



Compliance and Breach Management Update

April 2024 to December 2024

January 2025

1. Introduction

- 1.1. Entrust has a duty under the Landfill Tax Regulations 1996 (Regulations) to ensure that all LCF monies received by an Environmental Body (EB) are spent compliantly. As part of our compliance assurance work for HMRC, we conduct an annual programme of risk-based reviews of EBs and projects.
- 1.2. The inspection process evaluates the extent to which an EB has complied with the Regulations and managed projects in accordance with our guidance and wider good practice.
- 1.3. Control weaknesses identified during the inspection process are detailed within a compliance report together with appropriate recommendations for corrective action by the EB. A summary of the findings raised with EBs during April 2024 to December 2024 is outlined below.
- 1.4. Breaches of the Regulations by EBs are managed in accordance with Entrust's [Breach Management Framework](#), which we have agreed with HMRC, and which complies with best regulatory practice.
- 1.5. The aim of this report is to highlight examples of non-compliance and to provide advice and guidance to EBs on how to mitigate the risk of these issues occurring within their own organisations.
- 1.6. The report covers our activity during April 2024 to December 2024 and is split into the following sections:
 - **Failure to comply with the Regulations** –instances of non-compliance;
 - **Analysis of issues** – provides a more in-depth analysis of the issues identified;
 - **Recommended corrective actions** –the actions that EBs can implement to manage the most frequently identified compliance issues;
 - **Breach management** – provides details of EBs' late form submissions and spending outside of the prescribed period (SOPP);
 - **Breach management cases** – details Entrust's breach management case work and/or referrals to HMRC; and
 - **Non return of Statutory Annual Return (Form 4)** – details the submission of late Form 4s and frozen EBs.
- 1.7. If Stakeholders have any questions regarding the content of this report, or for more information on our compliance and breach management processes please contact our Compliance team on 01926 488 300, or by emailing compliance@entrust.org.uk Further information is also available on [our website](#).

2. Compliance Reviews

2.1. Failure to comply with the Landfill Tax Regulations 1996 (Regulations)

- 2.1.1. Non-compliant recommendations are raised where we identify that an EB has failed to comply with the Regulations. Advice and guidance is provided to EBs to enable them to resolve the issues and mitigate any future breaches.
- 2.1.2. During April 2024 to September 2024, 95 Final Compliance reports were issued in which 14 recommendations were raised to correct non-compliant issues.

Non-compliant issue	Number of recommendations					% of non-compliant recommendations
	Q1	Q2	Q3	Q4	Total	
Failure to maintain records of LCF expenditure			9		9	29%
Statutory reporting - Form 4		4			4	13%
Project expenditure outside of the prescribed period		3	1		4	13%
Non-compliant use of LCF funds		1	3		4	13%
Project non-compliance		1	2		3	10%
Failure to notify change of Directors, Contacts, or governing document	1	2			3	10%
Other - Non compliant		2			2	6%
Statutory reporting - Form 3			1		1	3%
CTP compliance			1		1	3%
Statutory reporting - Form 7						
Failure to maintain records of LCF income						
Failure to maintain CTP records						
Totals	1	13	17		31	100%

3. Analysis of Issues

3.1. Non-compliant issues

- 3.1.1 The most frequent non-compliant issue being identified is a failure to maintain records of LCF expenditure. In most cases this is due to a lack of, or invalid, VAT invoices to support the reported expenditure. It has been common for EBs to pay grants on production of Pro Forma invoices; Statements of Account or quotations. None of these documents are bona fide evidence of expenditure.
- 3.1.2 All EBs are required to submit a Statutory Annual Return by 28 April each year. In addition, it is expected that the returns are correctly completed and all figures reported are accurate. Reporting on the performance of the LCF by Entrust could be delayed or will be incomplete if

EBs do not submit accurate statutory Annual Returns by the deadline of 28 April. A number of cases have been identified where returns have been submitted after the statutory deadline or have contained inaccurate information.

- 3.1.3 Expenditure on a project is only permitted within the approved start and end dates agreed at project registration (the prescribed period). Any expenditure outside of these dates is non-compliant.
- 3.1.4 In addition, expenditure is only permissible on the specific items as detailed within the project approval. Purchase of items, works or materials which have not been specified is a non-compliant use of funds and in most cases will require the funds to be returned under the terms of the funding agreement.

3.2 Recommended corrective actions

- 3.2.1 Wherever possible, LCF expenditure should be supported by formal VAT invoices. Guidance on valid invoices has been issued as a news item in July 2023 on the Entrust website.
- 3.2.2 EBs should maintain sufficient records of all LCF income and expenditure to ensure the Statutory Annual Return to be completed as soon as possible after the year-end of 31 March and prior to the deadline of 28 April each year. The annual return form is available on EOL throughout the year to enable EBs to record their project expenditure as it occurs during the year to avoid the need for a full reconciliation at year end. This is particularly advisable for EBs which deliver multiple projects.
- 3.2.3 All projects should be subject to regular project monitoring by EBs both during and after completion to ensure that the requirements of the project approval are met and within the approved timescale. Where project delays or significant variations to costs or works are identified, these should be notified to Entrust Registrations team as soon as possible so that the project details can be amended before completion of the project.

4 Breach Management

- 4.1 EBs which breach the Regulations are subject to action under Entrust's [Breach Management Framework](#). Breach management action will begin with the issuing of an Advice and Guidance or Warning letter, with repeated breaches escalated to a higher intervention stage.
- 4.2 The following table provides a summary of the number of breach management letters issued during April – December 2024. Where an EB has multiple breaches in one month, then they receive one letter covering all of their breaches to minimise any additional administrative burden. For clarity purposes, the table also sets out some actions that EBs should take to avoid and mitigate these issues arising. For more detailed information as to the obligations of EBs please see our [Guidance Manual](#):

Regulatory breach	Breach management stage	No. of letters					Action EBs should take
		Q1	Q2	Q3	Q4	Total	
Late Statutory reporting – Form 3 (notification of contribution from Landfill Operator (LO))	Advice and Guidance letter	5		3		8	EBs should monitor bank accounts to ensure that they are aware of when money has been received from a LO. Mobile banking is recommended as best practice so alerts can be activated when payments are received.
	Warning letter			1		1	
	Final Warning letter						

Late Statutory reporting – Form 7 (notification of transfer of monies between Environmental Bodies)	Advice and Guidance letter	1				1	EBs should ensure they have a process established to report all transfers in the appropriate timeframe. This must include identifying if an organisation they are funding is an EB or not.
	Warning letter						
	Final Warning letter						
Late levy payment	Advice and Guidance letter						EBs should have a process established to pay the levy in the appropriate timeframe on receipt of invoice.
	Warning letter						
	Final Warning letter						
Project expenditure outside of the prescribed period	Advice and Guidance letter						EBs should monitor the completion of projects and request extensions to projects approaching their completion date.
	Warning letter						
	Final Warning letter						
Total	All letters	6		4		10	

3.2 Breach management cases

- 3.2.1 A case file will be opened for all material breaches of the Regulations. Entrust will work with the EB to fully investigate the nature of the breach and seek an appropriate and resolution
- 3.2.2 Cases which cannot be satisfactorily resolved by working with EBs will be referred to Entrust's Board for review. The Board may consider that the breach is so serious it should be referred to HMRC for their consideration, or no further action is required.
- 3.2.3 During December 2024, the one breach management case was formally opened following a failure by the EB to provide financial records to enable a compliance review to be carried out.

3.3 Non return of Statutory Annual Return (Form 4)

- 3.3.1 At the end of December 2024, [57 EBs remained frozen](#) for not submitting their 2023/2024 Statutory Annual Return (Form 4). The completion of the Statutory Annual Return provides key information to ensure Entrust can provide HMRC with independent assurance that LCF funds are being spent compliantly. Without this information, it is not possible to assess compliance, therefore, EBs are set to frozen status and cannot participate in the scheme until this information is provided. If an EB fails to do this for two consecutive years, they are referred to HMRC to consider forcible revocation.

3.4 Conclusion

- 3.4.1 There is one live breach management case being investigated. The Compliance and Regulations teams continue to contact all Frozen EBs who have not completed their 2023/2024 Annual Return.

Entrust
January 2025