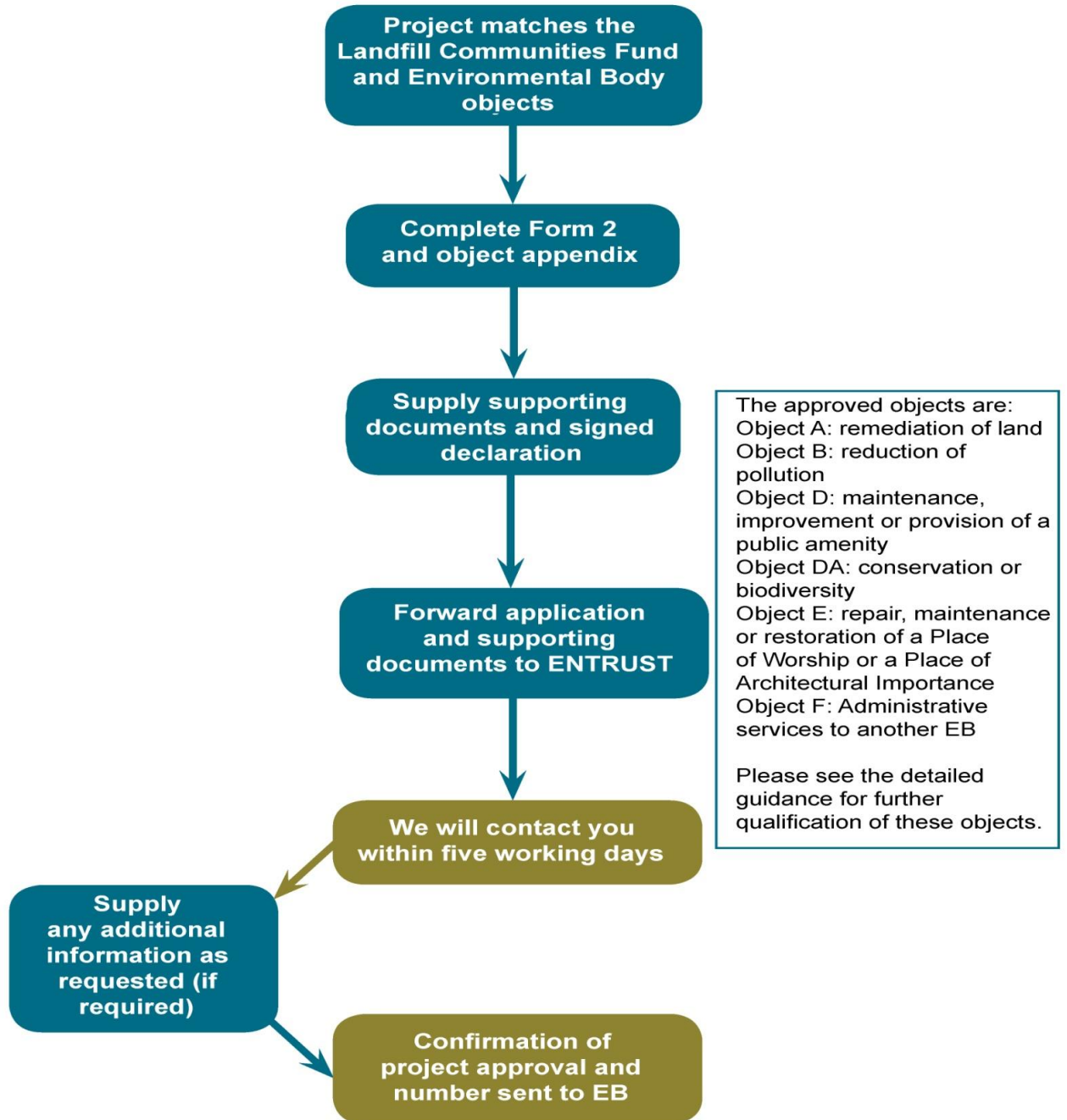


C- Project Approval and Spending Landfill Communities Fund (LCF) Monies

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

Quick Start to the Project Approval Process



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Project Approval and Spending Landfill Communities Fund (LCF) Monies

Landfill Operators (LOs) can only give qualifying contributions to enrolled Environmental Bodies (EBs). The qualifying contributions given by LOs to EBs can only be spent in accordance with the Regulations.

1. What the Landfill Tax Regulations say:

1.1 Regulation 30 provides as follows:

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

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

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

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

(d) where –

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

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

1.2 This is supplemented by Regulation 33A which provides:

(1) An approved body shall –

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

2. 'Qualifying Contributions'

2.1 A "qualifying contribution" is a payment made

- by a registered LO to an enrolled EB, and
- subject to a condition that the EB shall only spend the monies and any income derived in the course or furtherance of the EB's approved objects.

- 2.2 When an EB receives payment of a qualifying contribution from a LO, the EB must use Form 3 to report the receipt of the payment to ENTRUST. Form 3 must be returned within 7 calendar days.

3. The Relationship between Environmental Bodies and Landfill Operators

- 3.1 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 able to be enforced by contract. HMRC also expect the LO to take action to recover their contribution if the EB fails to honour the contractual obligation. Therefore EBs should ensure that they honour their contractual obligations in order to avoid the LO seeking to recover its contribution.

4. Spend on Approved Objects

- 4.1 LCF monies given to an EB must be spent only on the approved objects of the LCF. These are the objects set out in the Landfill Tax Regulations and detailed in the Quick Start Guide to the LCF or on the ENTRUST website.
- 4.2 Any income an EB receives from its LCF monies can also only be spent on the approved objects. This income from LCF monies is referred to as “income derived” and it includes (but is not restricted to):
- all interest earned as a result of investing LCF monies;
 - any other income derived from spending LCF funds (for example, a royalty as a result of project activity, or rental income from hiring out the facilities provided by the public amenity);
 - the sale of assets bought or created with LCF monies; and
 - any LCF funds returned to, or reclaimed by, an EB.
- 4.3 LCF funds can be transferred to another EB for it to spend on the approved objects of the LCF. Where such a transfer is made it must be reported to ENTRUST using a Form 7.

5. Project Approval

- 5.1 Following changes made to the Regulations in 2007, ENTRUST were granted the power under Regulation 34(1) to impose conditions on enrolled EBs. HMRC approve any condition in advance of it being imposed by ENTRUST as a condition imposed under Regulation 34(1) has force of law.

- 5.2 Regulation 34 provides as follows:

(1) The regulatory body

...

(aa) may -

- (i) at the time a body is approved, or
- (ii) subsequently, by notice delivered to that body,

impose such conditions as it sees fit;

(ab) may, by notice delivered to a body, vary or revoke any condition of the approval;

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

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

- 5.4** This condition supersedes all previous conditions. It means that an EB must have ENTRUST's approval of a project before it can spend any LCF money on that project. ENTRUST will refuse approval if it does not consider that the project fulfils an approved object (see *Section G – Review Panel Terms of Reference*). If you have been granted "Accredited" status by ENTRUST then projects which you submit online are automatically approved. (For more information see Section I – Accreditation and the Small Grants Scheme.)

- 5.5** If any LCF funds are spent on a project before that project has written approval from ENTRUST then that is a breach of this condition. (It will be a breach even if approval is subsequently granted for the project.) Where there is a breach of this condition, enforcement sanctions will be taken by ENTRUST and/or HMRC as appropriate.

- 5.6** Before approving a project, we will also need to see a cost breakdown that clearly identifies where the LCF monies will be spent. This allows us to establish that LCF monies will be compliantly spent on items allowed under the Regulations.

- 5.7** It is the registering EB's responsibility to make sure that the project expenditure falls within an approved object under the Regulations.

5.8 Transfer of project approval to another EB

- 5.8.1** In the usual case, once a project has been approved then the EB which registered that project will retain project approval. However, in some cases another EB may become involved in the delivery of the project.

- 5.8.2** Where a funding EB transfers a qualifying contribution to another EB which holds the approval for a project then this constitutes a transfer of funds. Therefore the funding EB must complete and return a Form 7 to ENTRUST within 7 calendar days of transferring the LCF funds to the receiving EB. The receiving EB (which holds project approval) reports its expenditure on the project against the project approval on its Form 4 in the usual way.

- 5.8.3** Where a funding EB makes a payment to a contractor for works which have been carried out on a project then there is no transfer between EBs. The funding EB reports the expenditure on the project against the project approval on its Form 4. This is the case even though the funding EB does not hold project approval.

- 5.8.4** Where the funding EB holds the project approval but the delivery of the project will be by the receiving EB then the funding EB must specify that the project will be

allocated to another EB when completing the project application form. The receiving EB's enrolment number must be included.

- 5.8.5** When the funding EB transfers a qualifying contribution to the receiving EB, then the funding EB must complete and return a Form 7, within 7 calendar days, notifying us of the transfer.
- 5.8.6** Once in receipt of the transferred funds, the receiving EB can make payments for the delivery of the project. The receiving EB should enter its expenditure against the funding EB's project approval. (The funding EB must ensure that details of the approved project are passed to the receiving EB.)
- 5.8.7** The funding EB will remain responsible for entering the first spend and last spend dates against the project. The funding EB will also be able to enter details of any expenditure it has made directly on the project (such as a payment to contractors).
- 5.8.8** There is a separate project expenditure data entry field on Form 4 to be used where another EB holds the project. EBs who have been allocated project approval by another EB will see these allocated projects listed on an additional project expenditure breakdown sheet on their Form 4. Any receiving EBs entering data into this new field must also complete the second project breakdown sheet.
- 5.8.9** EBs should be aware that they will need to complete separate project expenditure details for projects where they hold the project approval, and for projects allocated by another EB. EBs will need to ensure that they complete the relevant project expenditure boxes and project breakdown sheets for all relevant projects.

6. Timing

- 6.1** Our guidance is that LCF monies should be committed to a specific project within two years of receipt. The only exceptions are projects which are registered under the Small Grants Scheme – these projects must be re-registered and approved every 12 months.
- 6.2** The term “committed” means that there is a contractual agreement in place, providing that the funds will be spent on a particular project.
- 6.3** EBs should notify ENTRUST of any projects completed each year on their annual return (Form 4). If any project will no longer take place then the registering EB should contact ENTRUST in writing to request that the project be de-approved.
- 6.4 Seeking an extension of time**
 - 6.4.1** If an EB is unable to complete the spending of LCF monies on its project before the estimated completion date provided to us then the EB should seek an extension of time in which to complete the project.
 - 6.4.2.** Once a project has been completed, EBs should notify us of the project completion. This applies to all LCF projects completed on or after 1 April 2014.
- 6.5 Who should seek an extension of time in which to complete a project?**

6.5.1 Any EB who will not be able to complete the LCF spending on their project before the estimated completion date for that project should seek an extension of time.

6.5.2 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 both as to the original estimated completion date and also of any extensions to the estimated completion date.

6.6 How should an EB seek an extension of time?

6.6.1 Previously EBs have been able to seek an extension of time through informal contact with our Registrations team. Now, one month before a project is due to complete, a reminder email will be automatically generated and sent to the main contact of the EB holding the project approval. This email will remind the EB of the completion date and ask the EB to seek an extension of time, if more time is required to complete the project, or to notify us that the project has been completed. (No email will be sent if we have already received notification that the project has been completed.)

6.6.2 An EB may seek a first extension of time by completing Form 2X through ENTRUST online (EOL). Completing Form 2X through EOL will enable an EB to grant its own automatic extension of up to three months if the delay is for one of a number of specified reasons (see below).

6.6.3 For a first extension in excess of three months, for a further extension, for a reason other than those specified or for a paper copy of Form 2X, please contact our Registrations team.

6.7 Form 2X: Applying for an extension of time

6.7.1 An EB completing an application for an extension to the estimated project completion date online will find that any relevant project information which has already been provided to us will be pre-populated in the Form 2X: application for an extension of time form for that project.

6.7.2 An EB who is online and looking at the relevant Form 2 for a project will be able to see the date originally notified for the completion of that project. The EB will be able to request an extension of up to three months to the original estimated completion date by selecting the relevant button (next to the original project completion date in Form 2). This will extend Form 2 so that a Form 2X appears. The EB can then complete and submit Form 2X to apply for an extension of time.

6.7.3 A first request to extend the project completion date by up to three months will be granted automatically if the reason for seeking an extension is one of the following:

- The project works are delayed by bad weather
- The project works are delayed by other events e.g. sports season or 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
- A funding shortfall for the project

- 6.7.4** Once the extension has been granted the date sought by the extension application will become the new estimated project completion date.
- 6.7.5** Once the extension has been granted the EB can continue to spend LCF monies to complete the project, up until the new estimated project completion date. The EB holding the project approval should notify any other EB which is involved with the project of the new estimated project completion date.
- 6.7.6** For example, Andy realises that his estimated completion date of July 2016 is no longer feasible because the specialist contractor he has chosen to do the final work on his public amenity project will not be able to start work until August 2016. Andy logs into EOL to seek an extension to the project completion date. As the original project completion date is July 2016, Andy can seek an extension until October 2016. Andy decides to extend until September 2016. It is a first extension so the extension is automatically granted. Andy is able to continue spending LCF monies until the end of September 2016.

6.8 Contacting Registrations team to apply for an extension of time

- 6.8.1** If an EB requires an extension in excess of three months, is seeking a further extension, is seeking a first extension for a reason other than those specified (above), wants to have a paper copy of Form 2X or wants register to use EOL, then it should contact our Registrations team.
- 6.8.2** An EB who contacts our Registrations team for an extension should explain in writing:
- The length of extension required
 - The reasons for seeking an extension
- 6.8.3.** Our Registrations team will consider each request on its own merits and will notify the EB within five working days of the request being made.
- 6.8.4** For example, Brenda realises that her estimated completion date of March 2016 is no longer feasible because exceptionally wet weather over the last winter has delayed her biodiversity project by a year. Although the request for an extension is a first request, Brenda seeks an extension of more than three months and so cannot make the request online using Form 2X. Brenda emails the Registrations team with her request to extend the completion date by a year and explains how the weather has affected her project. The Registrations team are satisfied that the request meets the criteria and agree to extend the project until March 2017. The decision to grant the extension of time is emailed to Brenda. As the new project completion date is March 2017, Brenda is able to continue spending LCF monies until the end of March 2017.

6.9 Is there a limit to the length of extension I can seek?

- 6.9.1** If an EB seeks a first extension to the estimated completion date by going online then an extension of up to three months will be granted if the extension is sought for one of the specified reasons. An extension of more than three months cannot be granted by using Form 2X through EOL.
- 6.9.2** If an EB seeks an extension from our Registrations team then each request will be considered on its own merits. However, an extension will not normally be granted if:

- The original project has been completed
- The project has significantly changed from that originally registered
- 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
- The extension sought is for longer than the original length of the project

6.9.3 Therefore we encourage EBs to be realistic, at the project registration stage, as to the length of time it will take to complete their project and complete the spending of LCF monies. We would usually expect a project under Objects D, E, or F to be for no longer than two years, and a project under Objects A, B or DA to be for no longer than three years.

6.10 What happens after I have been granted an extension of time?

6.10.1 Once the extension has been granted, the date granted by agreeing the application for an extension will become the new estimated project completion date. The EB with project approval should notify any other EB which is involved with the project of the new estimated project completion date.

6.10.2 An EB can continue spending LCF monies to complete the project up until the new estimated project completion date.

6.10.3 If the project is not completed by the new estimated project completion date then the EB with project approval should seek a further extension. A further extension cannot be granted online and can only be granted by contacting our Registrations team.

6.11 What happens if my project is not granted an extension of time?

6.11.1 It may be necessary for our Registrations team to reject an application for an extension of time to complete a project. In those cases, once the condition is in place then the EB must ensure it has ceased spending LCF monies on the project by the estimated completion date.

6.11.2 Where an application for an extension of time is rejected, our Registrations team and our Compliance team will discuss with the EB concerned how it can proceed to ensure that the project is completed in a compliant manner or, where appropriate, how a new project can be registered.

7. Running Costs of the Environmental Body as Compliant Expenditure

7.1 Regulation 33 provides as follows:

(7) Where the objects of a body are or include any of the objects set out in paragraph (2) the following shall also be regarded as objects within that paragraph -

(a) the use of qualifying contributions in paying the running costs of the body, but this is subject to paragraph (8) below;

(b) the use of qualifying contributions in paying a contribution to the running costs of the regulatory body.

(8) The use of qualifying contributions in paying the running cost of the body shall only be regarded as an approved object if the body determines so to use no more than such proportion of the total of qualifying contributions, together with any income derived from them (or in the case of a contribution within regulation 30(2)(a), only that income) as the proportion of that total forms of the total funds at its disposal and does not in fact use a greater amount.

8. What the Regulations Mean in Practice

- 8.1** The Regulations allow some or all of an EB's running costs to be regarded as an approved object. ENTRUST interpret this to be costs which are reasonable and relevant to the LCF. This means an EB may spend LCF monies on its own administration costs if they are reasonable and relevant.
- 8.2** All costs should be reasonable and comparable to similar organisations, by both sector and size of organisation. EBs who manage no or very few live projects should have minimal EB running costs. Any costs should relate to the EB's level of activity.
- 8.3** Regulation 33(8) restricts an organisation with a number of different types of funding from using LCF monies to pay all the running costs – LCF monies can only pay the proportion of running costs that corresponds to the proportion of the organisation's funding that comes from the LCF. For example, if 40% of an EB's total funding is from the LCF (both contributions and income derived), then no more of 40% of the EB's running costs should be met from LCF monies.
- 8.4** As a matter of good practice, running costs which are in excess of 10% of LCF expenditure per annum will be monitored by the Compliance Team and, where appropriate, a review will be organised. All running costs should be justified financially and should be open to scrutiny by ENTRUST.

9. Paying for Goods and Services

9.1 Tendering

- 9.1.1** This section refers to best practice in evidencing value for money for the LCF. It is the responsibility of the EB to demonstrate that value for money has been achieved.
- 9.1.2** It is recommended that where LCF monies are used to purchase goods and services over £5,000 in value, competitive tendering should be undertaken.
- 9.1.3** Evidence of the competitive tender should be retained on the project file. This should consist of either a summary of tender information or by copies of the tenders submitted.

9.1.4 It is not necessary to select the supplier with the cheapest tender if there are good reasons for selecting another supplier. However, where the chosen supplier has not tendered the cheapest quote there must be a written explanation as to why the preferred supplier was selected. This should be retained on the project file as evidence.

9.1.5 In some cases, it is not possible to seek quotations or put a supply contract out to tender. 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 price agreed with this supplier is not higher than would normally be paid for similar goods or services.

9.2 Connected Parties

9.2.1 ENTRUST recommends as a matter of good practice that payment for goods and services is made only to organisations which are independent of people and companies connected to your EB, or the third party contributors to your EB.

9.2.2 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.

9.2.3 A connected party is defined as any individual or organisation, related or linked to the EB. This may include (but not be limited to) any director, partner, shareholder, manager or other employee or employer, company, trustee, advisory panel or committee that has direct or indirect influence on LCF spending. Relations and links can be both through personal or business connections, for example spouse / civil partner / cohabitee (or relative of spouse / civil partner / cohabitee), relative or persons connected to by virtue of their being a trustee. For further guidance on this point, please contact ENTRUST's Compliance Department.

9.3 Payment to another EB

9.3.1 Where an EB makes a payment to another EB which is acting in its capacity as a contractor, then the payment should be recorded as expenditure by the first EB on the specific project.

9.3.2 Where an EB makes a payment to another EB for that receiving EB to make payments to its suppliers, then the payment from EB to EB is a transfer of qualifying contributions. In this situation the funding EB must submit a Form 7 to ENTRUST within 7 calendar days of transferring the qualifying contribution to the receiving EB.

10. Assets Guidance

10.1 The Asset Regulations

Regulation 32 provides as follows:

- (1) A payment is a qualifying contribution if–
 - (a) it is made by a registered person to an approved body;

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

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

10.2 What is an asset?

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

- land, buildings and machinery;
- intellectual property rights; and
- cash, investments and securities.

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

10.3 Protecting the Asset

10.3.1 All LCF monies spent by an EB which purchase or create an asset (whether funding the purchase outright or merely a proportion of the purchase) should be protected. All EBs should ensure that they can account for all LCF funds held by them or spent on a compliant project or activity.

10.3.2 When an EB holds LCF funds, it should ensure that the value of the capital is preserved. Best practice dictates that LCF monies are not held in speculative investments where the principal sum may be diluted. Any loss of capital would normally be deemed to be non-compliant expenditure. Therefore, in the unlikely event that LCF monies are not required for immediate use, they should be placed in a bank account or similar facility, so preserving the capital sum. Any income earned from such an account or facility constitutes "income derived" and therefore must be spent only on LCF approved projects.

10.3.3 If your EB does invest LCF monies, it should adopt suitable practices to protect the principal sum. It is not appropriate for ENTRUST to develop guidance on investment practices. EBs may be interested in the Charity Commission document ['Investment of Charitable Funds: Detailed guidance'](#).

10.3.4 EBs should maintain an inventory of all assets purchased in whole or in part with LCF funds. This is in addition to whatever arrangements EBs may have for the recording of asset depreciation, either on its own balance sheet or on records held by the project promoter. EBs must ensure that every project budget is resourced to meet the costs associated with appropriate asset monitoring and asset management while the project's assets remains on the asset register. Please see section 12.1 below with regard to life/timescales of assets.

10.3.5 The EB in whose name a project is approved would be expected to record assets purchased in whole or in part with LCF funds by way of a formal asset register.

10.4 Sale or Disposal of an Asset

- 10.4.1** If an EB contributes LCF funds (in whole or in part) to the purchase, creation or improvement of an asset held 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. The amount to be repaid is the proportion of the sale value equal to the proportion of the LCF contribution made to the purchase / creation / improvement price.
- 10.4.2** Where an EB seeks to dispose of a LCF funded asset, it should consult its original funding agreement to ascertain whether that agreement contains any clauses about disposal of LCF funded assets or the use of derived income from such disposals.
- 10.4.3** The proceeds of sale from the sale of a LCF funded asset are considered to be “income derived”. Where a LCF funded asset is sold, the proportion of the proceeds of sale (equal to the proportion of the LCF funding contribution) should be returned to the EB and used to fund further compliant activity. This applies whatever time might have elapsed between the LCF funding of the asset and its sale, and whether or not the project is active or completed.
- 10.4.4** Where an asset is returned to an EB following the completion of a project, the asset may either be retained for use on other LCF projects or sold. If the LCF funded asset is sold then any proceeds of sale must be used to fund further compliant projects.

11. Timescales for Asset Management within EBs

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

11.1 Moveable/Tangible Assets

Assets valued at less than £2,000

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

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

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

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

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

Assets valued at over £50,000

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

11.2 Land and Buildings

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

12. Depreciation of Asset Value

- 12.1** If you intend to dispose of an asset within the relevant timescales set out in Section 12 above, our guidance is that the asset should be valued independently if the current value exceeds £10,000. We recommend that the written down value is calculated by applying depreciation on a straight line basis.

13. Cash Assets

- 13.1** EBs must be able to account for the LCF money that they hold at all times. We recommend EBs maintain a separate bank account for LCF money if it is cost effective to do so.

14. Ownership of Assets

- 14.1** When the EB is the project owner then any assets funded by LCF monies should appear on the EB's balance sheet.
- 14.2** Where the EB is not the project owner but any assets funded by LCF monies held by the EB are used in the EB's general operations (i.e. not in a project) then it is acceptable for those assets to be on the EB's balance sheet.
- 14.2** Where the EB is not the project owner but an asset funded by LCF monies is acquired by the EB solely for that project, ENTRUST recommend that the asset does not appear on the EB's balance sheet. Instead we recommend that a legally binding retention of interest is used to ensure that the asset remains within the LCF and within the control of the EB.

15. Retention of Records

15.1 Regulation 33A provides:

(1) An approved body shall—

...

(d) make and retain records of the following—

...

(v) in respect of each qualifying contribution and any income derived therefrom, including any such amount transferred to the body by another approved body, the date of and all other details relating to its expenditure;

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

- i) Project financing / funding information, which includes records of Contributing Third Party and Landfill Operator contributions. We recommend that these records are kept indefinitely as they are required to determine if the expenditure of LCF funds was compliant.
- ii) Documents which demonstrate how LCF monies were spent, including all invoices and relevant timesheet summaries. We recommend that these records are kept indefinitely as they are required to determine if the expenditure of LCF funds was compliant.
- iii) Other supporting documents, such as tenders and tender documentation, purchase orders, and procedural documentation. These only need to be retained for six years.

15.3 Legal records held by EBs should be retained indefinitely. Such records include: funding agreements, ownership records, deeds, Board minutes, declarations of interest and historical records of Directors.

15.4 Records of any assets funded by LCF monies should be maintained for the period of time that the asset is owned by the EB. Upon disposal of any LCF funded asset, records relating to the sale should be retained by the EB for a further six years. However, the record of the value received for the asset must be kept indefinitely.

15.5 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.

16. Completion of LCF projects

16.1 When is a LCF project complete?

16.1.1 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.

16.1.2 If the LCF investment is part of a larger project then the overall project may continue after the LCF completion date.

16.2 Who should notify ENTRUST that a project is complete?

16.2.1 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 that the project is complete.

16.2.2 One month before a project is due to complete a reminder email will be automatically generated and sent to the main contact of the EB holding the project approval. This email will remind the EB of the completion date and ask the EB to seek an extension of time, if more time is required to complete the project, or to notify us that the project has been completed. (No email will be sent if we have already received notification that the project has been completed.)

16.3 When should an EB notify ENTRUST that a project is complete?

16.3.1 For all projects which completed on or after 1 April 2014, the EB holding the project approval should notify us that the project is complete as soon as the project has been completed.

16.3.2. A project completion form has been reintroduced to address issues with over-running projects and to enable project applicants to inform us as soon as a project has completed (rather than waiting until submission of Form 4: Annual Return, which may be up to 12 months following completion of the project).

16.4 How should an EB notify ENTRUST that a project is complete?

16.4.1 When the final instalment of LCF monies has been spent on a project, the EB holding the project approval should log into EOL in order to notify us that the project is complete.

16.5 Form 4: Annual Return

16.5.1 Once in EOL, the EB holding the project approval should open the supplementary pages of its Form 4: Statutory Annual Return. Previously an EB could only notify us of the completion of a project by entering data in the supplementary pages of its Form 4 after the conclusion of the reporting year in which the project was completed. From December 2014 an EB will be able to notify us that a project is complete at any point in the year.

16.5.2 Although this facility will only be available from December 2014, we are asking EBs to notify us of the completion of all projects which completed on or after 1 April 2014.

16.5.3 On the supplementary pages of its Form 4, the EB should enter the date of the final LCF expenditure on the project and the amount of the final LCF expenditure on the project. The EB should then mark the project as complete. Where more than one EB is involved with the project and will spend LCF monies on the project, the EB holding the project approval should check that all LCF expenditure on the project by any other EB involved with the project has been reported by that EB (in the

supplementary pages of its own Form 4) before the EB holding the project approval marks the project as complete. This is the same process that was previously undertaken when entering project expenditure on a Form 4: Annual Return after the conclusion of the reporting year.

- 16.5.4** The data entered in the supplementary pages will feed through to the main pages of the Form 4, making the eventual completion of the Form 4 a more streamlined process. 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.

16.6 Form 9: Project Completion form

- 16.6.1** Once the project is marked as complete on an EB's Form 4: Annual Return, a Form 9: Project Completion form will be generated and a link to the new Form 9 will appear on that EB's EOL dashboard. The Form 9 will be pre-populated with any relevant project information which has already been provided to us.

- 16.6.2** An EB should complete and submit the Form 9. There is no formal deadline for the submission of a Form 9 but, as the Form 9 contains details about the completed project and any LCF assets which were created or purchased by the project, we will expect all Form 9s to be completed within three months of completion, and this will be reviewed as part of our compliance activity and at inspections. We will keep under review the absence of a formal deadline for Form 9 to be completed and submitted.

- 16.6.3** Additionally, EBs who register and complete a large number of projects may wish to fill out and submit their Form 9: Project Completion forms on a monthly or quarterly basis in order to keep on top of their reporting obligations.

16.7 EBs who are not registered to use EOL

- 16.7.1** An EB which is not registered on EOL should contact our Registrations team, either to register for EOL or to ask for a paper copy of Form 9: Project Completion form. One Form 9 will be required for each project completed.

- 16.7.2** Paper copies of Form 9 should be returned to us once the project has been completed. There is no formal deadline for the submission of a Form 9 but, as the Form 9 contains details about the completed project, we will expect all Form 9s to be completed and this will be reviewed as part of our compliance activity and at inspections.

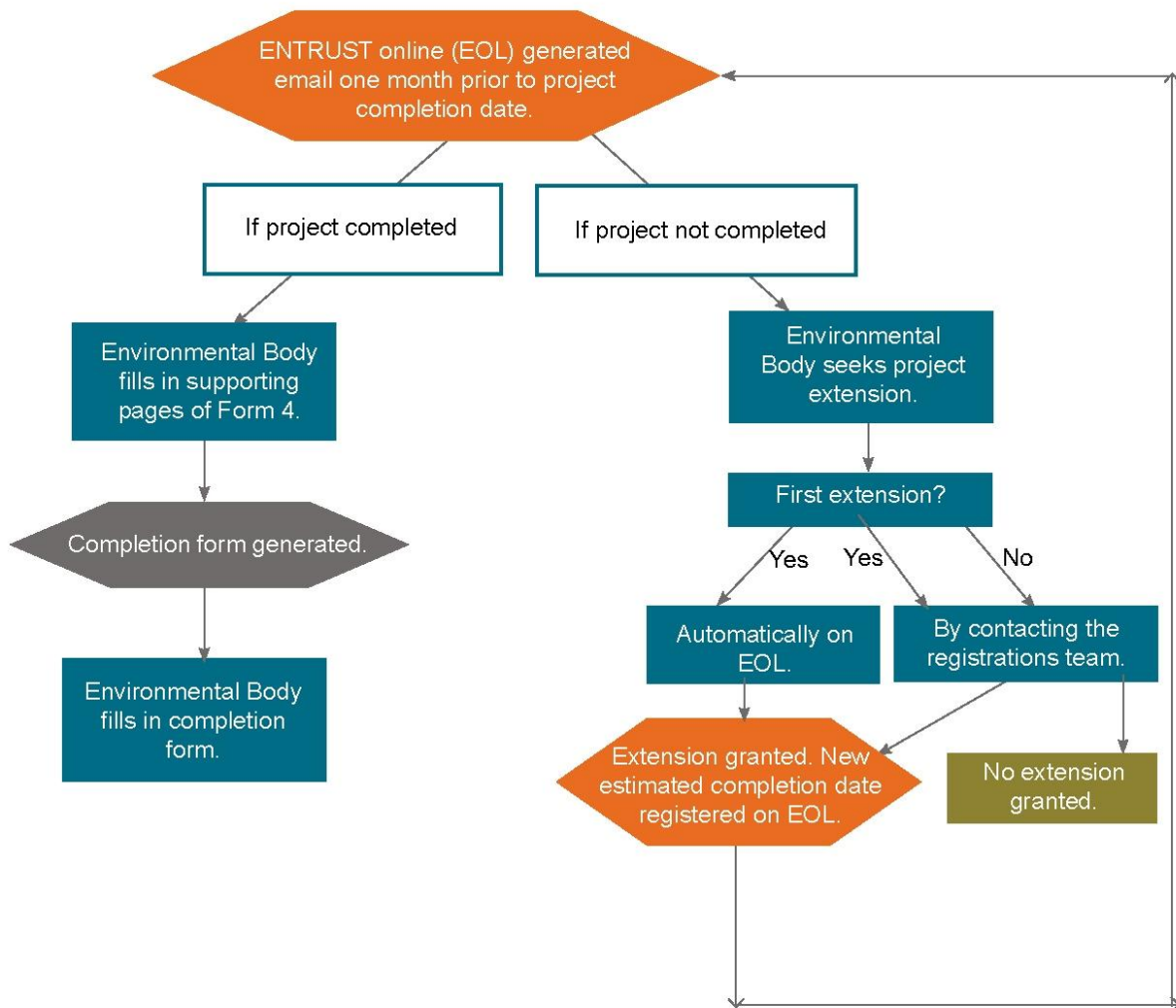
16.8 The Value for Money questions on Form 9

- 16.8.1** Previously project applicants were asked Value for Money (VFM) questions on the project registration form (Form 2). The requirement to complete these questions was removed from 1 April 2014. EBs are now asked VFM questions at project completion stage when EBs are likely to have more information about the project and are likely to be in a better position to respond.

- 16.8.2** Asking the VFM questions at completion stage is in line with many other third sector assessments of VFM (which are predominantly after completion of the enterprise being considered).

16.8.3 We will keep the VFM questions which are asked under constant review. Our expectation is that fewer, more targeted, VFM questions will be asked. By asking the VFM questions at project completion stage, we expect that project applicants will be able to provide more accurate data and ensure ENTRUST is able to provide more meaningful reporting on the impact and performance of the Fund.

16.9 Summary of the project extension and project completion process



17. Unspent LCF Monies

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

17.2 Other projects

LCF money held may be spent on other approved projects providing they meet one of the objects under the Regulations. Before spending the funds it is advisable to obtain the permission of the LO or distributive EB who allocated the money originally.

17.3 Transfer of monies

LCF money can also be transferred to another EB. It is strongly recommended that the permission of the LO or distributive EB is obtained first. 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 your EB with the funds. It is most likely it 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 Form 7.

17.4 Return of monies

Ordinarily LCF monies should not be given back to the contributing LO as payments to a LO are no complaint 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.

18. Retaining Funds for Winding-Up

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

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

18.2 LCF funds used for winding up an EB are part of the "running costs" of the EB. "Running costs" are defined (in Regulation 30(1) of the Regulations):

"running costs" includes any cost incurred in connection with the management and administration of a body or its assets.

18.3 The reasonable and allowable wind-up costs which an EB may incur include:

- The cost of employees who are required to wind down the EB (eventually where an EB is winding up there will be no more LCF funds to allocate – consequently we would expect the funds held for this purpose to be for the cost of only a proportion of current staff)
- Contractual redundancy payments, which we consider should be set at a reasonable level
- Outplacement costs, such as costs relating to support given to individuals who are being made redundant
- Pension liabilities, which we consider should be set 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
- Costs relating to legal and financial advice which is likely to be required when winding up

- 18.4** As set out in Regulation 33(8), where the EB receives funds from other sources, the LCF funds can only pay the proportion of running costs that corresponds to the proportion of the EB's funding that comes from the LCF (see Section 9 of the guidance). 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.
- 18.5** LCF funding cannot be used to meet any non compliant costs. If you are unsure as to whether a category of your EB's winding up costs will be compliant, please contact us for advice.
- 18.6** 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 would also expect these costs to be reported in the EB's annual accounts.

19. Winding-Up the EB

- 19.1** Prior to any decision to dissolve your EB, you should notify ENTRUST of your intentions and discuss with them how you will deal with any outstanding monies and/or assets. ENTRUST would normally expect these to be passed on to another EB with similar objects to ensure that they remain compliant with the Landfill Tax Regulations. However, if you are asked to return any unspent contributions to the contributing LO, you should contact ENTRUST for advice. The LO must also make arrangements to repay any tax credits to HMRC as outlined in HMRC's guidance notice LFT1 to LOs.