



# Subject Festival guidance

Fact sheet FS3167

February 2023

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## What is a Subject Festival?

Subject festivals are music festivals that the Independent Liquor & Gaming Authority (the Authority) has determined under the *Music Festivals Act 2019 (Act)* would be more appropriately delivered with an approved Safety Management Plan (SMP).

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## What factors are taken into consideration when the Authority reviews a music festival to determine if a SMP is required?

The overarching consideration is the health, safety and wellbeing of festival patrons and the community. The Authority is not limited in its consideration when determining whether patrons and the community would benefit from a festival having an approved SMP.

Factors considered include:

### Event specific matters

- expected attendance, patron demographic and factors that would influence this, attendance by minors, and duration of the event
- location, event site, facilities, whether the event is indoors or outdoors, access to medical and other services, and expected weather conditions

### The organising entity, performers and related parties

- L&GNSW reports about the organiser, performers and related parties
- organiser's history of delivering safe events in NSW and outside of NSW
- non-compliance with previous SMPs
- performers at the festival that have a demonstrable record of incentivising unsafe behaviour

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## Legislative considerations (s. 5 of the Act) and stakeholder feedback

- whether a death has occurred in NSW on a previous occasion at the music festival or in connection with the music festival in the last 3 years
- whether within the previous 3 years, at or in connection with the festival, there has been the death of a person, or admission to an intensive care unit, that is reasonably suspected to be—
  - a) because of alcohol or other drug use, or
  - b) caused by crowd behaviour or improper safety management
- guidelines or advice from council, landowners and other consent authorities or relevant stakeholders, including any advice from the Health Secretary or the Commissioner of Police
- any advice from the music festival roundtable
- submissions from the organiser including any information on safety management/harm minimisation measures provided as part of the submission

Note: Organisers are given the opportunity to respond to all information that is provided to the Authority before a determination is made.

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## How will we be notified if our festival has been determined a subject festival?

If, following submissions and responses, the Authority determines a festival is a 'subject festival' organisers will be notified by the Office of ILGA of that determination. The notification will include information on available resources and the due date for the SMP. Resources for festival organisers are also listed at the end of this factsheet.

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## Can the initial determination of a subject festival be reviewed?

Once a music festival has been determined as 'subject' then it will retain this determination unless re-considered by the Authority and a further determination is made. This can be done at any time, even immediately after the determination by the Authority<sup>1</sup>.

If you believe there have been changes to the festival's characteristics or other environmental factors that the Authority takes into consideration when making a determination<sup>2</sup>, a formal submission can be provided to the Office of ILGA outlining the reasons your festival's subject status should be re-considered. This can be submitted to the Office of ILGA at any time. The submission along with any supporting documents should be sent to [office@ilga.nsw.gov.au](mailto:office@ilga.nsw.gov.au).

<sup>1</sup> Note that this may impact on the ability to produce the SMP within the timeframes depending on when the early notification form was received.

<sup>2</sup> Refer to the above information on what factors these would be

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## Annual review of subject festivals

All subject festivals will be reviewed on an annual basis, generally in May of each year after the end of the festival season. The Authority will notify organisers and will engage with NSW Health, NSW Police Force, and the music festivals roundtable inviting submissions on the status of all festivals.

Information provided to the Authority about specific festivals during this review will be provided to organisers for comment.

The first annual review will be conducted in May 2023, as it will be the first full festival season since the commencement of the Act.

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## Submitting a Safety Management Plan

A SMP must be submitted for assessment at least 90 days before the event is scheduled (unless directed otherwise by the Authority).

Where an organiser has submitted an Early Notification Form, this period may be shortened to at least 60 days before the event.

It is important to commence this process as soon as possible. It is recommended that you notify L&GNSW at least 6 months prior to your event to ensure assessments and considerations are made in the legislated timeframe. [To begin the process:](#)

- Notify L&GNSW of your event through the [Early notification form](#)
- If required, submit your SMP to [music.festivals@liquorandgaming.nsw.gov.au](mailto:music.festivals@liquorandgaming.nsw.gov.au).

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## How is a Safety Management Plan assessed and determined?

Once a SMP is received by L&GNSW it is sent to the NSW Police Force and NSW Health for review. These agencies may respond with requests for amendments or advise that they have no objections to the approval of the SMP.

If amendments are requested, these will be sent to the organiser to action or comment. This process will continue until:

- the content of the SMP has been agreed; or
- any outstanding issues are clarified sufficiently for the Authority to make a formal determination.

The SMP is then escalated to the delegate of the Authority for determination. The SMP will then be approved, refused, or approved with conditions.

A SMP application must be determined at least 14 days prior to the date of the event. If the event falls on a weekend, NSW legislation allows the decision to be made on the following business day.

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## Can amendments be made to a SMP after it has been approved?

Once a SMP is approved by the Authority, or by the delegate of the Authority, amendments can be made to the plan. The amendments need to be approved under [section 9 of the Act](#).

**Note:**

A Safety Management Plan (SMP) application should include but are not limited to the following documents

- A completed [FM2029 Request for approval of music festival safety management plan](#)
- A SMP. The SMP should address the requirements of the Act and applicable factors in the [NSW Health](#) Guidelines for Music Festival Event Organisers
- To speed up the approvals process, it is recommended that you complete the [SMP template](#), alternatively you can use the template as a guide to create your own version
- ASIC Company Extract including a list of Directors and Shareholders
- Insurance Certificate of Currency
- Site Map(s)
- Alcohol Management Plan (for events that plan to be licensed)
- Security & Crowd Management Plan

### For further information?

The following resources may be useful

- [Early notification form](#) – which notifies L&GNSW of your event for preliminary assessment by L&GNSW. The details of the event determine whether it is a music festival and if so, whether it warrants escalation to the Authority for determination of its subject status
- [Music festivals](#) (NSW Government website) – more information for planning up to 12 months before your festival, funding support and common questions
- [NSW Health Guidelines for Music Festival Event Organisers](#)
- [Fair Trading](#) – Information can be found here regarding consumer guarantees for tickets and events

To find out more about music festivals, contact L&GNSW:

E: [Contact us online](#)

Ph: 1300 024 720

Further details are provided for in the [Music Festivals Act 2019](#).

## Indicative SMP assessment timeframe

Where a SMP has been submitted to the Authority for consideration, efforts will be made to assess the plans to the following timeframes to ensure their determination at least 14 days prior to the event.

Safety Management Plan assessment	
Activity	Timeframe
Initial feedback from agencies when SMP provided 60 days before festival	10 business days
Amendments to SMP from organiser following initial feedback	5 business days
Further feedback from agencies	5 business days
Amendments to SMP from organiser following feedback	5 business days
Final feedback from agencies and stakeholders	No less than 5 business days before determination date
Assessment brief finalised for determination	No less than 3 days before determination date
SMP determination date	At least 14 days prior to the event

This is an indicative timeframe and can be influenced by a number of factors, including how early a SMP is received and the assessment of plans throughout the process.