

Breach Management Consultation Report

December 2023

1. Introduction

- 1.1. As part of Entrust's regulatory responsibilities we are required by the Landfill Tax Regulations 1996 (Regulations) and the Entrust/HMRC Terms of Approval (TOA) to ensure that LCF monies are only spent on approved Objects (Regulation 33A.-(b)) and to take appropriate actions when there is non-compliance (TOA section 9).
- 1.2. Following feedback from in our 2022 satisfaction survey responses and during discussion with EBs during the management of breaches cases, it was suggested that our Breach Management Framework (Framework) is not clear or transparent and therefore we undertook a review, to ensure it complies with best regulatory practice.
- 1.3. Part of that review included a breach management consultation survey, which had 17 responders, many of whom had been through the breach management process as a member of an EB. The details of the responses are outlined below and have been anonymised. These responses are key to understanding the perspectives of Environmental Bodies (EBs), to assist in shaping any developments to the framework and associated processes.

2. Overview of Satisfaction

- 2.1. There were several questions that asked for a score on a scale of 5, that when collated indicates the level of understanding and satisfaction with the framework. These are detailed below:

Question No.	Question	Responders	Score (1 = negative, 5 = positive)
Q3	Having read the Framework, how clear do you think it is in explaining how the Framework operates? For example, if you were subject to breach management process, would you have a clear understanding of each stage of the process?	8	2.9
Q6	How clear did you consider that the reason for the case was made to you at the start of the review process?	7	2.9
Q8	Having responded to all information requests, did you agree that the time to arrive at a decision was timely?	7	3.3
Q10	Were you satisfied that that we worked sufficiently with you to rectify the breach?	7	3.7
Q11	Were you satisfied that the explanation of the intervention was fully explained to you?	7	3.7

2.2. From these responses, the scores regarding clarity (average of 2.9), are lower than the scores for the actions of Entrust staff, who received largely positive scores, although there are areas in which the empirical comments further explain the 3.3 and 3.7 scored respectively in the areas where staff are concerned. Regarding clarity, the low scores are the case for both clarity of the framework, and clarity of the process.

2.3. There were also several questions that required a Yes or No answer. These are listed below:

Question No.	Question	Responders (excluding 'don't know')	Percentage who answered 'Yes'
Q1	Were you aware that the details of our Framework is published on our website?	15	93%
Q2	Have you read the Framework that is published on our website?	17	65%
Q4	Are there any areas of the Framework that you feel could be developed to improve your understanding?	5	40%
Q9	Do you feel Entrust updated you regularly on the progress of the case, if not, how often would you prefer to be updated?	7	57%
Q13	Following the completion of the breach management process, did you take any positive action to mitigate the risk of future breaches?	7	57%
Q15	Do you consider our case investigation and review process could be improved by setting a target to close a case file?	8	63%
Q16	Do you think that the existing measures Entrust has in place effectively address breaches of the Regulations in the most suitable way?	8	50%
Q18	We recognise that the current framework does not provide any guidance as to how we make a final determination, do you consider it would be useful to publish this information?	5	100%

2.4. From these results, awareness and accessibility of the framework is very good, with 93% aware of the framework. Readership is also high for a document that operates outside of the Guidance Manual, at 65%. However, there are clearly areas that EBs feel could be improved, as there is a mix of opinions regarding how easy it is to understand.

2.5. There is also mixed opinion on the timeliness of cases, the regularity of information sharing, and the effectiveness of the breach management framework. The clearest

indication of opinion is an agreement that Entrust should publish information on the process of coming to a determination.

3. Comments and Themes

- 3.1. In this consultation survey, there were several opportunities to provide qualitative evidence in text boxes. There were 52 additional comments to enhance and provide context to the quantitative answers, all with useful and constructive content. Each comment was awarded a positive-negative score from 1 – 5 (5 being the most positive):

Positive – Negative	Number
Very Positive	0
Positive	3
Neither Positive nor Negative	10
Negative	14
Very Negative	6
Not Applicable (question did not indicate whether an answer should be positive or negative)	19

- 3.2. From these results, it can be assessed broadly that there is a more negative opinion of the Breach framework and associated processes in its current form, backing up the data in the numerical answers. This would support our own assessment that it is no longer fit for purpose and requires updating.
- 3.3. These comments gave several constructive suggestions, criticisms, and helpful indicators, that will be instrumental in building a revised framework, as will be recommended as an action.

4. Focus Group

- 4.1. We held a focus group on 17 November 2023 to discuss the consultation and look at possible solutions to the initial findings. There were several useful points that arose from the discussion and these will be considered as part of the framework developments.

5. Conclusion

- 5.1. Based on this consultation, there is clearly a need for a revised framework, designed using the feedback from this consultation and published in a transparent fashion. The design of this should consider the difficulties EBs have encountered with the current model and include the following:

- A clear process with identifiable stages, including a description of each stage,
- A commitment to timeframes at each stage,
- A clear approval framework, for comprehensive internal transparency,
- Detail of when and how EBs are informed, including informal and formal communication,

- A process for different complexities or seriousness of cases to cover proportionality of approach,
 - The process for an EB to appeal Entrust findings.
- 5.2. Alongside the revised framework, there is a need to review the information provided on the website, to clearly separate serious and minor cases, and give a clear outline of the issues that have been identified. We will also need to respond and ensure letters are clearly written without including unnecessary information.
- 5.3. There is little suggestion that Entrust staff have not conducted themselves appropriately but are working with a process that is not fully fit for purpose. It is likely that, with a revised framework and a clearer set of guidelines for staff in operating with cases, Entrust can build an effective and proportionate approach to managing breaches of the Regulations.
- 5.4. An action plan has been developed and is available in Appendix A, including a review of the changes in early 2025/2026.

Entrust

December 2023

Appendix A – Action Plan

The following table lists the actions set out in the report and their timeframes for completion:

No.	Action	Deadline
1	Review and rewrite the breach management framework with recognition of the points made in the consultation (see section 5.1)	March 2024
2	Review the information on the website to ensure it is relevant, correct and does not give any false impressions	April 2024
3	Ensure all letters are without unnecessary text, and a clear outline of the reasons for the letter and the nature of the breach.	Immediate
4	Ensure all language used is proportionate, clear, and using the 'coaching to compliance' ethos.	Immediate
5	Review the new framework in 2025/2026, after a year of operation, to understand the impact of the changes.	October 2025