



## The Environmental Body (EB) Guidance Manual

### Contents

This manual is divided into the following sections. You can either read through the full document sequentially or click on the title of a specific section to go straight to that section.

1. [Introduction to the Landfill Communities Fund](#)
2. [Enrolling as an Environmental Body](#)
3. [Now you are enrolled as an Environmental Body](#)
4. [Submitting a project for ENTRUST approval](#)
5. [Running a project](#)
6. [Assets and benefits](#)
7. [Devolution](#)
8. [Appendix: Glossary](#)

### How to contact ENTRUST

ENTRUST can be contacted through the following methods:

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Website: [www.entrust.org.uk](http://www.entrust.org.uk)

If you have any queries in respect of this manual, please contact the Policy and Regulations Department at ENTRUST on [helpline@entrust.org.uk](mailto:helpline@entrust.org.uk) or 01926 488 300.

## 1. Introduction to the Landfill Communities Fund (LCF)

This Guidance manual covers aspects of the LCF including the [Regulations and conditions](#) agreed under The Landfill Tax Regulations 1996, as amended. These statutory requirements, with which EBs must comply, are highlighted in **bold type** within this guidance manual.

### 1.1 How the fund operates

The LCF is a tax credit scheme which allows Landfill Operators (LOs) to contribute a portion of the monies they pay as landfill tax directly to approved organisations called Environmental Bodies (EBs) to fund community and environmental projects in the vicinity of landfill sites. LOs are able to claim a credit against their landfill tax liability for 90% of their contribution. Please see the [About the Landfill Communities Fund](#) page on our website for the current diversion rate.

The LCF is regulated by ENTRUST and managed by Her Majesty's Revenue & Customs (HMRC). It is ENTRUST's role to ensure that LCF monies are paid to eligible organisations and spent on projects which satisfy the objects set out in 'The Landfill Tax [Regulations](#) 1996 (the Regulations)'.

ENTRUST regulates the LCF in a number of ways including: reviewing and enrolling each organisation as an EB before they are able to receive LCF monies; reviewing and approving each project proposal before

expenditure starts; and undertaking compliance visits. ENTRUST provides this Guidance Manual to assist organisations and individuals to comply with the Regulations.

The responsibility for managing breaches of the Regulations is split between ENTRUST and HMRC. Where ENTRUST considers that a regulatory breach has occurred or there is a risk of a breach by an EB then a series of actions will take place, under the general heading of the enforcement process. For further information on our enforcement framework please see the [enforcement](#) page of our website.

Information on what to expect from a compliance visit is available on the [inspection process](#) page of our website.

Who's who in the LCF?		
Name	Abbreviation	Description
Her Majesty's Revenue & Customs	HMRC	HMRC collect landfill tax and assess LOs claims for tax credit in respect of the qualifying contributions made. HMRC are also responsible for approving and monitoring ENTRUSTs

		actions and for taking final enforcement sanctions where there is non-compliance by an EB.
Environmental Trust Scheme Regulatory Body	ENTRUST	The Regulator of the LCF.
Landfill Operator	LO	Responsible for the operation of one or more licensed landfill sites and for the payment of landfill tax to HMRC in respect of waste deposited at their landfill sites. LOs make contributions to EBs to fund LCF projects. The sum given by a LO to an EB is called a qualifying contribution.
Environmental Body	EB	An organisation enrolled by ENTRUST to receive, distribute and spend LCF monies.

## 1.2 The objects

**LCF monies given to an EB must be spent only on projects that meet the approved objects of the LCF or on running costs.** The Regulations define the nature of work that can be funded by the LCF. Information on the objects and the types of projects that can be registered under them can be found in [Section 4: Submitting a Project for ENTRUST approval](#).

## 1.3 Eligible project site locations

**With the exceptions of objects A and B, which are described in [section 4](#) of our Guidance, LCF money can only be used to fund community or environmental projects in the vicinity of a landfill site.** We interpret vicinity to be within 10 miles of a licensed landfill site, however, if you are able to provide evidence that your project site is adversely impacted by activity from a licensed landfill site which is further than ten miles away, we will consider your evidence. A grid reference or map showing the ten mile radius may be appropriate when applying to register a project but the minimum of a postcode for the project site will be required to demonstrate eligibility.

The Regulations do not require the closest applicable landfill site to be owned by the LO contributing to your project, however, some funders may have their own requirements. Some require the project location to be in the vicinity of one of their own sites or to be closer than 10 miles to a landfill site.

A 'licensed' landfill site is one where there is a licence, resolution or permit authorising disposal of materials as waste in or on the land. Some inactive landfill sites are still 'licensed'. Sites that are closed but are still licensed are eligible.

A guide to locating landfill sites can be found on the [training resources](#) page of our website.

## **1.4 Publicity and Promotion**

We encourage the use of the LCF logo on all materials connected with the scheme. Further information can be found on the [Brand Guidelines](#) page of our website to include Visual Identity Standards which must be used, and wording suitable for press releases about projects funded by the LCF.

Only reasonable and relevant promotional activities may be funded by LCF. If you are concerned about the compliance of a planned promotional activity please contact us to discuss.

## **2. Enrolling as an Environmental Body (EB)**

### **2.1 The meaning of Environmental Body**

An Environmental Body (EB) is an organisation that has enrolled with ENTRUST in order to receive LCF money from LOs or funding EBs. The term 'environmental' does not define the type of body that can enrol with us. Some EBs act as funding EBs as they give money to other organisations to spend on projects.

## 2.2 What type of organisation can become an EB?

Corporate bodies, such as limited companies, and unincorporated bodies, such as associations, clubs or trusts, can become EBs. We expect any organisation applying to be an EB to have a place of business in the UK. To enrol as an EB your organisation must:

- **Be a not for profit organisation;**
- **Share at least one aim with the objects of the LCF;**
- **Not be controlled by:**
  - **a LO;**
  - **a Local Authority (LA);**
  - **a body corporate controlled by one or more LAs; or**
  - **a person connected with any of the above.**
- **Not have any of the below concerned in the management of the EB:**
  - **A person who controlled or was concerned in the management of an EB which has been compulsorily revoked;**
  - **A person who has been convicted of an indictable offence;**
  - **A person who is disqualified from being a trustee for a charity;**
  - **A person connected with any of the above; or**
  - **A person incapable by reason of mental disorder. See Regulation 33 (1C) for when a**



**person shall be considered incapable by reason of mental disorder.**

## **2.3 Action to take before applying to become an EB**

When an organisation wishes to enrol as an EB we will check that it has an appropriate governance structure which will enable it to receive and spend LCF funds in accordance with the Regulations. The following are preliminary steps a prospective EB should take before applying for enrolment:

### **Match the aims of your project to an LCF Object**

Establish whether your proposed project qualifies for LCF funding. It will qualify if it matches one or more of the five areas of work, known as Objects, which can be funded by LCF monies. Your project will also need to be in the vicinity of a landfill site.

You can find further information on the Objects of the LCF in [section 4](#) of our guidance, but in summary they are:

- **Object A:** The reclamation, remediation or restoration of land which cannot now be used because of an activity which used to take place on that land
- **Object B:** The prevention, reduction or mitigation of the effects of pollution which has been caused, or be caused, by an activity which has now ceased

- **Object D:** The provision, maintenance or improvement of a public park or other public amenity
- **Object DA:** The conservation of a specific species in its natural habitat or a natural habitat
- **Object E:** The maintenance, repair or restoration of a building or structure which is a place of religious worship or a place of historic or architectural interest

Objects D, DA or E are most frequently utilised within the LCF scheme.

### **Find a funder for your project**

Once you have established that your proposed project matches one or more of the LCF Objects and is in the vicinity of a landfill site, you should find a funder. You should identify the source of funding before submitting an EB enrolment application as some funders will register the project on your behalf. If this is the case you will not need to enrol your organisation as an EB. We charge a non-refundable enrolment fee of £100 to cover the administrative cost of enrolling your organisation into the LCF so we recommend that your organisation does not enrol as an EB until you have checked with your funder whether enrolment is required.

There are two methods which an organisation may find funding through the LCF:

## **i. Directly from a Landfill Operator (LO)**

You may be able to find LOs who will give money directly to your organisation. While many LOs take part in the LCF, not all do. Many participating LOs use funding EBs to channel their money and it is these bodies that you will need to contact. Not all LOs will be potential sources of funding for your project.

Lists of applicable landfill sites and operators are kept by HMRC or by the relevant regulatory authority such as the Environment Agency in England. Further information can be found on the [Landfill Operators as direct funders](#) section of the ENTRUST website.

## **ii. From a funding EB**

The most common way for an organisation to receive funding is to approach a funding EB. These bodies distribute funds on behalf of one or more LOs. Funding EBs help other organisations to access the LCF monies.

Funding EBs will require your organisation to meet certain conditions about the way you will spend any LCF money they may give you.

Some funding EBs provide funds for specific geographical areas only or for certain types of projects. Each funding EB will have its own policies and application procedures. You can find a list of all funding

EBs, their funding policies and contact details on the [finding funding](#) section of the ENTRUST website.

A funding EB will want to make sure your proposed project and expenditure complies with the Regulations and ENTRUST guidelines, however, their criteria for accepting applications may be more stringent than set out in the Regulations. This may be because there is a high level of demand for the monies or because the funding EB wishes to focus on specific areas of the LCF. Please note that although ENTRUST require that your project location is within 10 miles of any licensed landfill site, a funder may require the location to be closer than 10 miles or to be in the vicinity of a site operated by a specific LO that they are distributing funds for.

If you are approaching a LO directly, you **will** need to enrol your organisation as an EB with ENTRUST before you can receive any LCF funds.

If you are approaching a funding EB, you **may** need to enrol with ENTRUST. It will depend on the individual funding EB and the operating practices they adopt.

There are ongoing obligations placed on EBs which you need to be aware of if you do enrol. For more information see [Section 3: Now you are enrolled as an EB](#).

To help you find prospective funders in your area please look at the [Finding Funding](#) section of our website and contact the funders who fund in your area. On the [training resources](#) page on our website there is a downloadable guide to locating a landfill site which may help when identifying landfill operators and to check whether there are any licensed landfill sites in the vicinity of your project location.

## **2.4 The application process to enrol as an EB**

### **Applying online**

We recommend that an application is made online via a Form 1. To make the application online you should register with [ENTRUST online](#). As you progress through the application form you will need to have the following documents available:

- The most recent version of your organisation's governing document outlining why your organisation exists and what your organisation intends to do. Examples of a governing document include a constitution, a Trust Deed, or the Memorandum and Articles of Association; and
- The most recent copy of your organisation's accounts, unless it is newly formed.

To be enrolled as an EB, your organisation must have the following clauses in your governing document:

- A clause confirming that your organisation operates on a not-for-profit basis and will not distribute income or profit to its members. Please note that this is not required for registered charities as this is pre requisite;
- A clause confirming that at least one of your organisation's aims matches at least one of the Objects of the LCF;
- A clause confirming that all LCF money received by your organisation will be spent on activities that are compliant with the Objects of the LCF;
- A clause confirming the number of people who constitute a quorum. This is so we can check that neither a LO nor a LA can form a majority when only the quorum is present to vote;
- A clause confirming who has the casting vote on any issue relating to the LCF;
- A clause confirming that LCF funds will not be spent in a way which provides a unique benefit to either a LO which has provided LCF funds to your organisation, or to a Third Party who has made a payment to a LO to enable LCF funds to be provided to your EB. See our guidance on unique benefit and Contributing Third Parties; and
- A clause confirming that in the event of dissolution, surplus assets will not be distributed amongst the organisation's members and that any remaining

LCF money will be transferred to another EB so that it remains within the LCF.

If your organisation's governing document does not already include these clauses then we will require you to alter the governing document to include them.

### **Control by LOs and LAs**

As stated above, the organisation must not be controlled by:

- One or more Landfill Operators (LOs); or
- One or more Local Authorities (LAs).

Additionally, an EB should not be controlled by one or more LA or one or more LO acting through representatives such as local authority councillors and senior officers.

Neither LOs as a group, nor LAs 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 LOs are assumed to act separately from groups of LAs. In an organisation where representatives of both an LA and a LO are present, they count as representing different interests. The

exception would be where the local authority was also a landfill operator.

- Representatives of different local authorities on an organisation's governing body are assumed to act together.
- Representatives of different landfill operators on an organisation's governing body are assumed to act together.

The casting vote for matters related to the LCF must not be conferred on a representative from a LO or LA.

### **The Quorum**

The organisation's governing documents must outline what constitutes a quorum. At its meetings an EB should ensure that there are always sufficient independent members present to satisfy itself that neither LO nor LA representatives can form a majority, and thereby control the organisation, when only a quorum is present.

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.

### **Additional information required with your application:**

You will also need to provide the following:



- The name, address, occupation and date of birth of every member of your organisation who is entitled to vote to decide how LCF monies will be spent, together with confirmation that each member is not an excluded individual; and
- Confirmation that you have an offer of funding or confirmation that you wish to proceed without an offer and that you understand the £100 enrolment fee is non-refundable.

You will need to pay the non-refundable enrolment fee of £100 to us before we can enrol you. Payments can be made either by cheque (made payable to ENTRUST) or electronically. BACS details can be provided upon request.

A downloadable 'How To' guide for completing the application process via ENTRUST online can be found on the [enrolment](#) page of our website. An example of a model constitution can be found in the [forms](#) section of our website.

## **2.5 After you have submitted your application and payment to enrol as an EB**

We will review your application and the supporting documents and will respond within five working days. Once we are satisfied that all the necessary information has been provided and your organisation meets the

requirements, we will approve your application for enrolment.

Once enrolled, you will receive a unique EB enrolment number and a certificate. You will need to use this EB number in all correspondence with us and with your funder. You will also receive an enrolment pack by email with further information on the next steps.

## **2.6 Refusal of an enrolment application and the appeal process**

If your organisation is not considered to fulfil the requirements to become an Environmental Body then your application will be referred to ENTRUST's Review Panel. The applicant is invited to attend these meetings to make the case for enrolment. For further details on the workings of the Review Panel, please see our Review Panel guidance contained in [section 5](#).

## **2.7 Retaining your enrolled status**

Once your organisation is enrolled as an EB, you will remain enrolled until you request in writing that you wish to voluntarily revoke from the scheme or your EB's status is forcibly revoked as a result of non-compliance with the Regulations.

An organisation must continue to meet the criteria in the Regulations while it remains enrolled as an EB. If you request to revoke your enrolment and later decide to re-

enrol as an EB you will be required to resubmit all details and pay the standard enrolment fee again.

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

#### **3.1 What happens next?**

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

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

It is important that the contact details of your EB are kept up to date as we communicate with EBs predominantly using the email address of main contacts.

#### **3.2 Qualifying contributions**

**Landfill Operators can only give qualifying contributions to enrolled EBs. The qualifying**

**contributions given by LOs can only be spent in accordance with the Regulations.** See [Section 4: Submitting a project for ENTRUST approval](#) for more information on project eligibility.

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

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

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

### **3.3 Payments made by funding EBs**

**Where a funding EB makes a payment to another EB which holds the project approval this is classed as a transfer. The funding EB must complete and return a Form 7: Transfer notification to ENTRUST within 7 calendar days of making the payment.**

### **3.4 Committing funds to a project**

LCF monies should be committed to a specific project within one year of receipt. The term committed means that there is a contractual agreement in place, providing that the funds will be spent on a particular project. This is separate to the duration of the project itself which is covered in [section 5](#).

### **3.5 Contributing Third Parties (CTPs)**

When a LO makes a contribution to an EB it can only claim a tax credit from HMRC on 90% of this contribution and is therefore left with a 10% shortfall. Some LOs will absorb this cost, or a portion of it, themselves. In some cases LOs will require EBs to find a separate third party, termed a Contributing Third Party (CTP) to provide the 10% shortfall, or a portion of it, to limit the cost to them of participating in the scheme.

It is expected that all LOs will absorb some or all of the 10% shortfall. EBs will be expected to report to ENTRUST how much of the shortfall is being met by

their contributing LO. This information will be monitored by HMRC and the relevant data may be published.

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

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

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

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

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

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

being a CTP and the names and addresses of each must be recorded.

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

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

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

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

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

**The CTP must have the intention of making the payment to the LO in order to secure the LCF qualifying contribution.** Where the CTP payment is raised through a fundraising appeal the appeal advertising must make it clear that the intention is to use the proceeds of the appeal as the payment to a LO.

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

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

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

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

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



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

### 3.6 The obligations and responsibilities of an enrolled EB

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

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

Form	What's it for	When do I fill it in	How do I complete the form
Project	<b>ENTRUST for approval.</b>	<b>expenditure incurred on the project.</b> Projects can be submitted for approval at any time during the year.	
<b>Form 2x:</b> Project Extension Request	<b>To extend an estimated end date for a project after it has been approved.</b>	As soon as it is apparent that the end date provided on the project's original Form 2 application will not be met. <b>LCF money cannot be</b>	A first extension, of 3 months can be done by the EB on EOL or via a Form 2x available from ENTRUST's Registrations team. The Form 2x is also used

<b>Form</b>	<b>What's it for</b>	<b>When do I fill it in</b>	<b>How do I complete the form</b>
		<b>spent on a project that has passed its end date.</b>	for any further project extension requests.
<b>Form 3:</b> Contribution Received Directly From a Landfill Operator (LO)	<b>To report the receipt of LCF funds directly from a LO.</b>	<b>Within 7 calendar days of receipt of the money. This is a statutory deadline.</b>	On EOL.
<b>Form 4:</b> Statutory Annual Return	<b>To report all LCF funds held, received, transferred or spent in the last financial year (1 April to 31 March).</b> A nil return	<b>By 28 April each year (even if a nil return). This is a statutory deadline. If you do not submit your Form 4 within the required</b>	On EOL. The Form will pre-populate fields with information already reported. For example, if an EB has transferred

Form	What's it for	When do I fill it in	How do I complete the form
	<p>should still be submitted even if the EB has not carried out any LCF activity during the year.</p> <p>The Form 4 details the amount of LCF funds spent on each project; EB running costs if appropriate and the dates individual projects were</p>	<p><b>timescale your status as an EB will be frozen, restricting your LCF activity.</b></p>	<p>money (see Form 7) this will show in the recipient's Form 4.</p>

Form	What's it for	When do I fill it in	How do I complete the form
	completed.		
<b>Forms 5 &amp; 6:</b> Not in use			
<b>Form 7:</b> Transfer of Monies Between Environmental Bodies	<b>To report the transfer of funds from one EB to another EB.</b> It is the responsibility of the transferring EB to notify ENTRUST of the transfer of LCF funds to another EB. EBs receiving transfers from other EBs only need to	<b>Within 7 calendar days of transferring the money. This is a statutory deadline.</b>	On EOL.

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

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

### **3.7 Change of Directors, Contacts and governing document**

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

### **3.8 Record keeping**

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

#### **Types of records**

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

1. Project financing and funding information. This includes records of CTP payments, LO contributions and transfers.

2. Documents which demonstrate how LCF monies were spent. This includes all invoices and relevant timesheet summaries.
3. Other supporting documents, such as tender documentation, purchase orders and procedural documentation.

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

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

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



## How records are kept

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

### 3.9 Running costs

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

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

Running costs should be reasonable and relevant to the administration of the LCF and not exceed 7.5% of the

organisation's actual funding spent during the year on LCF expenditure. LCF expenditure includes funds spent via three methods:

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

All costs should be reasonable, relevant and comparable to similar organisations, by both sector and size of organisation. EBs who manage no or very few live projects should have minimal or zero running costs.

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

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

Running costs include routine costs plus the provision of, and the use of, any funds for winding up. See our

guidance on winding-up for more information on this element of running costs.

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

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

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

**been spent.** See above for more information on record keeping.

ENTRUST routinely report running costs to HMRC. HMRC will monitor the level of running costs incurred by EBs and the reported level will influence future reform of the LCF including any changes to the size of the fund.

### **3.10 Retaining funds for winding-up**

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

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

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

- Arrangements for monitoring and reviewing the policy.

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

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

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

**Where the EB receives funds from other sources, the LCF funds can only pay the proportion of winding-up costs that corresponds to the proportion of the EB’s funding that comes from the LCF.** For

example, if your organisation's total income from all sources in a year is £100,000 and your income through the LCF is £20,000 then 20% of your income comes from LCF monies. Therefore you can fund up to 20% of your winding up costs with LCF monies.

Prior to any decision to leave the scheme or if your organisation is winding up, you should notify ENTRUST of your intentions and discuss with us how you will deal with any outstanding monies and/or assets. We would normally expect these to be passed on to another EB with similar objects to ensure that they remain compliant with the Regulations. However, if you are asked to return any unspent contributions to the contributing LO, you should contact ENTRUST for advice. The LO must also make arrangements to repay any tax credits to HMRC as outlined in HMRC's [guidance notice LFT1 to LOs](#).

### **Winding up costs for Scottish EBs**

Specific guidance for Scottish EBs on retaining funds for winding up during and after the transitional period for the closure of the LCF in Scotland can be found in [section 7](#).

## **3.11 Revocation**

Where an EB no longer wishes to remain enrolled, it can request voluntary revocation. Once an EB requests revocation, we will undertake checks to ensure that the EB has complied with all regulatory requirements and

that projects and assets remain in compliant use of continued benefit to communities. For more information please see the [Revocation](#) page of our website.

### **3.12 Overview of the Small Grants Scheme (SGS)**

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

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

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

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

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

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

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

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

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

- A brief description of the project;



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

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

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

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

### **3.13 Accreditation of Environmental Bodies**

The accreditation process was introduced by ENTRUST with the aim of granting EBs which demonstrate high

standards of corporate governance and internal controls the opportunity to operate under an abridged process. Achieving accredited status establishes that the EB is effectively managed and adheres to the standards set by ENTRUST. There are a number of advantages to becoming an accredited EB:

- **Reduced project information required at registration stage** – projects submitted by an accredited EB will be via a shortened project registration form;
- **Automatic approval of projects** – projects registrations submitted by an accredited EB will be granted automatic approval at registration stage;
- **Increased confidence** – LOs and other EBs can provide qualifying contributions to an accredited EB with an increased level of confidence that the EB is properly structured and well run.

Any EB can apply to become accredited, however, accreditation is unlikely to benefit EBs which do not deliver a high number of projects each year. The accreditation process involves a detailed review of how the EB is set up and the systems and procedures that are in place. The review is undertaken as an accreditation inspection which consists of four main modules:

- Governance and management (to include risk management, internal controls and best practice);

- LCF funding arrangements;
- Project compliance; and
- EB systems and operations.

We expect all EBs to operate high levels of financial control commensurate with their size and standing within the LCF. Larger and accredited EBs should follow recommended best practice such as:

- Compliance with industry, and where applicable Charity Commission, codes of conduct;
- Regularly rotating Directors;
- Maintaining financial probity.

Any EB which does not reach the required accreditation standard at its first accreditation inspection will be provided with a report which will list the areas to be improved to reach the required standard. We are committed to working with EBs and providing support to assist EBs to meet the necessary standard.

When we are satisfied that an EB has reached an appropriate standard to gain accredited status, we will submit a report and make a recommendation to the ENTRUST Board that the EB be granted accredited status. Once accredited, an 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.

If you are interested in becoming an accredited EB please complete the expression of interest form which is available on the [forms](#) page of our website and send to us by us by email (to [compliance@entrust.org.uk](mailto:compliance@entrust.org.uk)) or by post.

Further information on the accreditation process can be found on the [accreditation](#) page of our website.

## 4. Submitting a project for ENTRUST approval

### 4.1 The project approval process

The project approval process ensures that proposed LCF expenditure is in compliance with the Regulations. **No LCF monies may be spent on a LCF project before that project has been approved by us** unless you are an Accredited EB. An Accredited EB is a separate category from an enrolled EB. Information on accreditation can be found in [section 3](#) of our guidance.

Project approval is sought by submitting a project registration application (Form 2) on ENTRUST online (EOL). There is no fee for project approval.

Within five working days of submission you will receive a response from ENTRUST either confirming the project has been approved or asking for further details to allow us to be confident that the project is in 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.**

A downloadable guide to completing a project registration (Form 2) application on EOL can be found on the [project registration](#) page on our website.

## **4.2 Project duration**

**All project applications must include estimated project start and end dates.** We would expect a project under Objects D or E to be no longer than two years in duration, and a project under Objects A, B or DA to be no longer than three years. **If a project has not been completed by its estimated project completion date then an extension of time should be sought from ENTRUST.** Any money spent before the approved start date or after the approved end date will be considered non-compliant spend.

## **4.3 LCF Objects**

<b>Object A: Remediation of land</b>	<b>What work can be covered under Object A?</b>
<b>In relation to any land the use of which for any economic, social or environmental</b>	The work must be on a single site where an activity once took place that now stops the land being used. The site may have been contaminated.

<p>purpose has been prevented or restricted because of the carrying out of an activity which has now ceased –</p> <p>(i) Reclamation, remediation or restoration; or</p> <p>(ii) Any other operation to facilitate economic, social or environmental use.</p>	<p>Any person who contaminated the land or knowingly permitted the contamination must not benefit from the project. LCF monies must not be used to fulfil any statutory duties.</p> <p>You will be asked to confirm the following:</p> <ul style="list-style-type: none"> <li>• The ceased activity;</li> <li>• Who carried it out;</li> <li>• When it stopped;</li> <li>• That the person who polluted the land will not benefit (financially or through meeting other obligations); and</li> <li>• How the proposed works will bring the land back into use.</li> </ul>
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<b>Object B: Reduction of pollution</b>	<b>What work can be covered under Object B?</b>
<p>In relation to any land the condition of which, by reason of the carrying on of an</p>	<p>You must be able to demonstrate that the project activity which is intended to mitigate, prevent or reduce pollution, is linked to a ceased activity. Opposed to</p>

<p><b>activity on the land which has ceased, is such that pollution (whether on that land or not) is being or may be caused –</b></p> <p><b>(i) Any operation intended to prevent or reduce any potential for pollution; or</b></p> <p><b>(ii) Any operation intended to remedy or mitigate the effects of any pollution that has been caused.</b></p>	<p>Object A which concentrates on reclaiming or remediating land, Object B focuses on reducing or mitigating the pollution itself. <b>Any person who polluted the land or knowingly permitted the pollution must not benefit. LCF monies must not be used to fulfil any statutory duties.</b></p> <p>You will be asked to confirm the following:</p> <ul style="list-style-type: none"> <li>• The ceased activity;</li> <li>• Who carried it out;</li> <li>• When it stopped;</li> <li>• That the person who polluted the land will not benefit (financially or through obligations being met);and</li> <li>• How the ceased activity caused/is causing pollution.</li> </ul>
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<p><b>Object D: Public parks and amenities</b></p>	<p><b>What work can be covered under Object D?</b></p>
<p><b>Where it is for the protection of the</b></p>	<p>The focus of the project must be to undertake direct physical</p>

**environment, the provision, maintenance or improvement of –**

- (i) a public park; or**
- (ii) another public amenity**

**in the vicinity of a landfill site.**

works on a park/amenity.  
Examples of amenities include:

- Community centres and village halls;
- Public sporting facilities; and
- Bridleways and cycle paths.

ENTRUST will review applications to ensure that each proposal concentrates on direct physical works and has acceptable costs. ‘Direct physical works’ are those that are *solely* attributable to the delivery of the project and include all costs that are necessary for the project to go ahead. Project costs which can be directly linked to improvements on site, such as contractors, volunteer management, signage and interpretative materials that will be kept on site are examples of direct costs. ‘Additional associated costs’ are costs that are not necessary for physical works such as publicity material. ENTRUST is not able to approve projects that have excessive additional associated costs greater than 10% of total project



	<p>expenditure. All costs will be considered on a case by case basis.</p> <p>You will be asked to confirm the following:</p> <ul style="list-style-type: none"><li>• <b>That the project site is in the vicinity of a landfill site;</b></li><li>• How the park/amenity makes the environment more pleasant or comfortable and/or improves the aesthetic qualities of an area;</li><li>• <b>That the park/amenity directly benefits the general public and is somewhere they can access</b> without unreasonable restriction and with reasonable access costs. Restrictions include amenities which are only available to specific user groups defined by age, sex, disability or race. Any park or amenity that is available for fewer than four evenings or two days a week, or fewer than 104 days in any one year, will not be sufficiently</li></ul>
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	<p>open to the general public;</p> <ul style="list-style-type: none"><li>• <b>That the costs of the works directly relate to the actual improvement, maintenance or provision of the identified park/amenity, rather than its management or its administration;</b></li><li>• <b>That the park/amenity is run on a not-for-profit basis and any income made as a result of the LCF funded works (such as from hire or admission fees) will be handled appropriately as LCF derived income which could include spending on the ongoing maintenance or operation of the amenity</b> (for information on requirements relating to income derived from projects please see <a href="#">section 5</a> of our guidance); and</li><li>• Each project is a single park, amenity or defined area (a single project application which covers multiple parks</li></ul>
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	<p>or amenities on different sites will not be approved as a single project).</p> <p><b>The works proposed must not be required as part of a condition (of any planning permission, approval or other consent) imposed on the contributing Landfill Operator or a term of agreement made under:</b></p> <ul style="list-style-type: none"> <li>• <b>section 106 of the Town and Country Planning Act 1990;</b></li> <li>• <b>75 of the Town and Country Planning Act (Scotland) 1997; or</b></li> <li>• <b>article 40 of the Planning (Northern Ireland) Order 1991,</b></li> </ul> <p><b>whtho which the contributing Landfill Operator is a party.</b></p>
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<p><b>Object DA: Conservation of biodiversity</b></p>	<p><b>What work can be covered under Object DA?</b></p>
<p><b>Where it is for the</b></p>	<p><b>‘Biological Diversity’ is defined as</b></p>

<p><b>protection of the environment, conservation or promotion of biological diversity through</b></p> <p>–</p> <p><b>(i) the provision, conservation, restoration or enhancement of a natural habitat; or</b></p> <p><b>(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.</b></p>	<p>‘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’.</p> <p><b>LCF monies can be used for the conservation or recovery of a species in its natural habitat, or the provision, conservation, restoration or enhancement of a natural habitat.</b> This means that a species should be protected in a habitat in which it would naturally occur. Programmes to re-introduce species or recreate habitats are acceptable. You will be asked to confirm the following:</p> <ul style="list-style-type: none"> <li>• <b>That the project site is in the vicinity of a landfill site;</b></li> <li>• Which species or habitats will be conserved by the project going ahead;</li> <li>• <b>That the costs of the</b></li> </ul>
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**works solely relate to the conservation of the species or habitats; and**

- **That the works will be carried out on a site where the species or habitat naturally occurs.**

Each project should be for a single identifiable site. Projects with multiple locations can be registered in particular circumstances if there is a link between the sites. We will consider there to be a link if the EB registering the project can show a physical or ecological connection between the sites on the application to register the project.

A physical link could be present when there are multiple smaller locations within a distinct larger connected area such as along a river or within a country park.

An ecological link could be present when there are multiple smaller locations that aren't physically connected but an

	<p>ecological link can be illustrated. The link between the locations must be more than the sites sharing similar characteristics.</p> <p>For all projects that focus on the maintenance or recovery of species that move between multiple locations, or the provision, conservation, restoration or enhancement of habitats situated across multiple locations, the project site must still intersect within 10 miles of the relevant licensed landfill site. The project site does not have to be wholly contained within 10 miles of the landfill site but its ultimate reach must remain within a reasonable and relevant distance of the licensed landfill site as all LCF projects must have the ultimate aim of not only creating significant environmental benefits, but improving the lives of communities living near landfill sites.</p> <p>The EB must provide a map showing the boundary of the larger connected area and the</p>
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individual locations where actual physical work will be taking place within it. The map should also show the relevant landfill site and its distance to the project area. Where it is not possible to provide an address and postcode for each individual location, the EB should provide a grid reference. Maps and site information can be emailed to ENTRUST.

Projects with multiple sites where the only connection is that they are within a larger geographic region (e.g. the North West) or political area (e.g. Council) will not be approved.

The focus of all LCF projects must be to undertake 'direct physical works' on the project. 'Direct physical works' are defined as those that are solely attributable to the delivery of the project. In some instances costs relating to preliminary studies may also be included as direct works provided the findings of the study result in direct physical works. Examples of acceptable

preliminary work include:

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

When considering whether preliminary works can be included as direct project costs, if you can demonstrate that the project would not be able to go ahead without the works being undertaken, then they may be defined as direct project costs. However, feasibility studies or research which may result in the project not going ahead cannot be funded using LCF monies.

Ongoing project management or costs incurred to safeguard the



site or habitat, such as fences, gates and boundary markers, can also be classed as direct physical works. This is in contrast to visitor facilities which do not, in themselves, conserve or promote biodiversity.

‘Additional associated costs’ include costs that are not necessary for the physical works, for example publicity materials. ENTRUST is not able to approve projects that have additional associated costs in excess of 10% of total project expenditure. The project application should include details of *any* project works or research which will conserve or promote diversity, even if the LCF will not be funding these works.

**The works proposed must not be required as part of a condition (of any planning permission, approval or other consent) imposed on the contributing Landfill Operator or a term of agreement made under:**

	<ul style="list-style-type: none"><li>• <b>section 106 of the Town and Country Planning Act 1990;</b></li><li>• <b>75 of the Town and Country Planning Act (Scotland) 1997; or</b></li><li>• <b>article 40 of the Planning (Northern Ireland) Order 1991,</b></li></ul> <p><b>to which the contributing Landfill Operator is a party.</b></p> <p><b>Also the works proposed can't be required under the following notices and agreements:</b></p> <ul style="list-style-type: none"><li>• <b>an agreement made under section 16 of the National Parks and Access to the Countryside Act 1949;</b></li><li>• <b>an agreement made under section 15 of the Countryside Act 1968;</b></li><li>• <b>under section 28J of the Wildlife and Countryside Act 1981 or required to be carried out by a notice served under section 28K of that Act; and</b></li><li>• <b>under notices and orders</b></li></ul>
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	<p><b>specific to England and Wales, Northern Ireland or Scotland. See Regulation 33 Paragraph 4 in Appendix A for the full list.</b></p> <p><b>Object DA projects must be not-for-profit. Any income generated from the running of a LCF funded project must be spent appropriately which can include on the maintenance and operation of the project.</b></p> <p>For more information on the requirements relating to income derived from projects please see <a href="#">section 5</a> of our guidance.</p>
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<p><b>Object E: Restoration of religious buildings or buildings of architectural or historical interest</b></p>	<p><b>What work can be covered under Object E?</b></p>
<p><b>Where it is for the protection of the environment, the</b></p>	<p>We interpret a place of worship as a building or structure that is exempt from business rates by</p>

<p><b>maintenance, repair or restoration of a building or structure which –</b></p> <ul style="list-style-type: none"> <li><b>(i) is a place of religious worship or of historical or architectural interest,</b></li> <li><b>(ii) is open to the public, and</b></li> <li><b>(iii) is situated in the vicinity of a landfill site.</b></li> </ul>	<p>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. We interpret a building or structure to be of historical or architectural interest if it has listed building status, or equivalent, or if it has county archivist or local historian support.</p> <p><b>Works undertaken under Object E must protect the environment of a building or structure, or maintain, repair or restore the building or structure.</b> The focus of the project must be to undertake ‘direct physical works’ on the building or structure in question. ENTRUST will review applications to ensure that every proposal concentrates on direct physical works and that any additional associated costs are at an acceptable level. ‘Direct physical works’ are defined as those that are solely attributable to the</p>
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delivery of the project. In some instances costs relating to preliminary work may also be included as direct project works. 'Additional associated costs' include costs that are not necessary for the physical works. This includes elements such as any costs not solely related to the project such as publicity material. ENTRUST is not able to approve projects that have additional associated costs in excess of 10% of total project expenditure. You will be asked to confirm the following:

- **The building of structure is in the vicinity of a landfill site;**
- **The building or structure is open and accessible to the general public;**
- **The building or structure is a place of worship, has listed building status or is considered of historical interest (works to private residences are excluded); and**

- **The works are to repair, restore or maintain the place of worship or structure of architectural interest.**

If your project is for new works or is predominantly new works, for example, if you are intending to add an extension or additional features to a building or structure, then it is unlikely that your project would be compliant under Object E. However, it may be that such a project is compliant under Object D. (the provision, maintenance or improvement of a public amenity).

**The project must be open to the general public.** In acknowledgment of the varying opening times of buildings restored or maintained under Object E, when considering public access, ENTRUST expects that the building or structure will be open for a similar amount of time as would be expected from similar buildings or structures. For example, a place of religious worship would be expected to be

	<p>open for religious worship on its primary day of worship.</p> <p>The works proposed under Object E must be carried out on a specific building or structure. A single project application which covers multiple structures on different sites is not able to be approved as a single project.</p> <p><b>The works proposed must not be required as part of a condition (of any planning permission, approval or other consent) imposed on the contributing Landfill Operator or a term of agreement made under:</b></p> <ul style="list-style-type: none"><li>• <b>section 106 of the Town and Country Planning Act 1990;</b></li><li>• <b>75 of the Town and Country Planning Act (Scotland) 1997; or</b></li><li>• <b>article 40 of the Planning (Northern Ireland) Order 1991,</b></li></ul> <p><b>to which the contributing Landfill Operator is a party.</b></p>
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	<p><b>The building must be run on a not for profit basis. Any income generated from the running of a LCF funded building or structure must be spent appropriately which could be on the maintenance and operation of the building or structure.</b> For more information on the requirements relating to income derived from projects please see <a href="#">section 5</a> of our guidance.</p>
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#### 4.4 Does my project require proportional registration?

ENTRUST recognises that some Object D projects may not be open to the public all of the time. **The LCF can only fund a project to the extent that it is open to the general public.** It is possible to make a proportional registration but it is important to note that where projects are proportionally registered, the amenity must still be available to the public for at least four evenings or two days a week, or 104 days in any one year. If the amenity is open to the public for the duration above, but closed for the remaining time, it will not need to be subject to proportional registration. If the amenity is open to the public for the duration above, but open to other groups for the rest of the time, it will need to be subject to proportional registration. We require that at project



application stage EBs confirm the days and hours when the amenity will be open to the general public and a calculation showing the percentage of the time the facility will be available to the public.

The most common example of proportional registration is for works on school sites, when only the school pupils have access to the amenity during the day but the amenity is opened up to the general public in the weekday evenings, weekends and during school holidays.

#### **4.5 The Review Panel**

If, upon review by the Registrar, the proposed project is considered not to be compliant with the Regulations, it will be rejected. A project rejection will automatically be referred to the ENTRUST Review Panel. This panel meets quarterly (as required) to review any rejected project or enrolment applications. The panel ensures that the correct decision has been made in accordance with the Regulations. The project applicant or EB is invited to attend the Review Panel to make the case for project approval or enrolment.

The Review Panel is 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, drawn from the following:

- ENTRUST's Deputy Chief Executive (Chair);
- ENTRUST's Compliance Manager;
- ENTRUST's Enforcement Manager;
- an ENTRUST Compliance Inspector; and
- a representative from HMRC.

A member of ENTRUST's Policy and Regulations Team will attend the meeting to explain the reason for rejection to the panel and take minutes of the meeting. The project applicant or EB is invited to attend the meeting to explain the application in more detail but the EB will not take part in the decision making process. The outcome of this meeting will be that the application rejection is either upheld or over-turned.

#### **4.6 Unapproval of a project which does not proceed**

**If a project does not go ahead once approved ENTRUST must be informed so that the project can be un-approved.** A project can only be unapproved if there has been no spend on the project.

#### **4.7 Making changes to project information**

**If the details of an approved project change, ENTRUST must be informed.** The project details may be amended or a new project registration application will be required depending on the nature of the changes.

### **5. Running a project**

## 5.1 Project Records

Information on EB record keeping requirements can be found in [Section 3: Now you are enrolled as an Environmental Body](#). EBs must maintain structured and comprehensive project files which ensure all relevant information concerning LCF expenditure is retained for a period of 6 years. Please see our [Project File Checklist](#) which lists the project information to be retained.

## 5.2 Income derived

Any income an EB receives from its LCF monies is called income derived and must be spent on approved objects as stipulated in Regulation 33A:

### **Regulation 33A – Obligations of approved bodies**

**(1) An approved body shall—**

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

Income generated from the expenditure of LCF monies includes, but is not restricted to:

- all interest earned as a result of holding LCF monies in bank accounts;
- the sale of assets purchased with LCF monies;
- any LCF funds returned to, or reclaimed by, an EB; and
- any income derived from running LCF projects.

**Any income an EB receives from its LCF monies must be spent on approved objects.** This can include the maintenance and operation of an approved LCF project, another approved LCF project, the EB's running costs or the ENTRUST levy. Income derived does not need to be returned to the original funder unless it is a term of a funding agreement.

### **Generating income from running projects**

Income can be generated from running projects when the project generates income as part of its operation, for example:

- venue or equipment hire revenue;
- admission charges; and
- sale of products.

If an EB declares at project registration stage that all income generated from the running of a project will be spent on the maintenance and operation of that project then the EB does not need to report this income derived to ENTRUST. However, the EB will be required to keep records of the income derived from that project. ENTRUST will check compliance with any declaration at compliance visits by looking at how income has been spent and by checking the upkeep and maintenance of LCF projects. We may ask to see the EB's accounts to see how any income received by the organisation has been spent.

Any income generated from the running of a project, where the assurance above has been given, should only be reported when the level of income generated exceeds that needed to maintain the project.

### **Reporting income derived**

Income derived must be reported on the Form 4: Annual Return. The only exception is when an EB has declared at project registration that any income generated from running a project will be spent on the maintenance or operation of that project.

### **Income derived received by non EBs**

If an EB has funded a project undertaken by an organisation which is not enrolled as an EB, the funding EB is not required to report any income derived from that project which it itself does not receive. However, that funding EB is still subject to a general obligation to monitor any project it has supported to ensure the project remains compliant and should declare at the project registration stage that any income derived will be spent on the upkeep and maintenance of the project.

## **5.3 Spending LCF funds on a project**

### **Connected parties**

Payments for project goods and services should be made only to organisations which are independent of people and companies connected to your EB or the third party contributors. A connected party is any individual or

organisation, related or linked to the EB. This may include any director, partner, shareholder, employee, 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, relative or persons connected by virtue of their being a trustee.

If any of the suppliers which might be awarded a contract by your EB have employees, directors or consultants who are also directors of your EB or consultants who have an interest in your EB, then an open tender process should be followed to award that contract unless there are exceptional circumstances. Any exceptional circumstances need to be documented, recorded and retained by the EB and available for inspection.

## **Tendering**

It is the responsibility of the EB to demonstrate that Value For Money (VFM) has been achieved when spending LCF funds. It is recommended that where LCF monies are used to purchase goods and services over £5,000 in value, competitive tendering should be undertaken. Three quotes should be sought when the value is less than £5,000. Evidence of the competitive tender and quotes should be retained on the project file.

It is not necessary to select the supplier with the cheapest price if there are good reasons for selecting another supplier. However, where the chosen supplier has not offered the lowest price there must be a written explanation as to why the preferred supplier was selected.

In some cases, it may not be possible to obtain a sufficient number of quotations or tenders. For example, there may be only one specialist supplier who could reasonably be used. If so, ENTRUST recommends that evidence is obtained to show that the works are of a truly specialist nature and the price agreed with this supplier is not higher than would normally be paid for similar goods or services.

#### **5.4 Extending a project**

When an EB registers a project we check that the project has an estimated start date and a reasonable estimated completion date. This information is needed so that we can understand when funding reaches the project, and to enable us to provide accurate reports to HMRC.

**It is non compliant for LCF monies to be spent on a project before the estimated start date and after the estimated completion date approved by us.** We encourage EBs to be realistic, at the registration stage, as to the length of time it will take to complete their

project and the spending of LCF monies. If an EB is unable to complete the spending of LCF monies on its project before the estimated completion date approved by us then the EB should seek an extension of time in which to complete the project.

EB may seek a first extension through EOL on the project's 'General Details' page or via a Form 2X: Project Extension Request. An EB can grant its own automatic extension of up to three months on EOL if the delay is for one of a number of specified reasons. If more than one EB is involved with a project then it is the EB holding the project approval who should seek the extension. The EB holding the project approval should keep all other EBs who have an interest in the project notified of any extensions to the estimated completion date.

The specified reasons under which a first extension request will be granted automatically are:

- The project works are delayed by bad weather;
- The project works are delayed by other events e.g. sports season/discovery of bats;
- Unplanned additional work is required to the project;
- Specialist contractors for the project are currently unavailable;
- The project is completed but the final LCF payment has not yet been made; and



- A funding shortfall for the project.

Once the extension has been granted the EB can continue to spend LCF monies to complete the project up until this date.

If an EB requires an extension in excess of three months or seeks a first extension for a reason other than those specified above, it should contact ENTRUST explaining in writing the length of extension required and the reasons for seeking the extension. We will consider each request on its own merits and will notify the EB with our decision within five working days of the request being made. An extension will not normally be granted if:

- The project has been completed;
- The project has significantly changed from that originally approved;
- No LCF monies were spent between the original estimated start date and estimated completion date;
- The project is expected to continue for an extraordinarily or unreasonably long length of time; or
- The extension sought is for longer than the original length of the project.

Where an application for an extension is rejected we will discuss with the EB concerned how it should proceed to ensure that the project is completed in a compliant

manner or, where appropriate, how a new project can be registered.

## **5.5 Project completion**

A LCF project is complete on the date when the final instalment of LCF monies has been spent. This may be before or after the physical work undertaken on the project is completed. If the LCF investment is part of a larger project then the overall project may continue after the LCF completion date.

Where a LCF project is completed by the final instalment of LCF monies being spent, then the EB holding the project approval should notify us via EOL that the project is complete. If the project has been allocated to another EB, the EB holding the project approval should confirm that the other EB has completed and reported all LCF expenditure before notifying us that the project is complete.

### **Form 4: Annual Return**

Once in EOL, the EB holding the project approval should open the supplementary pages of its Form 4: Statutory Annual Return. An EB can notify us that a project is complete at any point in the year from 31 May.

On the supplementary pages of its Form 4, the EB should enter the date of the final LCF expenditure on the project and its amount. Where more than one EB is

involved with the project, the EB holding the project approval should check that all LCF expenditure on the project by any other EB has been reported by that EB (in the supplementary pages of its own Form 4) before the EB holding the project approval reports the completion date for the project.

The data entered in the supplementary pages will feed through to the main pages of the Form 4, making the completion of the Form 4 at year end more streamlined. The EB should not reconcile or submit its Form 4 until after the conclusion of the reporting year or when all activity and expenditure for the year is complete.

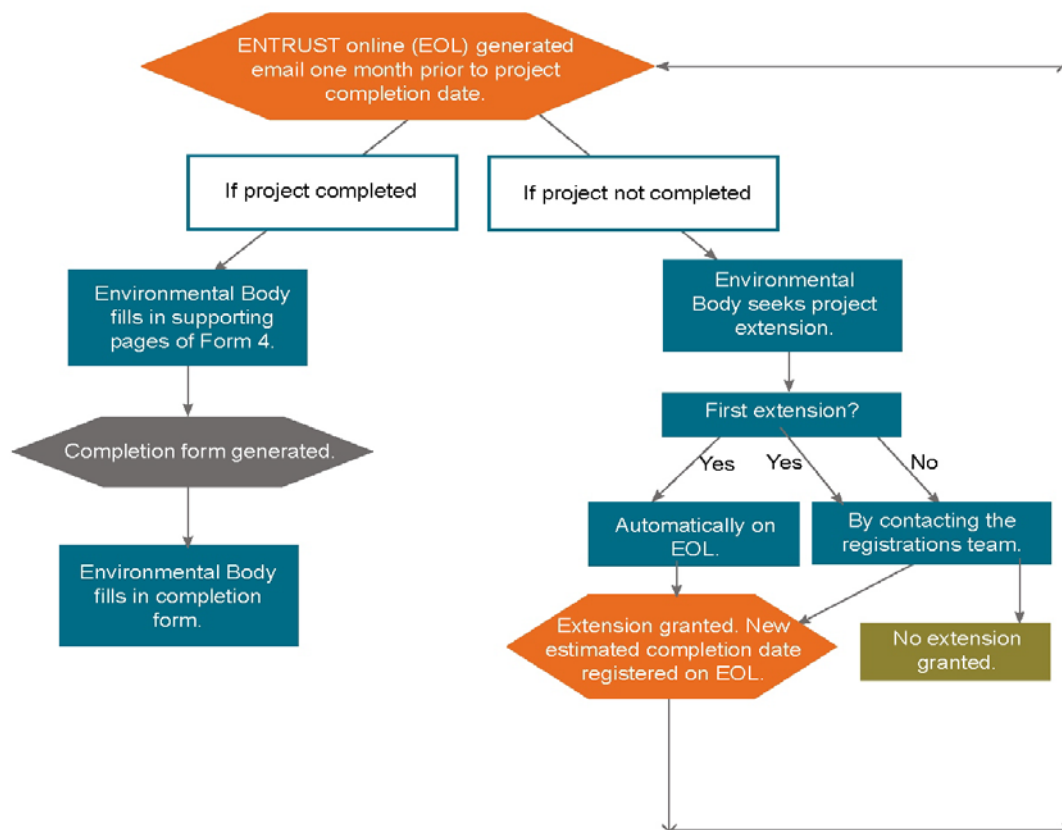
### **Form 9: Project Completion form**

Once the project completion date is recorded on an EB's Form 4: Annual Return, a Form 9: Project Completion form will be generated and a link to the Form 9 will appear on the EB's EOL dashboard. The Form 9 is used to provide details of the outcomes of a finished project and will be pre-populated with relevant project information which has already been provided to us.

All Form 9s should be completed within three months of project completion. Compliance with this requirement will be monitored. A separate Form 9 is required for each project completed.

EBs who manage a large number of projects may wish to fill out and submit their Form 9's on a monthly or quarterly basis in order to keep on top of their reporting obligations.

## Summary of the project extension and project completion process



### 5.6 Unspent LCF monies

If there is an underspend on a project or the project does not go ahead after being approved, then (subject to any agreement in place between the EB and the funder) the EB may consider one of the following actions in order to spend the LCF funds compliantly:

## Other projects

LCF money held may be spent on other approved projects. Before submitting a new project for approval and spending the funds the EB should obtain the permission of the LO or the funding EB who originally allocated the money.

## Transfer of monies

LCF money can also be transferred to another EB following permission being obtained from the LO or the funding EB. If your EB has received LCF money from another EB and you find that those funds are no longer needed, please discuss how to proceed with the EB which provided the funds as it is most likely they will want the money to be returned for re-allocation. **A transfer of LCF funds between EBs must be reported within 7 calendar days of the transfer on a Form 7.**

## Return of monies

Ordinarily, LCF monies should not be given back to the contributing LO as payments to a LO are non compliant spend. 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 to HMRC any tax credits it has received in respect of its qualifying contribution, as outlined in [HMRC's guidance notice LFT1 to LOs](#).

## 5.7 Project monitoring

EBs should ensure that projects remain compliant following completion of the project works. ENTRUST expects projects to remain in compliant use for as long as possible to ensure the LCF's value to communities and the environment is maximised.

EBs should monitor projects during the post completion phase. Monitoring must focus on providing assurances that the project is delivering against its approved objectives and is continuing to meet the requirements of the initial registration. For example, if the project is an Object D or E project then the public access requirement must be monitored.

The period of monitoring should reflect the value of the project as follows:

<b>Value</b>	<b>Project monitoring period</b>
Less than £10,000	Confirmation at project completion
Over £10,000	3 years

Post completion monitoring does not need to consist of a physical inspection each year; however the EB must satisfy itself that any projects registered under its EB registration remain compliant. We will allow funding EBs

to accept an annual statement from projects to confirm compliance if this provides the assurances required.

If an asset has been purchased as part of the project please see our guidance on asset monitoring in [section 6](#) which includes the asset monitoring timeframes which apply when a new asset has been created or purchased. If a project has improved an existing asset, such as replacing the roof on a building, the asset monitoring guidelines in section 6 do not apply as projects to improve assets are subject to the general post completion monitoring requirements set out above.

## 5.8 Projects involving multiple EBs - allocations

In some cases an EB may 'allocate' their approved project to another EB. This can be done when the project is registered. The 'allocated' EB can then act as a contractor on the project. **When the EB which holds project approval pays the allocated EB directly for works which have been carried out on a project this should be reported via a Form 7: Transfer notification within 7 calendar days of making the payment. The EB receiving the transfer reports the amount of spend on the project on its annual return as the project is listed on both EBs' annual returns. The EB holding the project approval is responsible for entering the first spend dates and last spend dates against the project and submitting the Form 9: Project Completion. The EB which has been allocated a**

project must report the expenditure on their Form 4 before the EB holding the project approval can report the project as complete. Both EBs therefore need to share details of progress with allocated projects.

The below image taken from an annual return (Form 4) shows which boxes are for completion by the EB holding project approval and which is for completion by the EB that has had the project allocated to it.

Income + Expenditure Breakdown by Project

This is a list of all the projects you currently have approved with ENTRUST.  
Please enter the amount you have spent on each project. You must enter values for each, even if it is 0  
If your project does not appear in the this list, please contact the Compliance Department.

Approved Projects - 1 results found

Page selection: 1 Results per page: 10 Select

Project Name	Project No.	First Payment	Last Payment	Project Costs	Complete
Village Hall Improvement	1	01/06/2015	01/09/2015	45,000.00	<input checked="" type="checkbox"/>
				<b>Total</b>	<b>45,000.00</b>

EB holding project approval  
'Allocated' EB

### 5.9 Further information

For further information on how to complete the ENTRUST reporting forms please see the [How To](#) guides on our website. A project file checklist and a handover guide for when the person responsible for LCF



matters at an EB changes can be found on the [training resources](#) page of our website.

## **6. Assets and Benefits**

### **6.1 Assets**

#### **Protecting the Asset**

All LCF monies spent by an EB to purchase or create an asset should be protected should the asset be disposed of. EBs must ensure that they can account for all LCF funds held or spent on a compliant project or activity. Any loss of capital would normally be deemed 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, so preserving the capital sum. Any income earned from such an account or facility constitutes income derived and therefore must be spent appropriately. LCF monies cannot be invested, held or accumulated in such a facility for the purpose of generating interest.

EBs should maintain an inventory of assets purchased with LCF funds. LCF assets remain at cost price for their lifetime until disposal at appropriate market price. EBs must ensure that every project budget is resourced to meet the costs associated with appropriate asset monitoring and management while the project's assets remains on the asset register.

## 6.2 Timescales for asset monitoring by EBs

### Definition of an asset

Assets are fixed or tangible assets created or purchased using LCF funding. Land, plant, machinery and whole buildings must be recorded on an asset register by the EB that registered the project for approval. Other assets do not need to be entered onto an asset register, but must be reported to ENTRUST.

If a project has improved an existing asset, for example through repairs and refurbishments, no asset has been created therefore this section of guidance does not apply but the project is still subject to the general post completion monitoring requirements as defined in section 5.

### Timescales

The following timeframes apply retrospectively to prevent the administrative burden on EBs that may have arisen if assets purchased before this guidance came into effect were subject to previous monitoring requirements.

#### Land

Land should be kept on an asset register for 20 years.

Funding EBs should at project completion and annually thereafter whilst the asset remains on the register obtain

written confirmation that the land remains in compliant use.

### **Plant, machinery and whole buildings**

Plant, machinery and whole buildings should be kept on an asset register for a period based on their value as below.

Funding EBs should at project completion and annually thereafter whilst the asset remains on the asset register obtain written confirmation that the asset remains in compliant use.

<b>LCF Value</b>	<b>Asset monitoring period</b>
Less than £10,000	Confirmation at project completion
Between £10,000 and £100,000	3 years
Between £100,000 and £200,000	5 years
Between £200,000 and £300,000	7 years
Over £300,000	10 years

## **Other types of assets**

For other types of assets EBs should record confirmation that the asset is delivering against the approved objective at project completion. All capital assets purchased with LCF funding are reported to ENTRUST via the Form 9: Project Completion Form.

## **Asset monitoring**

EBs should inspect assets at an appropriate frequency to confirm the asset is in compliant use. The frequency of the inspection regime is at the discretion of the EB and should take into account the value of the asset using a risk-based approach. An inspection should entail a physical visit. If a visit isn't cost effective other evidence may be deemed appropriate if the EB is satisfied that other evidence provides the assurances needed that the asset is in compliant use. Other evidence could be photographic, for example. At the end of the asset monitoring period a final inspection should be made to confirm compliance and then the asset can be deleted from the register.

## **Asset monitoring record retention**

The record keeping period for assets commences at the end of the asset monitoring period as this is the last day a record is made relating to that asset. See our guidance on record keeping for further information.

## **Form 9: Project Completion form**

EBs should record all capital assets purchased with LCF monies on the project's Form 9: Project Completion.

### **Protection of land and buildings**

The land or building should be protected through the Land Registry if necessary. This could be done by a restriction in favour of the funder (funding EB or LO). Restrictions or other such protections should be sought when the land or buildings aren't already suitably protected by the nature of the land ownership (e.g. held in trust) or by the funding contract. Please note that land law in Scotland and Northern Ireland is slightly different to that in England and Wales and equivalent protections can be used instead of a restriction.

The asset monitoring periods detailed above are the minimum periods land and buildings should be protected. If EBs have restrictions in place for longer periods based on their funding policies or as result of historic agreements then there is no need to amend these. This may be relevant when there are costs associated with removing the protection and the EB wishes to avoid these costs.

### **Sale or disposal of an asset**

If an asset is sold by an EB within the asset's monitoring period then the proportion of the proceeds of sale (equal to the proportion of the LCF funding contribution) is considered income derived and must be used to fund

further compliant activity. See our guidance on income derived for further information. Where an EB seeks to dispose of a LCF funded asset, it should consult its original funding agreement (with the LO) to ascertain whether that agreement contains any clauses about disposal of LCF funded assets or the use of derived income from such disposals.

If an EB provides LCF funds (in whole or in part) to the purchase, creation or improvement of an asset owned by a non-EB, it should make its LCF contribution conditional on repayment where the asset is sold or ceases to comply with the Regulations within the asset's monitoring period. The amount to be repaid is the proportion of the sale value equal to the proportion made towards the purchase, creation or improvement price. Funds returned to an EB are considered income derived and should be used to fund further compliant activity.

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. If the LCF funded asset is sold then any proceeds of sale are income derived must be used to fund further compliant activity. Assets should be valued independently if the current value is thought to exceed £10,000.

## 6.3 Benefit rules

The Regulations prevent LCF funds being used for the benefit of either:

- a LO who has made a qualifying contribution to the EB; or
- any CTP who made a payment to release that qualifying contribution.

It is acceptable for a LO or CTP to benefit if they are in a class of person which would benefit generally, but there must not be a unique benefit to any person who has made a qualifying contribution or CTP payment.

### **Persons who have made qualifying contributions**

LOs will have made qualifying contributions to an EB if they:

- contribute LCF monies directly to the EB; or
- contribute LCF monies to another EB (including a funding EB), which subsequently transfers LCF monies to the EB.

Once a LO has made a qualifying contribution to an EB, it will be regarded always as having made a qualifying contribution to that EB. Therefore, in relation to every new proposed project which an EB wishes to undertake, that EB must consider whether there is a benefit to any

LO which has ever made a qualifying contribution to it, however long ago the qualifying contribution was made.

### **Persons who were a CTP in relation to a qualifying contribution**

A person who is a CTP in relation to a qualifying contribution is any person who pays the LO an amount to secure the payment of the qualifying contribution from the LO to the EB.

## **6.4 What counts as a benefit to a LO or CTP?**

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

### **The ‘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. ENTRUST interprets the term ‘funds’ to mean any source for the EB’s money, not just LCF monies.

### **Funds can be used to benefit ‘a class of persons that benefits generally’**

A class of persons is a group with a common function or classification, for example all users of a village hall or all users of a public park.

If a CTP or LO which made qualifying contributions derives benefit as part of a class, then that benefit must not be greater than any other member of the class. If the



'class of persons' is a small group then it could be considered that the benefits are specific to that group rather than of a general nature. If you are in any doubt please contact us for further guidance.

### **Indirect Financial Benefit**

An enrolled EB must not provide a market, commercial or other financial advantage to a LO which provides a qualifying contribution to the EB or a CTP. This includes relieving the LO or CTP of any contractual or statutory obligation, term of planning permission or other duty.

### **Intellectual Property**

Where an EB supports a project that develops Intellectual Property Rights (IPR) or an innovative methodology, that IPR or methodology must not provide a unique benefit to a LO which made a qualifying contribution or a CTP.

### **Benefit from Assets**

Assets acquired or created by an EB may only be used by a CTP or LO who makes a qualifying contribution if the CTP or LO pays the open market rate for use of those assets. Similarly, assets acquired or created by an EB may only pass into the ownership of a CTP or LO who makes a qualifying contribution if the CTP or LO pays the open market rate for them.

## **Making Payments to Contributors (LO or CTP) at Prime Cost**

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.

Contributors may provide goods or services to EBs in return for payment only when: the goods or services are provided at 'prime cost' and there is no possible element of profit or other commercial benefit to the contributor.

### **Prime cost = direct material + direct labour + direct expenses**

Prime cost excludes any element of 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, such as administration and overheads. Fixed costs may also include direct labour, unless the labour was employed exclusively to provide goods or services to the project and would not otherwise have been a cost to the contributor.

ENTRUST strongly recommends that the EB involved agrees a formula for establishing prime cost before funding any project that involves any payment to a contributor. This should be discussed with ENTRUST in advance of any payment being made.

## **Transparent Accounting**

Accounting arrangements when the contributor (LO or CTP) is involved in the project must be transparent. ENTRUST will need to see the budget and the quotations and invoices of the contributor to ensure they do not receive a benefit. In some cases 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.

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 team as soon as such issues come to light.

## **Awareness of the LCF and the funding LO/EB**

Acknowledging the support of your contributors on plaques and in publications is not regarded as a benefit. We encourage the use of the LCF logo on all materials connected with the scheme. Further information can be found on the [Brand Guidelines](#) page of our website. Only reasonable and relevant promotional activities may be funded by LCF monies. If you are concerned whether a planned activity may be compliant please contact us to discuss.

## **Monitoring Unique Benefit to CTPs**

As a 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:

- Maintaining a register of CTP donors;
- A signed declaration from the project applicant that there will be no unique benefit to any CTP;
- Internal EB checks to determine if there is a direct link between the project and the CTP which could result in a unique benefit;
- Internal EB checks to cross reference project to the register 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 a CTP does not receive a benefit from the projects which the EB registers

## 7 Devolution

### 7.1 Guidance for all EBs on the closure of the LCF in Scotland and the transitional period

This guidance should be read by all EBs as it affects EBs throughout the UK.

Responsibility for the collection and administration of Landfill Tax in Scotland was devolved to the Scottish Government from 1 April 2015 and the LCF ceased in Scotland on 1 April 2015.

**There is a two year transitional period to enable LCF projects in Scotland to be completed and for all remaining LCF funds in Scotland to be spent. The transitional period runs from 1 April 2015 to 31 March 2017. EBs can continue to register projects in Scotland with us during the transitional period but all projects must be completed by 31 March 2017.**

For the avoidance of doubt, when we refer to the LCF we are referring to the scheme which closed in Scotland on 31 March 2015 and now operates in England, Wales and Northern Ireland. We refer to the scheme which commenced in Scotland on 1 April 2015 as the Scottish Landfill Communities Fund (SCLF).

#### **Contributions in the transitional period**

For the duration of the transitional period, contributions into the LCF will be divided into 'old' monies and 'new'

monies. Old and new monies must be accounted for separately and clear audit trails maintained to ensure the monies are distinguishable.

### **‘Old’ monies**

‘Old’ monies are LCF contributions arising from Landfill Tax credits claimed by LOs in relation to waste put into landfill sites anywhere in the UK on or before 31 March 2015.

**‘Old’ monies can be spent throughout the UK, including in Scotland, during the transitional period. After the transitional period (ending 31 March 2017) old monies can only be spent in England, Wales or Northern Ireland.**

### **‘New’ monies**

‘New’ monies are LCF contributions arising from Landfill Tax credits claimed by LOs in relation to waste put into landfill sites in England, Wales or Northern Ireland after 1 April 2015. Any contributions arising from Landfill Tax credits claimed by LOs registered for Scottish Landfill Tax, which relates to waste put into landfill sites in Scotland after 1 April 2015, will be paid into the new Scottish scheme and are not part of the LCF.

**‘New’ monies can be spent throughout England, Wales and Northern Ireland during the transitional**

**period but cannot be spent on projects in Scotland during the transitional period.**

### **Contributions received by EBs**

**It is already a regulatory requirement that EBs make records in respect of the contributions they receive and report the receipt of contributions to us. For further information please see our guidance [Section 3: Now you are enrolled as an EB](#).**

Since 1 April 2015 it has also been necessary for all EBs to identify whether the contributions they receive during the transitional period are 'old' monies or 'new' monies.

We assume that any contributions received on or after 1 May 2015 are 'new' monies. However, our assumption may be incorrect in some cases and we request that you contact us if you believe this to be the case.

### **Responsibilities when making a transfer to another EB during the transitional period**

All EBs must be able to identify the contributions they hold so that they can identify where those contributions may be spent. It is the responsibility of the transferring EB to additionally inform the recipient EB whether the LCF monies transferred are 'old' monies or 'new' monies.

Where the transfer is partly of ‘old’ monies and partly of ‘new’ monies, the transferring EB must notify the recipient EB that the transfer is of mixed funds and notify the recipient EB how much of the transfer constitutes “old” monies and how much constitutes ‘new’ monies.

The transferring EB must notify the recipient EB in writing at the time in which the LCF monies are transferred. The notification may form part of a funding agreement or may be made separately. It is the EBs responsibility to ensure they have the necessary systems in place to identify the contributions they hold, and to inform any EB to whom LCF monies are transferred.

## **7.2 Expenditure of LCF monies during the transitional period, and from 1 April 2017**

EBs throughout the UK may hold ‘old’ monies, ‘new’ monies or a mixture of both. This section of the guidance sets out the different rules on how these monies can be spent.

### **Expenditure of ‘old’ monies**

During the transitional period, ‘old’ monies can be spent throughout the UK, including in Scotland, on LCF approved Objects, namely projects and running costs.



‘Old’ monies may be spent on approved LCF projects throughout the UK. **All LCF projects in Scotland must be completed by 31 March 2017.**

During the transitional period, an EB may continue to meet its reasonable and relevant running costs, up to a maximum of 7.5% of total LCF expenditure, where the running costs are attributable to its LCF activities from the LCF ‘old’ monies which it holds. Please see [Section 3: Now you are enrolled as an EB for further information on running costs.](#)

Where an EB has running costs which are attributable to managing LCF projects in Scotland then only ‘old’ monies can be used to meet those running costs.

Up to 31 March 2017, LCF ‘old’ monies can also be transferred to another EB or returned to the original contributing LO. (HMRC will clawback the relevant tax credit.)

Where a transfer is made to another EB, the transferring EB must follow our guidance on transfers in the transitional period.

### **Expenditure of “new” monies**

‘New’ monies can be spent on projects throughout England, Wales and Northern Ireland during the

transitional period. No 'new' monies can be spent on projects in Scotland at any time.

'New' monies may be spent on the reasonable and relevant running costs of an EB (wherever based), up to a maximum of 7.5% of total LCF expenditure, where the running costs are attributable to the management of approved LCF projects in England, Wales or Northern Ireland.

'New' monies cannot be spent on the running costs of an EB (wherever based) which are attributable to the management of LCF projects in Scotland. Please see [Section 3: Now you are enrolled as an EB for further information on running costs](#).

During the transitional period, LCF 'new' monies can also be transferred to another EB. Where a transfer is made to another EB, the transferring EB must follow our guidance on transfers in the transitional period.

'New' monies may also be returned to the original contributing LO (HMRC will clawback the relevant tax credit).

### **Last date for spending or transferring funds**

We recommend that EBs in Scotland holding money should ensure that any money is spent or transferred before the end of February 2017 to allow sufficient time

for closure activity before the end of the transitional period.

### **7.3 Funds retained for the winding up of Scottish EBs within, and following, the transitional period.**

#### **Funds retained for the winding up of Scottish EBs within the transitional period.**

Some Scottish EBs may be holding funds for the winding up of their business following the closure of the Fund in Scotland. Any reserves for winding up costs should be reviewed periodically to ensure that appropriate funding is held to meet any contractual liabilities.

EBs must be able to justify their winding up reserves position in respect of funds retained for winding up. A reserves policy should include the following:

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

**Regulation 30(1) sets out that running costs include any cost incurred in connection with the management and administration of a body or its assets. Therefore, LCF funds used for winding up are part of the running costs of an EB. More on running costs can be found in [section 3](#).**

Reasonable and allowable winding up costs may include:

- The cost of employees not involved in the day-to-day running of the EB required to wind up the EB;
- Contractual redundancy payments set at a reasonable level;
- Outplacement costs, such as costs relating to support given to individuals who are being made redundant;
- Pension liabilities set at a reasonable level;
- Office rental payments required to the end of a lease period;
- Dilapidations due at the end of a lease period; and
- Costs relating to any legal and financial advice required when winding up the organisation.

If the organisation is not carrying on business after the transitional period then winding up must be completed by 31 March 2017. If the organisation does not intend to close down, then they cannot carry any unspent LCF

funding forward, other than that agreed specifically for winding up.

**Where an EB receives funds from other sources, LCF funds can only pay the proportion of running costs that correspond to the proportion of LCF funding.** If you are unsure whether a category of your winding up costs may be compliant, please contact us for advice.

**LCF funds held for winding up must be reported on an EB's Form 4-Statutory Annual Return.** We also expect these costs to be reported in the EB's annual accounts.

### **LCF expenditure after 31 March 2017**

**No LCF monies can be spent on projects in Scotland, or on running costs attributable to the management of them, after 31 March 2017.** However, in some circumstances Scottish EBs may be allowed to carry forward a reasonable and relevant amount of winding up costs after 31 March 2017 to address any statutory and contractual obligations, such as redundancy costs, that may exist. Should an EB propose to carry forward such costs they must submit a request to ENTRUST by 30 September 2016 and each request will be reviewed on a case by case basis.

### 7.3 Additional reporting requirements for Scottish EBs

Please note that this part of the guidance only applies to EBs based in Scotland which:

- Held a balance of LCF monies as at 31 March 2015; or
- Received a contribution of “old” monies during the transitional period; or
- Received a transfer of “old” monies during the transitional period.

All EBs, including EBs in Scotland, must continue to submit a statutory Annual Return by 28 April each year, even after the end of the transitional period. EBs which do not wish to retain this obligation should seek voluntary revocation from the LCF.

#### **Additional reporting in relation to LCF monies held**

In order to oversee the orderly and effective closure of the scheme in Scotland we have introduced additional reporting requirements for EBs based in Scotland who hold LCF balances during the transitional period.

In order to minimise the administrative burden on EBs, the additional reporting is based on the existing Annual Return procedure via EOL. EBs should submit an interim Form 4 annual return via EOL in the same manner as the statutory Annual Return. We will send a

reminder to all EBs who will need to report to us before the reporting deadline.

Once EBs who need to make an interim return have submitted their interim returns, we will collect the data and then the interim Form 4 returns will be un-reconciled to enable EBs to continue to report project completions until the next interim reporting deadline. EBs should ensure they meet the reporting deadlines set out below to minimise the period when Annual Return forms will be unavailable.

The additional reporting should be undertaken by EBs on the following dates:

<b>Date report required</b>	<b>Period covered by report</b>
14 October 2016	1 April 2016 to 30 September 2016
14 December 2016	1 April 2016 to 30 November 2016
14 January 2017	1 April 2016 to 31 December 2016
14 March 2017	1 April 2016 to 28 February 2017

These reports are in addition to the statutory Annual Return which EBs must continue to submit by 28 April each year.

## **7.4 EBs in Scotland which hold LCF monies from 1 April 2017**

This part of our guidance only applies to EBs based in Scotland.

### **EBs based in Scotland which have approved LCF projects in England, Wales or Northern Ireland**

From 1 April 2017, a Scottish EB which continues to operate in the remainder of the UK may hold LCF monies to spend on LCF projects in England, Wales or Northern Ireland.

### **EBs based in Scotland which do not have approved LCF projects in England, Wales or Northern Ireland**

An EB based in Scotland which does not have an approved LCF project in England, Wales or Northern Ireland in place on 31 March 2017 will be assumed not to continue to operate under the LCF. A Scottish EB which is assumed not to be continuing will not be able to hold LCF monies after 31 March 2017.

From 1 April 2017, where an EB in Scotland which does not have one or more approved LCF projects in England, Wales or Northern Ireland holds LCF monies,



HMRC will clawback the relevant amount from the LO which funded that EB.

### **Revocation of EBs based in Scotland**

All EBs will continue to be enrolled with ENTRUST unless they seek voluntary revocation from the LCF.

EBs in Scotland which will not manage projects in England, Wales or Northern Ireland will not be able to hold LCF monies from 1 April 2017 and so will not be able to use LCF monies to meet the costs of preparing or submitting a LCF Annual Return.

Forms to request voluntary revocation are available on the [revocation](#) page on our website.

## **7.5 Monitoring and protection of assets in Scotland**

### **Monitoring and protection for projects and assets throughout the UK during the transitional period**

All EBs should continue to follow the guidance set out in [section 6](#) on the monitoring and protection of LCF funded projects and assets for the duration of the transitional period.

Where a project is based in Scotland and the EB is likely to spend LCF monies during the transitional period in protecting or monitoring an LCF funded asset based in Scotland, the EB should refer to us for advice on a case by case basis as to whether it is appropriate to continue

monitoring or protecting that asset for the remainder of the transitional period.

### **Monitoring and protection for projects and assets in Scotland from 1 April 2017**

From 1 April 2017, no LCF monies may be spent on the protection or monitoring of any LCF funded projects or assets in Scotland.

## **7.6 Steps towards closure of the LCF in Wales**

The LCF in Wales will cease on 31 March 2018 and responsibility for the new Welsh Landfill Tax will be transferred to the Welsh Government on 1 April 2018. The Welsh Government has yet to announce the successor to the LCF in Wales.

As more information becomes available regarding the arrangements for closure we will provide an overview on the [Wales](#) page of our website and update our guidance.

## 8. Appendix – Glossary of Terms

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.
Additional associated cost		Costs not solely related to the physical works on a project such as: project publicity, opening ceremonies and other activities that do not directly result in physical work being undertaken.
Asset Register		An asset register is a record that contains detailed information about assets acquired using LCF monies. This can be as simple as an excel spreadsheet.

Name	Abbreviation	Concept
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 funding EBs that pay the ENTRUST levy and associate members are other EBs.
Benefit		A benefit is any material or financial advantage, asset, gain or benefit in kind. Neither the contributing LO nor the CTP may receive a benefit from having made a contribution. On a project level the recipient of a benefit can be an individual or group, and can include contractors or landowners who may gain from a project going ahead.
Building or structure of		A building or structure which can be

Name	Abbreviation	Concept
historical or architectural importance		demonstrated to have historical or architectural importance, for example, listed status or support from a County architect.
Clawback		In certain circumstances (such as an EB's expenditure being non-compliant, an EB breaching a condition or when an EB is revoked) HMRC have the power to recover from the funding LO the tax credit claimed by the LO in respect of the qualifying contribution it made to the EB. This recovery from the LO is known as clawback.
Compliant expenditure		Expenditure that has been made in accordance with the Regulations.
Connected person/party		Any person, organisation or group which is related or linked to the EB. This can include any director,

Name	Abbreviation	Concept
		partner, shareholder, manager or other employee or employer. Relations and links can be through personal or business connections, for example a spouse, a civil partner, a relative or a person connected by virtue of being a fellow trustee.
Contributing Third Party	CTP	Any person, organisation or group who makes a payment to the LO in order that the LO makes a qualifying contribution to the EB.
Derived income		See Income Derived.
Direct physical works		Works which are solely attributable to the delivery of the project (such as contractor costs, legal fees, volunteer management, signage and other materials that will be kept

Name	Abbreviation	Concept
		on site). Direct physical works are works which are necessary for the physical delivery of the project.
Diversion rate		The portion of a LO's landfill tax liability that it can give to EBs as qualifying contributions. This is reviewed and set by HMRC annually. For the current diversion rate see our <a href="#">website</a> .
Enforcement sanctions		Where ENTRUST considers that an EB's actions or responses suggest regulatory breaches or imminent breaches, 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

Name	Abbreviation	Concept
		receive and spend LCF monies on approved projects that are compliant with the Regulations.
ENTRUST		The Regulator of the LCF.
ENTRUST Online	(EOL)	An online database that enables EBs to access, update and file all their regulatory obligations and submissions. EOL allows EBs to undertake and manage their own data rather than being reliant on our administration which greatly reduces the administrative burden on all parties.
Environmental Body	EB	An organisation enrolled by ENTRUST. Once an organisation is an Environmental Body (EB), it is allowed to receive, distribute and spend LCF monies.



Name	Abbreviation	Concept
Expenditure		LCF monies spent by an EB. For an EB's expenditure to be compliant it must be spent on either an approved object or its running costs.
Form 1		The form for an organisation to apply to enrol as an Environmental Body with ENTRUST.
Form 2		The form for an EB to register a project with ENTRUST.
Form 2 - Appendix		The object specific appendix which is required to be appended to Form 2 from an EB who is registering a project.
Form 2X		The form for an EB to extend the deadline for it to complete a project.
Form 3		The form for an EB to report it has received

Name	Abbreviation	Concept
		LCF monies direct from a LO – it is a statutory requirement that this information is sent to ENTRUST within seven days of the LO receiving the monies.
Form 4		The form to make a statutory annual return required from every EB. The annual return is required even where there is nil balance or there has been nil project activity during the year.
Form 7		The form for an EB to report it has transferred LCF monies to another EB – it is a statutory requirement that this information is sent to ENTRUST by the transferring LO within seven days of the transfer of the monies.
Form 9		The form for an EB to report the completion of a

Name	Abbreviation	Concept
		project.
Funding agreement		The legal contract under which the project EB can receive LCF monies from another EB (often a funding EB) or the LO.
Her Majesty's Revenue & Customs	HMRC	HMRC collect Landfill Tax and allow an LO's claims for tax credit in respect of the qualifying contributions made. HMRC are also responsible for overseeing ENTRUST and for taking final enforcement sanctions where there is non compliance by an EB.
Income derived		Any income generated by LCF monies or by an asset funded with LCF monies, or by the sale of LCF funded assets. Income derived includes bank interest, royalties, rent, admission charges or proceeds from the sale

Name	Abbreviation	Concept
		of LCF asset.
In the vicinity of a landfill site		Projects under Objects D, DA and E and the Small Grants Scheme must be in the vicinity of a licensed landfill site. ENTRUST interprets this to mean within a 10 mile radius of a licensed landfill site. However, if evidence can be provided that a site further than 10 miles away from a licensed landfill site is adversely affected by the operation of the landfill site, then this may be compliant.
Intellectual Property Rights	IPR	Right to intellectual property, such as copyright, patents and designs. This includes any intellectual output or associated skills which have an economic value.
Landfill Communities	LCF	A scheme which enables LOs to contribute a

Name	Abbreviation	Concept
Fund		portion of the monies which would otherwise be paid as Landfill Tax to enrolled EBs for the purpose of those EBs carrying out projects (in accordance with The Landfill Tax Regulations 1996) which benefit the communities in the vicinity of landfill sites.
Landfill Operator	LO	A registered person, responsible for the operation of one or more licensed landfill sites, and (for the purposes of the LCF) responsible for the payment of Landfill Tax to HMRC in respect of waste deposited at their landfill sites.
Landfill site		Land is a landfill site if at any given time there is in force a licence, resolution or permit described in section 66 of the Finance Act 1996. For the

Name	Abbreviation	Concept
		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.
Landfill Tax Credit Scheme	LTCS	The old name for the Landfill Communities Fund.
Landfill Tax Regulations (1996)		The Regulations governing the LCF.
LCF monies		The sums held and spent by an EB under the LCF scheme.
Local authority		Local government administrative body, such as a local council, district 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

Name	Abbreviation	Concept
		the main contact in the first instance with any query we may have.
Object A		An approved object of the LCF which involves the reclamation, remediation or restoration of land, the use of which has been prevented by some previous activity.
Object B		<p>An approved object of the LCF which involves either:</p> <ul style="list-style-type: none"> <li>• the reduction or prevention of any potential for pollution; or</li> <li>• remediation or mitigation of the effects of pollution on land where that pollution has been caused by an activity that has now ceased.</li> </ul>
Object D		An approved object under the LCF which involves the provision,

Name	Abbreviation	Concept
		maintenance or improvement of public parks or other public amenities in the vicinity of a landfill site.
Object DA		An approved object under the LCF which involves the conservation or promotion of biodiversity.
Object E		An approved object under the LCF which involves the maintenance, repair or restoration of buildings or structures which are either places of worship or demonstrated to be places of architectural or historical interest.
Place of worship		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



Name	Abbreviation	Concept
		the Places of Religious Worship Act 1855 to confirm it is a place of worship.
Project		Works funded by LCF monies under an approved object.
Project applicant		A person or organisation who wishes to undertake a project and who seeks LCF money to fund the project works. It is not necessary to be an EB in order to seek an offer of LCF funding from a funding EB or LO but only an enrolled EB can apply to ENTRUST for project approval.
Project application		The process by which an EB submits details of a project to ENTRUST for approval. Once a project has been submitted by an EB then ENTRUST will decide whether the proposed project

Name	Abbreviation	Concept
		<p>complies with the Regulations. If the project is compliant then ENTRUST will give project approval.</p>
Project approval		<p>The approval of a project application by ENTRUST, confirming that the project meets the criteria of one or more of the approved objects under the Regulations.</p>
Public access		<p>Projects under Objects D or E must be available 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 fewer 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</p>

Name	Abbreviation	Concept
		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.
Qualifying contribution		The sum given by a LO to an EB under the LCF scheme, together with any income derived from such a qualifying contribution. When an EB receives a qualifying contribution from a LO, it must complete and return a Form 3 to ENTRUST within seven days of the receipt of the qualifying contribution.
Regulations		The Landfill Tax Regulations 1996 (S.I. 1996/1527), as amended
Regulatory body		The regulatory body is ENTRUST.

Name	Abbreviation	Concept
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 cease its registration as an EB from the ENTRUST roll of EBs. Compulsory revocation is when HMRC exercises the enforcement sanction of removing an EB from ENTRUST's roll of EBs for one or more serious breaches, or a number of less serious breaches, of the Regulations.
Small Grants Scheme	SGS	Under this scheme, qualifying EBs can register a single umbrella project under which they

Name	Abbreviation	Concept
		<p>can then award grants (not exceeding £5,000 per project) with total project expenditure under the registered EB's SGS each year not exceeding £100,000 or 10% of the registered EB's LCF income in the previous year.</p>
Tax credit		<p>An amount of money that the LO is able to claim by way of deduction to its Landfill Tax liability due to making qualifying contributions to an EB.</p>
Transfer		<p>The transfer of LCF monies between EBs, typically a payment from a funding EB to another EB. A transfer of LCF funds must be reported to ENTRUST, on Form 7, by the transferring EB within seven calendar days of the transfer being made.</p>

Name	Abbreviation	Concept
Vicinity of a landfill site		<p>Projects under Objects D, DA and E must take place in the vicinity of a landfill site. We interpret “in the vicinity” as being within ten miles of a site (although some funding EBs and LOs have more stringent requirements). 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.</p>