



LANDFILL OPERATORS ANNUAL BRIEFING: LANDFILL COMMUNITIES FUND (LCF)

1. ENTRUST engagement plan with LOs

1.1 Our Chief Executive, Christopher Welford, and members of the ENTRUST Board currently meet with several Landfill Operators (LOs) once a year to discuss matters relating to the LCF and our regulatory approach. After discussing this matter with HMRC, we have agreed with them to broaden our outreach activities and to issue an annual briefing note to all LOs who have participated in the scheme within the last three years. If you would like to participate in further engagement with ENTRUST about the LCF please contact Christopher Welford’s PA, Helen Maccallum by emailing helenmaccallum@entrust.org.uk or she can be reached by telephone on 01926 488317.

2. Operational Information

2.1 Since the LCF was created in 1996, LOs have contributed more than £1.5bn to the fund and Environmental Bodies (EBs) have spent more than £1.4bn on projects that benefit local communities who experience the disamenity of living within 10 miles of a landfill site. The following table shows the money spent, across the life of the fund*, on each of the LCF ‘Object’ types:

LCF Objects	Total spent*
The remediation of land (Object A)	£25,856,623
The prevention of pollution (Object B)	£2,151,746
The reduction of waste (Object C) ¹	£241,112,864
The recycling of waste (Object CC) ¹	£4,707,622
Public parks and public amenities (Object D)	£935,129,680
Biodiversity conservation (Object DA)	£113,622,362
The restoration of places of worship and historic buildings (Object E)	£105,023,518
The provision of services to other EBs (Object F) ²	£2,540,032

* as at 8 August 2017

2.2 There are currently 2,354 EBs enrolled with ENTRUST. During 2016/2017 we enrolled 61 new EBs and registered 1,959 projects.

2.3 In January 2017 ENTRUST published a Value for Money (VfM) report on the operation of the LCF. The report provides a summary of data collected from the Form 9 Project Completion Form between April 2013 and March 2016, which can be read on our website at:

<http://www.entrust.org.uk/news/landfill-communities-fund-lcf-value-for-money-vfm-report>

¹ Objects C and CC were removed from the Regulations in April 2003

² Object F was removed from the Regulations in April 2016

3. Closure of the LCF in Wales

- 3.1 Following the devolution of Landfill Tax to Scotland and the closure of the LCF in Scotland on 31 March 2015, Landfill Tax will be devolved to Wales and the LCF will close in Wales on 31 March 2018. On 20 June 2017, ENTRUST published [HM Revenue & Custom's \(HMRC\) Landfill Tax Briefing on the devolution of Landfill Tax to Wales.](#)
- 3.2 Legislation will be introduced in the UK Parliament so that from 1 April 2018, LOs will only be entitled to claim a tax credit for qualifying contributions made to EBs if they are spent on an approved project in England or Northern Ireland. There will be a planned transitional period from 1 April 2018 until 31 March 2020, where unspent funds may still be spent on projects located in Wales. This transitional period will run along very similar lines to when Landfill Tax was devolved to Scotland in 2015.

4. EB Compliance – risk to LOs of ‘claw-back’ of funds by HMRC

- 4.1 As the Regulator of the LCF, we are required under the Landfill Tax Regulations 1996 (Regulations) paragraph 33 (1) (i) to satisfy ourselves, by reference to records, or other documents, or information held by EBs, that the qualifying contributions received by the EB have been spent by it only in the course, or furtherance of the Regulations and the EB's approved objects. Additionally, under the ENTRUST/HMRC Terms Of Approval (TOA), we are required to provide HMRC with assurance that all LCF monies have been spent compliantly.
- 4.2 HMRC has the power to reclaim tax credits (claw-back) from the LOs where qualifying contributions have not been spent compliantly. This repayment of the tax credit claimed by the LO is under Landfill Tax Regulation Number 36. (Repayment of Credit). Where ENTRUST identifies serious issues of non-compliance, we will recommend to HMRC an appropriate course of action for their consideration. HMRC may, on the basis of ENTRUST's recommendation, determine that it is appropriate to seek the 'claw-back' of the tax credit claimed from the contributing LO. Issues or failures of EBs to comply with the Regulations which can result in 'claw-back' include:
- Non-compliant spend of LCF funds, which can include spending LCF funds on non-LCF activity;
 - Non-compliant project expenditure; and
 - Recovery of funds following forcible revocation of an EB who has failed to comply with the Regulations.
- 4.3 Where an EB has become non-compliant and there is a potential risk of 'claw-back', we have agreed with HMRC that we may contact the contributing LO to discuss our concerns and inform them of any potential liability they may face. This enables the LO to interact directly with the EB and to help resolve the issue of non-compliance, thus hopefully mitigating the risk to the LO of 'claw-back'.

5. Government's Reform of the LCF: Contributing Third Party (CTP) payments

- 5.1 When a LO makes a contribution to an EB it can only claim a tax credit from HMRC on 90 per cent of this contribution and is therefore left with a 10 per cent 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 per cent shortfall, or a portion of it, to limit the cost to them of participating in the scheme.
- 5.2 The Government's proposals for reforming the LCF, which were announced in 2015, contained an expectation that all LOs would absorb some or all of the 10 per cent shortfall in funding. To monitor the progress of LOs complying with this requirement, EBs are required to report to ENTRUST how much of the shortfall is being met by their contributing LO. This information is monitored by HMRC.

6. Annual Report 2016/2017

- 6.1 ENTRUST published its 2016/2017 Annual Report on 23 July 2017. This details our performance against the targets set in our 2016-2019 Corporate Plan by HMRC, which we fully met and delivered. The full Annual Report, or a short summary of the documents can be accessed using the following link:

<http://www.entrust.org.uk/about-us/corporate-documents/annual-reports/>

ENTRUST
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