



Environmental Body Trustee / Director Background Briefing

This briefing is intended for new Environmental Bodies (EBs) enrolled in the Landfill Communities Fund (LCF). It provides an overview of the regulatory framework and sets out the statutory and governance responsibilities that Trustees are expected to understand and comply with.

While Trustees are not expected to manage day-to-day operations, they are responsible for ensuring that the EB is governed effectively and operates in full compliance with the Landfill Tax Regulations 1996 and associated guidance.

Welcome to the Landfill Communities Fund (LCF)

The Landfill Communities Fund (LCF) is a tax credit scheme which enables Landfill Operators (LOs) to contribute money to enrolled EBs. The purpose of the LCF is to “offset” some of the negative impacts for people living in the vicinity of a landfill site by providing funds for community and environmental projects.

Although the LCF was introduced by government and is governed by The Landfill Tax Regulations 1996 (Regulations), it is classed by the Office for National Statistics as private rather than public funding, due to the voluntary nature of the fund. This enables project applicants to seek match funding from a wide range of providers, including public funding bodies.

How the Landfill Communities Fund (LCF) works

Under the LCF, a LO chooses to make a financial contribution – called a “qualifying contribution” - to an enrolled EB. The LO claims a credit, against its Landfill Tax liability, of up to 90% of the contributions it has made. The maximum percentage credit which can be claimed by a LO is set in the UK government Budget each year and is currently 5.3%.

As the tax credit which can be claimed is 90% of the contribution made into the LCF, a LO may ask for a contribution of up to 10% of its qualifying contribution from a Contributing Third Party (CTP). CTPs must be a separate person or entity from both the LO and the EB and cannot use LCF monies to make the CTP payment. HMRC expect LOs to absorb some or all of the 10% shortfall between their qualifying contributions and the tax credit entitlement themselves.

The EB uses the contribution by the LO to deliver projects for the benefit of communities and the environment. There is more about the types of projects that can be undertaken, and the rules applying to them below.

What is an Environmental Body

An EB is a not-for-profit organisation which delivers projects for the benefit of communities and the environment. To receive LCF funding a not-for-profit organisation must submit its project to an existing funding EB or, if receiving funds directly from a landfill operator, register as an EB with Entrust. The role of these existing funding EBs is to fund the projects submitted to them by other organisations, rather than delivering projects directly.

As a Director or Trustee of an EB, we expect you to ensure that your EB displays good governance, is operated transparently and that it fulfils its responsibilities under the LCF. You will also have a role in setting the culture of your EB. We expect that culture aligns with government expectations and aspirations for the future of the LCF and that your EB will meet any challenges set by HM Treasury.

The legal responsibilities an Environmental Body needs to fulfil

An organisation will have satisfied certain criteria to enrol as an EB. Once enrolled as an EB, an organisation is under a continuing duty to comply with the Regulations.

As a Director or Trustee (or another type of governing member), you must make sure that your EB continues to be a not-for-profit organisation that is not controlled by a local authority or LO. Any changes in your EB's constitution or control must be reported to us.

An EB also has other record-keeping and reporting obligations which must be fulfilled.

Record-keeping and assets

An EB must keep records of:

- the LO and any CTP
- any LCF money which is received and from whom that money is received
- how it spends its LCF money

Records must be kept for a minimum of six years.

Any assets purchased with LCF funds must be protected and monitored according to the timeframes contained in our Guidance Manual, which can be found on our website www.entrust.org.uk

Reporting

An EB must complete and submit a statutory Annual Return to us each year. This must be completed for every reporting year (1 April to 31 March) even if your EB has had no activity

and has not received or spent any LCF money in that period. The deadline for submitting the statutory Annual Return to us is 28 April each year.

The only way to remove the requirement on your EB to submit a statutory Annual Return is for it to revoke as an EB from the LCF scheme. If an enrolled organisation no longer wants to be an EB, (perhaps because all projects have been successfully completed), then it must seek voluntary revocation from us to deregister.

Your EB is also required to report to us:

- Within seven calendar days of receiving qualifying contributions from a LO
- Within seven calendar days of transferring qualifying contributions to another EB
- To inform us of any changes to your EB's constitution or Directors/Trustees

Projects

There are also some requirements with which your EB must comply in relation to projects. The most important of these is that no LCF money can be spent on a project until it has been approved by us and that LCF funds can only be spent between the project's approval date and project end date that you will provide when registering the project. In most circumstances, the end date can be extended if the project requires longer to complete. Please see the Guidance Manual for more information.

Your EB cannot use any of its funds for the unique benefit of its contributors. Your EB's contributors are any LO who makes contributions to your EB, and any CTP who makes a payment to the LO to release the contributions to your EB.

All LCF projects must be registered with us and must satisfy one or more of the approved Objects under the LCF (see below). Also, your organisation must have a corresponding Object(s) in your governing document that matches one or more of the Objects of the LCF. All projects must be undertaken in England or Northern Ireland.

There are five Objects listed in the Regulations. These are the areas under which projects can be undertaken using LCF money. They are:

- Object A:** reclamation, remediation or restoration of land;
- Object B:** prevention or reduction of potential for pollution, or remediation or mitigation of the effects of pollution;
- Object D:** provision, improvement or maintenance of a public park or other public amenity;
- Object DA:** the conservation or promotion of biological diversity; and
- Object E:** restoration, repair or maintenance of a building or structure which is a place of religious worship or is of historical or architectural interest.

The Regulations also allow EBs to use LCF money for their running costs but these costs must be reasonable and relevant to the work undertaken by your EB.

Project approval

Before you are ready to commence, or fund a new project, your EB should submit details of the project to us for approval. Your EB may not spend any LCF funds on a project until we have approved the project. This is a separate process to the application that your EB will make to a funding provider (LO or EB) for LCF monies to spend on your project. We do not distribute LCF funding.

We review all projects submitted to us to ensure they are compliant with the Regulations. As part of this process we may need to ask your EB additional questions or seek additional information. Once a project that has been submitted to us for approval meets the criteria in the Regulations, we will issue a project approval letter to your EB's main contact. Your EB is then able to spend LCF monies on the approved project within the period approved for that project. We have an independent review process for all projects which are rejected.

Compliance Inspections

To ensure that the Regulations are complied with we carry out compliance inspections of EBs. These inspections ensure that LCF monies have been spent compliantly and may take the form of a visit to your organisation and your project(s). You must ensure you are able to provide full details of how you have spent LCF money. You will be contacted if your organisation is selected for inspection by our Compliance Team

About Entrust – what we do.

Entrust is the regulator of the Landfill Communities Fund and reports to HMRC.

Entrust is responsible for:

- Enrolling EBs
- Assessing and approving projects
- Monitoring compliance through inspections and reporting

HMRC

HMRC are responsible for the administration and collection of Landfill Tax. HMRC Notice LFT1 provides a general guide to Landfill Tax and is available from HMRC's website. This notice is primarily for LOs but will also be of interest to EBs. Section 15 of Notice LFT1 introduces the LCF and explains how the fund works and the conditions that LOs must meet to claim a tax credit for contributions they make to approved EBs.

www.gov.uk/business-tax/landfill-tax

Other useful contacts:

The Association of Distributive and Environmental Bodies (ADEB) is a representative body for some of the practitioners within the LCF. ADEB's role is to:

- Promote best practice and provide a source of information for members
- Help, guide and support members with matters relating to the day-to-day running of the Fund
- Act as a collective voice on behalf of its members
- Promote the Fund's availability and ongoing success
- Organise and deliver education and training programs for its members

www.adeb.org.uk/

Sources of guidance and support

Trustees are encouraged to familiarise themselves with:

- Entrust Guidance Manuals
- HMRC Notice LFT1

Entrust contact details:

Website: www.entrust.org.uk

Email: helpline@entrust.org.uk

Telephone: 01926 488 300

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