

Southern Inshore Fisheries and Conservation Authority

Guidance Notes on Dispensation Requests

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Overview

This document sets out the Southern Inshore Fisheries and Conservation Authority's (Southern IFCA) guidance on the process for requesting exemptions, through dispensation, from our byelaws. It also sets out the criteria the Southern IFCA will take into account when considering such requests.

Southern IFCA will endeavour to grant a dispensation within **28 working days** of receipt of a fully completed application. On occasions where an activity being considered for dispensation from Southern IFCA's byelaws occur within a Marine Protected Area Natural England will be consulted. In this case, a **further 28 days** may be required for Natural England to respond.

What is a dispensation and when may it be appropriate?

The Southern IFCA has a set of byelaws which must be complied with by all those in the Coastal Waters of Hampshire, Dorset and the Isle of Wight. A full list of the byelaws can be requested from the IFCA office or they are accessible online at www.southern-ifca.gov.uk. These byelaws, amongst other things govern what fish may be taken where and using which instruments. Failure to comply with these byelaws may lead to prosecution. However, there may be occasions when an organisation assesses that it is not in a position to comply with a particular byelaw or that the requirements placed upon it by a byelaw may result in an inefficient outcome either in the short or longer term. In these circumstances, and where the byelaw permits, they may submit a request to the Southern IFCA for a dispensation from the requirement to comply with a particular byelaw.

This document sets out the information the Southern IFCA requires in order to assess a request for a dispensation, and outlines the factors the Southern IFCA takes into account in its assessment.

Information required and the Southern IFCA's assessment

A request for a dispensation should be submitted through the Dispensation Request Form which is available online or from the Authority's office. It should include sufficient information to enable the Authority to make a decision.

Each request is assessed by the Southern IFCA individually on its merits in terms of the likely effects. In its assessment the Authority, having regard to its principal objective and its statutory duties will consider, amongst other things, the impacts set out in the application.

If the Southern IFCA is satisfied that the information received meets the minimum requirements and considers that the dispensation request is justified then the Authority will issue a direction granting the necessary relief from the relevant obligations.

Additional information

The applicant is required to justify the dispensation request in terms of both the specific circumstances and the expected duration. Applicants are advised to give as much notice as possible when making dispensation requests since a dispensation will not be granted unless the Authority is satisfied that the request is justified.

All technical terms should be fully explained, and the request should be presented in as clear a manner as possible to avoid unnecessary delays in Southern IFCA's assessment of the request.

Where exemptions are granted these exemptions may require Southern IFCA, before deciding to authorise a plan or project which is likely to have a significant effect on a European site, to make an appropriate assessment of the implications for that site in view of that site's conservation objectives

The Southern IFCA is likely to consider that a dispensation request is justified if:-

1. the applicant demonstrates that there is NO:-

- Significant risks associated with the non-compliance
- Avoidable adverse impacts (immediately or in the longer term)
- Additional measures that could be taken to further mitigate the impact have been taken
- Outstanding objections from other parties who are materially affected by the non-compliance.
- Competitive advantages to the applicant arising from the dispensation
- Other reasonable options to address the non-compliance that have not been considered.

2. the applicant has presented a realistic and comprehensive implementation plan that defines, at the very least:

- The works required to restore compliance.
- The timetable for those works that show a deadline that is reasonable and is achievable (subject to highlighting any factors that may be outside the applicant's control, for example, third party consents).
- Any measures to mitigate the risks to other parties that will be (or have been) taken until the non-compliance is restored

3. the applicant has produced any other supporting information that is relevant to a specific request.

Where an applicant is unable to satisfy all the above criteria, the Southern IFCA will assess how far the applicant's ability to satisfy the criteria is sufficient to justify the granting of a dispensation. It is noted that a justified dispensation request would not necessarily need to meet all of the listed criteria. The Southern IFCA would use its judgement in assessing any dispensation requests and would advise any applicant of additional information requirements that were not included in the original request.

If the Southern IFCA considers that the dispensation request is justified then the Authority will issue a direction to the applicant granting the necessary relief from the relevant obligations for a time period specified in the direction.

The Southern IFCA may reserve the right to revoke any dispensation and may grant a dispensation which is subject to certain conditions being satisfied, either by the applicant to which the dispensation applies or in respect of the wider system.

If the Southern IFCA considers that the dispensation request has not been sufficiently justified then the Authority may:

- Issue a direction granting the dispensation for a short duration to allow the applicant time for further investigation of solutions to the non-compliance
- Refuse the dispensation request.

Where the Authority refuses a dispensation request where there is non-compliance with byelaws, the Authority will consider the extent to which the situation warrants enforcement action being taken in respect of the breach based on the nature of that breach, its consequences and any remedial actions taken.

The Authority will maintain a record of dispensations that have been granted.

Who to apply to

Please send applications marked 'DISPENSATION' to
Southern Inshore Fisheries and Conservation Authority
Unit 3 Holes Bay Park, Sterte Avenue West Poole BH15 2AA
Email: enquiries@southern-ifca.gov.uk

PROCESS FOR CONSIDERING REQUESTS

Step I

Receive request and completed application form

Step II

Within 5 working days we will;

- Acknowledge receipt of request
- Ask for any further information
- Send timeline

Step III

Receive extra information (if required)

Step IV

Contact Natural England if project taking place in a Marine Protected Area. NE response may take up to 28 days.

Step V

Within 20 working days of receiving response from Natural England (if required) we will; Contact other relevant bodies to consult on the proposal; Write up report for applicant; Make a decision on the proposal.

Step VII

Inform enforcement team of activities and locations.

PROCESS FOR CONSIDERING APPEALS AGAINST DECISIONS

If the applicant is not satisfied with any aspect of our service we encourage you to let us know and we will do our best to resolve the matter as quickly as possible.

What you can expect from us

At each stage of the process we will acknowledge receipt of your concerns within five working days giving you a named contact point and telephone number for your complaint. We will then strive to provide you with a full response to your complaint within 20 working days.

Stage 1

In most cases we would do our utmost to resolve your complaint immediately. So please make our staff aware of your complaint as soon as possible and we will do all we can to quickly resolve it to your satisfaction.

Stage 2

If we have not resolved your complaint at stage one you can contact the Chief Executive Officer by telephone, post or email. Please explain the full details of your complaint, and the Chief Executive Officer will carry out a thorough investigation

into your concerns. Should it be necessary the Chief Executive Officer or a Senior Officer will arrange to meet with you to resolve the complaint.

Address for correspondence:

Chief Executive Officer

Southern Inshore Fisheries and Conservation Authority

Unit 3 Holes Bay Park, Sterte Avenue West Poole BH15 2AA

Stage 3

If we have not resolved your complaint at stage two you can contact:

The Chairman

Southern Inshore Fisheries and Conservation Authority

Unit 3 Holes Bay Park, Sterte Avenue West Poole BH15 2AA