

**MINISTRY OF HOUSING, COMMUNITIES AND LOCAL GOVERNMENT**  
**TOILET PROVISION FOR MEN AND WOMEN: CALL FOR EVIDENCE**

**1. Introduction**

- 1.1. For Women Scotland is a not-for-profit company (Company number: SC669393) that campaigns on equality and human rights issues impacting on women and children in Scotland.
- 1.2. We work closely with central, devolved and local governments across the UK and with each of the main political parties in the UK to promote the interests and rights of women in Scotland.
- 1.3. For Women Scotland seek, among other things, to promote the welfare of ordinary women in terms of their visibility and recognition and access to health and social services, as well as greater participation in civil society in Scotland.
- 1.4. We believe that there are only two sexes, that a person's sex is not a choice, nor can it be changed. Women are entitled to privacy, dignity, safety and fairness. Women's legal rights should be protected and strengthened.
- 1.5. We campaign on a positive, pro-women basis and call for evidence-based discussion and legislation.
- 1.6. We welcome the opportunity to submit a response to this consultation and to outline the necessity for single-sex toilet provision both in municipal and private sector locations.

**2. The Health and Safety Demand for Single-Sex Toilet Provision**

- 2.1. Sex-specific toilets are universally recognised as making a positive contribution to the lives of women and girls. They are promoted by the World Health Organisation as an important factor which contributes to female emancipation.<sup>[1]</sup>
- 2.2. Proper single-sex toilet provision enables girls to attend school and education establishments and facilitates the participation of women in public life. Amnesty International considers single-sex well-lit toilet facilities to be one of the minimum requirements in humanitarian responses.<sup>[2]</sup>
- 2.3. Any decisions made about toilet provision should note that women are more likely to need public toilets than men for reasons of menstruation, menopause, incontinence, pregnancy, caring for infants and children.
- 2.4. In 2019, the Royal Society for Public Health stated that: 'because of time-consuming factors related to clothing, menstruation and anatomical differences, a fair ratio of toilet provision would be at least 2:1 in favour of women.'<sup>[3]</sup> They called for a potty parity to address the lack of provision of female toilets.

[1] WHO, Breaking Barriers, 2019

[2] 'Women Refugees Face Assault', Amnesty International UK Report, 2016

[3] Taking the P\*\*\*, Royal Society for Public Health, 2019

- 2.5. Sex-specific toilets are a cultural norm worldwide, providing privacy and dignity for both sexes. This is true in the developed world just as much as in developing countries where such provision is still not universally available. There is no recorded history of demands by women to reduce or abolish single-sex provision. In fact, numerous agencies are engaged in campaigns to increase provision of private toilet facilities for women including Water Aid, Amnesty International, the WHO and Unicef.<sup>[4]</sup>
- 2.6. The expansion of gender-neutral provision at the expense of female single-sex provision negatively impacts women. Gender-neutral is a euphemism for mixed-sex. This is therefore a retrograde step if it replaces or reduces single-sex provision, and this matters more to women for the reasons outlined in 2.1 – 2.4.
- 2.7. As well as the public health implications of reducing access to single sex provision, gender neutral/mixed sex toilets increase the risk of assault by males, and the risk of spy cameras and upskirting.<sup>[5]</sup>

### **3. The Impact of Gender-Neutral Provision**

- 3.1. The relabelling of single-sex provision as gender-neutral (sometimes gender-neutral with cubicles; sometimes gender-neutral with urinals) removes the option of single-sex toilets from men and women alike.
- 3.2. Women are more disadvantaged by gender-neutral provision, since they cannot use urinals, whereas men can use the cubicles. Furthermore, many women and girls are unwilling to walk past the urinals to get to the cubicles in the former-men's facilities. In real terms, this means men's provision is doubled as they gain access to women's toilets whilst women's provision is halved as they refuse to use toilets with urinals, and their facilities are now shared with men. This is contrary to the needs' assessment findings of the Royal Society for Public Health which identified that women need more provisions than men, not less.
- 3.3. Whilst numerous organisations and women's groups have outlined why women need single sex provision for reasons of health, security, safeguarding and efficiency, the change towards gender-neutral provision has been made without consent and usually without consultation. There is not a groundswell of public demand for gender-neutral provision. Indeed, there is the opposite – a cross-section of organisations are vocal in their support of single sex provision.
- 3.4. The rationale given for gender-neutral is to be inclusive of those whose gender identity does not match their birth sex. But these have the effect of reducing provision for women, as described above. For Women Scotland agrees with the findings of the Royal Society for Public Health that any gender-neutral provision should be in addition to, not in replacement of, single-sex provision.

[4] 'Out of Order: Why Toilets Are A Feminist Issue', WaterAid, 2017

[5] 'Invisible Women' by Caroline Criado Perez

- 3.5. For Women Scotland are pleased to note that the Government consultation invitation declares single-sex provision has: 'often been replaced with gender-neutral toilets. This places women at a significant disadvantage.' We agree with this conclusion.

#### 4. Safeguarding and Minority Groups

- 4.1. For Women Scotland notes that single-sex provision is integral to safeguarding children and young people. The NSPCC briefing on Safe Use of Changing Facilities and Toilets states it is good practice for changing rooms and toilets to be supervised by an adult of the same gender; and that if possible each gender should have a different room or time slot to ensure privacy.<sup>[6]</sup> This recognises the need for single-sex provision for children and that gender-neutral provision is inappropriate and carries risk.
- 4.2. Gender-neutral/mixed sex toilet provision in schools is putting girls at increased risk of sexual assault, harassment and illness.<sup>[7]</sup>
- 4.3. ERIC, the children's bowel and bladder charity has pointed out that lack of privacy is one of the obstacles to children using school toilets. As a consequence, children can try to limit toilet usage which has a negative effect on their ability to learn, their behaviour, morale and attendance levels. ERIC points to the School Premises and Regulations (2012) as best practice which outlines single-sex toilet provision is essential for over 8-year-olds.<sup>[8]</sup> Similar provision in Scottish schools is mandated for by the School Premises (General Requirements and Standards) (Scotland) Regulations 1967.
- 4.4. Period poverty is recognised as an issue in UK schools. Plan International UK research showed that 49% of girls have missed an entire day of school because of their period and that 48% of girls aged 14-21 are embarrassed by their periods. This embarrassment is exacerbated in mixed sex toilets.<sup>[9]</sup>
- 4.5. In Scotland, parents' groups have campaigned against gender-neutral/mixed sex toilet provision in school buildings citing concerns about access, voyeurism and unsanitary conditions where girls would be expected to clean toilet seats prior to use.<sup>[10]</sup>
- 4.6. In the current Covid19 pandemic, expecting girls and women to clean public toilet seats includes a heightened risk of contamination.
- 4.7. A lack of single-sex toilet provision also impacts on participation in public life by BAME women and girls, and those who have religious or cultural reasons for preferring single sex facilities. A lack of culturally sensitive facilities detrimentally impacts on participation in physical activity and lack of single-sex

[6] NSPCC Safe Use of Changing Facilities and Toilets, July 2020

[7] Women's Voices Wales Study, 2019

[8] SRS, 2012, ERIC 'School Toilets Best Practice Guidelines'

[9] Plan International UK report on period poverty

[10] The Herald, Parents Anger Over Gender Neutral Toilets, Aug 2018, <https://archive.vn/L1ymN>

facilities was highlighted as a barrier in research by the BMC.<sup>[11]</sup>

## **5. Single-Sex Provision and the Build Environment**

- 5.1. The Independent Washroom Services Association has stated that mixed sex toilets 'don't work'. As well as drawing attention to concerns from parents about gender neutral/mixed sex toilets in schools, the IWSA found that many mixed sex toilets quietly reverted back to single-sex because of cost.<sup>[12]</sup>
- 5.2. Since most public built environments were designed for single-sex toilet provision, there are additional costs inherent if they are to be changed to gender-neutral/mixed sex. For gender-neutral/mixed sex toilets to be effective, the number of sanitary bins needs to be increased; in many cases, to meet safeguarding guidance individual sinks and hand-dryers need to be added to individual cubicles; toilets are more expensive to clean than urinals.<sup>[13]</sup>
- 5.3. An additional cost associated with gender-neutral/mixed sex provision is new signage to make the new designation clear.

## **6. Single-Sex Provision and the Equality Act 2010**

- 6.1. For Women Scotland notes that there is confusion between the UK Government and the Scottish Government about jurisdiction over the application of the Equality Act. At our recent judicial review on the Gender Representation on Public Boards Act (Scotland) 2018 the Scottish Government stated that it had the right to "ride roughshod" over the Equality Act.<sup>[14]</sup> It is our understanding that single-sex exceptions are protected under the reserved Equality Act. We have also been informed that the Scottish Government would welcome further guidance from the UK Government on the operation of these exceptions.<sup>[15]</sup>
- 6.2. It is For Women Scotland's position that women and girls should not be forced to share toilets with members of the opposite sex and that the single-sex exception should be utilised to ensure adequate provision of single-sex toilets.

## **7. Recommendations**

- 7.1. We recommend a re-instatement and extension of the provision of single-sex toilet facilities.
- 7.2. The Government should commit to achieving an adequate ratio of female-only toilets as outlined in the report by the Royal Society for Public Health.<sup>[16]</sup>

[11] Understanding the complex interplay of barriers to physical activity amongst black and minority ethnic groups in the UK, BMC Public Health, July 2015

[12] Independent Washroom Services Association (IWSA), 2018

[13] IWSA, *ibid*

[14] The Scotsman, Scottish Government can 'ride roughshod' over equalities law in row over definition of women in new Act, 7 Jan 2021, <https://archive.vn/MWsql>

[15] Christina McKelvie, Minister for Older People and Equalities, to For Women Scotland

[16] *Op cit*

- 7.3. In calculating toilet provision to meet regulatory requirements, 'gender neutral with urinals' cannot be counted as provision for both sexes.
- 7.4. The UK Government should issue further guidance and support to the Scottish Government concerning the application of the single-sex exceptions under the Equality Act and should ensure that the Scottish Government also commits to achieve the RSPH ration for single-sex female-only toilet provision.<sup>[17]</sup>
- 7.5. Any proposal by public spaces to introduce gender-neutral or mixed sex toilets should be accompanied by an impact assessment and a risk assessment with particular regard to the safeguarding of young people and girls; and with consideration for the needs of the BAME communities and those with religious or culturally-sensitive needs regarding single-sex spaces.
- 7.6. Mixed provision should not be taken from female-only provision.
- 7.7. Any gender-neutral/mixed sex toilet facilities should have clear signage; good lighting; and individual locked cubicles.
- 7.8. All schools should revert to providing single-sex toilet facilities in line with best practice advice from a number of organisations including the WHO; Plan International; Water Aid, etc.<sup>[18]</sup>

For Women Scotland  
25 February 2021

[17] Op cit

[18] Op cit