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Event	LCF Forum
Location	HMRC, Trinity Bridge House, Manchester
Date	Monday 1st October 2012

Participants	
Name (alpha order)	**Details**
Ivor Berry	HMRC
Neil Carrigan	Yorventure
Peter Cox	Wren
John Dutton	Staffordshire Environmental Trust
Andrew Easby	National Trust
Kim Gutteridge	RSPB
Cath Hare	Biffaward
Mary Hawkins	ENTRUST
Stephen Hinchley	Wildlife Trust
Leonne Jackson	HMRC
McNabb Laurie	Veolia
Sara Lyons	Woodland Trust
Stephen Rees	LandTrust
Steve Robinson	HMRC
Andy Saunders	SITA Trust
Jenny Schwartz	Scottish Wildlife Trust
Robin Squire	Veolia Essex
Hannah Williams	ENTRUST
Gareth Williams	Viridor
Matt Young	Deputy chairman ADEB

Apologies	
Name (alpha order)	**Details**
Dr Cheryl Case	HM Treasury
Marek Gordon	SITA
Mike Hellings	Viridor credits
Ulrika Jonsson-Swinburne	National Trust
Lisa Nelson	Viridor
Sarah Walton	Derbyshire Environmental Trust

Agenda

1. Welcome and introduction

Leonne welcomed everyone to the Forum and introduced her colleagues from HMRC, Ivor Berry and Steve Robinson. Since Steve recently took over the role of managing the Environmental Tax Team in Manchester and for those new to the LCF Forum, Leonne asked if everybody could introduce themselves and say which EB they represented.

2. ENTRUST update

Mary Hawkins introduced herself and Hannah Williams from ENTRUST. Mary then provided an update on current issues at ENTRUST, explaining that the focus for ENTRUST remains is to provide a quality, value for money service.

3.1 Annual Report 2011-12 – Mary said that the Corporate plan had been published and was available on the website (http://www.entrust.org.uk/home/about/entrust-corporate-plan), and all targets were achieved.

3.2 Enrolments and revocations

During 2011/12 there were 217 EB enrolments and 213 voluntary revocations. ENTRUST rejected 14 projects for approval in 2011/12 of which 5 were overturned at the review stage. Mary explained that the project rejections which were overturned often arose because EBs had provided additional information and made minor amendments to the project they originally submitted.

3.3 Compliance & Enforcement

ENTRUST performed 343 compliance visits during the year, of which a key focus was unspent funds and EB running costs. A summary of the findings on these two elements of the inspections was submitted to HMRC.

A review of the accreditation scheme took place. Although it identified no additional benefits that ENTRUST could offer, most accredited EBs found the benefit of being accredited useful, and so the Board agreed that the scheme should be retained.

Mary explained that ENTRUST has developed a managed closedown procedure for larger EBs who decide they no longer wish to be in the LCF scheme. ENTRUST has recently worked with 3 of the larger EBs whom have now revoked from the scheme.

In 2011-12 just over 78% of Form 4's were submitted to Entrust by the due date. Currently 98 EBs have not retuned their Form 4's for 2011/12, and the naming and shaming list is on ENTRUST website.

ENTRUST will pursue EBs who do not send in Form 3's and Form 7's within seven days of receiving a contribution or making a transfer. This year ENTRUST along with HMRC visited a persistent late offender to explain the seriousness of their continued late reporting and potential consequences.

Four cases have been referred to HMRC. Two cases concern payments made by EBs to satisfy section 106 agreements which the Landfill Operator (LO) is a party to, and the other two are EBs who have been making a number of payments to their contributing LO.

Mary explained that a new area of work this year has been the review of the repayment of qualifying contributions. This may arise if an LO has paid more to an EB than they can obtain a tax credit on and ask for some of this money back because they do not want to be out of pocket. Repayments must be made from the original qualifying contribution, so it really is in EBs interests to ensure that if there are any downward movements in the percentage of tax an LO can give to the fund, that their LO is aware of it so this problem is avoided

3.4 Regulatory and Guidance Matters

Amended Condition

Mary explained the amended condition brought in by ENTRUST that took effect from 1 January 2012:

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

Income derived – Mary reminded EBs of ENTRUST's recently issued revised guidance in relation to derived income.

- EBs must record and report any income derived that **they** receive; and
- All income derived (whether or not it is received by the EBs) should be spent on approved objects.

Mary said that EBs must ensure appropriate controls are put in place to ensure that the income is spent on approved objects, even if they do not receive that income. Mary also highlighted that only the running costs of an EB is an approved object, and the running costs of projects may not fall within the objects set out in the Regulations. DEBs must also be able to satisfy themselves that the income derived is spent compliantly, and may wish to review their funding agreements and monitoring arrangements.

ENTRUST are currently working on revising the project registration forms to ensure that EBs consider income derived before the project begins, and indicate how this is likely to be spent so that ENTRUST can consider compliance issues at the start of a project.

A debate followed concerning income derived, with some people raising concerns over:

- ENTRUST' approach to income derived and its strict interpretation;
- the difficulties in identifying and working out derived income;
- perceived disproportionate response to a minor issue;
- treatment of projects completed in the past; and
- impact upon future projects.

John Dutton raised concerns about the strict interpretation of income derived and difficulties for organisations to identify income streams, particularly charitable organisations. He said a broader approach would be good otherwise it will result in fewer projects since uncertainties over what is meant by derived income are putting off applicants.

The discussion continued giving the example of a village hall being improved and how this may translate into an increase in door takings, and the issue of whether these takings were as a result of full or part LCF funding and would meet the derived income criteria. Other examples were given to show the difficulties in working out any income derived from LCF funds, and the concerns EBs face in trying to get it right.

Ivor Berry suggested that derived income could be an opportunity for the LCF to take credit that income derived is being re-invested into the scheme, giving it greater value for the future. He explained that income derived is not about catching people out or penalising them. It's about scale and size; the regulations say derived income must be accounted for so if a project receives derived income it must record it. This has to be about recognising and being clear about which projects have derived

income, and clarity in how it will be accounted for to remove any uncertainty. Reviewing this at project registration stage was key. Ivor said it is a legal requirement that can't be ignored.

Mary said she was happy to discuss examples of income derived and address it in future guidance. Kim Gutteridge asked if this would be on the Form 4 for next year but Mary didn't think a change to the form was necessary.

Contributing Third Parties (CTPs) – Mary explained that there are two separate issues:

- The recording and reporting of CTPs
- Who can act compliantly as a CTP

This work surrounding recording and reporting CTPs is now being considered by HMRC as it involves both LOs and EBs.

Mary continued her update on the organisation which can compliantly act as contributing third parties. Jenny Schwartz asked about the guidance, which Mary explained should be issued soon. This had turned out to be more complex than first thought however ENTRUST are finalising guidance on CTPs following discussions with HMRC.

Assets – ENTRUST will be submitting a report to HMRC on asset lifetimes.

Peter Cox complimented ENTRUST for not doing a consultation for over a year. Peter then spoke about the major shift with pump prime funding and the impact on projects. He asked whether it was better to be the prime funders or the last brick. Previously the LCF levered in around six times its value but now this has reduced to just two.

Public Consultation – Unfortunately because of other competing priorities for ENTRUST the consultation document has been delayed but is expected to be progressed this month. The consultation will cover:

- What public means;
- Whether admission costs can be so high that they exclude certain members of the public from having access to them due to the cost involved;
- How often facilities should be open to be 'public'; and
- Proportional registration.

ENTRUST asked for EBs wishing to be part of a sounding board panel to get in touch.

Reports for HMRC – ENTRUST in accordance with the Terms of Approval (TOA), submitted a report to HMRC that provides analysis of the last five years data they hold in relation to:

- Value for Money data for projects completed;
- Details of unspent funds held by EBs;
- Details of expenditure on projects;
- The running costs of EBs; and
- Details of youth volunteering.

ENTRUST also carried out some work with the Top 10 EBs holding funds to track a specific contribution received from receipt, to commitment to a project, to gaining ENTRUST approval, and then making the first payment to a project. This work also looked at the reasons why some projects take longer than others to make a first payment to a project.

3.5 Annual Satisfaction Survey – this has been completed and Mary thanked all who had responded. ENTRUST will shortly publish a report on their website.

The responses to the Satisfaction Survey show that ENTRUST has continued to improve service delivery and support to EBs. The new EOL system has been well-received and is seen as a useful tool reducing administration for EBs.
Areas for improvement identified in the survey include:

- Better 'right first time' guidance for enrolments making EBs know that they can contact ENTRUST for help;
- Making the importance of the VFM questions known to EBs (publication of report and clearer on application forms);
- "Well done and can we help?" call to EBs when they first receive funds; and
- Setting up regional networking events

3.5 Challenge

Steve Robinson reviewed the Government challenge from Budget 2011 and the further one at Budget 2012. It is part of a wider government initiative to get things moving in line with the Government's wider determination to improve efficiency across the whole economy, and to ensure that credits from landfill tax are spent on eligible projects as quickly as possible, bearing in mind that LCF spending is linked to landfill tax receipts foregone.

John Dutton suggested someone from HM Treasury should attend the Forum and speak to DEBs and see how they work to understand their processes in allocating funds. Leonne Jackson did say that a representative from HM Treasury was invited but due to leave commitments was unable to attend.

Robin Squire said that the LCF acted as a prime funder in attracting other funders down the line. Steve Robinson explained that from the Governments' point of view this is tax foregone and the credit has been taken by the landfill operator now. Spending contributions generates the economy and they want to see the money spent on projects as quickly as possible. The challenge was announced at Budget 2011 and now a further one in 2012; and HMRC will be expected to report back on EBs progress in meeting the challenge.

Andy Saunders said that money contributed each year is spent as EBs have a responsibility and do not hold onto funds unnecessarily. Their policy is to release funds on completion of projects and they have committed 90% of funds held.

Steve Robinson said it was a balance with both short and longer-term projects as there are no restrictions in place to exclude longer-term projects. The Government is not being overly prescriptive it is not a one size fits all approach.

Matt Young and Kim Gutteridge explained in many cases project applicants are volunteers, and this is one of the reasons a project can delayed. But once funds are

committed they are considered spent. Leonne Jackson asked how many projects fail and Matt Young said the failure rate is low.

John Dutton repeated his invitation for HM Treasury to go out and see what EBs are actually doing. He asked how do they value the LCF, as understanding the LCF may influence other grant schemes there are out there.

Robin Squire said on a positive note it was important to recognise the success of the scheme, it was about putting money into local communities. Peter Cox mentioned difficulties with the economy and the building industry but said there was an increase in projects when the Government reduced the VAT rate, but the brakes went on when the VAT rate went back up.

There was a general discussion around the room that it was felt that all have collectively responded to the challenge, examples being to increase the amount of grants given, a more relaxed attitude to match funding. Getting money out fast may mean more of the less ambitious projects but EBs don't want to compromise over quality. Some saw the challenge as a slap in the face, in their view the scheme was doing pretty well.

McNabb Laurie said the key thing is that money is not "unspent" if it's committed. As a DEB they do not commit money until it's in their bank account, and do not pay projects up front. Leonne Jackson asked what criteria if any the EBs require of project applicants. McNabb Laurie told us they look at the type of project, they look for the best project, not necessarily wholly funding, but they require evidence of need. They don't look for the simplest or quickest and there is a fear of being the last funder.

Others said if a project applied for funds they would be restricted from re-applying for 6 months or up to 3 years.

The discussion went onto assets and the impact for larger projects. Some EBs are reluctant to fund projects that include the purchase of land or buildings. Reasons given are ENTRUST guidance on holding assets in perpetuity, and the fear of clawback.

Andy Saunders did say his EB has 6 meetings per year for allocating funds. He has concerns about the negative consequences of the challenge for them given they feel they've done enough given their limitations.

John Dutton felt that the LCF was a gold plated scheme when compared to some other schemes including one funded by HM Treasury.

Ivor said it is recognised that the LCF has the ability to be a prime funder but this is was not the intention of the scheme. It was set up as a private sector scheme mainly due to the Government of the day not wanting it to be classed as public money. But what if the Government asks why should the LCF be a prime funder for everyone else? He advised the present situation economically is very different from 4 or 5 years ago.

Robin Squire said it is important that the LCF holds up its standards for business as usual. Far from cutting back what the scheme does is a good advertisement for more funding over and above the challenge.

Peter Cox said WREN has already made some changes to the way they allocate funds, including 100% funding of projects, and increasing maximum grant values.

Matt Young asked if the figures on unspent funds would be shared, as it would be useful to know.

The overall opinion of EBs was that the challenge has the wrong emphasis on total unspent funds rather than to address funds not committed.

Steve Robinson said the Government has issued this challenge and HMRC will be reporting back to HM Treasury taking on board the reason and explanations why some projects are delayed and take longer to complete. Leonne Jackson asked why EBs do not fund 100% of projects. Peter Cox said a lot of resources go into considering each project and as many organisations applying for funds are local groups not accountants and sometimes applications have to be stripped back before they can be considered. Ten years ago the scheme nearly disappeared so the challenge is looked upon with suspicion.

John Dutton explained the changes that took place in 2003 when two thirds of the scheme transferred to DEFRA under their sustainable waste programme.

This discussion concluded the 2012 LCF Forum.

Steve thanks all for their attendance and valued contributions to the meeting.