

Application of Section 5 of the Isle of Wight County Council Act 1971

(as amended)



(Bestival 2007)

Guidance

August 2008

Section 1 General Guidance

- 1.1 The Isle of Wight Council (“the Council”) recognises and supports the positive impacts of well managed festivals and events upon the cultural, social and economic development of the Island. Section 5 of the Isle of Wight County Council Act 1971 (as amended) (“the Act”) provides discretionary legislation to control assemblies (events) in the open air on the Isle of Wight of more than 5000 persons at any time.
- 1.2 Following a recent review of the application of Section 5, the Council determined that guidance should be issued for the benefit of event organisers, authorities with an interest in events and officers charged with the responsibility for implementing it. This guidance aims to ensure that Section 5 is applied to future qualifying events in a manner sensitive to the potential benefits of the event whilst securing public safety, order and minimising nuisance.
- 1.3 In accordance with Section 5, an organiser of an event to which the Act applies **must** give the Council *at least four months prior notice* of the planned event (see 2.1 below). Each notice of an event will be determined on its individual merits. The Council will have regard to this guidance and to the Act when determining the notice.
- 1.4 Section 5 applies irrespective of whether a premises licence is required under the provisions of the Licensing Act 2003 or of any other legal requirement. Event organisers are advised to contact the licensing section in Environmental Health (contact details in paragraph 2.1 below) or to seek their own independent legal advice as to other legal requirements.
- 1.5 Once the service of a **notice** by an event organiser is received by the Council, it *may* within one month serve a **counter notice** (unless a time extension is agreed between the organiser and the Council, see paragraph 2.15 below), requiring the organiser to comply with such reasonable terms or conditions as the Council think fit with respect to proper provision of water supply, proper sanitation and by promoting public order, public safety and the prevention of actionable nuisance. This may also include the requirement to pay reasonable costs incurred as a result of the event upon local service providers or the costs involved in meeting these conditions in the event organisers are unable to do so.

Section 2 Guidance for Event Organisers

Giving notice of intention to hold an assembly (event)

2.1 If you are organising an event where more than 5000 persons will attend at any time, you will need to give notice of your event to the Council at least four months (see 2.4 below) in advance of the date on which it is proposed to hold the event. The notice can be given in a letter or email to the following address:

Isle of Wight Council
Environmental Health
Licensing Section

Jubilee Stores

The Quay

Newport

Isle of Wight PO30 2EH

Email: licensing@iow.gov.uk

Tel: 01983 823000

2.2 The notice stating your intention to hold the event and should contain certain information as follows:

2.3

- Purpose of the intended event e.g. music festival
- Day(s) on which the intended event will be held
- Duration of the intended event
- Time(s) during which the intended event will be held
- Location and limits of the site where the intended event is to be held
- Maximum number of people attending the intended event
- Copy of event safety plan or operating schedule (see paragraph 2.5 below)
- Plan of the site

2.4 Any incomplete or incorrectly completed notice may be rejected and returned to the event organiser with advice on how to proceed. Alternatively you may wish to use the form at Appendix 3.

2.5 You are advised to contact the Council at the earliest possible opportunity so that informal discussions may take place between all necessary parties before you give formal notice of your event. Once notice of the event is given to the Council strict time limits apply which may negate the ability to reach an agreement if discussion has not previously taken place.

2.6 Before you give notice of your event, you should also prepare a document containing your proposals for the safe running of the event. This document should include details of what steps you will take to ensure proper provision of water supply, proper sanitation, promotion of public order, public safety and the prevention of actionable nuisance. This document is called the event safety plan. Where an event is also requires a premises licence (see paragraph 2.6 below) this information may be incorporated into the “operating schedule” to reduce the burden on the organiser. The amount of detail required in the document will depend upon the size and nature of the intended event. The Councils licensing section (contact details in paragraph 2.1) can advise you on how to obtain further assistance with this.

- 2.7 If you are providing regulated entertainment¹ and/or the sale of alcohol² you will also need to apply for a premises licence or temporary event notice under the Licensing Act 2003. The Councils licensing section can advise you on the application process and the fee that you will have to pay for the premises licence or temporary event notice.
- 2.8 Event organisers should note that Section 5 of permits local service providers to recover reasonable costs incurred by them in meeting increased demands caused by the event. These potential costs depend on a number of factors and vary between events. As part of the consultation process you will be notified of these potential costs and have the opportunity to discuss them with the local service provider. Where agreement cannot be reached between the organiser and the local service provider to fund any reasonable costs the matter will be referred to Councillors for decision (paragraph 2.12 below).
- 2.9 If your event satisfies all the criteria in Appendix 1, a 'fast track' procedure will be applied, and your application will be processed by a Licensing Officer who will take one of the appropriate options as set out in 2.12 below.

Consultation

- 2.10 If your event does not satisfy all the criteria in Appendix 1, the Council will help to ensure that your event is safe and successful by consulting with various authorities to ensure the proper provision of water supply, proper sanitation, promotion of public order, public safety and the prevention of actionable nuisance.
- 2.11 In particular the following organisations or persons shall be consulted:
- Isle of Wight Council (Highways Authority)
 - Isle of Wight Council Environmental Health
 - Hampshire Constabulary
 - Isle of Wight Fire & Rescue Service
 - Isle of Wight NHS Trust
 - Southern Water
 - Environment Agency

The following shall be notified of receipt of the notice:

- The Isle of Wight Councillor who is the ward member for the proposed area or location
 - The appropriate Parish or Town Council (Unless they are the applicant).
- 2.12 The consultation period will last for a period of 15 days starting with the day following receipt of a valid notice and consultees will be given 10 days in which to make comments of representations.

¹ See Schedule 1 of the Licensing Act 2003 http://www.opsi.gov.uk/acts/acts2003/ukpga_20030017_en_15#sch1-pt1

² See Section 192 of the Licensing Act 2003 http://www.opsi.gov.uk/acts/acts2003/ukpga_20030017_en_14#pt9-pb11-l1q192

Determination of the notice

- 2.13 If agreement between the parties cannot be reached, a report will be produced by the Council's licensing section summarising the positions of the parties. The parties will be provided with an opportunity to comment on this summary. The matter will be referred to Councillors for a decision as to whether or not a Counter Notice should be served. Councillors will then decide which of the options under Section 5 they wish to pursue;
- Service of Counter Notice refusing the event
 - Service of Counter Notice authorising the event without conditions
 - Service of Counter Notice authorising the event with conditions
 - Extension of time for service of the Counter Notice
 - No Counter Notice Served
- 2.14 Councillors will be provided with the report mentioned above summarising the positions of the parties. Councillors will then determine the most appropriate option considering the contents of the report, the steps necessary to secure proper provision of water supply, proper sanitation, promotion of public order, public safety and the prevention of actionable nuisance. Decisions will have regard to this guidance and the Act.

Service of Counter Notice

- 2.15 If a Counter Notice is approved it will be served as set out above. If authorising the event with conditions, these will be tailored to the individual characteristics of the intended event. The Council may draw upon a pool of conditions from which necessary and proportionate conditions may be attached. Authorisation for the event will expire on the date specified on the counter notice. You will have the right of appeal against the counter notice as set out in paragraph 2.17.
- 2.16 If Councillors decide to extend the period for the service of the counter notice agreement must be sought from the event organiser. This can be achieved through a legal undertaking as set out in Appendix 2.
- 2.17 Councillors will then determine the outcome by reference to the options in paragraph 2.12 above.

Appeals

- 2.18 The Act provides a right of appeal to the Crown Court against the conditions or terms included on a Counter Notice or the refusal to agree an assembly. You are advised to seek your own independent legal advice before proceeding with an appeal.

Enforcement

- 2.19 Any enforcement action instigated by the Council will be in accordance with the current Environmental Health Enforcement Policy.

Data Protection

- 2.20 The Council is the Data Controller of all personal information held by the licensing authority. The Council will process and hold that information in accordance with principles of the Data Protection Act 1998.
- 2.21 The information supplied and held may be disclosable in accordance with the Freedom of Information Act 2000 or Environmental Information Regulations 2004. Any person that believes their information should not be disclosed should notify the Council of the reasons for such belief at the time the information is submitted.

APPENDIX 1

‘NOT-FOR PROFIT’ EVENTS: QUALIFYING CRITERIA FOR ‘FAST-TRACKING’

The criteria to be considered will have regard to the following principle;

1.1 Events must demonstrate value to the community, e.g. carnivals, regattas, rural shows

1.2 Events must be ‘not for profit’: profits generated must be for good causes rather than private or business purposes.

1.3 There must be no extraordinary hazards, e.g. helicopter rides, funfair rides, bungee jumping, foam parties.

1.4 There must be a comprehensive, written event safety plan which must satisfactorily address the following issues:

- crowd safety/stewarding
- vehicle/pedestrian contact
- stages
- fire precautions: exits, fire fighting, fire prevention
- emergency evacuation
- first aid
- anti-social behaviour
- adequate provision of potable water and waste/sewage disposal

1.5 The following must also be adhered to:

- no amplified music within 100 metres of residential properties
- no unamplified music within 50 metres of residential properties
- any event with amplified music must not exceed 3 days
- all music must end at 2200 hrs.

1.5 There must be no more than 10 concessions selling perishable or ready to eat foods excluding confectionery items, alcoholic or preserved foods.

Appendix 2

Undertaking to extend time for service of the counter notice

Formal Undertaking

Between

Isle of Wight Council

-and-

XXXXXXXXXX

We hereby undertake that in accordance with the agreement reached on **(DD / MONTH / YYYY)** the time limit for service of counter notice by the Isle of Wight Council relating to the **(EVENT NAME)**, in accordance with the Isle of Wight County Council Act 1971 as amended, be extended from the period of one month as prescribed in Section 5 (2) of the aforementioned Act to enable further negotiation between the parties.

The Isle of Wight Council hereby undertakes to serve the required counter notice no later than **(DD / MONTH / YYYY)**.

(NAME OF EVENT ORGANISER) hereby undertakes to take no issue with service of the said notice in accordance with this undertaking.

Signed on behalf of the Isle of Wight Council:

Dated:

Signed on behalf of **(NAME OF EVENT ORGANISER)**:

Dated:

Appendix 3
Form for Giving Notice of Event

Environmental Health
Jubilee Stores, The Quay, Newport, Isle of Wight PO30 2EH

Tel (01983) 823159 Fax (01983) 823158

APPLICATION FOR AN EVENT UNDER
THE ISLE OF WIGHT ACT

Name of event	
Name of Applicant	
Address of Applicant	
Contact Person	
Telephone number	
Purpose of Event	
Date(s) of Event	
Time(s) of Event	
Location of event (Please include a plan)	
Maximum number anticipated	
Name of Landowner	
Address of Landowner	
Telephone number	
Is the event for a charitable purpose? If yes, please provide details	

Signed: **Date:**

If you would like this document translated please contact us on 01983 821000

Arabic

إذا رغبت بالحصول على نسخة مترجمة من هذه الوثيقة يرجى الاتصال بنا على
01983 821000

Bengali

এই দলিলটির অনুবাদ চাইলে, দয়া করে ফোন করুন:
01983 821000

Chinese

如果你想翻譯這份文件，請與我們聯係：
01983 821000
如果你想翻译这份文件，请与我们联系：
01983 821000

French

Si vous désirez que ce document soit traduit,
contactez-nous s'il vous plait au : 01983 821000

German

Falls Sie eine Übersetzung dieses Dokuments
wünschen, wenden Sie sich bitte unter der folgenden
Rufnummer an uns: 01983 821000

Hindi

यदि आप इस दस्तावेज़ का अनुवाद चाहते हैं, तो कृपया टेलिफोन नम्बर
01983 821000 पर सम्पर्क कीजिए।

Italian

Se desiderate la traduzione di questo documento,
contattateci allo : 01983 821000

Punjabi

ਜੇਕਰ ਤੁਸੀਂ ਇਸ ਦਸਤਾਵੇਜ਼ ਦਾ ਅਨੁਵਾਦ ਚਾਹੁੰਦੇ ਹੋ, ਤਾਂ ਕ੍ਰਿਪਾ ਕਰਕੇ
ਟੈਲੀਫੋਨ ਨੰਬਰ 01983 821000 ਤੇ ਸੰਪਰਕ ਕਰੋ।

Spanish

Si desea una traducción de este documento por favor
llame al nº de teléfono: 01983 821000

Urdu

اگر آپ اس دستاویز کا ترجمہ حاصل کرنا چاہتے ہیں تو اس نمبر پر فون
01983 821000 کریں

This information is available on request as an audiotape,
in large print, in Braille and in other languages.
For further details please contact Environmental Health on (01983)
821000