

B - Enrolling as an Environmental Body (EB)

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

Quick start to the Enrolment Process



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1. Which organisations can be an Environmental Body

Both corporate bodies (such as a limited company or a corporation) and unincorporated bodies (such as an association, a club or a trust) can be enrolled by ENTRUST as an Environmental Body. We would expect any organisation applying to be an Environmental Body to have a place of business in the UK.

2. Information required for enrolment as an Environmental Body

2.1 Background

2.1.1 When an organisation wishes to enrol as an Environmental Body (EB) we check that it has an appropriate governance structure which will enable it to receive and spend LCF funds in accordance with the Regulations.

2.1.2 Each organisation which is enrolled with us becomes an EB with a unique enrolment number.

2.2 Purpose of this guidance

2.2.1 This guidance note sets out the information which an organisation must provide to us in order to enrol as an EB. This guidance note also outlines the preliminary steps we recommend a prospective EB should take before enrolment, and sets out the cost of enrolling as an EB.

2.3 Action to take before applying to enrol as an EB

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

2.3.1 You should establish whether your proposed project qualifies for LCF funding. It will qualify if it matches one or more of the six areas of work (known as the Objects) which can be funded by LCF monies.

2.3.2 In summary, the Objects of the LCF 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 specific 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; and
- **Object F:** The provision of financial, administrative or other similar services by one EB to one or more other EBs.

Objects D, DA or E are the Objects most likely to apply to your organisation.

Find a funder for your project

- 2.3.3 Once you have established that your proposed project matches one or more of the LCF Objects, you should find a funder for your project. You should identify funding before preparing an enrolment application to us as some funders will register your 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 an organisation does not enrol as an EB if enrolment is not required.
- 2.3.4 To help you find prospective funders in your area please look at [our website](#). If you have difficulty in identifying fund providers in your area please contact the registrations team for assistance.
- 2.3.5 Contact the funders who fund in your area. They will be able to tell you if they have funding available for your project and also whether they will register a project on your behalf or whether it will be necessary for you to enrol as an EB to register your own project.

Make sure your organisation is appropriate to be an EB

- 2.3.6 Once you have found funding and your funder has confirmed that it requires you to be enrolled as an EB, you should check that your organisation is suitable to be an EB. 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 (as described above); and
 - Not be controlled by:
 - a LO
 - a Local Authority (LA); or
 - a registered person.
- 2.3.7 A registered person is someone who:
- Was concerned in the management of an EB which was compulsorily revoked;
 - Has been convicted of an indictable offence;
 - Is disqualified from being a trustee for a charity;
 - Is connected with a LO, a LA or with any of the persons above; or
 - Is incapable by reason of mental disorder

2.4 The application process to enrol as an EB

Applying online or on paper

- 2.4.1 An application can be made online (which we recommend) or on [paper](#). To make the application online you should register with [ENTRUST online](#). As you progress through the application form (either electronically or on paper) you will need to have certain documents available.

The supporting documents required

2.4.2 You will need to have the following documents in support of your organisation's application to enrol as an EB:

- The most recent version of your organisation's governing document (which outlines why the organisation exists and what the 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 as an organisation).

What your governing document must include

2.4.3 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 (this proof is not required for registered charities);
- 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 (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 in *Section H: the Benefit Rules*); 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 remain within the LCF.

2.4.4 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.

Additional information required with your application

2.4.5 You will also need to provide the following information and confirmation:

- 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; and
- Confirmation that you have an offer of funding or that you understand the £100 enrolment fee is non-refundable.

Method of payment

- 2.4.6 You will also be asked how you will pay the non-refundable enrolment fee of £100 to us. Payments can be made either by cheque or electronically. We will need to receive your enrolment fee before we can enrol you as an EB.

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

- 2.5.1 We will review your application and the supporting documents and will respond within five working days.
- 2.5.2 Once we are satisfied that all the necessary information has been provided, we will approve your application for enrolment. Once your EB has been approved you will receive an enrolment pack by post.
- 2.5.3 The enrolment pack includes a certificate with your EB's unique enrolment number. You will need to use this number in correspondence with us and with your funder.

3. Refusal of an enrolment application, and appeal

- 3.1 If your organisation is not considered to fulfil the requirements to become an Environmental Body then your application will be refused. All applications which have been refused will automatically be referred to the Review Panel. The applicant is invited to attend these meetings to make the case for enrolment. For further details on the workings of the Project/Enrolment Review panel, please consult the ENTRUST *Guidance Note G - Review Panel Terms of Reference*.

4. Retaining your enrolled status

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

Continuing to meet the requirements

- 4.2 An organisation must continue to meet the criteria in the Regulations while it remains as an EB. It must be able to demonstrate that it continues to meet the criteria, if required to do so by ENTRUST.
- 4.3 If you request revocation from the Fund and later decide to re-enrol as an EB you will be required to resubmit all details and pay the standard enrolment fee.

5. More detail about specific terms used in this section

Control by landfill operators and local authorities

- 5.1 As stated above, the organisation must not be controlled by:
- One or more landfill operators; or

- One or more local authorities.
- 5.2** Additionally, an EB should not be controlled by one or more local authorities or one or more landfill operators acting through representatives. Representatives of a local authority include its councillors and senior officers, as well as people appointed by a local authority to serve on an EB.
- 5.3** Neither landfill operators as a group, nor local authorities as a group, are allowed to form the majority on an organisation's governing body (its trustees, board of directors or management committee, for example). For the purposes of identifying control:
- Groups of landfill operators are assumed to act separately from groups of local authorities. In an organisation where representatives of both a local authority and a landfill operator are present, they count as representing different interests. The exception would be where the local authority was a landfill operator.
 - Representatives of different local authorities on an organisation's governing body are assumed to act together.
 - Representatives of different landfill operators on an organisation's governing body are assumed to act together.
- 5.4** The casting vote for matters related to LCF must not be conferred on a representative from a landfill operator or from a local authority.

The quorum

- 5.5** 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 landfill operator nor local authority representatives can form a majority (and thereby control the organisation) when only a quorum is present.
- 5.6** 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.

6. Model Constitution

- 6.1** An example of a model constitution can be found in the forms section of the [ENTRUST website](#).

7. The Regulations

- 7.1** Regulation 33 provides:

- (1) A body is eligible to be approved if –
 - (a) it is -
 - (i) a body corporate, or
 - (ii) a trust, partnership or other unincorporated body;
 - (b) its objects are or include any of the objects within paragraph (2) below (approved objects);

- (c) it is precluded from distributing and does not distribute any profit it makes or other income it receives;
- (d) it applies any profit or other income to the furtherance of its objects (whether or not approved objects); and
- (e) it is precluded from applying any of its funds for the benefit of any of the persons –
 - (i) who have made qualifying contributions to it, or
 - (ii) who were a contributing third party in relation to such contributions, except that such persons may benefit where they belong to a class of persons that benefits generally.
- (f) it is not controlled by one or more, of the persons and bodies listed in paragraphs (1A) and (1B) below;
- (g) none of the persons or bodies listed in paragraph (1B) below is concerned in its management;
- (h) it pays to the regulatory body an application fee of £100 or such lesser sum as the regulatory body may require.

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

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

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

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

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

- (a) in England and Wales, the person lacks capacity within the meaning of the Mental Capacity Act 2005 (c.9) to administer and manage his property and affairs;

- (b) in Scotland, the court has appointed a curator bonis, tutor or judicial factor; or
- (c) in Northern Ireland, the court has exercised any of its powers under Part VIII of the Mental Health (Northern Ireland) Order 1986 (whether or not by virtue of Article 97(2) of that Order), but shall cease to be so treated where the judge or court concerned has made a finding that he is not or is no longer incapable of managing and administering his property and affairs.

...

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

- (a) in the case of a body which is a body corporate, the person is empowered by statute to control that body’s activities or if he is that body’s holding company within the meaning of section 1159 of and schedule 6 to the Companies Act 2006, and an individual shall be taken to control a body corporate if he, were he a company, would be that body’s holding company within the meaning of that Act;
- (b) in the case of a body which is a trust or a partnership, where –
 - (i) the person, taken together with any nominee of his, or
 - (ii) any nominee of the person, taken together with any nominee of that nominee or any other nominee of the person, forms a majority of the total number of trustees or partners, as the case may be;
- (c) in the case of any other body, where the person, whether directly or through any nominee, has the power
 - (i) to appoint or remove any officer of the body;
 - (ii) to determine the objects of the body;
 - (iii) to determine how any of the body’s funds may be applied.