacity Act 2005 (c.9) to administer and manage his property and affairs,;
- (b) in Scotland, the court has appointed a curator bonis, tutor or judicial factor; or
- (c) in Northern Ireland, the court has exercised any of its powers under Part VIII of the Mental Health (Northern Ireland) Order 1986 (whether or not by virtue of Article 97(2) of that Order),

but shall cease to be so treated where the judge or court concerned has made a finding that he is not or is no longer incapable of managing and administering his property and affairs.

33 (9) For the purpose of paragraph (1) above a body or person (in either case for the purpose of this paragraph, “the person”) shall be taken to control a body where –

- (a) in the case of a body which is a body corporate, the person is empowered by statute to control that body’s activities or if he is that body’s holding company within the meaning of section 1159 of and schedule 6 to the Companies Act 2006, and an individual shall be taken to control a body corporate if he, were he a company, would be that body’s holding company within the meaning of that Act;
- (b) in the case of a body which is a trust or a partnership, where –
 - (i) the person, taken together with any nominee of his, or
 - (ii) any nominee of the person, taken together with any nominee of that nominee or any other nominee of the person,

forms a majority of the total number of trustees or partners, as the case may be;

- (c) in the case of any other body, where the person, whether directly or through any nominee, has the power
 - (i) to appoint or remove any officer of the body;
 - (ii) to determine the objects of the body;
 - (iii) to determine how any of the body’s funds may be applied.



6.2 What the regulations mean in practice regarding organisation ‘control’ or ‘controlled’.

An organisation’s governing document must explain the voting procedures, any casting votes and the quorum for meetings of its governing body (the trustees, directors or management committee, for example). This enables ENTRUST to establish by whom the organisation is controlled.

6.3 ‘Controlled’

The organisation must not be controlled by the following groups or individuals in accordance with the Regulations:

- a local authority or local authorities, including parish councils;
- a registered landfill operator or landfill operators;
- a company, or companies, controlled by one or more local authorities;
- anyone who controlled or was involved in managing an EB whose enrolment was compulsorily revoked;
- anyone convicted of an indictable offence;
- anyone disqualified from being a charity trustee;
- anyone connected with the previous categories of individuals and organisations; or
- anyone who lacks capability because of a mental disorder.

6.4 Model Constitution

An example of a model constitution can be found on the ENTRUST website.

7 'Management'

- 7.1** Similar to the requirements of control, none of the following groups or individuals can be involved in the management of the organisation in accordance with the Regulations:
- anyone who controlled or was involved in managing an EB whose enrolment was compulsorily revoked by ENTRUST;
 - anyone who has been convicted of an indictable offence;
 - anyone who has been disqualified from being a charity trustee;
 - anyone who is connected with the previous categories of individuals; or
 - anyone who lacks capability because of a mental disorder.

8 The quorum

- 8.1** The organisation's governing documents must outline what constitutes a quorum to allow ENTRUST to ensure that at its meetings there is always a high enough number of 'independent' members, confirming that neither landfill operator nor local authority representatives can form a majority (and thereby control a body) when only a quorum is present.
- 8.2** The governing documents should confer a second or casting vote on the chairperson where there is an equality of votes in relation to LCF matters.

9 Control by landfill operators and local authorities

- 9.1** As stated in section 7, the organisation must not be controlled by:
- A landfill operator or landfill operators; or
 - Representatives of a local authority.
- 9.2** Representatives of local authorities include its councillors and senior officers, as well as people appointed by a local authority to serve on EBs.
- 9.3** Neither landfill operators as a group, nor local authorities as a group, are allowed to form the majority on an organisation's governing body (its trustees, board of directors or management committee, for example). For the purposes of identifying control:
- Groups of landfill operators are assumed to act separately from groups of local authorities. In an organisation where representatives of both a local authority and a landfill operator are present, they count as representing different interests. The exception would be where the local authority was a landfill operator.
 - Representatives of different local authorities on an organisation's governing body are assumed to act together.
- 9.4** The casting vote for matters related to LCF must not be conferred on landfill operator or local authority representatives.

10 The Enrolment process

- 10.1** To initiate the enrolment process, it is necessary to submit the Form 1: Applying to enrol as an EB to ENTRUST. ENTRUST recommend that you initially contact funders to ensure that in your case enrolment is necessary. The application form will need to be accompanied by:
- A copy of your organisation's governing documents (i.e. constitution) to allow ENTRUST to ensure your organisation meets the regulatory requirements of enrolled EBs.
 - A cheque for £100 made payable to 'ENTRUST', to cover the cost of the application fee. This fee is non-refundable and will cover the cost of enrolling your organisation as an EB, irrespective of any queries resolved in the process; and
 - The most recently available accounts of your organisation. If your organisation is newly formed and these are not available, please indicate on the Form 1: Applying to enrol as an EB.
- 10.2** Whether your organisation can be enrolled from the initial application or further details are required, you will receive a written response to all correspondence within 10 working days of submission. Please note that all correspondence will be sent to the indicated Main Contact.
- 10.3** Upon enrolment, you will receive a letter confirming the enrolled status of your organisation and a certificate. It is recommended that you keep these for your records as often funders subsequently ask for a copy as assurance of your enrolled status.

11 Refusal and appeal

- 11.1** If your application to enrol your organisation is refused as it is not deemed to fulfil the requirements to become an enrolled Environmental Body, it will automatically be referred to the Review Panel. The applicant is invited to attend these meetings to make their case for enrolling the organisation. For further details on the workings of the Project/Enrolment Review panel, please consult the ENTRUST *Guidance Note G - Review Panel Terms of Reference*.

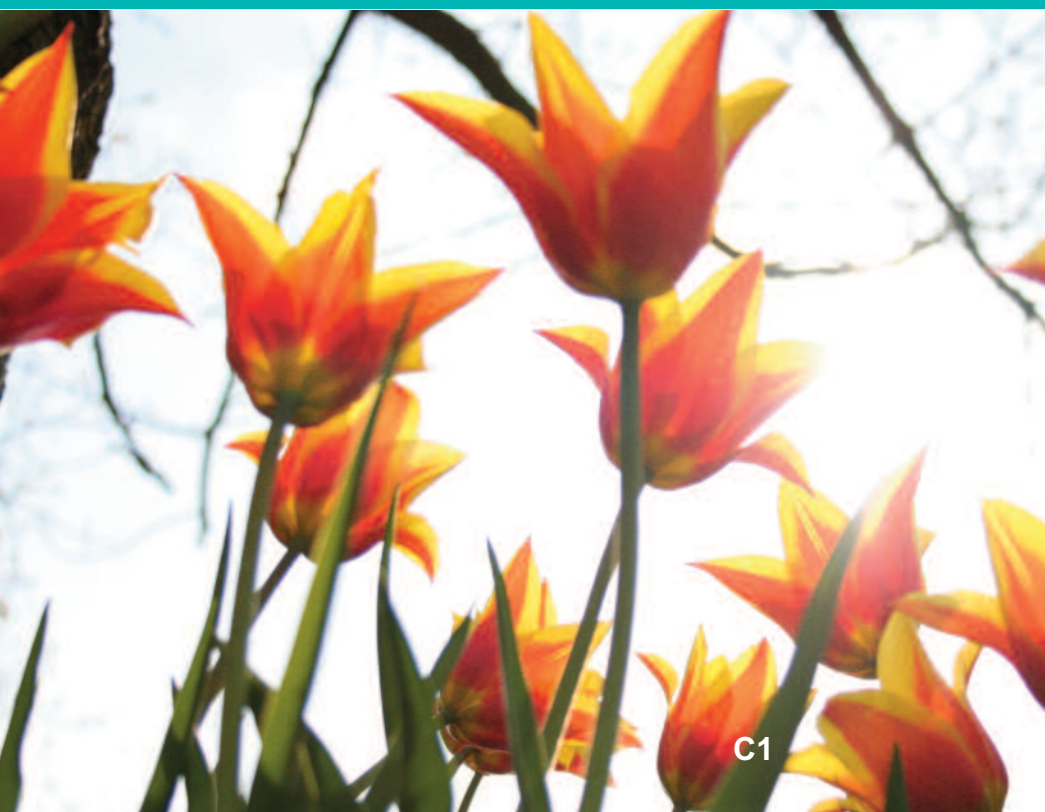
12 Retaining your enrolled status

- 12.1** Once your organisation is enrolled, you will remain enrolled until you request in writing that you wish to de-register from the Fund or your status is revoked as a result of non compliance with the Landfill Tax Regulations.
- 12.2** If you requested revocation from the Fund and later decide to re-enrol you will be required to resubmit all details including an additional enrolment cheque.



C - Project Approval and Spending Landfill Communities Fund (LCF) Monies

The regulations governing the expenditure of LCF monies and the approval of projects



January 2012

Quick Start to the Project Approval Process

All projects **MUST** be approved by ENTRUST before any spend of LCF monies

The approved objects are as follows:

Object A: Remediation of land

Object B: Reduction of Pollution

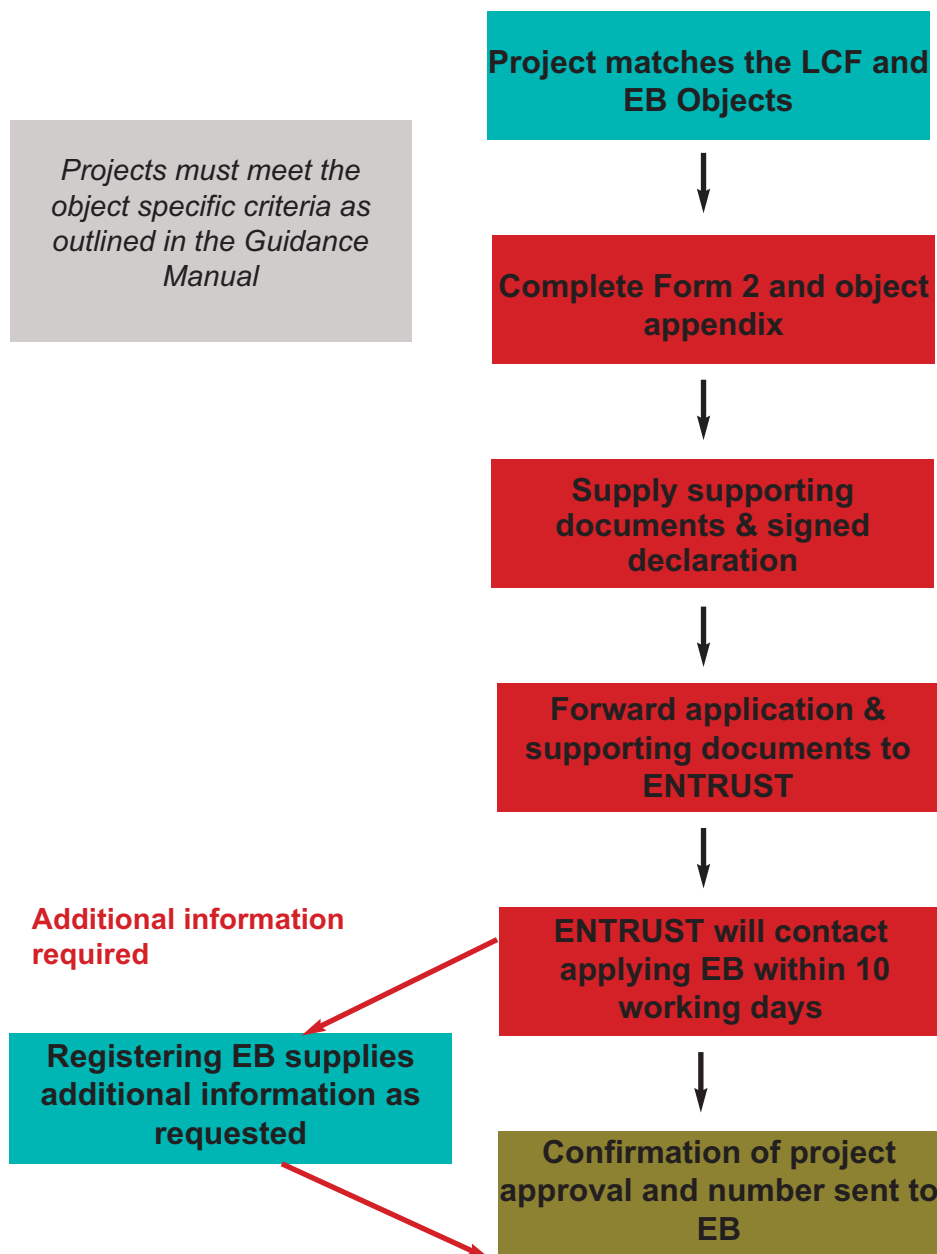
Object D: Maintenance, improvement or provision of a public amenity

Object DA: Conservation of Biodiversity

Object E: Restoration of Religious buildings or buildings of architectural or historic interest

Object F: Administrative services to another EB

PLEASE SEE DETAILED GUIDANCE FOR FURTHER QUALIFICATIONS OF THESE SUMMARY OBJECTS.



Where an application is not approved, it will be referred to the review panel and you do have the opportunity to appeal the decision.

Glossary:

LCF - Landfill Communities Fund

LO - Landfill Operator

EB - Environmental Body

CTP - Contributing Third Party

C) Project Approval and Spending LCF Monies

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C) Project Approval and Spending LCF Monies

Landfill Operators (LOs) can only give contributions to enrolled Environmental Bodies (EBs), and these funds have to be spent in accordance with the Landfill Tax Regulations.

1 What the Landfill Tax Regulations say:

1.1 The governing Regulations are as follows:

33A (1) An approved body shall –

(b) apply qualifying contributions and any income derived therefrom only to approved objects;

30 (2) A body shall only be taken to spend a qualifying contribution in the course or furtherance of its approved objects –

(a) in a case where the contribution is made subject to a condition that it may only be invested for the purpose of generating income, where the body so spends all of that income;

(b) in a case not falling within sub-paragraph (a) above, where the body becomes entitled to income, where it so spends both the whole of the qualifying contribution and all of that income;

(c) in a case not falling within either of sub-paragraphs (a) and (b) above, where the body so spends the whole of the qualifying contribution; or

(d) where –

(i) it transfers any qualifying contribution or income derived therefore to another approved body and

(ii) that transfer is subject to a condition that the sum transferred shall be spent only in the course or furtherance of that other body's approved objects.



2 'Qualifying contributions'

- 2.1 A 'qualifying contribution' is a payment made to an enrolled EB by an LO under the Regulations.

3 The removal of objects C/CC – waste projects

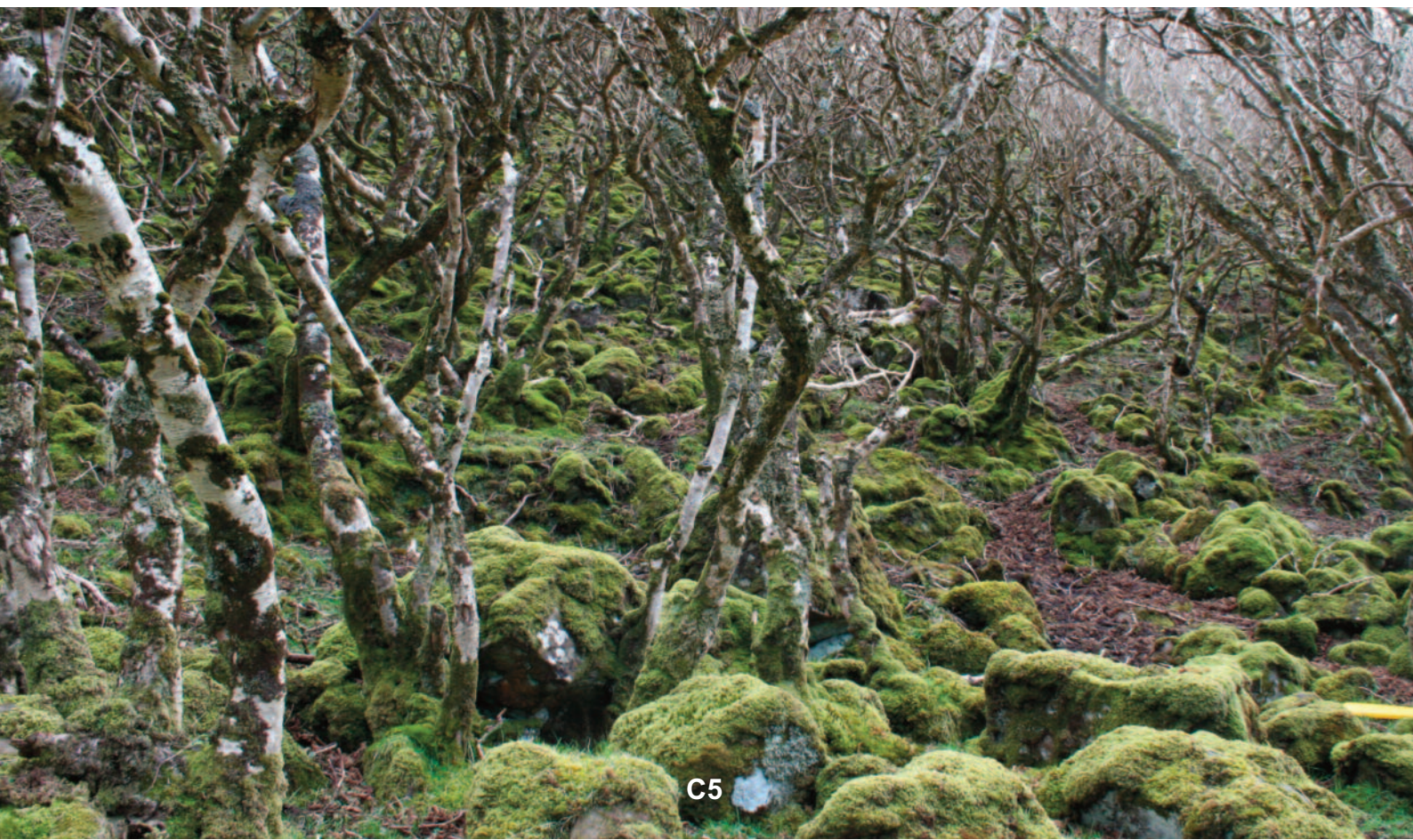
- 3.1 In his 2003 Budget Report, the Chancellor removed object C and CC (relating to sustainable waste management) from the Regulations. In the Chancellor's budget announcement of April 2007, the ability to fund these objects was removed. No further funding can be spent, or allocated to these objects unless there was a legal agreement in place before April 1st 2007. You should contact ENTRUST immediately if you have any questions regarding object C/CC projects.

4 The Relationship between Environmental Bodies and Landfill Operators

- 4.1 HMRC expect a LO to make their contribution subject to a written condition that the EB spends the payment or any derived income on approved objects. Such conditions should create a contractual obligation between the LO and the EB. HMRC also 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.

5 Spend on approved objects

- 5.1 LCF monies donated to an EB must be spent only on the approved objects of the LCF that appear within the Landfill Tax Regulations. These objects are detailed in the Quick Start Guide or on the ENTRUST website. Any income an EB receives from its LCF monies must also be spent on the approved objects. This includes:



- all interest as a result of investing LCF monies;
- any other derived income resulting from LCF project expenditure (for example, a royalty as a result of project activity, or from the sale of assets bought with LCF monies, or from rental income from hiring out the facilities provided by the public amenity; and
- Any funds returned to, or reclaimed by, an EB.

6 Project Approval

6.1 Following changes made to the Regulations in 2007, ENTRUST were granted the power under Regulation 34(1) to impose conditions on enrolled EBs, each condition requiring separate approval by HMRC.

6.2 The Regulation governing these conditions is as follows:

Regulation 34. (1) "The regulatory body
(aa) may:-
(i) at the time a body is approved, or
(ii) subsequently, by notice delivered to that body, impose such conditions as it sees fit".
(ab) may, by notice delivered to a body, vary or revoke any condition of the approval.

6.3 In exercising that power, and in order to ensure that LCF funds are spent only on approved objects, ENTRUST imposed the following condition on all EBs with effect from 01 January 2012.

No qualifying contribution or any income derived from it may be spent on a project unless that project has first been approved by ENTRUST.

6.4 This condition supersedes all previous conditions and means that an EB must have ENTRUSTs approval of the project before it may spend any LCF money on that project. ENTRUST will refuse approval if it does not consider that the project fulfils an approved object (see Section G – Review Panel Terms of Reference). If you have been granted 'Accredited' status by ENTRUST then projects which you submit online are automatically approved.

6.5 Any spend which is made on a project which has not been approved in writing by ENTRUST will result in a direct breach of this condition and enforcement sanctions will be taken by ENTRUST and/or HMRC as appropriate.

6.6 Before approving a project, we will also need to see a cost breakdown that clearly identifies the parts of the project that LCF monies will go towards. This allows us to establish that the items identified are compliant spend.

6.7 It is the registering EB's responsibility to make sure that the project expenditure falls within the Landfill Tax Regulations.

7 Timing

7.1 It is ENTRUST guidance that LCF monies are committed to a specific project within two years of receipt with the exception of projects that are registered under the Small Grants Scheme which must be re-registered and approved every 12 months.

- 7.2** The term committed means that there is a contractual agreement that the funds will be spent on a particular project.
- 7.3** EBs should notify ENTRUST when projects are complete via the Form 4. If no funding has been received and the project will no longer take place EBs should contact ENTRUST by email or in writing and request that the project is de-approved.

8 Running costs of the Environmental Body as compliant expenditure

8.1 What the Regulations provide:

33 (7) Where the objects of a body are or include any of the objects set out in paragraph 33(2) 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) where the regulatory body has made the approval of the body subject to a condition to that effect, the use of qualifying contributions in paying a contribution to the running costs of the regulatory body.
- (8) The use of qualifying contributions in paying the running cost 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 of qualifying contributions, together with any income derived from them (or in the case of a contribution within regulation 30(2)(a), only that income) as the proportion of that total forms of the total funds at its disposal and does not in fact use a greater amount.

9 What the Regulations mean in practice

- 9.1** The Regulations allow some or all of an EBs running costs to be regarded as an approved object. ENTRUST interpret this to be costs which are reasonable and relevant to the LCF. This means an EB may spend LCF monies on its own administration costs if they are reasonable and relevant.
- 9.2** All costs should be reasonable and comparable to similar organisations, by both sector and size of organisation. EBs who are managing no or very few live projects should have minimal EB running costs, which should relate to their level of activity.
- 9.3** 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 organisation's funding that comes from the LCF.

Example

Your organisation's 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.

- 9.4** As a matter of good practice, running costs which are in excess of 10% of LCF expenditure per annum will be monitored by the Compliance Team and, where appropriate, a review will be organised. Therefore all running costs should be financially justified and open to scrutiny by ENTRUST.

10 Paying for goods and services

10.1 Tendering

- 10.1.1** This section refers to best practice in evidencing value for money for the LCF. It is the responsibility of the EB to evidence that value for money has been achieved.
- 10.1.2** It is recommended that where LCF monies are used to purchase goods and services over £5,000 in value, competitive tendering should be evidenced.
- 10.1.3** Competitive tenders should be evidenced on the project file as either a summary of tender information or by copies of three competitive quotes issued.
- 10.1.4** Where the chosen supplier has not tendered the cheapest quote there should be a logical explanation as to why the preferred supplier was selected. This should be evidenced in writing on the project file with the relevant authority.
- 10.1.5** In some cases, it is not possible to seek competitive tenders, for example, if there is only one specialist supplier who could reasonably be used. If so, ENTRUST recommends that evidence is obtained to show that the price agreed is not higher than that normally paid for similar goods and services.

10.2 Connected Parties

- 10.2.1** ENTRUST recommends as a matter of good practice that payment for goods and services is made only to organisations which are independent of people and companies involved with your EB or the contributors to your EB.
- 10.2.2** If a contract is awarded to directors of your EB, or consultants who have an interest in it, an open tender process should be followed for the appointment of professional firms for each project, unless there are exceptional circumstances.
- 10.2.3** A connected party is defined as any individual or organisation, related or linked to the EB. This may include (but not be limited to) any director, partner, shareholder, manager or other employee or employer, company, trustee, advisory panel or committee that has direct or indirect influence on LCF spending. Relations and links can be both through personal or business connections, for example spouse/civil partner/cohabitee (or relative of spouse/civil partner/cohabitee), relative or persons connected to by virtue of their being a trustee. For further guidance on this point, please contact ENTRUST's Compliance Department.



11 Assets Guidance

11.1 The Asset Regulations

With regard to asset requirements, Regulation 32 (1) (b) provides as follows:

Regulation 32. (1): A payment is a qualifying contribution if –

(b) It is made subject to a condition that the body shall spend the sum paid or any income derived from it or both only in the course or furtherance of its approved objects.

LCF monies and income derived from LCF monies can only be spent on approved objects.

11.2 What is an asset?

11.2.1 ENTRUST considers an asset to be any item of economic value to an organisation or individual, especially that which could be converted to 'income'. Examples are:

- Tangible Fixed Assets e.g. land, buildings and machinery;
- Intangible Fixed Assets e.g. Intellectual Property Rights; and
- Current Assets e.g. cash, investments and securities.

11.2.2 Assets are normally shown on an organisation's balance sheet with a written down value in accordance with generally accepted accounting principles.

11.3 Protecting the Asset

- 11.3.1** As outlined above, all LCF monies spent by an EB, which create an asset (whether funding the purchase outright or merely a proportion of the purchase), should be protected. All EBs should ensure that LCF funds held by them or spent on a compliant project or activity can be accounted for.
- 11.3.2** With regard to current assets, the value of the capital should be preserved. Please note that best practice would dictate that LCF monies are not held in speculative investments where the principle sum may be diluted. Any loss of capital would normally be deemed to be non-compliant expenditure. Therefore, in the unlikely event that LCF monies are not required for immediate use, they should be placed in a bank account or similar facility, preserving the capital sum. Any income earned has to be treated as a qualifying contribution and must therefore be reinvested into LCF approved projects.
- 11.3.3** If your EB does invest LCF monies, it should adopt practices to protect the principle sum which are suitable for the organisation. It is not appropriate for ENTRUST to develop guidance on investment practices. EBs may be interested in the Charity Commission document “Investment of Charitable Funds: Detailed guidance” which can be found at:

http://www.charity-commission.gov.uk/charity_requirements_guidance/charity_governance/managing_resources/cc14full.aspx

- 11.3.4** Whatever arrangements EBs have for the recording and depreciation of assets either on their balance sheet or held by the project promoter, EBs should maintain an inventory of all assets purchased in whole or in part with LCF funds. EBs must ensure that project budgets are resourced to meet costs associated with asset management while the asset remains on the asset register. Please see section 12.1 below with regard to life/timescales of assets.
- 11.3.5** The EB in whose name a project is approved would be expected to record assets purchased in whole or in part with LCF funds by way of a formal asset register.

11.4 Sale or Disposal of an Asset

- 11.4.1** If an EB contributes (in whole or in part) to the purchase or improvement of an asset held by a non-EB, it should make its contribution conditional on a repayment of a proportion of any sale value equal to the proportion of its contribution to the purchase price where the asset is sold or ceases to comply with the Regulations as outlined above.
- 11.4.2** Where an EB seeks to dispose of an asset, it should consult the original funding agreement to ascertain whether it contains any clauses about disposal of assets or use of derived income from such disposals.
- 11.4.3** Sale of an LCF purchased asset must result in the LCF derived income (equal to the proportion of the contribution from LCF funds) being paid back to an EB and used to fund compliant activity.

This applies whatever time might have elapsed between the acquisition of the asset and its disposal and whether or not the project is active or completed.

- 11.4.4** Where an asset is returned to an EB following the completion of a project, the asset may either be retained for use on other LCF projects or sold, any proceeds being used on LCF approved projects.

12 Timescales for Asset management within EBs

The following timescale guidance has been drawn up for asset retention depending on the type of the asset or the value. Note: This guidance is retrospective and replaces all previous guidance including that relating to an asset being written down over seven years.

12.1 Moveable/Tangible Assets

Assets valued at less than £2,000

- At project completion, obtain confirmation that the asset is delivering against approved objective.

Assets valued between £2,000 and £10,000

- Keep this on an asset register for three years; and
- At project completion, obtain written confirmation that the asset is in compliant use. After three years confirm compliance (by inspecting the asset) then delete from the register.

Assets valued between £10,000 and £50,000

- Keep this on an asset register for five years; and
- At project completion obtain written confirmation that the asset is in compliant use. After five years confirm compliance (by inspecting the asset) then delete from the register.

Assets valued at over £50,000

- Keep on an asset register for ten years;
- After five years confirm compliance by inspecting the asset; and
- After ten years make final inspection to confirm compliance then delete from register.

12.2 Land and Buildings

- The EB that has registered the project for approval should keep LCF funded land and buildings on an asset register in perpetuity;
- Where it is cost effective to do so, the asset should be protected through the Land Registry. This could be done by a restriction in favour of the funder (DEB or LO). Please note that land law in Scotland and Northern Ireland is slightly different to that in England and Wales and so the equivalent protections can be used instead of a restriction;
- At final payment and annually thereafter, obtain written confirmation that the asset remains in compliant use;
- Inspect every three years to confirm compliance; and
- The EB that has registered the project for approval should be contacted by the owner of the funded land or buildings before a sale can be initiated.

13 Depreciation of Asset Value

- 13.1** If you dispose of an asset within the relevant time period outlined above, it is ENTRUST guidance that the asset is independently valued if the current written down value exceeds £10,000. To ensure equitability we would recommend that the written down value is calculated by applying depreciation on a straight line basis.

14 Cash Assets

- 14.1** EBs should always be able to account for the LCF money that they hold. EBs may wish to maintain a separate bank account for LCF money if they consider it cost effective to do so.

15 Ownership of Assets

- 15.1** Where the assets are used in the EB's general operations (i.e. not in a project) then it is acceptable to be in the EB's balance sheet.
- 15.2** Where an asset is acquired solely for a project, ENTRUST recommend the asset does not appear in the EB's balance sheet, rather a legally binding retention of interest is adopted to ensure that the asset still remains within the LCF. The exception to this is when the EB is the project owner and thus, the project asset will appear in the EB's balance sheet.

16 Retention of Records

- 16.1** The Regulations state:

Regulation 33A (1) 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 details relating to its expenditure;**

- 16.2** ENTRUST has identified that there are three main types of financial records held by EBs:
- i) Project financing/funding information, which include CTP and LO contributions. We consider that these records are kept indefinitely as they are required to determine if the expenditure was compliant.
 - ii) Documents which demonstrate how LCF monies were spent. We consider that these records are kept indefinitely as they are required to determine if the expenditure was compliant. These records will include all invoices and relevant timesheet summaries.
 - iii) Other supporting documents. These would include items such as tenders and tender documentation, purchase orders, and procedural documentation. These only need to be retained for six years.
- 16.3** Legal records held by EBs should be retained indefinitely. Such records would include; funding agreements, ownership records, deeds, Board minutes, declarations of interest and historical records of Directors.
- 16.4** Records of LCF funded assets should be maintained for the period of time that they are owned by the EB. Upon disposal of any asset, records of sale should be retained for a further six years, but the record of the value received for the asset needs to be retained indefinitely.

17 Unspent LCF monies

- 17.1** If there is underspend on a project or it does not go ahead, the following routes can be considered. Although this will be subject to any agreement you have in place with the contributor of the funds.
- 17.2 Other projects**
The money can be spent on other projects providing they meet the approved objects. Before doing so, it is advisable to obtain the permission of the LO or DEB who allocated the money originally.
- 17.3 Transfer of monies**
The money can also be transferred to another EB. It is strongly recommended that the LO's agreement is obtained first. If money has been received from another EB which is no longer needed, please discuss it with the body concerned. It is most likely they will want the money to be returned to them for re-allocation.

17.4 Return of monies

Ordinarily LCF monies should not be given back to the contributing LO as this would not be considered to be spending the money on approved objects. However, if you are asked to repay a qualifying contribution back to the LO you should contact ENTRUST for advice. The LO must also make arrangements to repay any tax credits to HMRC as outlined in HMRCs guidance notice LFT1 to LOs.

18 Retaining funds for winding-up

18.1 In some instances EBs may retain funds for the winding-up of their business. Where this is the case, the EB should be able to justify and explain their reserves position and demonstrate why a particular level of reserves are retained at that point in time. Good practice would require an EB to maintain a reserves policy which would include the following:

- The reasons why the EB needs reserves;
- What level of reserves the Directors or Trustees believe the EB needs;
- What steps the EB is going to take to establish or maintain reserves at the agreed level; and
- Arrangements for monitoring and reviewing the policy.

18.2 LCF funds used for winding-up an EB are running costs of the EB. As set out in regulation 33(8), these can only be used proportionately when the EB also receives funds from other sources (see Section 9 of the guidance).

19 Winding-up the EB

19.1 Prior to any decision to dissolve your EB, you should notify ENTRUST of your intentions and discuss with them how you will deal with any outstanding monies and/or assets. ENTRUST would normally expect these to be passed on to another EB with similar objects to ensure that they remain compliant with the Landfill Tax 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 HMRCs guidance notice LFT1 to LOs.



D - Object D Guidance

Ensuring **Public Parks and Amenities** projects are compliant with the Landfill Communities Fund



D) Object D Guidance

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1 Registering an Object D project – *Public Parks and Amenities*

- 1.1** This document provides guidance on the Landfill Tax Regulations 1996 (Regulations) governing the types of *public park and amenity projects* that can be undertaken under the Landfill Communities Fund scheme. It sets out the governing Regulations and then provides guidance on what these Regulations mean in practice. Examples are then listed to give illustrations of compliant projects.

2 The Object D Regulations

2.1 The Regulations governing Object D are as follows:

33(2) The objects of a body are approved objects insofar as they are any of the following objects:

(d) 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...above are-

- (a) ...that the provision of the park or amenity is not required by a relevant condition; and
- (b) ...that the park or amenity... is not to be operated with a view to profit

(10) For the purposes of paragraph... (6) above, a condition is relevant if it is-

- (a) a condition of any planning permission or statutory consent or approval granted on the application of any person making a qualifying contribution to the body, or
- (b) a term of an agreement made under-
 - (i) section 106 of the Town and Country Planning Act 1990,
 - (ii) section 75 of the Town and Country Planning (Scotland) Act 1997, or
 - (iii) article 40 of the Planning (Northern Ireland) Order 1991,to which such a person is a party.

3 Applying the Regulations

3.1 Is my project related to an amenity?

3.1.1 Projects which do not relate to a park must relate to another amenity. An amenity is something that makes the environment more pleasant or comfortable and/or improves the aesthetic qualities of an area for the general public.

3.1.2 Common examples of amenities include:

- Activity centres;
- Bridleways and cycle paths;
- Community centres;
- Village halls;
- Sporting facilities;
- Museums; and
- Libraries.

3.2 Is the park or amenity public?

3.2.1 A park or amenity is 'public' if it is for the public as a whole and there are no unreasonable limitations to the people who can use it. Limitations would include parks and amenities which are only accessible to specific user groups defined by age, sex, disability, race etc. However, some parks and amenities by

their nature may have certain restrictions placed upon their use. For example, the equipment in a play area may be restricted to a certain age range due to health and safety reasons, but the amenity as a whole can be used by the general public as they can access the play area.

3.2.2 Ideally the park or amenity will be open and available to the general public at all times. However some types of amenity will have restrictions on when and how the general public can use them.

3.2.3 In general, any park or amenity that is not available more than four evenings or two days a week, or less than 104 days in any one year would not be considered sufficiently open to the general public.

3.2.4 A park or amenity is somewhere where the general public can go, join or use without any limit or unreasonable restrictions of use (or with 'reasonable' access costs) being in place.

3.3 **The project must demonstrate protection of the environment by *providing, maintaining or improving* a park or amenity.**

3.3.1 The works you propose must be either for provision, maintenance or improvement targeted on a specific park or amenity.

3.4 **All projects must relate to a park or amenity which protects the environment.**

3.4.1 All projects falling under this object must relate to a park or amenity which protects either the built, natural or social environment. ENTRUST interprets protection to include preservation. The built environment includes buildings and structures on land.

3.4.2 Protection can be defined as shielding from danger, injury, destruction or damage, or to keep something safe from harm, damage or bad influences.

3.4.3 Preservation can be defined as keeping something in its original or existing state or preventing it from being damaged.

3.4.4 EBs will be required to explain how the park or amenity protects either the built, natural or social environment in their project application.

3.5 **In the vicinity of a landfill site**

3.5.1 Object D projects must take place in the vicinity of a licensed landfill site, which is interpreted as being within ten miles of a site. Whilst the application form asks for a postcode of the project site, ENTRUST understands that in some instances a grid reference or map showing the ten mile radius may be more appropriate. If you can provide evidence that the project site is adversely impacted by a licensed landfill site that is further than ten miles away, this can be deemed eligible.

3.5.2 A 'licensed' landfill site is one where there is a licence, resolution or permit authorising disposals of materials as waste in or on the land. Some inactive landfill sites are still 'licensed'. The details of landfill sites can be accessed either on the HMRC website (www.hmrc.gov.uk) or through the relevant authority (e.g. The Environment Agency www.environmentagency.gov.uk). You will need to ensure that the landfill site has a licence in place for the project to be compliant. Please contact ENTRUST if you have any queries on this point.

3.5.3 It is important to note that the closest applicable landfill site does not have to be owned by the LO contributing to your project (although some funders will require that it is). As long as some part of your

project site is within the vicinity of a landfill site, it is deemed to be acceptable.

3.6 The project proposals must not be required as part of any planning permission granted to the contributing Landfill Operator.

3.6.1 The project must not be required as part of a condition of any planning permission granted to the contributing Landfill Operator. All LCF monies must be spent on works above and beyond any requirements that have been placed on the contributing Landfill Operator through;

- Section 106 of the Town and Country Planning Act 1990;
 - Section 75 of the Town and Country Planning Act (Scotland) 1997; or
 - Article 40 of the Planning (Northern Ireland) Order 1991,
- to which such a person is a party.

3.7 Is the park or amenity not-for profit?

3.7.1 The park or amenity must be run on a not for profit basis to be eligible under Object D. This does not preclude a surplus from being made, but it cannot be distributed. Any income derived from the LCF funded part of the project must be spent on an approved object, which includes the EBs running costs (or a relevant percentage).



4 Approval of Projects

4.1 The focus of the project must be to undertake '*direct project works*' on the park or amenity in question. ENTRUST will review applications to ensure that every proposal concentrates on direct project works and has acceptable additional associated costs.

4.2 '*Direct project works*' are defined as those that are *solely* attributable to the delivery of the project and include all costs that are necessary for the project to go ahead. This would include all costs that can be directly linked to improvements on site, such as contractors, volunteer management, signage and other interpretative materials that will be kept on site and provide, maintain or improve the park or amenity itself. It can also include any costs incurred in connection with the acquisition of any land and buildings including legal fees. Direct project costs may be directly incurred by the EB where their own staff carry out the works.

- 4.3** 'Additional associated costs' include costs that are not necessary for the physical works. This includes elements such as any head office costs not solely related to the project and educational material, publicity including leaflets and posters for the park or amenity, opening ceremonies and all other activities that do not *directly* result in physical work being undertaken. ENTRUST is not able to approve projects that have excessive additional associated costs (i.e. more than 10% of total project expenditure).
- 4.4** For a number of reasons including the requirement to maintain an audit trail and statistics provision, single project applications that cover multiple parks or amenities are not able to be approved as a single project, but may be approved separately.
- 4.5. Does my project require proportional registration?**
- 4.5.1** ENTRUST recognises that projects classed as public parks or amenities may not be open to the public all the time. Due to the 'public' requirement as stipulated in the Regulations, the LCF can only fund a project to the extent that it is open to the general public. It is important to note that the guidance outlined in paragraph 3.2.3 still applies for projects which are proportionally registered.
- 4.5.2** If a project will be used by a restricted group for part of the time it will be open, then the LCF can only fund the percentage of the project which is the same as the proportion of time the park or amenity is open to the general public. The most common example of this is works to school sites, when only the school pupils have access to the amenity (i.e. a sports hall) during the day but this is then opened up to the general public when the pupils are not using it.
- 4.5.3** To ensure the proportion of expenditure charged to the LCF is compliant, ENTRUST requires confirmation of the days and hours that the park or amenity is open to the general public and a calculation showing the percentage of the total time the facility is available hence the proportion when it is available for public use.

Example - Proportional funding for the creation of a small orchard and community garden in the grounds of a school

The community garden and orchard is available for use by the general public outside of school time and during school holidays. This was confirmed by a public access statement from the school governors. Based on the hours the project is available to the general public, 64% of the total project costs can be funded through the LCF.

- 4.5.4** Proportional registration may also apply where there are areas of a park or amenity that are not available to the general public.

Example – Proportional funding for a roof on a community centre

The community centre has three small meeting rooms that are exclusively leased out to a local business. The area of these meeting rooms are equal to 35% of the total floor space of the community centre, this was confirmed by a floor plan. Based on the percentage of the centre that is available to the general public, 65% of the total cost of the new roof can be funded through the LCF.

5 Project Examples

- 5.1 Village Hall Refurbishment** – The existing village hall preserves the built environment. It is regarded as an amenity as it makes both the social and built environment more pleasant providing a facility for the community. The project improves a public amenity by replacing the old kitchen. The amenity is open to the general public on a free and unrestricted basis, making this a compliant project.
- 5.2 Building a new multi use gaming area (MUGA)** – The provision of the MUGA preserves the social environment by providing a facility which will benefit the general public. It is regarded as an amenity as it makes the social environment more pleasant, allowing the public to use the sporting facility.
- 5.3 Outdoor Play Area** - The project aims to improve a public park by replacing disused play equipment with fun, varied, high quality play experiences in a naturalistic setting. Good play facilities will help to reduce crime and help to build a safer community and can discourage anti-social behaviour. The project provides equipment with a low environmental impact (use of bark, recyclable and long lasting materials) and demonstrates protection of the natural environment by planting more trees and providing better landscaping.
- 5.4 Renovation of a sports playing field** – The project looks to maintain the surfaces at a sports playing field which is used for many sporting events. This protects the current sporting structure on the land and so can demonstrate protection of the environment. It is considered an amenity as it makes the area more pleasant.
- 5.5 Provision of a boardwalk over reed beds** – The boardwalk links to a path from a cycle path and protects the natural environment as well as making the area more accessible and pleasant to the general public.

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E - Object DA Guidance

Ensuring ***Conservation or Promotion of Biodiversity*** projects are compliant with the Landfill Communities Fund



January 2012

E) Object DA Guidance

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2	The Object DA Regulations	E3
3	What is Biological Diversity	E3
4	Applying the Regulations	E4
5	Other Criteria and Parameters when Registering an Object DA Project	E6
6	Project Examples	E7

1 Registering an Object DA project – *Conservation or Promotion of Biodiversity*

- 1.1 This document provides guidance on the Regulations governing the types of conservation of biodiversity projects that can be undertaken with the Landfill Communities Fund (LCF), initially outlining the governing regulations and then providing guidance on what these regulations mean in practice. Examples are then listed to give illustrations of compliant projects.

2 The Object DA Regulations

- 2.1 The Regulations governing Object DA are as follows:

‘The Objects of a body are approved objects insofar as they are any of the following objects:

(Regulation 33(2)(da))” Where it is for the protection of the environment and subject to paragraph (3A) below, the conservation or promotion of biological diversity through:

- (i) the provision, conservation, restoration or enhancement of a natural habitat; or
- (ii) the maintenance or recovery of a species in its natural habitat
- on land or in water situated in the vicinity of a landfill site;’

‘(2A) In paragraph (2)(da) above “biological diversity” has the same meaning as in the United Nations Environmental Programme Convention on Biological Diversity of 1992(i).’

‘(3A) An object shall not be, or shall no longer be, regarded as falling within paragraph (2)(da) above if it involves works which:

- (a) are required to be carried out by a notice or order within paragraph (4) below(ii) [Note: paragraph (4) is detailed with other notes at the end of this document];
- (b) are required to be carried out in accordance with an agreement made under section 16 of the National Parks and Access to the Countryside Act 1949(iii);
- (c) are required to be carried out in accordance with an agreement made under section 15 of the Countryside Act 1968(iv);
- (d) give effect to any provision of a management scheme under section 28J of the Wildlife and Countryside Act 1981 or are required to be carried out by a notice served under section 28K of that Act(v);
- (e) are wholly or partly required to be carried out by a relevant condition; or
- (f) are carried out with a view to profit.’

3 What is ‘Biological Diversity’?

- 3.1 The Convention on Biological Diversity (as adopted from the United Nations Environmental Programme Convention of Biodiversity 1992) identifies ‘Biological Diversity’ as ‘the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems’.

4.1 Each project must be looking to protect identifiable species or habitats.

While all of the project costs do not have to be associated to a single species or habitat, the application should be able to detail the primary species or habitats being conserved by the proposal.

4.2 Each project must be for a single, identifiable site.

The project site should be recorded as the location at which the work is taking place. e.g. if you are undertaking tree felling at five distinct points in the Forest of Dean, the project site should be recorded as 'The Forest of Dean'.



4.3 The project activities must take place where the species or habitats would naturally occur.

4.3.1 LCF monies can be used to conserve species or habitats where they naturally occur. This includes species re-introduction or habitat recreation programmes.

4.3.2 Proposals looking at the conservation of biodiversity in a place other than the natural habitat (i.e. ex situ conservation) are excluded under this Object in accordance with the Regulations. This also therefore excludes projects looking to fund university positions studying the species or habitats remotely.

4.4 The project must take place in the vicinity of a landfill site.

- 4.4.1** Object DA projects must take place in the vicinity of a licensed landfill site, which is interpreted as being within ten miles of a site. Whilst the application form asks for a postcode of the project site, ENTRUST understands that in some instances a grid reference or map showing the ten mile radius may be more appropriate. If you can provide evidence that the project site is adversely impacted by a licensed landfill site that is further than ten miles away, this can be deemed eligible.
- 4.4.2** A 'licensed' landfill site is one where there is a licence, resolution or permit authorising disposals of materials as waste in or on the land. Some inactive landfill sites are still 'licensed'. The details of landfill sites can be accessed either on the HMRC website (www.hmrc.gov.uk) or through the relevant authority (e.g. The Environment Agency www.environmentagency.gov.uk). You will need to ensure that the landfill site has a licence in place for the project to be compliant. Please contact ENTRUST if you have any queries on this point.
- 4.4.3** It is important to note that the closest applicable landfill site does not have to be owned by the LO contributing to your project (although some funders will require that it is). As long as some part of your project site is within the vicinity of a landfill site, it is deemed to be acceptable.

4.5 The project must be looking to provide, conserve, restore or enhance a natural habitat or maintain or assist in the recovery of a species.

- 4.5.1** This means the application must be looking to register 'direct project works' to undertake one of the above activities for the identified species or habitats.
- 4.5.2** For a number of reasons, including the requirement to maintain an audit trail and statistics provision, single project applications that cover multiple projects cannot be approved.
- 4.5.3** The focus of the project must be to undertake 'direct project works' on the project in question. ENTRUST will review applications to ensure that every proposal concentrates on direct project works and has acceptable additional associated costs.
- 4.5.4** '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 that conserve the species or habitat in question.

In some instances costs relating to preliminary studies can be included as 'Direct project works', examples of this would include:

- Research and feasibility of the works that will be undertaken;
- Environmental impact assessment;
- Other assessments which are necessary for the project to commence;
- Licences and consents;
- Land acquisition and associated legal fees; and
- Valuation fees.

When considering direct project costs relating to preliminaries, a general rule of thumb would be that if you can demonstrate that the project would not be able to go ahead without the works being undertaken, then they can be defined as direct project costs. However, yes/no feasibility studies or any research which may result in the project not going ahead cannot be funded using LCF monies.



In some circumstances, projects have an element of research into a species or habitat. In these instances we would expect the project application to include the works which will protect or conserve the species or habitat, even if the LCF will not be funding these works. The works may include items such as educational leaflets specifically targeted at those who are currently harming the species or habitat. We recognise that works may be undertaken as part of a management plan, and the nature of some works may be clarified following the research. The project which you register with us is the one we may inspect to gauge compliance and this will include the works which protect the species or habitat, so if this element is not funded through the LCF, the project applicant must ensure that these works are completed.

Any ongoing project management or costs incurred to safeguard the site or habitat (e.g. fences, gates, boundary markers etc.) can also be classed as direct project works. This is in contrast to visitor facilities which in themselves do not conserve a species or habitat.

4.5.5 'Additional associated 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 approve projects that have excessive additional associated costs (i.e. more than 10% of total project expenditure).

4.6 **The project proposals must not be required by any planning permission granted to the contributors or feature under any of the following acts or orders.**

- The Control of Pollution Act 1974 (Section 46A);
- Environmental Protection Act 1990 (Sections 14, 26, 78E);
- Water Resources Act 1991 (Section 90B, Section 161A);
- National Parks and Access to the Countryside Act 1949 (section 16);
- Countryside Act 1968 (section 15); or
- Wildlife and Countryside Act 1981 (section 28J).

Further information relating to these Acts and orders can be found on page E8.

5 Other criteria and parameters when registering an Object DA project

5.1 Biodiversity Action Plans

5.1.1 Biodiversity Action Plans (BAPs) or Local Biodiversity Action Plans (LBAPs) have been set up as a result of the aforementioned Convention on Biological Diversity to co-ordinate the conservation activities on the most threatened species and habitats. It is not a regulatory requirement that the priority species or habitat is listed in a BAP or LBAP but wherever possible it would be best practice for project promoters to take account of BAPs or LBAPs (or equivalent).

5.2 Involvement of the Lead Partner

5.2.1 When the priority species or habitats are part of a BAP or a LBAP there will be a designated lead partner who has been allocated the responsibility of co-ordinating activities to conserve the species or habitat. It is recommended by ENTRUST that it is best practice that proposed projects should be endorsed by the lead partner.

5.2.2 Further information on BAPs and LBAPs can be found on the UKBAP website, www.ukbap.org.uk.

6 Project Examples

Lapwing breeding near Barnsley: This project is focusing on de-silting an outflow ditch and relocating the silt to the reserves mere, improving waterflow and boosting the food chain in the mere, benefiting passage waders and wintering waterfowl.

Rush pasture in the Upper Tawe Valley: Bringing together five sites forming a backbone along the Tawe Valley, creating a living landscape. This project safeguards key Rush Pasture sites through actively managing sites through grazing, restoring 25 hectares.

Norfolk Breck Heath Land Restoration for butterflies and moths: The project is restoring heath land across 15 ecologically linked Norfolk Breckland sites to conserve 15 UKBAP Priority Species of Lepidoptera.



The notes below give further information on the Acts and orders mentioned in paragraph 4.6.

(i) Cm. 2915.

(ii) 'Paragraph 4' (Regulation 33 (4) (a,b,d-g)) Reads as follows:

The notices and orders mentioned...are

- a) a works notice served under Section 46A of the Control of Pollution Act 1974;
- b) A Prohibition notice served under section 14 of the Environmental Protection Act 1990;
- d) An order under section 26 of the Environmental Protection Act 1990;
- e) A remediation notice served under section 78E of the Environmental Protection Act 1990;
- f) An enforcement notice served under section 90B of the Water Resources Act 1991
- g) A works notice served under section 161A of the Water Resources Act 1991

(iii) 1949 c. 97; section 16 was amended by the Nature Conservancy Council Act 1973 (c.54), sections 1(1)(b), (7) and Schedule 1, paragraph 1. References to the Nature Conservancy Council are references to the bodies mentioned in section 15A of the National Parks and Access to the Countryside Act 1949 which was inserted by the Environmental Protection Act 1990 (c.43), section 132 and Schedule 9, paragraphs 1(1), (2), and amended by the Countryside and Rights of Way Act 2000 (c.37) section 73(4) and Schedule 8, paragraph 1(a) and the Natural Heritage (Scotland) Act 1991 (c.28) section 4(10) and Schedule 2, paragraphs 1(1), (2).

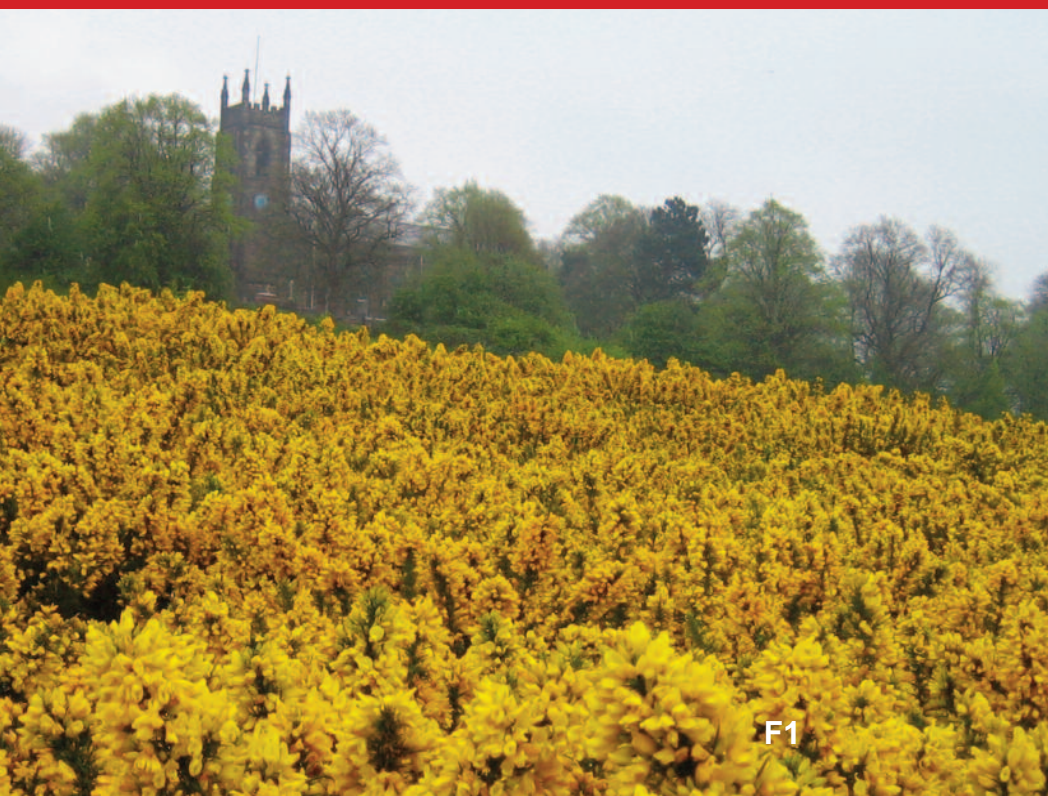
(iv) 1968 c.41; section 15 was amended by the Nature Conservancy Act 1973, section 1 and Schedule 1, paragraph 9, the Wildlife and Countryside Act 1981(c.69), sections 72(8), 73 and Schedule 17, Part I, the Environmental Protection Act 1990, sections 132, 162(2) and Schedule 9 paragraphs 4(1), 2(a) and Schedule 16, Part VI, the Countryside and Rights of Way Act 2000, section 73(4) and Schedule 8, paragraph 1(c)(i) and the Natural Heritage (Scotland) Act 1991, section 4 (10) and Schedule 2, paragraph 3.

(v) 1981 c.69; sections 28J and 28K were inserted by the Countryside and Rights of Way Act 2000, section 75(1) and Schedule 9, paragraph 1.



F - Object E Guidance

Ensuring **Maintenance, Repair or Restoration of Religious or Historical Building** projects are compliant under the Landfill Communities Fund



January 2012

F) Object E Guidance

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2	The Object E Regulations	F3
3	Applying the Regulations	F4
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1 Registering an Object E project – Restoration of Religious Buildings and Buildings of Historical or Architectural Interest

- 1.1 This document provides guidance on the Regulations governing the types of Restoring Places of Worship or Buildings or Structures of Architectural Interest projects that can be undertaken with the Landfill Communities Fund (LCF), initially outlining the governing regulations and then provides guidance on what these regulations mean in practice. Examples are then listed to give illustrations of compliant projects.

2 The Object E Regulations

- 2.1 The Landfill Tax Regulations (Regulations) governing Object E are as follows:

“The Objects of a body are approved objects insofar as they are any of the following objects:”

(Regulation 33(2)(e)) “Where it is for the protection of the environment the maintenance, repair or restoration of a building or other structure which-

- (i) is a place of religious worship or of historic or architectural interest,
- (ii) is open to the public, and
- (iii) is situated in the vicinity of a landfill site

provided the conditions in paragraph (6) below are satisfied;”

(6) “The conditions mentioned...above are-...

- (b) ...that the ... building or structure (as the case may be) is not to be operated with a view to profit”



3 Applying the Regulations

3.1 Works to maintain, repair or restore the building or structure.

3.1.1 The work undertaken under Object E of the LCF must be either looking to maintain, repair or restore the building or structure in question. This essentially covers all activities except 'new works'.

3.1.2 For example, if you are looking to add an extension or additional features to the building or structure then the aim of the project may be better defined as 'looking to provide, maintain or improve a public amenity' (i.e. Object D). If you have any queries about which object is most appropriate for your proposal, please get in touch with ENTRUST directly.

3.2 Building or structure must be a place of worship or be confirmed as being of historical or architectural interest.

3.2.1 The building or structure must be confirmed as being of historical or architectural interest or be considered a place of worship. A place of worship is usually defined as a building or structure that is exempt from business rates by virtue of Schedule 5 Case 11 of the Local Government Finance Act 1988 or has a certificate issued under the Places of Religious Worship Act 1855 to confirm it is a place of worship. The definition of a building or structure that is of historical or architectural interest is one that has listed status (or equivalent) or has county archivist or local historian support.



3.3 The project must be open to the public

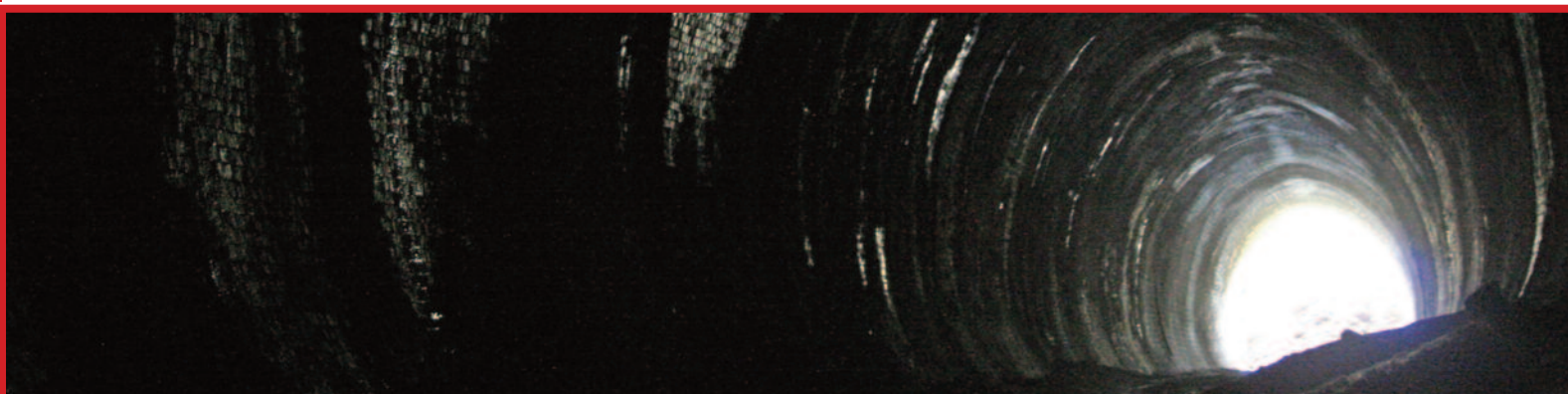
3.3.1 The project should be open to the general public and the public should benefit from the project going ahead. Acknowledging the varying availability and opening times of this type of project, ENTRUST simply looks to ensure that the building or structure is open an appropriate amount of time as would be expected from similar buildings or structures. If you have any queries regarding this, please contact the ENTRUST Registrations Department.

3.4 The project must be in the vicinity of a landfill site

- 3.4.1** Object E projects must take place in the vicinity of a licensed landfill site, which is interpreted as being within ten miles of a site. Whilst the application form asks for a postcode of the project site, ENTRUST understands that in some instances a grid reference or map showing the ten mile radius may be more appropriate. If you can provide evidence that the project site is adversely impacted by a licensed landfill site that is further than ten miles away, this can be deemed eligible.
- 3.4.2** A 'licensed' landfill site is one where there is a licence, resolution or permit authorising disposals of materials as waste in or on the land. Some inactive landfill sites are still 'licensed'. The details of landfill sites can be accessed either on the HMRC website (www.hmrc.gov.uk) or through the relevant authority (e.g. The Environment Agency www.environmentagency.gov.uk). You will need to ensure that the landfill site has a licence in place for the project to be compliant. Please contact ENTRUST if you have any queries on this point.
- 3.4.3** It is important to note that the closest applicable landfill site does not have to be owned by the LO contributing to your project (although some funders will require that it is). As long as some part of your project site is within the vicinity of a landfill site, it is deemed to be acceptable.

3.5 The project must be looking to directly maintain, repair or restore the building or structure

- 3.5.1** The works you propose must fall under one or more of these headings and be targeted on a specific building or structure. For a number of reasons, including the requirement to maintain an audit trail and statistics provision, single project applications that cover multiple buildings or structures are not able to be registered.
- 3.5.2** The focus of the project must be to undertake 'direct project works' on the amenity in question. ENTRUST will review applications to ensure that every proposal concentrates on direct project works and has acceptable additional associated costs.
- 3.5.3** '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.
- 3.5.4** 'Additional associated 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 approve projects that have excessive additional associated costs (i.e. more than 10% of the total project expenditure).





4 Project Examples

Restoration of stonework at a church in Carrington - This church has Grade II listed status and is accessible to the general public and so this is a compliant project under the Landfill Tax Regulations 1996.

Restoration to restore the exterior of a synagogue in London - As the synagogue is a registered place of worship and the project involves physical works to the structure of the building, the project can be registered under the Landfill Tax Regulations 1996. The LCF funding was used as a contribution to the external fabric repairs.

Repair of historic organ - Grade I listed church, the project involves physical works to the structure, which is open to the public and is therefore a compliant project.

Provision of a disabled toilet with disabled access within the church - Although no new works are allowed (for example an extension) under this object, as these works are required to maintain the building to current standards this is a compliant project.



G - Review Panel

Terms of Reference



January 2012

G) Review Panel Terms of Reference

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1 Introduction

1.1 The purpose of the Review Panel is to ensure that ENTRUST applies consistent standards, when reviewing decisions to reject:

- Enrolment; and
- Project applications.

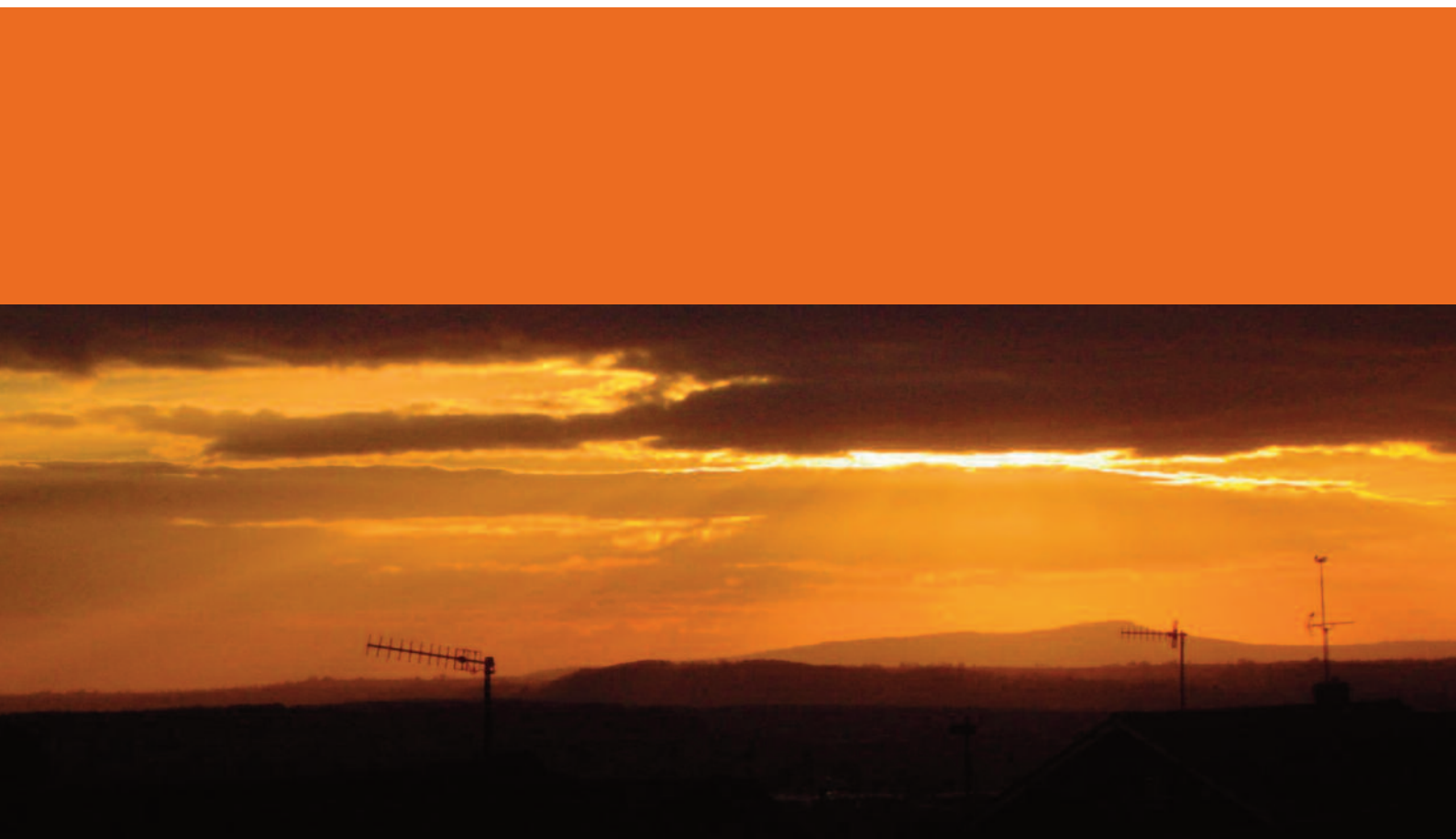
2 Members

2.1 The Review Panel will be drawn from ENTRUST and HM Revenue & Customs (HMRC) staff to ensure that there is a balance of functional skills and experience. The Panel's quorum is three members, to be drawn from the under mentioned personnel. It should also be noted that the Senior Registrar will attend the meeting in an advisory capacity, and will be assisted by a Registrations team member taking minutes.

- Head of Operations (Chair)
- Compliance Manager
- Regulations Manager
- Compliance Inspector
- HMRC representative

3 Frequency of Meetings

3.1 The Review Panel will normally and where possible meet in the month following notification from the Senior Registrar that an application for enrolment or project approval has been rejected in the preceding month.





4 Process

- 4.1 The process will be facilitated through the review of refused applications. Attached at Appendix A is a flowchart of the process. In preparing for a meeting the Senior Registrar will provide the Review Panel with the application details five working days in advance of a meeting explaining why an enrolment or project application did not comply with the Regulations.
- 4.2 The details will contain the necessary information to enable the Review Panel to assess the application on an individual basis. Additionally, EBs will be provided with the opportunity to attend the meeting and explain their application in more detail. However, they will not take part in the decision making process.
- 4.3 The decision to reject or accept an application will be determined by consensus and voting. If necessary the Chairman retains a casting vote. As the Review Panel's decision is final, a full and clear audit trail must be maintained. The trail must fully document the decision making process and also record any recommendations to change the Regulations and/or guidance.
- 4.4 The responsibility for the delivery of any actions that may arise at the meeting will rest with the relevant Head of Department. The Business Manager will undertake all co-ordination and communication with EBs relating to the establishment and decisions of the Review Panel. EBs will be informed in writing of the Panel's decision within five working days.

5 Changes to Regulation and Guidance

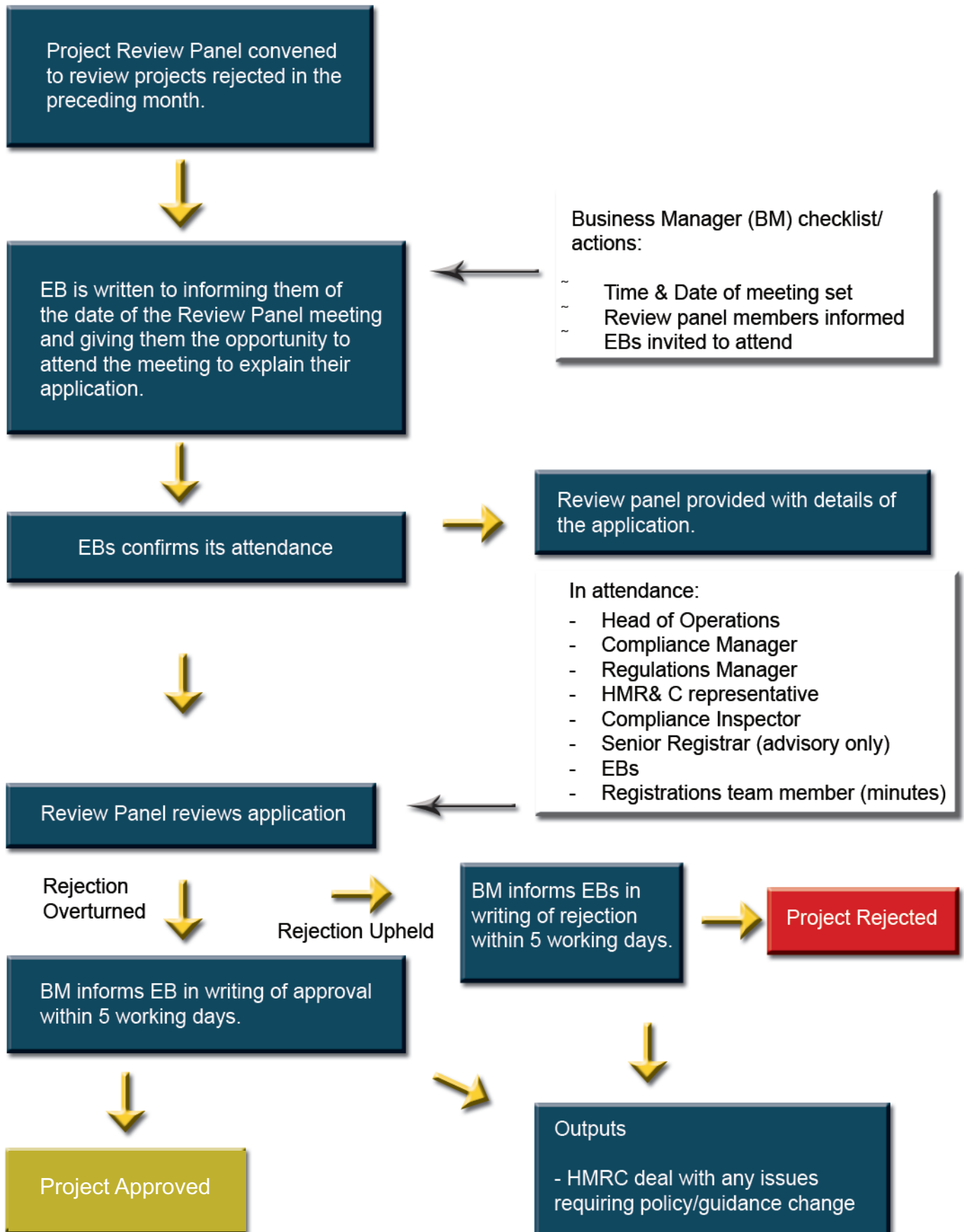
- 5.1 Where the Review Panel decision leads to a recommendation to amend the Regulations and/or a modification to existing guidance, this will be referred to HMRC for their necessary action.

6 Contact

- 6.1 The responsibility for maintaining and updating this policy rests with the Senior Registrar.

Photos: ENTRUST, and by kind permission of Grantscape, SITA Trust, and WREN.

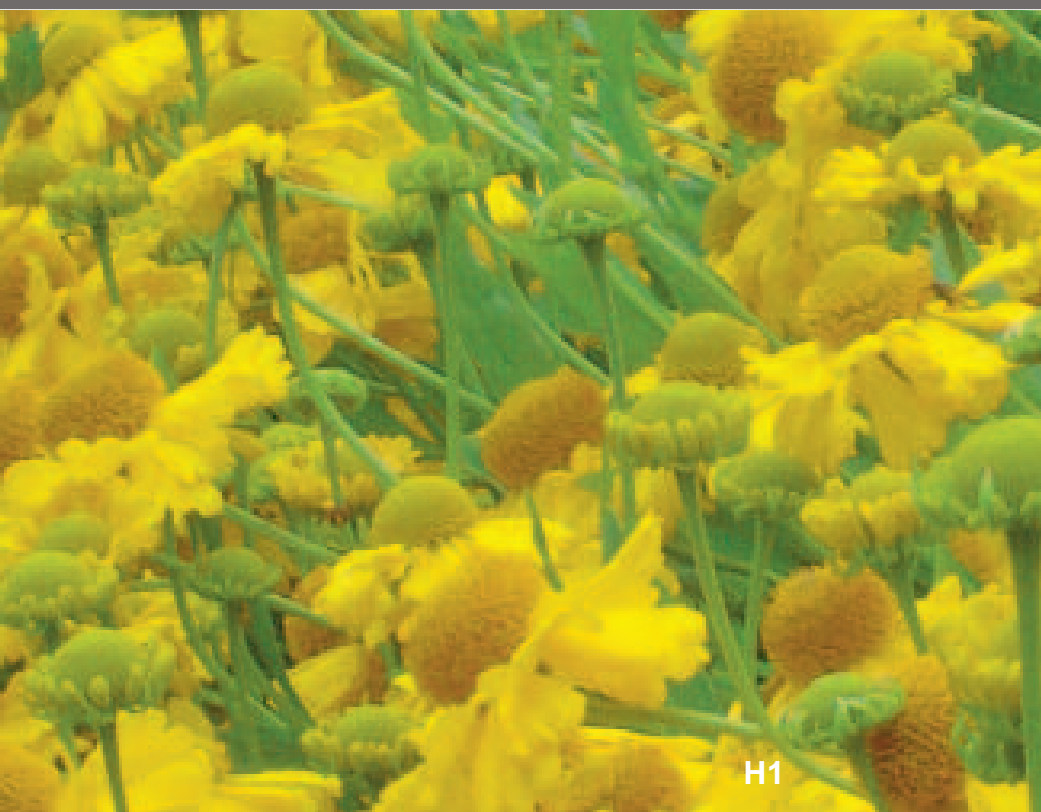
REVIEW PANEL PROCESS





H - The Benefit Rules

The Regulations covering the restriction of benefit under the Landfill Communities Fund and Contributing Third Parties



H) The Benefit Rules

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1 Who is prohibited from benefit under the LCF?	H3
2 The Governing Regulations	H3
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1 Who is prohibited from benefit under the Landfill Communities Fund (LCF)?

- 1.1 The Landfill Tax Regulations governing the LCF prohibit benefit to a number of different stakeholders. As detailed below, 'benefit' can refer to the contributing Landfill Operator (LO) or the Contributing Third Party (CTP) and on a project level this can include individuals or groups such as contractors or the landowner of a project who stands to benefit from the project going ahead.

2 The Governing Regulations

- 2.1 What the regulations say:

33 (1) A body is eligible to be approved if –

(e) it is precluded from applying any of its funds for the benefit of any of the persons –

(i) who have made qualifying contributions to it, or

(ii) who were a Contributing Third Party in relation to such contributions,

except that such persons may benefit where they belong to a class of persons that benefits generally.

33A (1) An approved body shall –

(c) not apply any of its funds for the benefit of any of the persons who have made qualifying contributions to it or who were Contributing Third Parties in relation to such contributions (except to the extent that they benefit by virtue of belonging to a class of persons that benefits generally).



3.1 Contributors

3.1.1 An Environmental Body's (EBs) contributors are defined as follows:

- LOs who contributed LCF monies to it directly;
- LOs who contributed LCF monies to another EB, from whom that money has now been received (transferred); and
- Individuals or organisations that voluntarily pay the LO up to 10% of the qualifying contribution, to make it 'cost neutral' to the LO ('CTPs').

3.1.2 Once an LO or CTP has been a contributor to an EB, it will always be regarded as a contributor. An EB must consider whether any of its projects, at any time, benefit these individuals or organisations however long ago their donation was made.

3.2 Definition of a 'Contributing Third Party'

3.2.1 A CTP is the individual(s), organisation or group of organisations that voluntarily pay the LO to mitigate the loss as explained in the paragraph below.

3.2.2 The LO does not receive the same reduction on their tax bill as the amount they contribute to the LCF. For each contribution given to an EB, the LO receives tax relief of 90%. This means the LO is left with a 10% cost of each contribution they make.

3.2.3 In some cases the LO will absorb this loss themselves. Otherwise, and often with the major contributors to the LCF (for whom the 10% difference can be a significant amount of money), the LO requires a CTP to provide the 10% to make the transaction 'cost neutral'. Often the LO or Distributive Environmental Bodies (DEBs) requires the CTP to be paid before LCF monies are given to a project.

3.2.4 This CTP then provides the required amount to the LO, covering the whole cost, or contributing towards the cost of LCF involvement.

3.2.5 If a LO requires a CTP to provide funds before releasing any LCF monies there are three requirements to be followed:

- The CTP amount cannot be previously obtained LCF monies. LCF monies cannot be used to provide the CTP amount. Organisations involved should be able to demonstrate clearly that the money being provided is not derived from LCF funds.

If the CTP is enrolled as an EB, extra care must be taken to ensure that the amount being sent to the LO is distinct from the LCF activities, whether through separate accounting or proof of origin via non LCF funding.

- The CTP amount should pass directly to the relevant LO to avoid any confusion with LCF monies.
- The CTP cannot derive a unique benefit from the project going ahead. As is outlined below, the definition of 'benefit' can have a very wide application, so it is unlikely that an EB can be the CTP.

3.3 What counts as a benefit to a LO or CTP?

A benefit is any material or financial advantage, asset, gain or benefit in kind.

3.3.1 The basic 'no benefit' rule

If an organisation wishes to enrol as an EB, its internal rules must preclude it from using its funds for the benefit of contributors. Once enrolled, EBs must not use their funds to uniquely benefit their contributors. ENTRUST interprets the term 'funds' to mean all of an EB's money, not just LCF monies.

3.3.2 Funds can be used to benefit 'a class of persons that benefits generally'

A class of persons is a group with a common function. If a contributor derives benefit as part of a class, ENTRUST aims to ensure that the benefit is not disproportionately in favour of the contributor. Ideally, the benefit should be shared equally amongst all the beneficiaries. If there were a small group of beneficiaries, ENTRUST might consider that the benefits were specific to that group rather than of a general nature.



3.4 Benefit Examples

Example 1 – Shared Benefit and the 'village hall principle'

A village hall is run by a management committee, which is not an enrolled EB. The hall has a number of user groups from the local community. The management committee approach an EB to fund work to repair the hall roof. In this case the village hall committee could provide the CTP payment, as there are many users of the village hall and therefore the benefit is widely and generally shared. However if the management committee had use of the hall on preferential terms (such as access outside normal hours) there could be a benefit contrary to the Regulations.

Example 2 – Unique benefit

A not-for-profit community centre employs a private catering contractor to undertake catering services on the site. The community hall wishes to expand its kitchen facilities. The catering contractor wishes to be the CTP but this will be interpreted as a unique benefit as resulting from the project they will experience an increase in business due to the improvements the project will provide.

4 Indirect financial benefit

- 4.1** An enrolled EB must not support or carry out works that are a condition of a contributor's contract, statutory duty or planning consent. Nor must it provide a market, commercial or other financial advantage to a contributor.

Example

An EBs project restores a landfill site by planting grass and trees. When the landfill site was first being planned, the local authority placed planning conditions on the LO to restore the trees and grass. By the EB undertaking the planting it is relinquishing the LO of the need to and this benefits the LO as the LO does not now need to fund this work. The contributor would be considered as having derived a unique benefit from the EBs activities and expenditure therefore was non-compliant.

5 Intellectual property

- 5.1** Where an EB supports a project that has developed new or existing Intellectual Property Rights (IPR), or an innovative methodology, that methodology or IPR must not benefit the contributor unless a wide audience generally enjoys the benefit.

Example

Under Object A, a LO provides LCF monies to an EB to allow the pilot of a new method of pest control on landfill sites in order to remediate land which can not currently be used due to a ceased activity. The method proves to be a success and very beneficial to the contributing landfill site. ENTRUST would ensure that the results of the LCF funded pilot study are widely disseminated and available to all to remove any commercial advantage the contributor may gain.

6 Benefit from assets

- 6.1** Capital assets paid for by an EB should not be used for a contributors benefit or given to the contributor, unless the contributor pays the open market rate for them.
- 6.2** If a project involves providing a contributor with an intangible asset such as staff training, the contributor must pay the market price for it. Where a project has the effect of increasing the value of adjacent land owned by a contributor, the contributor would need to pay the enhanced element of the land value to the EB so that no benefit could be inferred.

Example

A LO provides LCF monies to an EB to allow the development of a new composting technology, including the installation of a composter on the landfill site. The new composter is found to be successful. At the end of the trial, the ownership of the composter cannot simply revert to the LO. The asset must be independently valued before purchase to ensure that the LO has not benefited uniquely from the project going ahead.

7 Income generated from a project

- 7.1 When an EB engages a contributor to undertake project works (please see below about making payments to contributors), the EB must ensure that any income from the project is returned to the EB. This money must be used on further LCF projects. The contributor must in no circumstances retain it.
- 7.2 An EB proposing to ask a contributor to undertake works on a project is advised to discuss this first with ENTRUST Compliance Department.



8 Making payments to contributors at prime cost

- 8.1 Under certain circumstances, an EB may be able to make payments to its contributors without it being construed as a benefit. This is usually only acceptable in very straightforward and transparent cases.
- 8.2 Contributors may provide goods or services to EBs in return for payment only when:
- It is clear that payment merely passes through the contributors hands as reimbursement for additional direct costs incurred solely in providing those goods and services (for example if the contributor incurs expenditure for goods or services, pays the providers, then passes the invoices to the EB for reimbursement); and
 - The payment is at 'prime cost' and there is no possible element of profit or other commercial benefit.

8.3 Prime cost = direct material + direct labour + direct expenses

Prime cost excludes any contribution to profit. It also excludes any contribution to 'fixed costs' i.e. costs incurred whether or not the goods and services were provided to the EB. Fixed costs include overheads and administration. Fixed costs may also include direct labour, unless the labour was employed exclusively to provide goods or services and would not otherwise have been a cost to the contributor.

- 8.4 ENTRUST strongly recommends that EBs involved agree a formula for establishing prime cost before funding any project that involves payments to a contributor and this is discussed with ENTRUST.

- 9.1** Accounting arrangements when the contributor is involved in the project must be transparent. ENTRUST would need to see the budget and accounts of the contributor to ensure they had not received a benefit. In some cases, therefore, EBs may need to obtain agreements from contributors that they will disclose relevant management accounts to ENTRUST to demonstrate that no improper benefit has arisen.
- 9.2** ENTRUST recognises that arrangements for transparency can occasionally cause practical difficulties when small payments are involved. EBs who face genuine difficulties in meeting the obligations described here should contact ENTRUST's Compliance Department as soon as they come to light.

10 Publicity

- 10.1** Simply acknowledging the support of your contributors on plaques, in publications and so on is not regarded as a benefit.

11 Monitoring unique benefit to Contributing Third Parties

- 11.1** As benefit can have a very wide application, and an EB can have many CTPs which have contributed to it, assessing unique benefit may be difficult. With this in mind, the following measures can be undertaken by EBs to increase assurance that there is no unique benefit to CTPs:
- A signed declaration from the project applicant that there will be no unique benefit;
 - Internal EB checks to determine if there is a direct link between the project and the CTP which could result in unique benefit;
 - Internal EB checks cross referencing registers of CTPs;
 - Checks of invoices and payment claims against listings of CTPs; and
 - A signed declaration from the CTP stating that they will have no unique benefit.

This list is not exhaustive and there may be other measures which are suitable for the EB to undertake to ensure that CTPs do not receive a benefit from the projects which the EB registers.





I - Accreditation and Small Grants Scheme



I) **Accredited Environmental Bodies**

	Contents	Page
1	What is Accreditation	13
2	What are the benefits of Accreditation	13
3	How does my EB become Accredited	13
4	Small Grants Scheme	14

1 What is Accreditation?

- 1.1 The EB Accreditation process has been introduced by ENTRUST as a method of identifying EBs who meet certain standards. It establishes that the EB is effectively managed and adheres to standards set by ENTRUST.
- 1.2 The EB Accreditation process helps EBs comply with the Regulations and ensure that organisations adopt a best practice framework within which to operate. This process also ensures that EBs retain the flexibility to design and operate governance processes.
- 1.3 The EB will be subject to an annual Accreditation Review to ensure that the correct processes remain in place for the EB to retain Accredited Status.
- 1.4 All EBs are welcomed to register their interest in the Accreditation process, a list of Accredited EBs can be found on the Accreditation pages of our website.

2 What are the benefits of Accreditation?

- 2.1 There are a number of advantages to becoming accredited, here are just a few:
- Automatic approval of projects submitted online using an abbreviated project registration form to reduce administrative burden;
 - Lighter regulatory touch;
 - Landfill Operators and other EBs can donate with an increased level of confidence and knowledge that the organisation is well run and properly structured;
 - Allow ENTRUST to audit the performance of the LCF with the knowledge that funds are managed by a robust and well controlled organisation;
 - An intangible benefit is the provision of a free review by an audit professional, including recommendations and advice on Regulations, ENTRUST Guidance and best practice; and
 - Opportunity for the EB to use the LCF Small Grants Scheme.
- 2.2 ENTRUST will also continue to develop and build upon the benefits that EB Accreditation provides.

3 How does my EB become Accredited?

- 3.1 The Accreditation process involves a detailed review of how the EB is set up and the systems and procedures in place. The review is performed during an ENTRUST Accreditation Inspection, and is broken down into four main modules as follows:-
- Governance and Management;
 - LCF Funding Arrangements;
 - Project Compliance; and
 - EB Systems and Operations.
- 3.2 When the Compliance Manager is satisfied that the EB is at an appropriate standard to gain Accredited status, they will submit a report and recommendation to the ENTRUST Board.
- 3.3 If you are interested in becoming an Accredited EB, please complete the Expression of Interest Form which can be located on the Accreditation pages of our website and forward to The Compliance Manager, 60 Holly Walk, Leamington Spa, Warwickshire, CV32 4JE or by email to andrewwood@entrust.org.uk or mikeholland@entrust.org.uk

4 Small Grants Scheme

4.1 Registering for the Small Grants Scheme

- 4.1.1** This guidance provides assistance to Accredited EBs who wish to register a Small Grants Scheme (SGS) which enables a number of small grants (up to £5,000 each) to be allocated under a single registration for each year to a maximum of £100,000 or 5% of their LCF income in total per year.

4.2 Small Grants Scheme Overview

- 4.2.1** Currently, the SGS is in a trial period with Accredited EBs and relates to Object D only. The process will be reviewed in early 2010/2011.
- 4.2.2** The SGS allows groups or smaller EBs to apply to Accredited EBs participating in the scheme for funding for small grants.
- 4.2.3** All of the existing conditions and guidelines issued by ENTRUST must also be adhered to for the SGS.
- 4.2.4** The Accredited EB must register its SGS in advance of entering into any contract or obligation which imposes a liability on an EB to give a grant. If the project is not approved then ENTRUST will deem monies spent prior to its approval as having been spent in breach of the Regulations.
- 4.2.5** It is important that all grants made under the SGS are small and discrete and 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 development would not be eligible under the SGS.
- 4.2.6** The aim of the SGS is to reduce the administrative burden of applying for and giving small grants. The rules of the SGS are as follows:
- Each individual grant will be capped at £5,000. This is the maximum total cost of the venture;
 - The SGS can only be used for small, discrete projects; and
 - Each participating Accredited EB can only allocate a maximum of £100,000 or 5% of their LCF income in the previous year per accounting year (01 April – 31 March) to the registered SGS per annum.



4.3 Grants that can be applied for under the SGS

4.3.1 Applications can be made for up to £5,000 for ventures which have the primary intent of providing, maintaining or improving public amenities.

4.3.2 Grants will only be given for sites that are within the vicinity of a registered landfill site.

4.4 Ineligible Grants

4.4.1 Accredited EBs cannot make grants under the SGS for the following:

- Core costs of an organisation;
- Retrospective funding – work that has already taken place before any grant is awarded;
- Schemes with a total cost of more than £5,000;
- Schemes that do not meet the funding criteria;
- Areas that are not open to the public;
- Grants that form part of a larger project; and
- Schemes which will not be completed within 12 months of the grant being awarded.



4.5 Record keeping

4.5.1 Accredited EBs registering and approving a SGS will be required to keep records of all aspects of the grants that are required on the registration form. However, in order to reduce the administrative burden placed on EBs, ENTRUST will only require information to be provided to them annually by way of the statutory annual return and during the annual accreditation review, unless there are special circumstances. The key areas that ENTRUST require information for each grant are as follows:

- The name of the organisation receiving the grant;
- A brief description of the works to be undertaken;
- Nearest postcode to the site;
- The month/year of expenditure;
- The value of the grant;
- Value for money questions; and
- Youth volunteering questions.

4.5.2 It should be noted that ENTRUST can also request to see these records at any time. For this reason, it is recommended that EBs keep these records up to date which will also reduce the administrative burden on them at year end.

4.6 Object D Guidance

4.6.1 Please also refer to the ENTRUST Guidance Manual D - Object D Guidance for full details of Object D.

4.7 Compliant Projects

4.7.1 The Accredited EBs who have registered a SGS are responsible for ensuring awarded grants are compliant. ENTRUST will also monitor the performance of the SGS through annual accreditation reviews with the EB.

4.7.2 The Regulations and conditions placed on EBs must be adhered to within the SGS. Any non compliance could lead to removal of accredited status and ultimately revocation of the EB.

4.7.3 Accredited EBs are required to register and approve a new SGS project every financial year (from 01 April annually), should they wish to continue the SGS.

All of these project images have been kindly supplied by the following accredited EBs.

1. GrantScape

2. Staffordshire Environmental Fund

3. SITA Trust

4. Fife Environment Trust

5. Perth & Kinross Quality of Life Trust



Guidance Manual Glossary



Name	Abbreviation	Concept
Accredited EB		Accreditation is a status awarded by the ENTRUST Board of Directors to EBs that demonstrate the highest levels of governance, best practice and compliance. Accredited EBs can approve their own projects and have lighter touch Regulation.
Additional associated cost		Includes elements such as 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.
Asset		ENTRUST considers an asset to be any LCF funded item of economic value to an organisation or individual, especially that which could be converted to 'income'. Examples are: <ul style="list-style-type: none"> • Tangible fixed assets e.g. land, buildings, machinery and footpaths (N.B. includes infrastructure assets); • Intangible fixed assets e.g. Intellectual Property Rights; and • Current assets e.g. cash, investments and securities.
Asset register		An asset register is any document or record that contains detailed information about assets acquired using LCF monies. This can be something as simple as an excel spreadsheet.
Association of Distributive and Environmental Bodies	ADEB	ADEB is the representative body for practitioners within the LCF and has two levels of membership - full members are DEBs that pay the ENTRUST levy and associate members are other EBs that may join.
Benefit		A benefit is any material or financial advantage, asset, gain or benefit in kind. This can refer to the contributing LO or the CTP and on a project level can include individuals or groups such as contractors or landowners of projects who may gain from a project going ahead.
Building or structure of historical or architectural importance		Can be demonstrated to have historical or architectural importance, for example listed status or support from a County architect.
Clawback		Where HMRC are not satisfied that an EBs expenditure is compliant, when an EB breaches a condition or when an EB is revoked, HMRC have the power to recover the tax credit claimed by the LO against their qualifying contribution.
Compliant expenditure		Expenditure that has been made in accordance with the requirements of the Regulations. That is, expenditure that supports one or more of the approved objects or an EB's running costs.
Connected person/party		Any individual or organisation that is related or linked to the EB. This may include any director, partner, shareholder, manager or other employee or employer. Relations and links can be both through personal or business connections, for example a spouse, civil partner, relative or persons connected by virtue of their being a trustee.

Name	Abbreviation	Concept
Contributing Third Party	CTP	A person, an organisation or a group that reimburses the LO, some or all of the difference between the LO's contribution and the tax credit it receives, in order to prevent the LO from being out of pocket for making the contribution to the EB.
Contribution		Also known as a qualifying contribution. Money donated to an EB by an LO under the LCF scheme, together with any income derived from such a donation. When an EB receives a contribution from a LO, it must complete and return a Form 3 to ENTRUST within seven days of the receipt of the contribution.
Derived income		Any income generated by LCF monies e.g. bank interest, proceeds from the sale of an LCF asset, rent or admission charges.
Direct project works		Works that are solely attributable to the delivery of the project including contractor costs, legal fees, volunteer management, signage and other materials that will be kept on site. These must be necessary for the physical delivery of the project.
Distributive EB	DEB	Bodies that distribute funds on behalf of an LO or multiple LOs. All DEBs are also EBs and the term DEB is not reflected in the Regulations.
Enforcement sanctions		Where ENTRUST considers that an EB's actions and responses suggest that regulatory breaches are evident or could become evident, a series of events will take place under the general heading of the Enforcement Process.
Enrolment		The process by which an organisation can become an EB with ENTRUST, thereby enabling it to receive and spend LCF monies on projects that are compliant with the Regulations.
ENTRUST		The regulator of the LCF.
Environmental Body	EB	An organisation enrolled by ENTRUST, a status that allows it to receive, distribute and spend LCF monies.
Expenditure		LCF monies spent by an EB. For the expenditure to be compliant it must be spent on either an approved object or the EBs running costs.
Form 1		For an organisation applying to enrol as an Environmental Body with ENTRUST.
Form 2		For an EB applying to register a project with ENTRUST.
Form 2 - Appendix		The object specific appendix is required with the Form 2 from any EB who is registering a project.

Name	Abbreviation	Concept
Form 3		A statutory requirement from an EB which has received LCF monies direct from a LO - sent to ENTRUST within seven days of receipt of the monies.
Form 4		A statutory annual return required from every EB, including those with nil balances.
Form 7		A statutory requirement for an EB which has transferred LCF monies to another EB - sent to ENTRUST within seven days of the transfer of the monies.
Funding offer		The legal contract under which a project facilitating EB can receive LCF monies from another EB (often a DEB) or the LO.
Her Majesty's Revenue & Customs	HMRC	Collects Landfill Tax and assesses LOs claims for tax credit. Also responsible for approving and overseeing ENTRUST and taking final enforcement sanctions.
Income derived		See Derived income
In the vicinity of a landfill site		Object D, DA and E projects must be close to a landfill site and ENTRUST has interpreted this to mean within a ten mile radius of the landfill site. However, if evidence can be provided that the project is adversely impacted by a landfill site that is further than ten miles away, this can be deemed compliant.
Intellectual Property Rights	IPR	Right to ownership of intellectual properties, which are intangible such as copyright, patents and designs. This includes any intellectual output or associated skills that have a value.
Landfill Communities Fund	LCF	An innovative tax credit scheme that enables LOs to contribute a portion of the monies paid as Landfill Tax to enrolled EBs for the purposes of ultimately carrying out projects in accordance with the Landfill Tax Regulations 1996, that benefit the communities located in the vicinity of landfill sites.
Landfill Operator	LO	Party responsible for payment of Landfill Tax to HMRC on waste deposited at its landfill sites.
Landfill site		A site where there is a licence or resolution authorising disposals of materials as waste in or on the land under Part II of the Environmental Protection Act 1990 in Great Britain or Part II of the Pollution Control and Local Government (Northern Ireland) Order 1978. For the purposes of LCF, such a site must be owned or operated by a person registered to pay Landfill Tax.
Landfill tax		The tax paid by LOs on waste deposited at their landfill sites.

Name	Abbreviation	Concept
Landfill Tax Credit Scheme	LTCS	The old name for the scheme – now known as the LCF.
Landfill Tax Regulations (1996)		The Regulations laid down by Parliament for the structure and management of the LCF.
LCF monies		Money donated by a LO to an EB under the LCF scheme.
Local authority		Local government administrative body, such as a local council or parish council.
Main contact		A person nominated by the EB to act as the main contact for LCF purposes. Generally, ENTRUST will contact the main contact in the first instance for any query it may have.
Object A		Projects that involve the reclamation, remediation or restoration of land, the use of which has been prevented by some previous activity.
Object B		Projects that either: <ul style="list-style-type: none"> • reduce or prevent any potential for pollution; or • remedies or mitigates the effects of pollution on land where that pollution has been caused by an activity that has now ceased.
Object C		Projects that encourage sustainable waste management through research, education or information dissemination. LCF monies can no longer be spent on these projects unless there is a written agreement in place.
Object CC		Projects that encourage the development of products from waste or markets for recycled products through research, education or information dissemination. LCF monies can no longer be spent on these projects unless there is a written agreement in place.
Object D		Projects that provide, maintain or improve public parks or other public amenities in the vicinity of a landfill site. To qualify, the public park, public amenity and any organisations running them must not operate for the purpose of making or distributing a profit.
Object DA		Projects that protect the environment by conserving identified species or habitats. The works must actually take place where the species or habitat naturally occurs.

Name	Abbreviation	Concept
Object E		Projects that maintain, repair or restore buildings that are either for religious worship or of architectural or historical interest. The building must be in the vicinity of a landfill site where neither the building nor the organisation running it operate for the purpose of making or distributing profit.
Object F		Projects that fund the cost of administrative, financial or other similar services supplied to other EBs.
Place of worship		Usually defined as a building or structure that is exempt from business rates by virtue of Schedule 5 Case 11 of the Local Government Finance Act 1988 or has a certificate issued under the Places of Religious Worship Act 1855 to confirm it is a place of worship.
Project		Works (or a proposal of work) by a project applicant to seek LCF monies.
Project applicant		People or organisations that wish to undertake a project and seek money through LCF in support of it, either by registering their own project, or by <u>having EBs register projects on their behalf</u> .
Project application		The process by which EBs submit project details to ENTRUST for an initial compliance check. This does not represent approval by ENTRUST.
Project promoter		Project promoters enter the scheme as project applicants. Successful project promoters may become EBs in their own right, while others work under a contract to an EB (or DEB), which retains responsibility for compliance.
Project approval		The approval of a project application by ENTRUST, confirming that the project fits one of the approved objects.
Public access		<p>Object D and E projects must be open to the public.</p> <p>Object D: generally, a park or public amenity must be available for more than four evenings or two days a week - if it was available for less than 104 days in any one year it would not be considered sufficiently open to the general public to qualify.</p> <p>Object E: a religious building or structure must be open for an appropriate amount of time as would be expected from similar buildings or structures, otherwise it would not be sufficiently open to the general public to qualify.</p>
Qualifying contribution		See the definition for 'contribution'.
Registering a project		See the definition for 'project registration'.

Name	Abbreviation	Concept
Regulations		The Landfill Tax Regulations 1996 (S.I. 1996/1527) and as amended by S.I 1999/3270, 2002/1, 2003/605, 2003/2313, 2005/729, 2007/965, 2008/770, 2008/1482, 2009/1930.
Regulatory body		The regulatory body is ENTRUST.
Review Panel		The Review Panel, whose purpose is to ensure that ENTRUST applies consistent standards when deciding to reject enrolment and project registration applications.
Revocation		'Voluntary revocation' is the process by which an EB chooses to de-register as an EB from the ENTRUST roll of EBs. 'Compulsory revocation' is when HMRC exercises the enforcement sanction of de-registering an EB for one or more serious breaches, or a number of less serious breaches of the Regulations.
Small Grants Scheme	SGS	Under this scheme, accredited EBs can register a single umbrella project under which they can then register smaller projects (with individual project value not exceeding £5,000 and total project expenditure not exceeding £100,000 or 5% of the accredited EBs LCF income in the previous year per annum) with reduced administration.
Tax credit		The amount of money that the LO is able to deduct from its Landfill Tax bill as a direct result of donating to an EB.
Transfer		The transfer of LCF monies between EBs, typically a payment from a DEB to an EB. This should be reported to ENTRUST via the Form 7 within seven days of the transfer being made.
Vicinity of a landfill site		Object D and E projects must take place in the vicinity of a landfill site, which is interpreted as being within ten miles of a site. However, this ten mile requirement can be relaxed if evidence can be provided that the project site has been adversely affected by the landfill site.