

What's Happening to Your Child's School Toilets?

Sanitary Provision in Scottish Secondary Schools



For Women
Scotland

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Summary

While analysing Freedom of Information (FOI) responses for our previous report: “What’s Happening in Your Child’s Classroom?”, it quickly became clear there was an issue with maintaining single-sex toilets for pupils, not only by allowing children to use those provided for the opposite sex but in the demise of single-sex facilities altogether, with several schools now only providing mixed-sex toilets.

We undertook a new FOI exercise to assess how many local authority run secondary schools provide mixed-sex toilets for pupils, either on their own, or in combination with single-sex toilets. A decade ago there was no need to clarify the layout of toilets in schools or ask who could use which toilet. However, in recent years the influence of transgender lobbying groups such as LGBT Youth Scotland has been profound, with many schools replacing urinals with WCs in boys’ toilet facilities during school refurbishment projects as a way to ease transition to what is termed “gender-neutral” provision, which in reality, simply means mixed-sex provision where boys and girls share toilet cubicles and hand washing areas.

The applicable legislation for toilet provision is the School Premises (General Requirements and Standards) (Scotland) Regulations 1967 which mandates that schools provide a minimum number of sanitary appliances, dependent on the school roll, and half the accommodation shall be for girls and the other half for boys (where a certain proportion of the appliances shall be urinals). The Scottish Government conducted a public consultation in 2017 on proposals to change the Regulations to allow more flexibility in provision and for urinals to be replaced with toilets. However, the analysis report showed mixed responses from both organisations and individuals, and no further action was taken by the Government. The 1967 Act remains in place. Our FOI request incorporated questions on the number and type of appliances in both single-sex and mixed-sex toilets to determine whether schools were complying with the statutory legislation.

243 schools, 68% of the total of 359 local authority run secondary schools (excluding additional support needs schools), responded to the FOI requests and analysis shows that almost all secondary schools are disregarding the School Premises Regulations and failing in their non-harassment obligations under the Equality Act 2010. Key findings include:

Type of sanitary provision

- **79%** of secondary schools provide single-sex toilets only.
- **5%** of secondary schools provide mixed-sex toilets only.
- **16%** of secondary schools provide a combination of single-sex and mixed-sex toilets.

Compliance with the School Premises Regulations: single-sex

- **52%** of schools providing single-sex toilets for girls meet the minimum number of toilets required.
- **59%** of schools providing single-sex toilets for boys meet the minimum number of appliances required, but only 10% of this number provide the correct ratio of WCs to urinals.

- Only **13** schools comply with the Regulations for single-sex provisions for both male and female pupils, dropping to just **3** schools that uphold the single-sex provisions by not permitting pupils to use the opposite sex toilets. These schools are Islay High School and Tarbert High School in Argyll and Bute, and Castlebay School in the Western Isles.
- **60%** of secondary schools allow girls who identify as transgender to use the boys' toilets but only **5%** of schools provide sanitary bins in the boys' toilets.

Compliance with the School Premises Regulations: mixed-sex

- None of the 11 secondary schools providing only mixed-sex toilets comply with the Regulations as they fail to provide the required number of urinals for boys.
- 38 of the 39 secondary schools providing a combination of single-sex and mixed-sex toilets do not comply with the Regulations in terms of minimum numbers of appliances and correct ratio of WCs to urinals for boys. The one remaining school, Lochgilphead High School, meets the Regulations in full and provides an additional block of 3 cubicles for any pupil to use. This is still not lawful under the Equality Act.

Gender ideology is deeply embedded in schools and is oblivious to the harms it causes children, particularly girls. In almost every newspaper article that reports on the outrage caused by a school's decision to install mixed-sex facilities the distress of girls is clear, and we frequently receive requests for help and advice from parents whose daughters are avoiding the mixed-sex toilets, not drinking, or have been victims of boys exposing themselves. The increased risk of sexual harassment in mixed-sex toilets is obvious, and schools are woefully neglecting their safeguarding and Equality Act duties to prevent and avoid such incidents.

A legal opinion provided by senior counsel Aidan O'Neill KC advises that enforcement of any breach of a local authority's obligation to provide separate single-sex toilets for pupils is best pursued via the Equality Act (rather than on those set out in the School Premises Regulations) on their breach of non-harassment obligations related to sex. This is in the interests of respect for privacy, preserving decency, preventing trauma and/or ensuring health and safety particularly of girls, and to avoid creating what girls in particular might perceive and experience as an intimidating, hostile, degrading, humiliating or offensive environment for them. The Equality Act recognises the more serious nature of harassment and remedies may include compensation for injury to feelings and aggravated damages.

Ideally, the Scottish Government should step in before it reaches this stage by updating the transgender guidance to schools and advising local authorities on the importance of ensuring existing legislation and children's rights are upheld. Two separate legal opinions and the latest guidance from the Equality and Human Rights Commission have indicated that maintaining single-sex toilet provision with additional single-user unisex toilets would ensure there is suitable accommodation for children who identify as transgender, without breaching the law or the rights of other children.

1. Introduction

A decade ago there was no need to clarify the layout of toilets in schools or ask who could use which toilet. Since then, however, the transgender lobbying group LGBT Youth Scotland has gained significant access to schools: providing resources, training teachers and influencing policies and practices to align with their view that everyone has a “gender identity” that may be different from their sex. The number of children expressing distress about gender has soared over the same period and it is now commonplace for schools to have several children who have “socially transitioned” by changing their name and appearance, and asking that others treat them as the opposite sex (or as non-binary). This has led to a number of schools changing the layout of toilet facilities to include more gender-neutral provision and/or allowing children to use the toilets designated for the opposite sex.

The term “gender-neutral” is confusing as it may mean mixed-sex toilets – a communal space for both boys and girls, with lockable cubicles and shared hand washing facilities – or it can refer to a single-user room with a toilet and sink and a lockable door, similar to your bathroom at home, and can be used by either sex. The Building Standards Technical Handbook refers to the latter as “unisex”,¹ although – even more confusingly – newspaper articles often refer to mixed-sex toilets as unisex. For clarity, we do not use the term gender-neutral in this report, and will refer to single-sex toilets (female-only or male-only), mixed-sex toilets (shared by both sexes), and single-user unisex toilets.

Since 2016, LGBT Youth Scotland has run an accreditation scheme which rewards schools with a Gold, Silver or Bronze award for improving trans inclusion. This involves trans awareness training for teachers, updating policy documents to LGBT Youth Scotland’s satisfaction and setting up an LGBT champion group. This small group may only consist of two teachers and two pupils but is given authority to make changes in the school for the benefit of pupils who identify as trans, and must provide LGBT Youth Scotland with evidence of gender-neutral toilets or trans inclusive PE classes.² 55% of secondary schools are currently working towards or have achieved a charter award³ and establishing gender-neutral toilets is usually a high priority. For example, Kirkcudbright Academy is working towards a bronze award but already has “a gender neutral block of 6 toilets which can be used by any person”. The sleight of hand with “gender-neutral” is clear: it may be fine to add extra single-user unisex toilets but that’s not what is happening here, single-sex provision has been removed and reallocated as mixed-sex. This may lead to pupils spending time walking to further afield toilets that are single-sex or using the mixed sex-toilets to the detriment of privacy, dignity and a known increase in risk to girls of harassment or assault.⁴

2017 saw the introduction of LGBT Youth Scotland’s “Supporting Transgender Young People” guidance for schools. This was funded and endorsed by the Scottish Government and, erroneously, advised schools that “transgender people who have started living in accordance with their gender identity must not be banned from using the facilities matching

¹ §3.12.1, <https://www.gov.scot/publications/building-standards-technical-handbook-2022-non-domestic/3-environment/3-12-sanitary-facilities/>

² §4.5, <https://forwomen.scot/wp-content/uploads/2024/05/LGBTYS-Gold-Workbook.pdf>

³ <https://forwomen.scot/wp-content/uploads/2024/05/LGBTYS-charter-secondary-schools-May2024.pdf>

⁴ <https://www.thetimes.co.uk/article/unisex-changing-rooms-put-women-in-danger-8lwbp8kqk>

their gender identity” and that any girls uncomfortable with boys using their toilets should go elsewhere, or wait until “after the trans young person is done”.⁵ The guidance did not contain any specific advice on changing toilet provision but East Renfrewshire Council is on record citing it as justification for installing mixed-sex toilets in several primary schools.⁶

The guidance was widely criticised for its failure to consider the specific rights and needs of girls and in 2019 the Scottish Ministers made the decision to update it after lawyers advised that it was “not legal”.⁷ Despite knowing it was harming girls the guidance was left in operation in schools until the replacement “Supporting Transgender Pupils in Schools” was eventually produced in 2021.⁸ This non-statutory guidance is equally poor, yet is currently used by 94% of local authority run schools⁹ and gives the following information about toilets:

“There is no law in Scotland which states that only people assigned male at birth can use men’s toilets and changing rooms, or that only people assigned female can use women’s toilets and changing rooms.” (page 26)

“It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with.” (page 27)

“If the young person needs gender neutral facilities:

- *Whether accessible facilities within the school could be used*
- *Whether a facility which is currently single sex could be converted to a gender neutral or accessible facility, taking account of the additional privacy requirements for gender neutral facilities.” (page 28)*

All three points are incorrect as a matter of law, and it is notable that the section on “what the law says” (page 26) makes no mention of the School Premises (General Requirements and Standards) (Scotland) Regulations 1967 which lays out the mandatory provision of a minimum number of toilets and urinals with separate allocation for boys and girls.

Our previous report “What’s Happening in Your Child’s Classroom?”¹⁰ discovered that twelve secondary schools *only* have mixed-sex toilets and several more revealed a combination of single-sex and mixed-sex facilities. At least 60% of schools with single-sex toilets allow children to use opposite-sex toilets if that is where they “feel most comfortable”. It is deeply worrying that any school is not complying with the law and is lax on child protection.

This report examines the responses from a detailed Freedom of Information (FOI) research exercise we conducted to establish exactly what type of toilet provision is available in local authority run secondary schools and assess whether each school is adhering to the law. We also look at possible legal remedies and provide a legal opinion from senior counsel Aidan O’Neill KC.

⁵ p18, <https://web.archive.org/web/20200523142916/https://www.lgbtyouth.org.uk/media/1344/supporting-transgender-young-people.pdf>

⁶ <https://scottish-women.com/2018/08/28/which-guidance/>

⁷ <https://forwomen.scot/03/12/2019/lgbt-youth-scotland-foi/>

⁸ <https://www.gov.scot/publications/supporting-transgender-young-people-schools-guidance-scottish-schools/>

⁹ p8, <https://forwomen.scot/wp-content/uploads/2024/06/Whats-Happening-in-Your-Childs-Classroom.pdf>

¹⁰ p17, <https://forwomen.scot/wp-content/uploads/2024/06/Whats-Happening-in-Your-Childs-Classroom.pdf>

2. School Premises Regulations

The Building Standards Technical Handbook 2022 (non-domestic)¹¹ gives guidance for the provision of disabled accessible toilets and states that the remainder of sanitary facilities in a school should be provided in accordance with the School Premises (General Requirements and Standards) (Scotland) Regulations 1967. This law gives the minimum number of appliances required, dependent on the number of pupils on the school roll, and states that half the accommodation shall be for girls and the other half for boys (where a certain proportion of the appliances shall be urinals).¹² If the Regulations are upheld as they should be, then urinals in the boys' toilets rules out any possibility of mixed-sex provision.

Sanitary accommodation for pupils

15.—(1) In every school sanitary accommodation shall be provided for the pupils by appliances on a scale not less than that specified in Table VIII:

Provided that in every school which is not designed exclusively for girls half the accommodation shall be for boys and not more than one third of the appliances for boys shall be water closets and the remainder shall be urinals, each 2 foot length of urinal being counted as one appliance for the purposes of Table VIII.

TABLE VIII

Number of pupils	Number of appliances
Every 15 pupils up to a total of 60	2
Every additional 30 pupils up to a total of 300	2
Every additional 60 pupils over 300 pupils	2

(2) In every school providing for pupils beyond stage P IV in the sanitary accommodation for girls there shall be suitable provision for the disposal of sanitary towels.

(3) In every school every sanitary appliance or group of sanitary appliances shall be situated near to a wash basin or wash basins.

(4) In every school every water closet shall be provided with a lockable door and with a partition sufficient to secure privacy.

Washing accommodation for pupils

16. In every school washing accommodation shall be provided for the pupils by wash basins on a scale not less than that specified in Table IX.

TABLE IX

Number of pupils	Number of wash basins
The first 30 pupils	4
The next 30 pupils	4
Every additional 30 pupils up to a total of 300	2
Every additional 60 pupils over 300 pupils	2

¹¹ <https://www.gov.scot/publications/building-standards-technical-handbook-2022-non-domestic/3-environment/3-12-sanitary-facilities/>

¹² https://www.legislation.gov.uk/uksi/1967/1199/pdfs/uksi_19671199_en.pdf

For example, a school with 900 pupils should have 8 appliances for the first 60 pupils, plus another 16 appliances for the next 240 pupils, plus another 20 appliances to cover the final 600 pupils, giving a total of 44 appliances. These should be split half for girls, and half for boys. The school should therefore provide 22 toilets for girls and, for boys, 7 toilets and 15 urinals. Annex 1 provides a chart we compiled to look up the required number of appliances per school roll.

A public consultation in 2017 to update the School Premises Regulations to “better meet the needs of modern schools in Scotland”¹³ recognised that the Regulations do not allow for “unisex toilets that could address gender issues”¹⁴ and proposed changes to allow flexibility in provision and for urinals to be replaced with toilets. No explanation was given of what was meant by “unisex” but it was reported in the press as usually meaning “a communal area for handwashing and enclosed cubicles”¹⁵ and Scottish Trans Alliance welcomed the proposal for “gender neutral private cubicles with open washing spaces”,¹⁶ so in reality it looked very much like paving the way for mixed-sex toilets to be the standard in schools.

The Scottish Government published its analysis of the consultation responses in 2018 which showed mixed results: 40% of respondents agreed with the proposals, although a similar amount chose not to answer this particular question in the consultation. The concerns raised by individuals and organisations who opposed the proposals were acknowledged:

“There was a question as to whether all toilets being gender neutral was appropriate, with the recognition that many young girls already feel vulnerable using current facilities at school. Female only toilets were considered more than just a sanitary facility but also a place where privacy can be gained, where a child can feel safe and where they can deal with developmental issues such as menstruation.” (page 29)

“There was seen to be a direct conflict between the protective characteristic of gender reassignment and of sex. This area requires more in-depth investigation to complete a robust impact assessment that takes this into account.” (page 57)¹⁷

Of particular significance is the statement given in the Executive Summary of the report:

*“The additional consideration given to children and young people not identifying with their biological gender was broadly welcomed as was the **potential** provision of gender neutral toilet and washing facilities. The need for gender specific facilities was an area of continuing debate.” [emphasis in bold added]*

This is confirmation that the Scottish Government is fully cognisant that the provision of mixed-sex toilets **and** washing facilities is not permitted under the current Regulations. In the end, the Scottish Government took no further action regarding the proposed changes and the existing School Premises Regulations remain. It is clear however, that any school choosing to provide mixed-sex toilets or shared sinks is in breach of the legislation.

¹³ <https://consult.gov.scot/school-infrastructure/updating-of-the-school-premises/>

¹⁴ p25, https://consult.gov.scot/school-infrastructure/updating-of-the-school-premises/user_uploads/school-premises-1.pdf

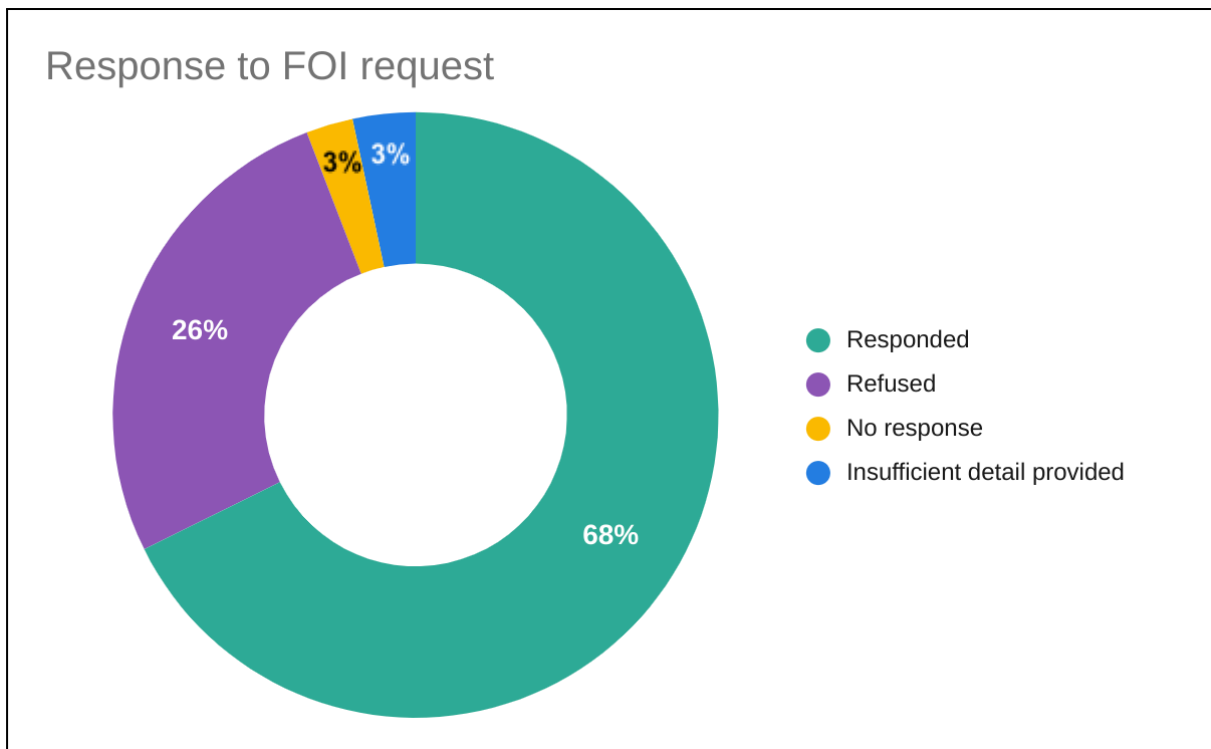
¹⁵ <https://www.thetimes.co.uk/article/schools-to-get-gender-neutral-toilets-s06qt5z9j>

¹⁶ <https://www.scotsman.com/news/politics/scottish-government-plan-for-gender-neutral-school-toilets-1444917>

¹⁷ <https://www.gov.scot/publications/updating-school-premises-general-requirements-standards-scotland-regulations-1967-analysis/>

3. Information requested from schools

We submitted Freedom of Information requests to the 32 local authorities in Scotland who, between them, run 359 secondary schools (not including additional support needs schools) to establish exactly what type of toilet provision is available in secondary schools and assess whether each is adhering to the School Premises Regulations. By and large, local authorities excluded ASN schools from their responses, consequently they have not formed part of our analysis. Twenty-five local authorities responded, relaying information directly from a total of 243 individual schools.



	Number of schools	
Responded	243	68%
Refused	95	26%
No response	9	3%
Insufficient information	12	3%
Total	359	100%

The councils that refused to provide information on the grounds that it was not held or would exceed the cost threshold were: East Renfrewshire, Glasgow, Highland, Midlothian and North Lanarkshire.

The responses from Shetland and West Dunbartonshire councils only provided the total number of toilets for all schools, rather than for each individual school. This was insufficient information for our purposes so, unfortunately, both these areas have been excluded from our analysis.

Nine schools were missing from the responses from the local authorities: Dunbar Grammar School, North Berwick High School, Preston Lodge High School, Rosehill High School and Ross High School in East Lothian; Kirkcaldy High School in Fife; St Stephen's High School in Inverclyde (it may have merged with another school); Forres Academy in Moray, and the Community School Auchterarder in Perth and Kinross.

We requested the following information about local authority run secondary schools:

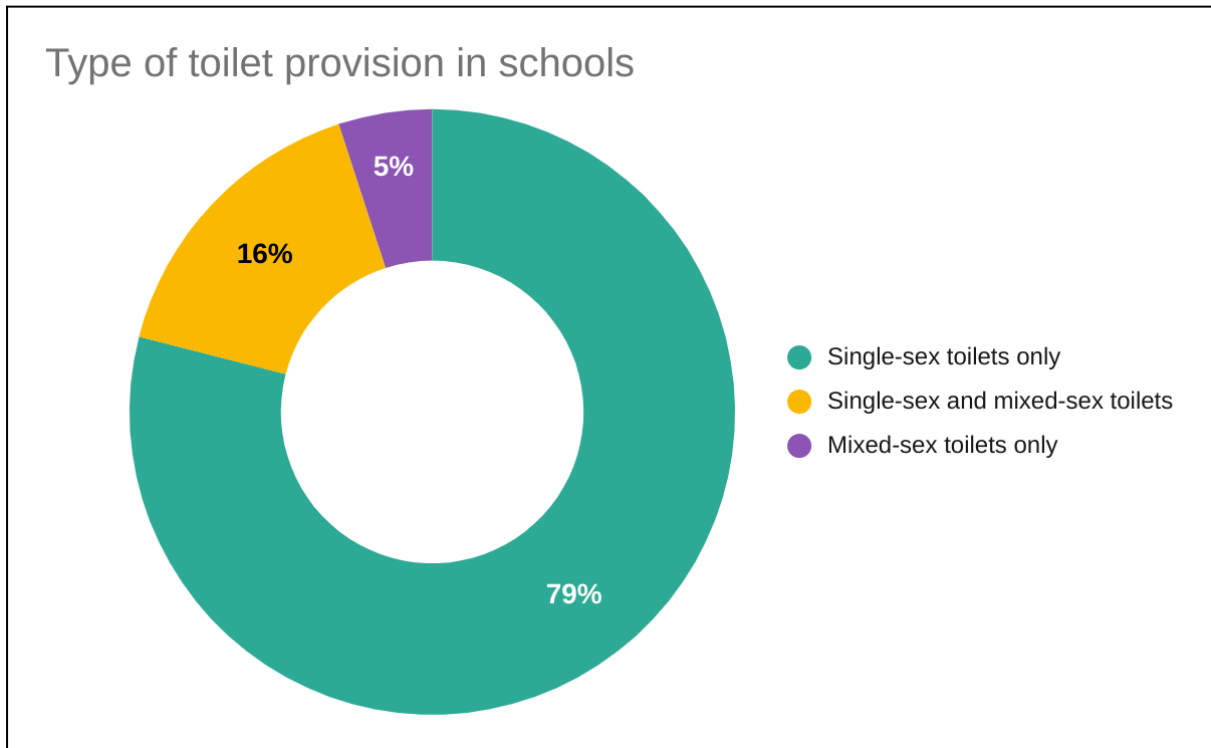
Freedom of Information request to the 32 local authorities in Scotland

For each local authority secondary school please provide the following information about toilet provision:

1. Total number of toilets in rooms designated for girl pupils.
2. Total number of toilets in rooms designated for boy pupils.
3. Total number of urinals in rooms designated for boy pupils (if applicable, each 2 foot length of urinal being counted as one appliance).
4. Total number of toilets in rooms designated for use by both boy and girl pupils at the same time. This includes rooms where sinks are shared by both boys and girls.
5. Total number of urinals in rooms designated for use by both boy and girl pupils at the same time. This includes rooms where sinks are shared by both boys and girls (if applicable, each 2 foot length of urinal being counted as one appliance).
6. Total number of single occupant rooms that contain a toilet and a sink that can be used by pupils of either sex and are designated for disabled access (or accessible toilet, wheelchair suitable, or similar names).
7. Total number of single occupant rooms that contain a toilet and a sink that can be used by pupils of either sex and are not designated disabled access.
8. Are sanitary disposal bins provided in the toilets designated for boy pupils?

4. Type of sanitary provision

Responses to the FOI questions show the different types of communal toilet provision in secondary schools. Almost eight out of ten schools (193 out of 243) provide single-sex facilities only, with 5% (11 schools) providing mixed-sex toilets only, and a larger number 16% (39 schools) with both mixed-sex and single-sex toilets.



At first glance, a fifth of secondary schools are non-compliant with statutory legislation but there are a few more calculations and considerations to take into account before drawing that conclusion. We will look at each communal toilet provision in more detail, as well as the single-user unisex facilities in schools.

4.1 Single-user unisex and disabled accessible toilets

The Building Standards Technical Handbook 2022 (non domestic)¹⁸ states that schools must provide wheelchair accessible toilets of at least one single-user toilet which is separate to other sanitary provision, or a larger accessible cubicle within each of the male and female provision. The total number required is dependent upon travel distances within a building and there should be an accessible toilet within 45m on every level of a building.

¹⁸ <https://www.gov.scot/publications/building-standards-technical-handbook-2022-non-domestic/3-environment/3-12-sanitary-facilities/>

It is outwith the scope of this report to examine the distances within school buildings so we offer no comment on whether the total provision in each school meets the requirements. On the whole, schools seem to be well supplied with accessible toilets and in many cases very generously so. Breadalbane Academy in Perth and Kinross, for example, which has only 410 pupils on the school roll, states it has 25 accessible toilets suitable for wheelchair users.

However, there are thirteen schools that state they do not have any single-user unisex toilets that are designated as disabled accessible:

- Wallace Hall Academy, Dumfries and Galloway (10)
- Harris Academy, Dundee (12)
- Ardrossan Academy, North Ayrshire (1)
- Auchendarvie Academy, North Ayrshire (0)
- Irvine Royal Academy, North Ayrshire (0)
- Jedburgh Grammar School, Scottish Borders (16)
- Balfron High School, Stirling (0)
- Bannockburn High School, Stirling (0)
- Dunblane High School, Stirling (8)
- McLaren High School, Stirling (6)
- Stirling High School, Stirling (13)
- St Modan's High School, Stirling (3)
- Wallace High School, Stirling (0)

The number in brackets is the number of single-user unisex toilets in each school that are **not** designated disabled accessible.

There are two points of concern here. The first is the eight schools that state they have no disabled accessible toilets but do have other single-user unisex toilets. It is possible that, following LGBT Youth Scotland's advice, the signage on the disabled accessible toilets doors has been changed to "Toilet" or "Gender Neutral" in order for children who identify as transgender to feel more comfortable in using these facilities.¹⁹ However, if this is the case, it breaches the guidance in the Building Standards Technical Handbook which states accessible toilets should be clearly identified by signage as accessible so that wheelchair users can quickly and easily see where there are appropriate facilities.²⁰

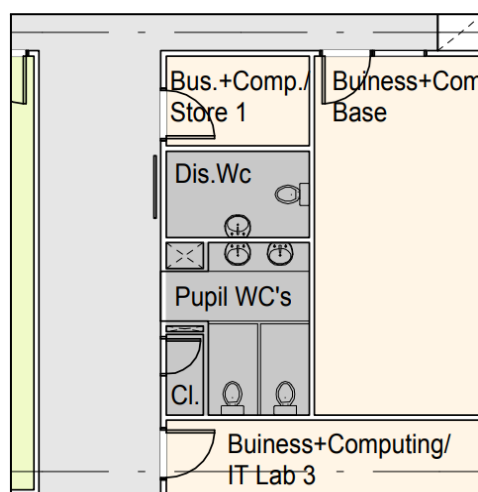
The only school where floor plans could be found online is Harris Academy, which provides two large mixed-sex toilet blocks and ten smaller mixed-sex toilets blocks throughout the school building, all of which are situated alongside a single-user unisex accessible toilet (plus two in the swimming pool changing rooms).²¹ As can be seen from the image below, these disabled accessible toilets are clearly marked as such, despite the school stating no such facilities exist. The information obtained from the schools via FOI has been queried and verified so it looks very much like, at least in this school, the signage has been altered to encourage the use of accessible toilets by all pupils.

¹⁹ p18, <https://web.archive.org/web/20200523142916/https://www.lgbtyouth.org.uk/media/1344/supporting-Transgender-young-people.pdf>

See also p10, <https://forwomen.scot/wp-content/uploads/2020/06/Support-for-trans-young-people-in-DG.pdf>

²⁰ §3.12.7, <https://www.gov.scot/publications/building-standards-technical-handbook-2022-non-domestic/3-environment/3-12-sanitary-facilities/>

²¹ <https://idoxwam.dundee.gov.uk/idoxpa-web/applicationDetails.do?activeTab=documents&keyVal=MHR8HEGC08200>



Harris Academy, Dundee

The second point of concern is the five schools that state they have no designated accessible toilets *and* no other single-user unisex toilets. It seems unlikely that any public building would have no accessible facilities at all, so it may be that the separate male and female toilet blocks incorporate larger accessible cubicles in order to meet the required building standards. Jedburgh Grammar School has larger cubicles within its mixed-sex toilets but accessible provision could not be verified for the other four schools.

Both of these points merit further investigation by parents and disability rights organisations who might be concerned about the possible undermining of accessible toilet provision.

4.2 Single-sex toilets only

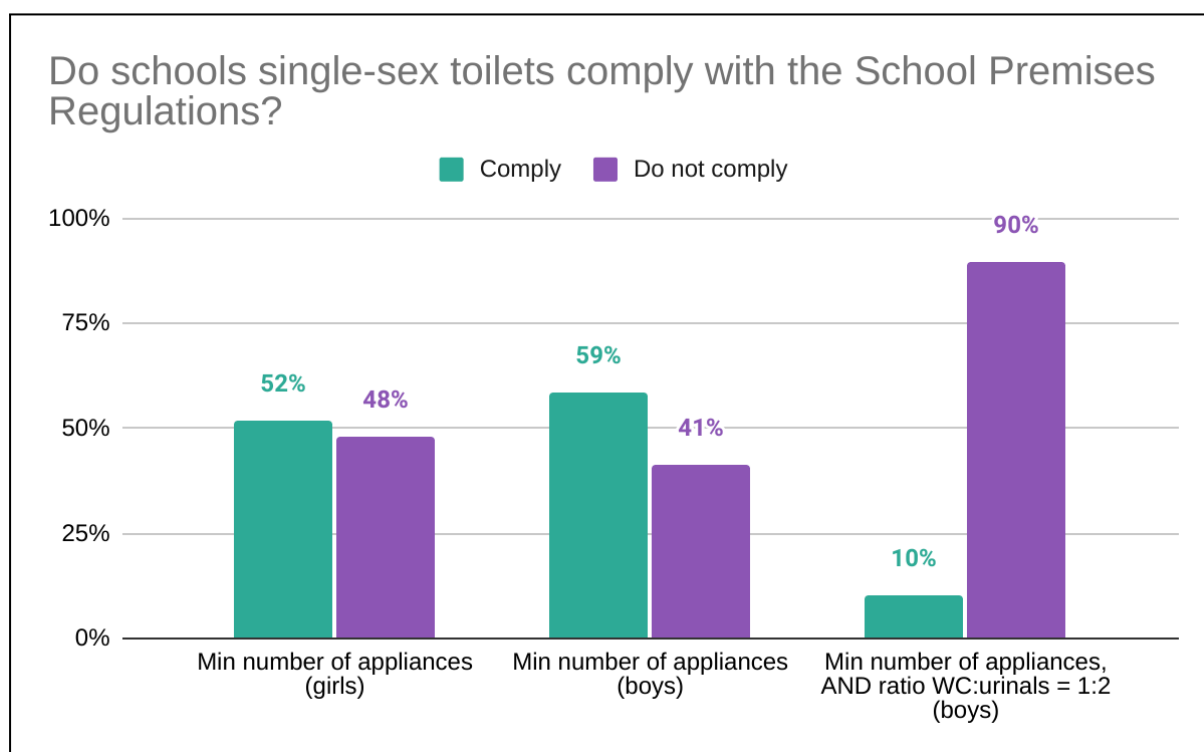
Other than the provision made for single-user accessible toilets, 193 out of 243 secondary schools stated that only single-sex toilets are provided for pupils. In order to assess whether these schools are complying with the relevant legislation there are two separate aspects to look at here. Firstly, does the physical layout of the facilities comply with the School Premises Regulations in terms of meeting the minimum number of appliances for boys and girls with the correct ratio of toilets to urinals in the boys' accommodation, and secondly, does the school uphold the single-sex provision by not allowing children to use the toilets for the opposite sex? We will take each of these questions in turn:

Do schools comply with the School Premises Regulations?

Using Scottish Government published data on the school rolls of secondary schools in the current academic year,²² the minimum number of sanitary appliances required in each of the 193 schools has been calculated. 52% (100 schools) met the statutory requirement on the minimum number of toilets to be provided for girls and 59% (113 schools) met the minimum number of appliances to be provided for boys. So, very roughly, half of the schools comply

²² <https://www.gov.scot/publications/school-level-summary-statistics/>

with the School Premises Regulations on numbers of appliances, with boys served slightly better than girls. The first two groups of columns in the following chart show these results.



Moving to the third group of columns on the above chart is where it gets interesting. Looking only at the 59% (113 schools) who met the School Premises Regulations on the minimum number of appliances for boys, we then analysed which of these comply with the further requirement to have a maximum of a third of the appliances as WCs (toilets) with the remainder to be urinals. This was clearly a problematic area for compliance as 93 of the 113 schools do not provide the correct proportions of WCs to urinals (19% of the 113 schools have no urinals at all), and were therefore moved into the 'Do not comply' column on the right of the chart..

This leaves only 20 schools that comply with the School Premises Regulations on the minimum number of appliances for boys **and** the correct proportions of WCs to urinals – which is just 10% of the 193 schools that provide single-sex toilets.

The reason for the seemingly systematic removal of urinals from boys' toilet provision is given in the case study by Architecture & Design Scotland which states: "The phasing out of urinals in boys' toilets as part of school refurbishment projects will ease the introduction of gender-neutral toilets." When they say gender-neutral toilets it is clear from the examples in the study that mixed-sex toilets is the accurate description. Despite recognising that the School Premises Regulations have not been amended to accommodate the lawful provision of mixed-sex toilets it seems the architects and the local authorities who commission them (and who also approve the planning applications!) are, as we have heard before, laying the groundwork and "getting ahead of the law". This phrase was often used by public bodies that introduced policies which recognised a person's self-identified sex long before the Gender Recognition Reform Bill was passed by Parliament (but not enacted), and which led to

women self-excluding from seeking help from a nominally female run rape crisis centre that chose to include men who self-identify as women. The Scottish Government was publicly humiliated by the appalling situation of Isla Bryson/Adam Graham, the convicted double rapist, declaring himself to be a woman and being sent to a women's prison. Getting ahead of the law, going beyond the law, easing the way, broadening the definitions: all equate to breaking the law. Arguably, the Scottish Government, having dropped plans to amend the School Premises Regulations after the consultation stage, are now acting as if they had done the hard work, taken the evidence, resolved the conflicts and Parliament had voted for well-supported changes to the legislation. Except, they did not do this work. The law has not changed and, in acting as if it has been amended in line with the wishes of LGBT Youth Scotland and Scottish Trans to permit mixed-sex toilets in schools, children are suffering the consequences.

Of the 20 schools with boys' toilets that fully comply with the current law, seven do not comply with the Regulations for the minimum number of girls' toilets. This leaves only the following 13 schools that meet the statutory requirements on toilet provision for both male and female pupils:

- Islay High School, Argyll and Bute
- Tarbert High School, Argyll and Bute
- Tynecastle High School, Edinburgh
- Bell Baxter High School, Fife
- Irvine Royal Academy, North Ayrshire
- Kilwinning Academy, North Ayrshire
- Pitlochry High School, Perth and Kinross
- Eyemouth High School, Scottish Borders
- Earlston High School, Scottish Borders
- Broxburn Academy, West Lothian
- Whitburn Academy, West Lothian
- Castlebay School, Western Isles
- Sir E Scott School, Western Isles

We will come back to this list after looking at schools' policies on allowing children who declare a transgender identity to use the opposite sex toilets.

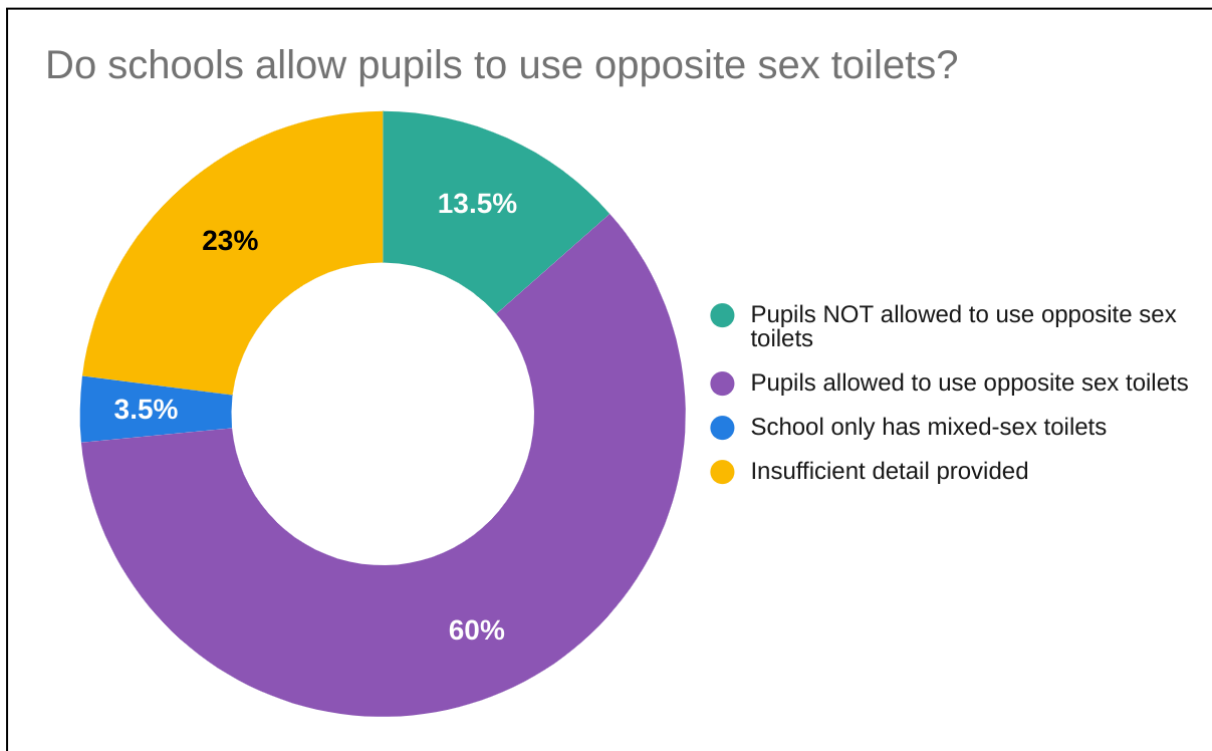
The details for each secondary school and our calculations on its compliance with the School Premises Regulations are given in Annex 2.

Do schools allow pupils to use opposite sex toilets?

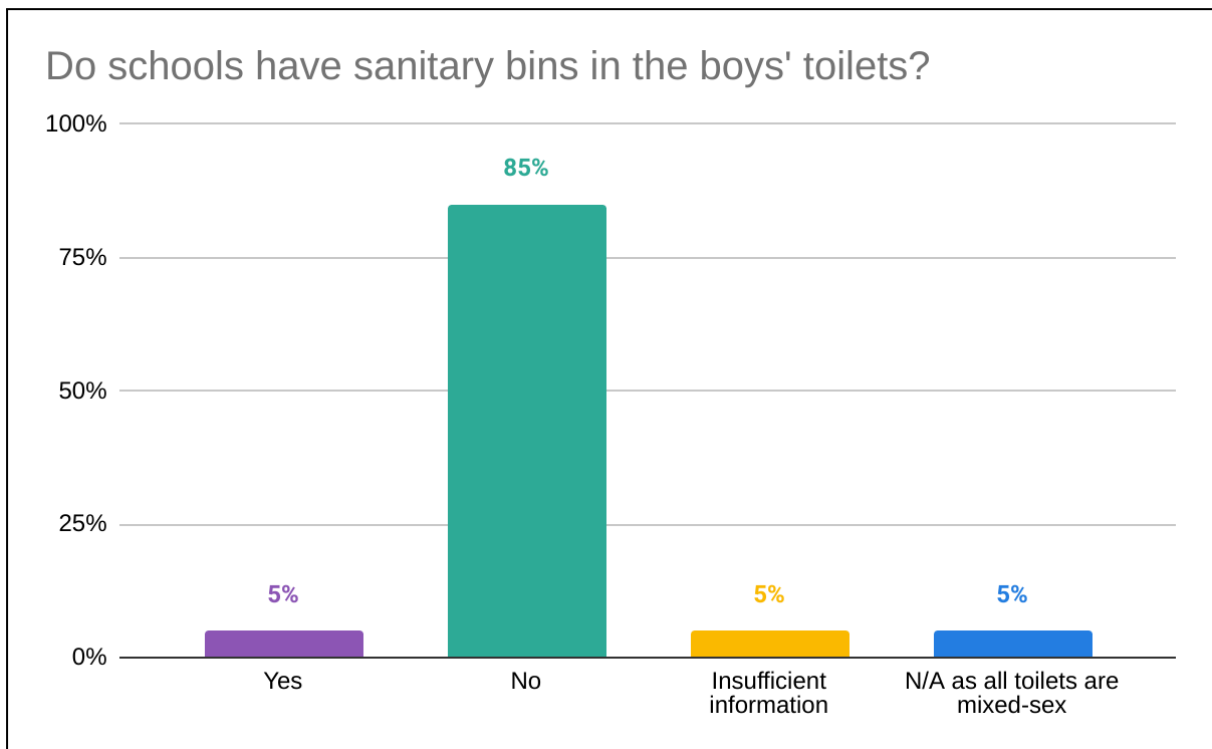
From the research detailed in our previous report "What's Happening in Your Child's Classroom?"²³ we know that only 13% of secondary schools uphold single-sex provision, usually by asking children who declare a transgender identity to use the single-user accessible toilets if they are not comfortable using the toilets allocated for their sex. At least 60% of secondary schools allow pupils to use toilets that are designated for the opposite sex, in line with the advice given by the Scottish Government's transgender guidance which

²³ <https://forwomen.scot/wp-content/uploads/2024/06/Whats-Happening-in-Your-Childs-Classroom.pdf>

is clear that pupils should be supported to “use the facilities they feel most comfortable with”.²⁴



To determine how much this policy is actually followed through in practice, we asked schools if they supported girls who claim a transgender identity by supplying bins for the disposal of sanitary pads and tampons in the boys' toilets.



²⁴ p27, <https://www.gov.scot/publications/supporting-transgender-young-people-schools-guidance-scottish-schools/>

Despite 60% of schools supporting girls to use the boys' toilets, only 5% (12 schools) cater for their physical needs by providing sanitary bins:

- Annan Academy, Dumfries and Galloway
- Castlebrae High School, Edinburgh
- Portobello High School, Edinburgh
- Madras College, Fife
- Ayr Academy, South Ayrshire
- Belmont Academy, South Ayrshire
- Carrick Academy, South Ayrshire
- Girvan Academy, South Ayrshire
- Kyle Academy, South Ayrshire
- Marr College, South Ayrshire
- Prestwick Academy, South Ayrshire
- Queen Margaret Academy, South Ayrshire

With the exceptions of Madras College and Queen Margaret Academy, all are involved in the charter award scheme run by LGBT Youth Scotland.

However, allowing children to use opposite sex toilets is incorrect as a matter of law. Where the School Premises Regulations allocate provision, half for boys and half for girls, it is referring to the sex of pupils and not to the undefined and contested concept of “gender identity”. This is a very modern phenomenon which was certainly not prevalent when the legislation came into force in 1967. While legal provision has since been made for gender recognition, the significance, if any, of gender recognition certificates to accessing the single-sex services of the opposite sex has yet to be determined by the UK Supreme Court.²⁵ The Scottish Government acknowledged in the Court of Session Inner House that people *without* a gender recognition certificate have no entitlement to use opposite sex facilities, entirely contradicting the advice it gives to schools to support access to children who do not, and cannot, hold a GRC since these are only available to adults aged 18 or over. The sex of a schoolchild will always mean their biological sex and that is how they should be treated by applicable laws. The transgender guidance urgently needs updating in light of recent court judgments to this effect.²⁶

Pupils may hold the protected characteristic of gender reassignment under the Equality Act 2010 if they are “proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex”, but this protection against discrimination does not mean that a child has changed sex and does not give any child the right to use facilities provided for the opposite sex. There may be a case for indirect discrimination if a school fails to provide appropriate facilities for pupils and the Equality and Human Rights Commission states that a suitable alternative might be to allow the pupil to use separate private facilities.²⁷ The secondary schools that provide separate single-user toilets that can be used by either sex, as well as maintaining single-sex toilets are therefore acting entirely within the law, so long

²⁵ <https://www.crowdjustice.com/case/uksc-definition-of-sex-in-equality-act/>

²⁶ Persons without a GRC remain of their birth sex and those with a GRC hold the protected characteristic of sex according to the terms of their GRC, although may still be excluded from single-sex provision. <https://www.scotcourts.gov.uk/docs/default-source/cos-general-docs/pdf-docs-for-opinions/2023csih371cb71fe0-ea75-4892-b423-4751efe6e075.pdf>

²⁷ §3.20, <https://www.equalityhumanrights.com/technical-guidance-schools-scotland>

as in making this additional provision the minimum number of communal toilets for each sex does not fall below that set out in the School Premises Regulations.

Returning then, to the list of 13 schools who fully comply with the Regulations regarding the number of appliances and ratio of WCs to urinals, we can remove any that are acting unlawfully by supporting children to use the opposite sex toilets (or not providing sufficient information to determine what their policy is). This leaves the following three schools:

- Islay High School, Argyll and Bute
- Tarbert High School, Argyll and Bute
- Castlebay School, Western Isles

Only three secondary schools out of the 193 that provide only single-sex toilets for pupils have been found to comply with the law on provision of toilets for pupils. That's just 1.6%.

4.3 Mixed-sex toilets only

Other than the provision made for single-user accessible toilets, 11 out of 243 secondary schools stated that the only toilets provided for pupils are mixed-sex:

- Alford Academy, Aberdeenshire
- Inverurie Academy, Aberdeenshire
- Mearns Academy, Aberdeenshire
- Dalbeattie Learning Campus, Dumfries and Galloway
- Moffat Academy, Dumfries and Galloway **
- St Joseph's College, Dumfries and Galloway
- Lossiemouth High School, Moray
- Jedburgh Grammar, Scottish Borders
- Sinclair Academy, West Lothian
- West Calder High School, West Lothian
- Winchburgh Academy, West Lothian

Separately from the information obtained from the FOI request we are also aware of two more:

- Mid Yell Junior High School, Shetland
- Dumbarton Academy, West Dunbartonshire

** Moffat Academy has single-sex toilets for boys, with the correct number of appliances and ratio of WCs to urinals. However, the school has stated there are no girls' toilets at all. Boys have 26 appliances for their sole use and there are another 26 WCs in mixed-sex toilets. It looks very much like the former girls' toilets have been opened up for both sexes to use. Since one of the sexes has no option but to use mixed-sex toilets the school has been categorised as mixed-sex. We hope there has been an error in the FOI response given by Moffat Academy but, if not, this situation is an appalling act of sex discrimination against the

female pupils. The school was the first in Dumfries and Galloway to achieve a silver charter award from LGBT Youth Scotland.²⁸

Harris Academy in Dundee should possibly be included on this list as we understand that, in addition to the large mixed-sex toilets off the dining hall, all the two-cubicle facilities spread throughout the school are now mixed-sex, rather than the original plan of alternate single-sex male and female facilities.

None of the mixed-sex toilets provided by the secondary schools that responded to our FOI request contain urinals and, since the School Premises Regulations state that a certain proportion of the appliances provided for boys must be urinals, it is beyond question that the schools providing only mixed-sex toilets are in breach of the legislation.

We understand that at least one council has received legal advice which states mixed-sex toilets are lawful on the basis that extending the partitions between cubicles up to the ceiling reclassifies them as separate “rooms”. However, the architects' case study on new toilet designs in Scottish schools mentions cubicles 50 times, with no references to them as rooms,²⁹ and the definitions in the Building Standards Technical Handbook refers to a “toilet” as the enclosed space which contains a WC, with “sanitary accommodation” being the space that includes toilets.³⁰ Since it is the accommodation that has to be split half for girls and half for boys according to the School Premises Regulations, it does seem to be a ridiculous and convoluted argument by councils to try and justify the introduction of mixed-sex toilets.

The 1967 Act has mandated separate and single-sex facilities for over 50 years with no issues until transgender lobbyist groups have seemingly convinced local authorities that it has been misinterpreted all along. Redefining commonly understood words is a familiar tactic but it fails to address the issue with urinals. So far, at least, not even LGBT Youth Scotland is suggesting it would be acceptable to install urinals in an open plan room shared by both boys and girls.

The images below show a typical mixed-sex toilet arrangement. Instead of a door into the room, the entrance is wide open to a busy corridor with a classroom directly opposite. There are no electric hand dryers as the noise disturbs pupils working nearby. The bins for paper towels quickly fill up and are easily blown around the floors and down the corridor. The cubicles that are supposed to offer total privacy still have gaps at the top that would allow a mobile phone through to take photographs. In this example there is actually a thoroughfare from the classrooms to the playground, right across the middle of the toilet room.

²⁸ <https://www.beattockandmoffatacademycluster.org.uk/LGBT/>

²⁹ <https://www.ads.org.uk/sites/default/files/2022-05/case-study-toilet-design-learning-environment-2019.pdf>

³⁰ <https://www.gov.scot/publications/building-standards-technical-handbook-2020-non-domestic/appendix-defined-terms/definitions-explanation-terms-used-document/>



*James Gillespie's High School, Edinburgh.
(It has single-sex toilets as well as these mixed-sex toilets.)*



A selection of photographs of mixed-sex toilets, including Dalbeattie Learning Campus, West Calder High School and Harris Academy are given in the case study report by Architecture & Design Scotland.³¹ Some of the issues that are immediately apparent are a glass wall which is claimed “increases the sense of privacy” between the main toilet space and a corridor where banks of lockers are located, a large open entrance directly off the dining hall (there should be a door between toilets and food consumption areas), and toilets where only the cubicles with orange doors have sanitary bins, thereby alerting boys to when girls are menstruating. The fact that these are all newly built facilities accounts for pupils’ appreciation of the cleanliness but the claim of mixed-sex toilets leading to a reduction in bullying by Glasgow City Council has not been supported by any evidence. It can easily be imagined that if entrance doors are removed so pupils eating their lunch can see into the toilet space, dividing walls are glass and, perhaps as a consequence, fewer pupils are choosing to use such toilets, then there will be less bullying – although this would occur regardless of whether the facility was mixed-sex or single-sex.

Mixed-sex toilet accommodation has considerable disadvantages and risks for all children, including those who identify as transgender:

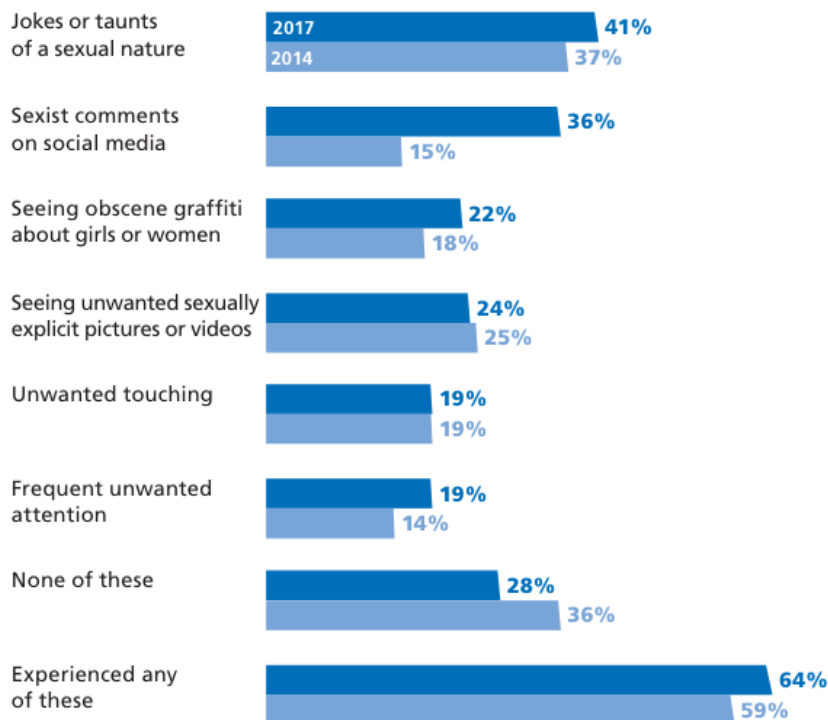
Health and Safety

The very fact that all mixed-sex toilet provision is designed with fully enclosed cubicles with floor to ceiling partitions rather than standard cubicles with gaps above and below reveals that schools are fully aware that additional protections are needed for girls in toilets shared with boys. Sexual harassment is, unfortunately, rife in secondary schools with the annual Girls’ Attitude Survey by Girlguiding illustrating the scale of the problem:

³¹ <https://www.ads.org.uk/sites/default/files/2022-05/case-study-toilet-design-learning-environment-2019.pdf>

Sexual harassment at school

Things girls have experienced in the past year (13-21)



Things that girls have seen or experienced in the past week (11-21)

39%
girls having their bra strap pulled by boys

27%
girls' skirts being pulled up by boys at school



of girls aged 11-21 feel confident to challenge sexual harassment at school when they see it

Girls' Attitude Survey 2017³²

A number of other large scale surveys found girls consistently experience high levels of sexual harassment and sexual violence in school and there is a average of one rape in school every day of the school year in the UK.³³ The website Everyone's Invited, which encourages sexual abuse survivors to anonymously share their stories, named 133 Scottish schools³⁴ and the subsequent rapid review by Ofsted concluded that that sexual harassment has become "normalised" among school-age children. It recommends schools act as though sexual harassment is happening even when there are no specific reports since incidents are so commonplace that children see little point in reporting them.³⁵

In this environment it is extraordinary that schools would consider removing single-sex provision, which has been a longstanding and successful preventative measure for the safety of girls, and instead opt for fully enclosing them in a cubicle within an often hostile environment. Nor does it work. Research shows that even though mixed-sex cubicle changing rooms make up less than half the total changing facilities in sports centres they are the source of 90% of complaints from women of voyeurism, harassment and assault.³⁶ Serious incidents already reported from schools include a girl who was taken to hospital after being injured when a boy 'donkey kicked' the cubicle door open to take photographs of her,³⁷

³² Most recent survey with relevant single-sex data::

<https://www.girlguiding.org.uk/globalassets/docs-and-resources/research-and-campaigns/girls-attitudes-survey-2017.pdf>

³³ <https://publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/91/9105.htm>

³⁴ <https://www.thetimes.com/uk/scotland/article/abuse-survivors-name-133-scottish-schools-in-updated-rape-culture-list-v7b950kx0>

³⁵ <https://www.gov.uk/government/publications/review-of-sexual-abuse-in-schools-and-colleges/review-of-sexual-abuse-in-schools-and-colleges>

³⁶ <https://www.thetimes.co.uk/article/unisex-changing-rooms-put-women-in-danger-8lwbp8kgk>

³⁷ <https://www.coventrytelegraph.net/news/coventry-news/coventry-schoolgirl-taken-hospital-after-26418069>

and a teenage boy arrested over four allegations of ‘serious sexual assault’ in shared toilets at a school in Essex.³⁸ If any school thinks this is unlikely or won’t happen at their school then they are, quite simply, not taking their safeguarding duties seriously.

Separately, fully enclosed cubicles present a safety risk for all users. It is not possible to check whether someone is inside, how many people are inside, nor to be sure if the person inside can hear or is able to respond to a knock on the door. Teachers have reported drug and alcohol use, consensual sex and children pushing others into cubicles and locking the door behind them. It is harder for calls for help to be heard.

People often retreat to the toilets when feeling unwell which means, statistically, toilets are places of high risk for emergencies. On average, a secondary school will have around nine children who have diagnosed epilepsy³⁹ and there are more than 28,000 children with type 1 diabetes in the UK.⁴⁰ Yet, without safety gaps around cubicles a child who has collapsed and in need of medical attention can go unnoticed for a considerable period of time.

Many children, particularly girls, report ‘holding it in’ or going all day without drinking water citing fear of sexual harassment and period shaming from boys as reasons for avoiding the mixed-sex toilets.⁴¹ Similar reports are repeated almost every time a newspaper writes about a school with mixed-sex toilets and we often hear about girls waiting until lunchtime to use single-sex toilets in nearby supermarkets or cafes. Not drinking enough water can lead to headaches, digestive problems and lack of concentration, and not going to the toilet often enough can have serious health implications including urinary tract infections and kidney stones⁴² – all of which impact on school attendance and attainment and should be taken seriously by school management.

Hygiene

A recent study on bacteria in various hospital toilets in Lanarkshire found that mixed-sex toilets carried the most germs, with a far higher microbial burden – including drug resistant superbugs – than either of the single-sex male or female toilets. The researchers said “the findings were a warning against replacing single-sex lavatories with unisex [mixed-sex] models”.⁴³

There is no evidence that consideration was given to the consequences of removing urinals from boys’ toilets in schools. Since they are designed for standing use they can help reduce the potential for contact with surfaces that harbour germs or bacteria. They also serve significant practical purposes in terms of time, space, cost and water usage. If football stadiums were to replace all urinals with WCs the average Premier League stadium would need to install 860 additional toilet cubicles, and extend half-time to 30 minutes to cater for demand.⁴⁴ Similar bottlenecks happen at school break times and not only does everyone

³⁸ <https://www.telegraph.co.uk/news/2023/06/28/essex-schoolgirls-sexually-assaulted-gender-neutral-toilets/>

³⁹ <https://www.epilepsy.org.uk/press/epilepsy-facts-and-terminology>

⁴⁰ <https://www.diabetes.org.uk/about-us/news-and-views/children-type-1-diabetes-do-well-school-research-shows>

⁴¹ <https://www.walesonline.co.uk/news/education/pupils-missing-school-because-dont-15839558>

⁴² <https://www.medicalnewstoday.com/articles/321408#side-effects>

⁴³ <https://www.telegraph.co.uk/news/2024/04/30/gender-neutral-lavatories-more-germs-than-single-sex-ones/>

⁴⁴ <https://www.installeronline.co.uk/urinals-best-option-public-facilities/>

have to wait longer for a cubicle to become free in mixed-sex toilets, but girls frequently have to clean the toilet seat of urine splashes before sitting down.

Urinals are often equipped with devices or systems that help control odours more effectively than toilets, whereas fully enclosed cubicles with poor ventilation are likely to smell unpleasant very quickly. Shared enclosed cubicles need more regular cleaning and are also harder to clean, as instead of being able to mop under a row of cubicles in one go, each one must be mopped separately. The lack of entrance way doors also allows surrounding areas to become smelly and unpleasant, and it is common for discarded paper towels to be blown or walked along corridors and into classrooms.

Privacy

Adolescence is a vulnerable time, with children experiencing an array of physical and mental changes. There are a number of reasons why anyone would feel uncomfortable sharing toilet accommodation with members of the opposite sex: embarrassment, anxiety, conscious of the sound of bodily functions, lack of dignity, feeling intimidated, fear of harassment, sexual abuse and bullying, or girls feeling awkward about it being obvious when they are menstruating and being teased or shamed about it by boys. Privacy is a particularly important issue for children with some religious beliefs and hijab-wearing Muslim girls, for example, are unable to adjust their clothing if mirrors and handwashing facilities are in an open mixed-sex space like the following Edinburgh secondary school.



At a population level, we just don't like mixed-sex toilets. A YouGov poll in January 2024 showed that 90% of people wanted separate toilets for men and women, either on their own or with a gender-neutral option in addition. Only 5% wanted gender-neutral (mixed-sex) toilets only.⁴⁵ This preference is recognised by the Equality Act 2010 which allows for the provision of single-sex toilets, or any service which is used by two or more persons at the same time, and where a person of one sex might reasonably object to the presence of a person of the opposite sex.⁴⁶ In not upholding this provision of the Equality Act schools may well be indirectly discriminating against girls, as the sex that is more vulnerable here, and failing in its statutory duty to prevent harassment or a hostile environment.

Responses to a UK Government consultation on facilities in public buildings showed that 81% agreed with proposals for single-sex toilet facilities and 82% agreed with the proposal to provide additional universal toilets where space allows. A universal toilet is a self-contained and fully enclosed toilet room with a wash hand basin for individual use. Guidelines have subsequently been published which make it clear that mixed-sex toilets are no longer an option.⁴⁷

The Scottish Government however, continues with the Trojan Horse of "gender-neutral" toilets that are designed, not to provide any benefit to children, but to shore up the pretence that boys and girls are interchangeable by organisations and people who don't even agree that there are only two sexes in the first place.

4.4 Single-sex and mixed-sex toilets

Other than the provision made for single-user accessible toilets, 39 out of 243 secondary schools stated that both single-sex and mixed-sex toilets are provided for pupils:

- Ellon Academy, Aberdeenshire
- The Gordon Schools, Aberdeenshire
- Kemnay Academy, Aberdeenshire
- Mackie Academy, Aberdeenshire
- Westhill Academy, Aberdeenshire
- Arbroath Academy, Angus
- Brechin High School, Angus
- Forfar Academy, Angus
- Lochgilphead High School, Argyll and Bute
- Rothesay Academy, Argyll and Bute
- Alloa Academy, Clackmannanshire
- Kirkcudbright Academy, Dumfries and Galloway
- North West Community Campus, Dumfries and Galloway
- Harris Academy, Dundee

⁴⁵ <https://yougov.co.uk/topics/society/trackers/support-for-separate-toilets-for-men-and-women-and-gender-neutral-toilets-in-public-spaces>

⁴⁶ <https://www.legislation.gov.uk/ukpga/2010/15/schedule/3/part/7/crossheading/singlesex-services>

⁴⁷ <https://www.gov.uk/government/news/government-to-lay-new-law-to-halt-the-march-of-gender-neutral-toilets-in-buildings>

- Robert Burns Academy, East Ayrshire
- James Gillespie's High School, Edinburgh
- Liberton High School, Edinburgh
- Portobello High School, Edinburgh
- Queensferry High School, Edinburgh
- Trinity Academy, Edinburgh
- Wester Hailes Education Centre, Edinburgh
- Grangemouth High School, Falkirk
- Larbert High School, Falkirk
- Levenmouth Academy, Fife
- Lochgelly High School, Fife
- Madras College, Fife
- Viewforth High School, Fife
- Waid Academy, Fife
- Garnock Community Campus, North Ayrshire
- Largs Academy, North Ayrshire
- Bertha Park High School, Perth and Kinross
- Blairgowrie High School, Perth and Kinross
- Breadalbane Academy, Perth and Kinross
- St John's RC Academy, Perth and Kinross
- Berwickshire High School, Scottish Borders
- Kelso High School, Scottish Borders
- Marr College, South Ayrshire
- Queen Margaret Academy, South Ayrshire
- Wallace High School, Stirling

27 schools on this list do not provide the minimum number of sanitary appliances for pupils as required by the School Premises Regulations and, of the remaining 12 schools, 11 do not provide the correct ratio of WCs to urinals for boys. This leaves one school, Lochgilphead High School, that fully complies with the Regulations and chooses to provide an additional block of 3 WCs that are available for use by either sex. 64% of the schools on this list are working towards, or have achieved, a charter award from LGBT Youth Scotland.

We are of the view that all these schools are acting unlawfully, and that even if the School Premises Regulations are fully met, it is neither appropriate nor lawful to provide additional toilets that are mixed-sex. As well as the unnecessary expense to schools, all the disadvantages, risks and safety issues discussed above do not vanish from these mixed-sex toilets merely because other options are available for pupils. In fact, there is an additional risk of blame being apportioned to a girl if she is assaulted or harassed by a boy after choosing to use the mixed-sex toilets rather than a single-sex facility. Schools and local authorities have a duty under the Equality Act to put in place measures to *prevent* the harassment of a pupil on the grounds of their sex. Installing mixed-sex toilets is a failure in this duty since they *create* opportunities for harassment.

In conclusion, only three of the 193 secondary schools that provide single-sex toilets for pupils comply with the School Premises Regulations. No schools providing mixed-sex toilets, either on their own or in combination with single-sex toilets, comply with the Regulations and where the Equality Act non-harassment provisions apply to schools. That means only three out of the 243 secondary schools who responded to our Freedom of Information request, only 1.2% of the total, comply with the applicable legislation.

5. Mixed-sex toilets are not working

More and more schools are installing mixed-sex toilets as a replacement for single-sex facilities. We looked at newspaper reports to see how this change has been received by parents and pupils. Common themes emerge from reading these reports, which we have quoted from below, and the overall message is very clear: mixed-sex, or the euphemism “gender-neutral”, toilets are not working well in schools.

October 2017

One of the first reports we found was from 2017 and this example of Blairdardie Primary School in Glasgow sets the tone.

*New Glasgow primary school with unisex toilets gets go-ahead – despite protests from parents*⁴⁸

Several parents wrote letters of objections with “serious concerns” including “privacy, particularly at the upper end of primary school” and “pupils sharing toilets if their religion doesn't allow it”.

“Parents feel they should have been consulted first”, but “councillors have approved the building’s construction despite the protests”.

“Schools do not exist to advance the latest politically correct fad, and something has gone seriously wrong when the LGBT agenda is dictating the design of new school buildings.”

August 2018

More unhappy parents as the council looks set to install mixed-sex toilets in all primary schools in the region, and an example of the common practice of completing the refurbishment over the summer holidays without even informing parents.

*‘Highly inappropriate’: Furious parents in uproar as East Renfrewshire Council install gender neutral toilets in schools*⁴⁹

“Carolside and Braidbar Primary Schools had the facilities installed over the summer and parents say they were not consulted.”

“Urinals were ripped out of the boys’ toilets and replaced by cubicles.”

One concerned parent said: “They've just gone a bit mad and not told anyone about this. The woman from the council said they'd done an impact assessment and said it would have no impact - but they haven't asked anyone.”

“There's loads of parents not happy and saying they've not been consulted.”

⁴⁸ <https://www.thescottishsun.co.uk/news/893335/glasgow-school-unisex-loo/>

⁴⁹ <https://www.thescottishsun.co.uk/news/3104261/furious-parents-renfrewshire-schools-gender-neutral-toilets/>

"My daughter is only seven - boys p*** over seats, boys have urinals and p*** all over them. So to ask them to share is mad. You don't want girls sitting on that. At school they should be separate. Girls have periods - they don't want to be unwrapping sanitary towels next to some bloke."

Councillor David MacDonald said: "As you can probably understand, this has left some parents, worried, angry and upset, particularly for parents of girls approaching and going through puberty and those who need private spaces to deal with menstruation."

East Renfrewshire Council's Head of Education (Equality and Equity) Janice Collins said "the move was made on guidance from the Scottish Government and that an impact assessment was conducted."

November 2018

After numerous primary schools faced criticism for introducing mixed-sex toilets over the previous year, similar refurbishments are increasingly planned for secondary schools. Interestingly, so far no-one refers to the cubicles as separate "rooms".

East Lothian school faces online backlash after residents complain new unisex toilets are 'recipe for disaster'⁵⁰

The new unisex toilet facilities are part of a £10.38 million extension project at East Lothian's Dunbar Grammar School.

A local grandmother shared her concerns: "In a high school full of teenagers with raging hormones what the hell are they thinking this is a recipe for disaster."

"Education bosses said that the design was in keeping with modern secondary schools and major public facilities in Scotland, pointing out that the cubicles were completely enclosed to protect privacy."

May 2019

With no gaps under the doors as a preventative measure, teachers frequently find pupils using the enclosed cubicles for activities other than intended. This school has now reverted to separate single-sex toilets.

Unisex toilets at new £47m Scots school could be removed over privacy fears⁵¹

Pupils at a new £47 million Scottish school are to be asked if they want to keep unisex toilets or have segregated facilities instead. It follows complaints from parents, pupils and staff about the privacy of children in shared toilets at Lochside Academy. "One mum said her son was being put off attending because of the arrangement".

⁵⁰ <https://www.eastlothiancourier.com/news/17213769.new-unisex-toilet-block-dunbar-grammar-school-sparks-online-row/>

⁵¹ <https://www.scotsman.com/regions/aberdeen-and-north-east/unisex-toilets-at-new-ps47m-scots-school-could-be-removed-over-privacy-fears-1421754>

After reports of “pupils engaging in sexual activity in the school’s unisex toilets and of drug use” the introduction of mixed-sex toilets was deemed “unsuccessful” with more than 500 responses to a pupil survey on the issue passed to the local authority.⁵²

August 2021

This just shows what a strong and organised parents group can achieve. By the end of the very same day the council stated that, after backlash from parents and pupils, the mixed-sex toilets would be changed to male and female.⁵³ It also shows that mixed-sex facilities are not installed due to any demand for them, but are often imposed on schools and pupils by councils.

*Parents and pupils raise concerns over lack of alternative to unisex toilets at Culloden Academy in Inverness, and want Highland Council to reconsider and provide single-sex toilets*⁵⁴

Parents of pupils at Culloden Academy say they were not consulted on the removal of all single-sex toilets in the school, and were shocked to learn female pupils as young as 11 will be sharing a toilet with boys as old as 18 at the school.

A parent said: “We have started a group the Highland Council Academy Toilets Petition Group and overnight we have more than 200 members of both pupils and parents. This is not about parents complaining, this is about pupils feeling uncomfortable in school when using the toilets. That is not what we want at all.”

A grandparent said: “My personal view is that this is just another step towards girls and women's safe spaces being eroded. This is simply not acceptable. Girls are refusing to go to them, never mind going into the highly emotional and embarrassing times of periods. Some toilets don't even have bins. I'm beyond furious that the school has taken this stance.”

Cllr Gowans said: “Let's be very clear here, this is not a decision taken by teachers or the head teacher – this is a decision taken at council level. No-one was consulted.”

It is understood pupils who complained about the toilets were told to use the disabled units, which they are reluctant to do.

⁵² <https://www.eveningexpress.co.uk/fp/news/local/lochside-academys-head-teacher-quizzed-over-damaging-social-media-claims-about-pupils-behaviour1/>

⁵³ <https://www.inverness-courier.co.uk/news/highland-council-say-unisex-toilet-plan-was-on-an-interim-b-248602/>

⁵⁴ <https://www.inverness-courier.co.uk/news/concern-over-lack-of-alternative-to-unisex-toilets-at-cullod-248508/>

Results

POLL: Do you think unisex toilets, with no alternative, in schools are appropriate?

No

94% (2934 votes)

Yes

6% (171 votes)

A poll by the same newspaper found strong support for single-sex toilets (for “unisex” read mixed-sex).⁵⁵

December 2021

From our Freedom of Information request we know that the plans to install mixed-sex toilets at Galashiels Academy and Peebles High School did not come to fruition, perhaps due to poor behaviour evident in similar toilets in local schools. No action has yet been taken to resolve the problems in Jedburgh or Kelso schools. The councillor put forward a sensible solution of extra single-user unisex toilets that could solve the issues for everyone.

Jedburgh pupil ‘waving sanitary products like flags’, meeting hears⁵⁶

Borders pupils using gender-neutral toilets have been “waving sanitary products about like flags” and urinating in sanitary bins, according to an elected official.

As well as the reports of the incidents at Jedburgh Grammar School, Galashiels councillor Harry Scott says he has heard stories of girls at Kelso High School going an entire day without a toilet visit after refusing to use the unisex loos.

He said: “Young girls going through certain changes in their life are entitled to extra privacy as far as toilet facilities are concerned. They should not have to share with teenage boys or men.”

“These young people need to feel safe and comfortable in their surroundings, and to be able to use the facilities on offer without embarrassment or anxiety, whether caused intentionally or otherwise.”

⁵⁵ <https://www.inverness-courier.co.uk/news/poll-do-you-think-unisex-toilets-with-no-alternative-in-s-248512/>

⁵⁶ <https://www.bordertelegraph.com/news/19754263.jedburgh-pupils-waving-sanitary-products-like-flags-meeting-hears/>

“While I’m fully in agreement about providing support for minority groups, that support should be provided without the detriment to others. Why is it not possible to have male, female and gender-neutral toilets which would cater for the needs of everyone?”

It seems that councils and schools have been misled about equality law. Exclusion is oftentimes just as important as inclusion and, in the case of toilets, the results of a policy of “inclusion” are clear: the removal of the right to privacy for both sexes, and discrimination and harassment against the sex with the greater need for privacy. Mixed-sex toilets are not working for obvious reasons which should have been considered by schools before experimenting with provision for pupils.

6. Legal remedy

It may be the case that a complaint to a school, followed up if necessary by an escalated complaint to the local authority, will be enough to resolve issues about any toilet provision that is not in line with the School Premises Regulations. At some point, however, it is highly likely that legal action will be necessary to enforce the law and uphold children’s rights, and there are two legal opinions which may be of assistance.

The first was written by Karon Monaghan KC to advise on the lawfulness of Brighton and Hove City Council’s “Trans Inclusion Schools Toolkit 2021”.⁵⁷ This is an extensive and thorough analysis of the law to counter the tenets of gender identity ideology that have become commonplace in schools, and is very useful for tackling the similar transgender guidance produced by the Scottish Government. However, while the Equality Act 2010 and Human Rights Act 1998 obviously apply throughout the UK, some of the legal advice comes with the caveat that it does not apply to Scotland, in particular where the Education Act 2002 and the School Premises (England) Regulations 2012 are referenced.

Bearing that in mind, it does cover three important points with regard to single-sex toilet provision in Scotland:

- Anything done by a school that must be done pursuant to a requirement in an enactment, will not be unlawfully discriminatory. This means that the Equality Act does not affect the operation of the School Premises (Scotland) Regulations and no claims of discrimination can be made against a school upholding the minimum number of sanitary appliances with half the accommodation for girls and half for boys. (paragraph 33)
- A practice of permitting trans identified children into changing rooms (or toilets) designated for children of the opposite sex is likely to disproportionately disadvantage girls and be indirect discrimination. Statistical data is not required for these purposes; the impact is obvious. A less intrusive practice could be adopted by following the Equality and Human Rights Commission guidance to provide an

⁵⁷ <https://content.doyleclayton.co.uk/hubfs/Advice%20of%20Karon%20Monaghan%20KC.pdf>

alternative private facility for children who are uncomfortable using the facilities designated for their sex. (paragraphs 106-108)

- Harassment, within the meaning of the Equality Act, occurs where a school engages in unwanted conduct related to a relevant protected characteristic (in this case the protected characteristic of sex) and the conduct has the purpose or effect of:

(i) violating a pupil's dignity, or

(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for a pupil.

Allowing trans identified children to use changing/toilet facilities designated for children of the opposite sex will most likely be unwanted, at least by some children who are members of the sex for whom the facility is designated. Any perception by a pupil to the effect of violating dignity, creating an intimidating, etc environment will plainly be reasonable in the circumstances. Further, the admission of trans identified boys into girls facilities, in particular, creates the obvious and real risk that sexual harassment will occur.

A school is likely to be acting unlawfully, therefore, if it permits trans identified children access to facilities designated for children of the opposite sex. (paragraphs 113-115)

It is this final point on harassment which was the focus of the legal opinion given by Aidan O'Neill KC. He concluded that local authorities, and private co-educational schools in Scotland, have a duty to make separate toilet provision for boys and girls under their non-harassment obligations (sections 26(1) and 85(3) of the Equality Act) to avoid or desist from unwanted conduct related to a sex. This is in the interests of respect for privacy, preserving decency, preventing trauma and/or ensuring health and safety particularly of girls, and to avoid creating what girls in particular might perceive and experience as an intimidating, hostile, degrading, humiliating or offensive environment for them.

The advantages of pursuing an enforcement of any breach of this obligation to make provision for separate toilets for boys and girls via the Equality Act – rather than those set out in the School Premises Regulations – is that a wholly private action can be brought by a pupil (or a group of pupils). It also covers any instances of schools, such as Lochgilphead High School, that comply with the Regulations but provide additional toilets that are mixed-sex. The Equality Act also recognises the more serious nature of harassment which could result in an award of compensation to pupils, including for injury to feelings and aggravated damages. And unlike a claim for indirect discrimination, a court is not obliged to consider whether there was any intention by the school to discriminate.

See Annex 3 for the legal advice from Mr O'Neill.

7. Conclusion

The results of our investigation into toilet provision in secondary schools is deeply concerning. Despite clear, established legislation mandating separate single-sex toilet provision in schools, and which has been operating well in practice for over fifty years, we discovered that over a fifth of secondary schools have recently introduced mixed-sex toilets.

There is evidence that schools and local authorities are poorly advised by both the Scottish Government, who omit mention of the applicable legislation in their guidance to schools, and transgender activist organisations such as LGBT Youth Scotland, who misrepresent the law and pressure schools to demonstrate their “inclusion” policies via the introduction of “gender-neutral” toilets, changing rooms, and PE classes.

It is quite extraordinary that only three schools in our sample of 243 secondary schools comply fully with the School Premises Regulations, both in terms of providing single-sex toilet accommodation with the minimum number of toilets and the correct proportion of WCs to urinals for boys, and by not permitting pupils to use toilets designated for the opposite sex. The vast majority of schools with single-sex provision are failing to provide enough urinals, reflecting a common policy across the country requiring the replacement of urinals with WCs when schools and toilet facilities are refurbished. This is a deliberate and concerted effort to disregard legislation in order to facilitate pupils using toilets designated for the opposite sex and to more easily introduce mixed-sex toilets in future.

Gender ideology is deeply embedded in schools and is oblivious to the harms it causes children, particularly girls. In almost every newspaper article that reports on the outrage caused by a school’s decision to install mixed-sex facilities the distress of girls is clear, and we frequently receive requests for help and advice from parents whose daughters are avoiding the mixed-sex toilets, not drinking, or have been victims of boys exposing themselves. The increased risk of sexual harassment in mixed-sex toilets is obvious, and schools are woefully neglecting their safeguarding and Equality Act duties to prevent and avoid such incidents.

Parents who have protested and organised petitions have successfully pushed back on the drive to install mixed-sex toilets but it seems there will inevitably be court cases to enforce each local authority’s legal obligations to provide single-sex toilets in schools. Ideally, the Scottish Government should step in before it reaches this stage by updating the transgender guidance to schools and advising local authorities on the importance of ensuring existing legislation and children’s rights are upheld. Two separate legal opinions and the latest guidance from the Equality and Human Rights Commission have indicated that maintaining single-sex toilet provision with additional single-user unisex toilets would ensure there is suitable accommodation for children who identify as transgender, without breaching the law or the rights of other children.



*For Women Scotland
June 2024*

Annex 1

The [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#) lays out the provision that is required for sanitary and washing accommodation in schools. It specifies the minimum number of appliances dependent on the school roll. Toilet provision is separate for boys and girls and a maximum of a third of the total appliances provided for boys shall be WCs with the remainder urinals. (School rolls are available [here](#))

The following chart specifies the number of appliances required as per the calculations in the Regs for the given school roll:

School roll	Total appliances	No. for each sex	Max no. of boys WCs	Min no. urinals
0-15	2	1	1	-
16-30	4	2	1	-
31-45	6	3	1	2
46-60	8	4	1	3
61-90	10	5	1	4
91-120	12	6	2	4
121-150	14	7	2	5
151-180	16	8	2	6
181-210	18	9	3	6
211-240	20	10	3	7
241-270	22	11	3	8
271-300	24	12	4	8
301-360	26	13	4	9
361-420	28	14	4	10
421-480	30	15	5	10
481-540	32	16	5	11
541-600	34	17	5	12
601-660	36	18	6	12
661-720	38	19	6	13
721-780	40	20	6	14
781-840	42	21	7	14
841-900	44	22	7	15
901-960	46	23	7	16
961-1020	48	24	8	16
1021-1080	50	25	8	17
1081-1140	52	26	8	18
1141-1200	54	27	9	18
1201-1260	56	28	9	19
1261-1320	58	29	9	20
1321-1380	60	30	10	20
1381-1440	62	31	10	21
1441-1500	64	32	10	22
1501-1560	66	33	11	22
1561-1620	68	34	11	23
1621-1680	70	35	11	24
1681-1740	72	36	12	24
1741-1800	74	37	12	25
1801-1860	76	38	12	26
1861-1920	78	39	13	26
1921-1980	80	40	13	27
1981-2040	82	41	13	28
2041-2100	84	42	14	28
2101-2160	86	43	14	29
2161-2220	88	44	14	30
2221-2280	90	45	15	30

See § 3.12.1 of the [Building standards technical handbook 2019: non-domestic](#) for accessible toilet requirements.

Annex 2

ABERDEEN CITY	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys		Mixed-sex		Single-user unisex					
	WCs	WCs + urinals	WCs	Urinals	WCs	Urinals	Accessible	Anyone			
[1] Aberdeen Grammar	39	36	17	19	0	0	6	6	Yes	No	
[2] Bridge of Don Academy	14	17	8	9	0	0	2	1	Yes	No	
[3] Bucksburn Academy	22	26	11	15	0	0	13	8	?	No	No pupils this affects at present.
[4] Cults Academy	8	12	8	4	0	0	13	0	?	No	They choose the accessible toilet.
[5] Dyce Academy	28	25	10	15	0	0	5	5	?	No	This has not been requested of us at present.
[6] Harlaw Academy	6	20	6	14	0	0	1	1	?	No	No specific rules. Each case is individual.
[7] Hazlehead Academy	38	51	20	31	0	0	1	2	No	No	
[8] Lochside Academy	27	27	27	0	0	0	14	22	No	No	
[9] Northfield Academy	8	8	8	0	0	0	3	0	No	No	
[10] Oldmachar Academy	23	38	23	15	0	0	3	3	?	No	No pupils this affects at present.
[11] St Machar Academy	18	24	16	8	0	0	6	4	Yes	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 1205 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 770 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 907 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 1275 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 689 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 1075 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 1074 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [8] School roll of 1201 requires 28 appliances for girls and 28 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [9] School roll of 747 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [10] School roll of 923 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [11] School roll of 1031 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Aberdeen City Council state: "ACC follows the Scottish Government's [Supporting Transgender Pupils: Guidance for Scottish Schools](#)"

This guidance supports pupils using the opposite sex toilets: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with" (p27)

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

ABERDEENSHIRE	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls	Boys			Mixed-sex		Single-user unisex				
	WCs	WCs + urinals	WCs	Urinals	WCs	Urinals	Accessible	Anyone			
[1] Aboyne Academy	12	21	12	9	0	0	1	0	No	No	
[2] Alford Academy	0	0	0	0	32	0	7	0	N/A	N/A	We do not have gender designated toilets. We have 7 single room toilets which are accessible to anybody.
[3] Banchory Academy	6	16	6	10	0	0	4	0	No	No	
[4] Banff Academy	6	16	5	11	0	0	4	1	No	No	
[5] Ellon Academy	5	5	2	3	16	0	12	24	No	No	The single-user toilets all contain a sanitary disposal bin.
[6] Fraserburgh Academy	21	15	5	10	0	0	2	0	No	No	
[7] The Gordon Schools	6	10	3	7	10	0	2	0	No	No	Pupils who are non-binary or transgender would be directed to use the unisex toilets in the school. If a pupil had fully transitioned (meeting all the legal requirements) they then could use the appropriate male/female toilets.
[8] Inverurie Academy	0	0	0	0	68	0	6	0	N/A	N/A	We have unisex toilets.
[9] Kemnay Academy	15	10	7	3	14	0	4	0	Yes	No	
[10] Mackie Academy	18	24	6	18	17	0	8	0	No	No	Urinals are "3 long trays", which have been estimated as 18 spaces in total
[11] Mearns Academy	0	0	0	0	30	0	6	0	N/A	N/A	Unable to answer accurately as there was no NA option. Toilets are for use of both boys and girls with no designated toilets for either gender
[12] Meldrum Academy	18	28	8	20	0	0	3	5	No	No	
[13] Mintlaw Academy	19	19	10	9	0	0	3	0	No	No	Disabled access toilets - One full access and two with door access system
[14] Peterhead Academy	7	22	7	15	0	0	3	0	No	No	
[15] Portlethen Academy	36	29	21	8	0	0	5	0	Yes	No	
[16] Turriff Academy	15	10	10	0	0	0	3	0	Yes	No	Pupils would be encouraged to use the disabled access toilets but permission will be given here. Sanitary bins are in disabled toilets.
[17] Westhill Academy	9	21	6	15	15	0	8	0	Yes	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland. Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 669 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 733 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 865 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 970 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 1154 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 1117 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 665 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [8] School roll of 1292 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [9] School roll of 993 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [10] School roll of 1118 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [11] School roll of 687 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [12] School roll of 1004 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [13] School roll of 880 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [14] School roll of 1281 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [15] School roll of 944 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [16] School roll of 623 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [17] School roll of 847 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Aberdeenshire Council state: "With regards to the guidance for questions 8 and 9, Aberdeenshire Council does not have any guidance, however we do sign post schools to national guidance on our ASN website which I have linked for you below: <https://asn-aberdeenshire.org/lgbt/>"
This links to the Scottish Government's [Supporting Transgender Pupils: Guidance for Scottish Schools](#) which supports pupils using the opposite sex toilets: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with" (p27)

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

ANGUS	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Arbroath Academy	32	36	20	16	4	0	3	15	Yes	No	
[2] Arbroath High School	20	22	14	8	0	0	2	4	Yes	No	
[3] Brechin High School (within Brechin Community Campus)	11	12	11	1	30	0	10	0	Yes	No	Where rooms/spaces contain toilet facilities for both male and female, these rooms/spaces are split with allocated WC's located in full height cubicles and separate male/female WHB areas.
[4] Carnoustie High School	31	39	20	19	0	0	12	0	Yes	No	
[5] Forfar Academy (within Forfar Community Campus)	25	25	22	3	10	0	20	8	Yes	No	Where rooms/spaces contain toilet facilities for both male and female, these rooms/spaces are split with allocated WC's located in full height cubicles and separate male/female WHB areas.
[6] Monifieth High School	30	31	16	15	0	0	6	4	Yes	No	
[7] Montrose Academy	29	27	14	13	0	0	2	4	Yes	No	
[8] Websters High School	20	25	11	14	0	0	3	4	Yes	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 683 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 889 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 562 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 833 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 1107 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 1035 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 859 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [8] School roll of 654 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Angus Council state: "Our schools follow the Scottish Government's [Supporting Transgender Pupils: Guidance for Scottish Schools](#). This is also supported by the increasing number of gender neutral toilets across our school estate."
 This guidance supports pupils using the opposite sex toilets:
 Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

ARGYLL AND BUTE	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Campbeltown Grammar School	14	14	14	0	0	0	9	0	No	No	
[2] Dunoon Grammar School	24	26	12	14	0	0	12	3	No	No	
[3] Hermitage Academy	46	53	24	29	0	0	18	0	No	No	
[4] Islay High School	13	13	5	8	0	0	4	3	No	No	
[5] Lochgilphead High School	28	28	9	19	3	0	12	7	No	No	
[6] Oban High School	31	30	30	0	0	0	14	0	No	No	
[7] Rothesay Academy	23	29	11	18	3	0	19	0	No	No	
[8] Tarbert Academy	6	7	2	5	0	0	1	0	No	No	
[9] Tiree High School	5	5	3	2	0	0	4	3	No	No	
[10] Tobermory High School	7	6	3	3	0	0	2	4	No	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 380 requires 14 appliances for girls and 14 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 745 requires 20 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 1282 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 191 requires 9 appliances for girls and 9 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 408 requires 14 appliances for girls and 14 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 1009 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 277 requires 12 appliances for girls and 12 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [8] School roll of 120 requires 6 appliances for girls and 6 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [9] School roll of 37 requires 3 appliances for girls and 3 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [10] School roll of 151 requires 8 appliances for girls and 8 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Argyll and Bute Council state: "Pupils would use individual accessible toilets that are available for male and females to use. We do not have a specific local authority guidance that is used. We do have Scottish Government Guidance that can be found via: [Supporting transgender young people in schools: guidance for Scottish schools](#)"
This guidance supports pupils using the opposite sex toilets:
Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

CLACKMANNANSHIRE	NUMBER OF APPLIANCES								Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys			Mixed-sex		Single-user unisex				
		WCs + urinals	WCs	Urinals	WCs	Urinals	Accessible	Anyone			
[1] Alloa Academy	27	27	14	13	30	0	12	13	No	No	There are individual (cubicle) unisex toilets throughout the school that are used by all pupils.
[2] Alva Academy	29	29	13	16	0	0	14	18	No	No	There are designated boys' and girls' toilets throughout the school hub with designated disabled and unisex single locked toilets across the school campus.
[3] Lornshill Academy	32	25	10	15	0	0	13	17	No	No	There are individual unisex toilets throughout the school that are used by all pupils.

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

[1] School roll of 757 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

[2] School roll of 962 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

[3] School roll of 1028 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

DUMFRIES AND GALLOWAY	NUMBER OF APPLIANCES								Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys		Mixed-sex		Single-user unisex					
	WCs	WCs + urinals	WCs	Urinals	WCs	Urinals	Accessible	Anyone			
[1] Annan Academy	39	37	20	17	0	0	8	8	Yes	Yes	
[2] Castle Douglas High School	28	26	10	16	0	0	5	6	Yes	No	
[3] Dalbeattie Learning Campus	0	0	0	0	27	0	7	0	N/A	N/A	
[4] Dalry High School	10	10	6	4	0	0	1	0	?	?	
[5] Douglas Ewart High School	28	33	18	15	0	0	4	0	?	?	
[6] Dumfries Academy	37	26	16	10	0	0	2	3	Yes	No	Pupils are advised to use the single occupant toilets or wherever they feel most comfortable.
[7] Dumfries High School	33	34	18	16	0	0	5	7	No	No	Gender neutral toilets are available for all pupils to access.
[8] Kirkcudbright Academy	19	17	11	6	6	0	2	0	No	No	No, we have a gender neutral toilet block of 6 toilets which can be used by any person. We do not have a policy document.
[9] Langholm Academy	28	22	12	10	0	0	4	6	?	No	
[10] Lockerbie Academy	23	23	9	14	0	0	15	8	No	No	Lockerbie Academy has a deliberately created "Pupil Toilet" for any and every pupil to use regardless of gender identity.
[11] Moffat Academy	0	26	8	18	26	0	?	?	N/A	N/A	
[12] North West Community Campus	4	4	4	0	21	0	3	?	?	?	
[13] St Joseph's College	0	0	0	0	45	0	7	0	N/A	N/A	No. There are many gender neutral and accessible toilets around the school so this has not been a request/issue for transgender people.
[14] Sanquhar Academy	18	21	8	13	0	0	2	2	?	No	
[15] Stranraer Academy	24	25	17	8	0	0	7	?	?	?	
[16] Wallace Hall Academy	15	16	7	9	0	0	0	10	?	?	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 971 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [2] School roll of 549 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [3] School roll of 347 requires 13 appliances for girls and 13 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [4] School roll of 21 requires 2 appliances for girls and 2 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [5] School roll of 584 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [6] School roll of 608 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [7] School roll of 748 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [8] School roll of 414 requires 14 appliances for girls and 14 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [9] School roll of 250 requires 11 appliances for girls and 11 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [10] School roll of 767 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [11] School roll of 254 requires 11 appliances for girls and 11 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [12] School roll of 302 requires 13 appliances for girls and 13 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [13] School roll of 961 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [14] School roll of 218 requires 10 appliances for girls and 10 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [15] School roll of 991 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [16] School roll of 551 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

NB. Dumfries High School may actually have a block of mixed-sex toilets: <https://www.dumfrieshighschool.co.uk/school-information/gsa/>

Annex 2

DUNDEE	NUMBER OF APPLIANCES								Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
{1} Baldrigon Academy	27	27	27	0	0	0	12	4	No	No	
[2] Braeview Academy	20	26	20	6	0	0	4	0	No	No	
[3] Craigie High School	10	10	5	5	0	0	2	1	No	No	
[4] Grove Academy	21	33	10	23	0	0	14	34	No	No	
[5] Harris Academy	8	8	8	0	20	0	0	12	Yes	No	
[6] Morgan Academy	14	11	3	8	0	0	3	0	No	No	
[7] St John's RC High School	20	14	10	4	0	0	7	7	No	No	
[8] St Paul's RC Academy	8	13	8	5	0	0	12	1	No	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 881 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 704 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 725 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 1346 requires 30 appliances for girls and 30 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 1338 requires 30 appliances for girls and 30 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 942 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 1279 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [8] School roll of 997 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

EAST AYRSHIRE	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals		Mixed-sex WCs + urinals		Single-user unisex					
	WCs	WCs	Urinals	WCs	Urinals	Accessible	Anyone				
[1] Doon Academy	3	15	3	12	0	0	1	0	Yes	?	
[2] Grange Academy	26	26	15	11	0	0	13	0	Yes	?	
[3] Loudoun Academy	36	34	14	20	0	0	4	0	Yes	?	
[4] Robert Burns Academy	8	7	7	0	12	0	10	0	Yes	?	
[5] St Joseph's Academy	18	19	10	9	0	0	7	0	Yes	?	
[6] Stewarton Academy	19	20	12	8	0	0	1	0	Yes	?	
[7] William McIlvanny Campus	22	22	22	0	0	0	16	0	Yes	?	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 240 requires 10 appliances for girls and 10 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 1229 requires 28 appliances for girls and 28 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 888 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 1734 requires 36 appliances for girls and 36 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 651 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 881 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 1264 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* East Ayrshire council state: "Schools follow Scottish Government guidance in responding to young people who identify as transgender: [Supporting Transgender Pupils: Guidance for Scottish Schools](#)"

This guidance supports pupils using the opposite sex toilets:

Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

EAST DUNBARTONSHIRE	NUMBER OF APPLIANCES								Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Bearsden Academy	21	28	11	17	0	0	14	3	No	No	
[2] Bishopbriggs Academy	7	22	7	15	0	0	23	2	?	No	
[3] Bocclair Academy	20	20	20	0	0	0	2	8	?	No	
[4] Douglas Academy	24	?	?	15	0	0	9	2	No	No	
[5] Kirkintilloch High School	24	30	18	12	0	0	10	1	Yes	No	
[6] Lenzie High School	18	?	10	?	0	0	3	1	No	No	
[7] St Ninian's High School	6	21	6	15	0	0	10	0	No	No	
[8] Turnbull High School	18	17	8	9	0	0	12	0	?	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland. Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 1213 requires 28 appliances for girls and 28 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [2] School roll of 1294 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [3] School roll of 1034 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [4] School roll of 1058 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [5] School roll of 790 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [6] School roll of 1360 requires 30 appliances for girls and 30 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [7] School roll of 889 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [8] School roll of 658 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation

If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

EAST LoTHIAN	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Urinals	Mixed-sex WCs	Urinals	Single-user unisex Accessible	Anyone			
[1] Dunbar Grammar School									Yes		
[2] Knox Academy	18	17	7	10	0	0	13	4	Yes	No	
[3] Musselburgh Grammar School	16	16	16	0	0	0	21	9	Yes	No	
[4] North Berwick High School									Yes		
[5] Preston Lodge High School									Yes		
[6] Rosehill High School									Yes		
[7] Ross High School									Yes		

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 1120 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 902 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 996 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 1045 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 1060 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 315 requires 13 appliances for girls and 13 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 1229 requires 28 appliances for girls and 28 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* East Lothian state: "We are currently developing guidance in this regard. All decision-making takes into account p26, 27 & 28 of [Supporting Transgender Pupils: Guidance for Scottish Schools](#)"

This guidance supports pupils using the opposite sex toilets:

Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Dunbar Grammar School: single sex and mixed-sex toilets:

<https://www.thescottishsun.co.uk/news/3469495/dunbar-grammar-school-unisex-gender-neutral-toilets/>

Annex 2

EAST RENFREWSHIRE	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Barrhead High School											
[2] Eastwood High School											
[3] Mearns Castle High School											
[4] St Luke's High School											
[5] St Ninian's High School											
[6] Williamwood High School											
[7] Woodfarm High School											

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 613 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [2] School roll of 1239 requires 28 appliances for girls and 28 for boys a max of a third of total appliances should be WCs, the rest should be urinals)
- [3] School roll of 1468 requires 32 appliances for girls and 32 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [4] School roll of 675 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [5] School roll of 1943 requires 40 appliances for girls and 40 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [6] School roll of 1668 requires 35 appliances for girls and 35 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [7] School roll of 693 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

FOI response: we do not hold the information which you seek. Under Section 17 of the Freedom of Information (Scotland) Act, I am therefore required to formally state that this information is not held.

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

EDINBURGH	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys			Mixed-sex		Single-user unisex				
	WCs	WCs + urinals	WCs	Urinals	WCs	Urinals	Accessible	Anyone			
[1] Balerno Community High School	18	26	18	8	0	0	1	1	Yes	No	
[2] Boroughmuir High School	30	30	30	0	0	0	10	0	Yes	No	
[3] Broughton High School	25	27	10	17	0	0	17	0	Yes	No	
[4] Castlebrae High School	9	9	9	0	0	0	10	27	Yes	Yes	
[5] Craigmount High School	31	24	19	5	0	0	7	0	Yes	No	
[6] Craigroyston Community High School	11	14	3	11	0	0	10	0	Yes	No	
[7] Currie Community High School	22	21	15	6	0	0	4	0	Yes	No	
[8] Drummond Community High School	20	20	14	6	0	0	7	0	Yes	No	
[9] Firrhill High School	5	12	4	8	0	0	2	1	Yes	No	
[10] Forrester High School	19	22	8	14	0	0	16	13	Yes	No	
[11] Gracemount High School	14	5	3	2	0	0	2	2	Yes	No	
[12] Holy Rood RC High School	18	26	8	18	0	0	8	0	Yes	No	
[13] James Gillespie's High School	40	29	27	2	30	0	19	1	Yes	No	
[14] Leith Academy	30	28	18	10	0	0	2	4	Yes	No	
[15] Liberton High School	33	23	16	7	18	0	13	14	Yes	No	
[16] Portobello High School	27	26	26	0	8	0	10	2	Yes	Yes	
[17] Queensferry High School	8	7	7	0	35	0	16	0	Yes	No	
[18] St Augustine's RC High School	16	17	3	14	0	0	13	0	Yes	No	
[19] St Thomas of Aquin's RC High School	2	8	2	6	0	0	4	4	Yes	No	
[20] The Royal High School	30	21	10	11	0	0	12	17	Yes	No	
[21] Trinity Academy	13	13	8	5	15	0	1	0	Yes	No	
[22] Tynecastle High School	22	22	7	15	0	0	13	0	Yes	No	
[23] Wester Hales Education Centre	4	4	4	0	26	0	3	2	Yes	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 893 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [2] School roll of 1541 requires 33 appliances for girls and 33 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [3] School roll of 1276 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [4] School roll of 518 requires 16 appliances for girls and 16 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [5] School roll of 1339 requires 30 appliances for girls and 30 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [6] School roll of 741 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [7] School roll of 851 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [8] School roll of 570 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [9] School roll of 1331 requires 30 appliances for girls and 30 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [10] School roll of 815 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [11] School roll of 631 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [12] School roll of 1163 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [13] School roll of 1628 requires 35 appliances for girls and 35 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [14] School roll of 982 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

Annex 2

- [15] School roll of 857 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [16] School roll of 1423 requires 31 appliances for girls and 31 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [17] School roll of 1129 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [18] School roll of 948 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [19] School roll of 799 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [20] School roll of 1476 requires 32 appliances for girls and 32 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [21] School roll of 1000 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [22] School roll of 838 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [23] School roll of 401 requires 14 appliances for girls and 14 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* See info provided here: <https://edinburgh.axlr8.uk/documents/42362/42362%20Response.pdf>

Includes "use of toilets corresponding to the child or young person's gender identity" ie. using opposite-sex toilets

Notes: Figures in **green** are compliant with legislation, figures in **red** are not compliant with legislation
If the figure for Boys WC + urinals is **red**, there is no need to look at the ration of WCs to urinals, so those figures have been **greyed out**.

Annex 2

FALKIRK	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Bo'ness Academy	18	20	5	15	0	0	4	0	Yes	No	
[2] Braes High School	18	18	8	10	0	0	7	5	Yes	No	
[3] Denny High School	26	18	9	9	0	0	16	1	Yes	No	
[4] Falkirk High School	28	15	8	7	0	0	15	0	Yes	No	
[5] Graeme High School	8	12	4	8	0	0	3	1	Yes	No	
[6] Grangemouth High School	23	9	5	4	3	0	8	1	Yes	No	
[7] Larbert High School	29	35	21	14	21	0	7	6	Yes	No	
[8] St Mungo's High School	28	21	4	17	0	0	5	0	Yes	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 829 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 1077 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 1401 requires 31 appliances for girls and 31 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 1127 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 1152 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 838 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 2054 requires 42 appliances for girls and 42 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [8] School roll of 1212 requires 28 appliances for girls and 28 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Falkirk Council state: "Schools would have an individual conversation with the pupil, following the advice from the national guidance (page 26-28) [Supporting Transgender Pupils In Schools: Guidance for Scottish Schools](#)"

This guidance supports pupils using the opposite sex toilets:

Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

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FIFE	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Auchmuty High School	32	34	34	0	0	0	9	0	Yes	No	
[2] Balwearie High School	14	15	11	4	0	0	1	1	Yes	No	
[3] Beath High School	30	31	15	16	0	0	11	0	Yes	No	
[4] Bell Baxter High School	42	40	10	30	0	0	8	2	Yes	No	
[5] Dunfermline High School	52	52	52	0	0	0	15	0	Yes	No	
[6] Glenrothes High School	28	23	10	13	0	0	3	4	Yes	No	
[7] Glenwood High School	30	27	15	12	0	0	4	0	Yes	No	
[8] Inverkeithing High School	31	17	9	8	0	0	6	2	Yes	No	
[9] Kirkcaldy High School	?	?	?	?	?	?	?	?	Yes	?	
[10] Levenmouth Academy	40	40	40	0	2	0	5	0	Yes	No	
[11] Lochgelly High School	20	17	15	2	2	0	7	4	Yes	No	
[12] Madras College	30	30	30	0	12	0	16	1	Yes	Yes	
[13] Queen Anne High School	34	47	24	23	0	0	18	0	Yes	No	
[14] St Andrew's RC High School	22	23	14	9	0	0	2	8	Yes	No	
[15] St Columba's RC High School	20	27	8	19	0	0	1	3	Yes	No	
[16] Viewforth High School	28	28	28	0	2	0	9	1	Yes	No	
[17] Waid Academy	18	18	18	0	6	0	5	0	Yes	No	
[18] Woodmill High School	41	33	30	3	0	0	13	0	Yes	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 1302 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 1585 requires 34 appliances for girls and 34 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 1390 requires 31 appliances for girls and 31 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 1510 requires 33 appliances for girls and 33 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 1450 requires 32 appliances for girls and 32 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 830 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 876 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [8] School roll of 1643 requires 35 appliances for girls and 35 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [9] School roll of 1469 requires 32 appliances for girls and 32 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [10] School roll of 1755 requires 37 appliances for girls and 37 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [11] School roll of 798 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [12] School roll of 1412 requires 31 appliances for girls and 31 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [13] School roll of 1843 requires 38 appliances for girls and 38 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [14] School roll of 867 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [15] School roll of 865 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [16] School roll of 702 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [17] School roll of 681 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [18] School roll of 1408 requires 31 appliances for girls and 31 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Fife Council state "The Education Service advises schools that **they can make this request** however there are certain conditions that we need to be able to meet for all pupils before **agreeing to this**.

In dealing with this we also need to be aware that there is specific legislation that refers to sex of a person.

It is worth noting that - Sex is usually categorised as biologically female or male. Gender refers to the socially constructed roles, behaviours, expressions and identities of girls, women,

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boys, men, and gender diverse people.

In determining if the toilets/changing rooms can be used by a person of a specific sex who is by birth female and identifies as male (or male to female) we need to consider:

What does the Law tell us:

- The School Premises (General Requirements and Standards) (Scotland) Regulations 1967 state that half the sanitary accommodation shall be for boys, and the other half for girls.

(this is based upon their biological sex, not gender)

- The law states that pupils are entitled to have access to single-sex facilities (Scotland) Regulations 1967 state that half the sanitary accommodation shall be for boys, and the other half for girls.

- Schools must provide toilet facilities for boys and girls and accessible facilities for pupils with a disability.

- Any designated gender-neutral facilities should ensure privacy for all young people including features such as full-length walls and doors and should take account of the particular needs of female pupils.

Fife Council does not hold the information you have requested, relating to a policy or guidance on if pupils who were born male allowed to use the girls toilets if they are transgender or non-binary.

In compliance with the Freedom of Information (Scotland) Act 2002, we are required to provide notice that the information is not held under S17 - No information held.

I can confirm that there is no formal policy on pupils who were born male allowed to use the girls toilets if they are transgender or nonbinary in Fife schools."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation

If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

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Accessible GLASGOW	NUMBER OF APPLIANCES						* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys		Mixed-sex		Single-user unisex			
		WCs + urinals	WCs	Urinals	WCs	Urinals	Accessible	Anyone	
[1] All Saints Secondary School									
[2] Bannerman High School									
[3] Bellahouston Academy									
[4] Castlemilk High School									
[5] Cleveden Secondary School									
[6] Drumchapel High School									
[7] Eastbank Academy									
[8] Glasgow Gaelic School									
[9] Govan High School									
[10] Hillhead High School									
[11] Hillpark Secondary School									
[12] Holyrood Secondary School									
[13] Hyndland Secondary School									
[14] John Paul Academy									
[15] King's Park Secondary School									
[16] Knightswood Secondary School									
[17] Lochend Community High School									
[18] Lourdes Secondary School									
[19] Notre Dame High School									
[20] Rosshall Academy									
[21] Shawlands Academy									
[22] Smithycroft Secondary School									
[23] Springburn Academy									
[24] St Andrew's Secondary School									
[25] St Margaret Mary's Secondary School									
[26] St Mungo's Academy									
[27] St Paul's High School									
[28] St Roch's Secondary School									
[29] St Thomas Aquinas Secondary School									
[30] Whitehill Secondary School									

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

- [1] School roll of 905 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [2] School roll of 1201 requires 28 appliances for girls and 28 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [3] School roll of 1117 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [4] School roll of 445 requires 15 appliances for girls and 15 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [5] School roll of 844 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [6] School roll of 706 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [7] School roll of 1051 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [8] School roll of 491 requires 16 appliances for girls and 16 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

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- [9] School roll of 612 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [10] School roll of 1046 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [11] School roll of 1148 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [12] School roll of 2269 requires 45 appliances for girls and 45 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [13] School roll of 1034 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [14] School roll of 927 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [15] School roll of 908 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [16] School roll of 1193 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [17] School roll of 493 requires 16 appliances for girls and 16 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [18] School roll of 1484 requires 32 appliances for girls and 32 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [19] School roll of 789 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [20] School roll of 1242 requires 28 appliances for girls and 28 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [21] School roll of 1462 requires 32 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [22] School roll of 881 requires 22 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [23] School roll of 848 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [24] School roll of 1899 requires 39 appliances for girls and 39 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [25] School roll of 409 requires 14 appliances for girls and 14 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [26] School roll of 1015 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [27] School roll of 1075 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [28] School roll of 696 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [29] School roll of 1163 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [20] School roll of 604 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

FOI response: On inspecting our records, it would appear that the Council does not hold the information which you have requested in parts 1-7 of your request. Neither does anyone else hold it on our behalf. Accordingly, we are unable to comply with these aspects of your request, in terms of section 17(1)(b) of the Act.

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

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HIGHLAND	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Alness Academy	https://forwomen.scot/wp-content/uploads/2024/04/Alness-Academy-toilets.png										
[2] Ardnamuchan High School											
[3] Charleston Academy											
[4] Culloden Academy											
[5] Dingwall Academy											
[6] Dornoch Academy											
[7] Farr High School											
[8] Fortrose Academy											
[9] Gairloch High School											
[10] Glen Urquhart High School											
[11] Golspie High School											
[12] Grantown Grammar School											
[13] Invergordon Academy											
[14] Inverness High School											
[15] Inverness Royal Academy											
[16] Kilchuimen Academy											
[17] Kingussie High School											
[18] Kinlochbervie High School											
[19] Kinlochleven High School											
[20] Lochaber High School											
[21] Mallaig High School											
[22] Millburn Academy											
[23] Nairn Academy											
[24] Plockton High School											
[25] Portree High School											
[26] Tain Royal Academy											
[27] Thurso High School											
[28] Ullapool High School											
[29] Wick High School											

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 505 requires 16 appliances for girls and 16 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [2] School roll of 126 requires 7 appliances for girls and 7 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [3] School roll of 746 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [4] School roll of 1137 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [5] School roll of 1062 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [6] School roll of 217 requires 10 appliances for girls and 10 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

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[7] School roll of 68 requires 5 appliances for girls and 5 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[8] School roll of 646 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[9] School roll of 89 requires 5 appliances for girls and 5 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[10] School roll of 209 requires 9 appliances for girls and 9 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[11] School roll of 264 requires 11 appliances for girls and 11 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[12] School roll of 362 requires 14 appliances for girls and 14 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[13] School roll of 343 requires 13 appliances for girls and 13 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[14] School roll of 491 requires 16 appliances for girls and 16 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[15] School roll of 1351 requires 30 appliances for girls and 30 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[16] School roll of 47 requires 4 appliances for girls and 4 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[17] School roll of 417 requires 14 appliances for girls and 14 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[18] School roll of 27 requires 2 appliances for girls and 2 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[19] School roll of 135 requires 7 appliances for girls and 7 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[20] School roll of 839 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[21] School roll of 101 requires 6 appliances for girls and 6 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[22] School roll of 1240 requires 28 appliances for girls and 28 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[23] School roll of 679 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[24] School roll of 213 requires 10 appliances for girls and 10 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[25] School roll of 494 requires 16 appliances for girls and 16 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[26] School roll of 516 requires 16 appliances for girls and 16 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[27] School roll of 753 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[28] School roll of 173 requires 8 appliances for girls and 8 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[29] School roll of 735 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Highland Council state: "Though the Council does not hold a specific policy on Unisex Toilets in schools, we do comply with the requirements for Sanitary and Washing Accommodation for Pupils outlined in the School Premises (General Requirements and Standards) (Scotland) Regulations 1967 sections 15 and 16. Details of which can be found on the following link:

<https://www.gov.scot/publications/updated-school-premises-general-requirements-standards-scotland-regulations1967-analysis/pages/2/>

Pupil toilet areas in our new school builds and major refreshments are designed to provide flexibility in how the school manages the facilities to meet the needs of all pupils.

All the toilet partitions and doors are full height and fully enclosed for improved security and privacy for pupils.

We do not record how toilets are assigned in our schools; it is up to Head Teachers to decide how toilets are allocated and this can change from session to session depending on the needs of pupils therefore, under Section 17 of the Freedom of Information (Scotland) Act 2002 we cannot release this information to you as we do not hold this information."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

INVERCLYDE	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Clydeview Academy	14	14	7	7	0	0	12	0	Yes	No	
[2] Inverclyde Academy	22	23	22	1	0	0	20	0	Yes	No	
[3] Notre Dame High School	12	13	5	8	0	0	15	0	Yes	No	
[4] Port Glasgow High School	12	12	12	0	0	0	38	0	Yes	No	
[5] St Columba's High School	18	18	13	5	0	0	10	0	Yes	No	
[6] St Stephen's High School	?	?	?	?	?	?	?	?	?	?	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 984 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 773 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 879 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 540 requires 16 appliances for girls and 16 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 661 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 542 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Inverclyde Council state: "We use the Scottish Government's guidance document '[Supporting Transgender Pupils in Schools](#)' (August, 2021) as policy in Inverclyde. Pages 26-29 of this document provide a comprehensive policy framework regarding the use of toilet facilities." This guidance supports pupils using the opposite sex toilets: Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

MIDLOTHIAN	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Urinals	Mixed-sex WCs	Urinals	Single-user unisex Accessible	Anyone			
[1] Beeslack Community High School					Yes						
[2] Dalkeith High School					Yes						
[3] Lasswade High School					Yes						
[4] Newbattle High School					Yes						
[5] Penicuik High School					Yes						
[6] St David's RC High School					Yes						

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 751 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 949 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 1604 requires 34 appliances for girls and 34 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 1172 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 640 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 750 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

FOI response: "Unfortunately, this level of information isn't available from our systems in a way that can be centrally interrogated and therefore under section 17 of the Freedom of Information Act (Scotland) we are unable to comply with your request...In all Midlothian Secondary Schools there are a mixture of Male, Female and Unisex toilet facilities blocks but there are also singular toilets around the building for use by any gender."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

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MORAY	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals		Mixed-sex WCs		Single-user unisex					
		WCs	Urinals	WCs	Urinals	Accessible	Anyone				
[1] Buckie High School	24	35	17	18	0	0	4	4	?	No	So far, young people who identify with a gender different from their biological one have chosen to use the unisex toilets
[2] Elgin Academy	31	31	31	0	0	0	16	0	Yes	No	
[3] Elgin High School	14	14	14	0	0	0	19	24	No	No	There are specific male/female student toilet blocks but there are also singular toilets around the building for use by any gender.
[4] Forres Academy	?	?	?	?	?	?	?	?	?	?	
[5] Keith Grammar	21	21	10	11	0	0	3	4	No	No	We have 4 toilets within the school that are designated for general use and can be used by all pupils irrespective of gender. The school has been accredited with LGBT Youth Silver award, and part of this award recognises our transgender policy.
[6] Lossiemouth High School	0	0	0	0	36	0	5	0	N/A	None in boys side	
[7] Milne's High School	12	12	6	6	0	0	6	?	No	No	Most trans pupils feel more comfortable in a single cubicle toilet and they are shown where these are so they can use them
[8] Speyside High School	5	18	5	13	0	0	2	0	?	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 826 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [2] School roll of 1069 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [3] School roll of 842 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [4] School roll of 821 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [5] School roll of 370 requires 14 appliances for girls and 14 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [6] School roll of 658 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [7] School roll of 477 requires 15 appliances for girls and 15 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [8] School roll of 395 requires 14 appliances for girls and 14 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Moray schools state they use the Moray Transgender Guidance. A request to the council for this gives a link to the Scottish Government's [Supporting Transgender Pupils: Guidance for Scottish Schools](#)
See: http://www.moray.gov.uk/moray_standard/page_145657.html

This guidance supports pupils using the opposite sex toilets:
Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

NORTH AYRSHIRE	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Arran High School	13	13	10	3	0	0	6	0	Yes	No	
[2] Ardrossan Academy	22	24	11	13	0	0	0	1	Yes	No	
[3] Auchendarvie Academy	43	40	15	25	0	0	0	0	Yes	No	
[4] Garnock Community Campus	20	19	19	0	17	0	8	0	Yes	No	Disabled toilets are for anyone to use. Diversity and Inclusion Policy
[5] Greenwood Academy	35	38	17	21	0	0	12	3	Yes	No	
[6] Irvine Royal Academy	34	40	13	27	0	0	0	0	Yes	No	
[7] Kilwinning Academy	27	23	8	15	0	0	2	1	Yes	No	
[8] Largs Academy	16	16	16	0	16	0	15	0	Yes	No	Disabled toilets are for anyone to use.
[9] St Matthew's Academy	42	43	19	24	0	0	9	1	Yes	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 242 requires 11 appliances for girls and 11 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [2] School roll of 795 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [3] School roll of 678 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [4] School roll of 990 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [5] School roll of 1388 requires 31 appliances for girls and 31 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [6] School roll of 767 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [7] School roll of 910 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [8] School roll of 994 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [9] School roll of 1303 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* North Ayrshire states: "This issue has not presented itself in our secondary schools. In most establishments gender-neutral toilets are available. In making any decisions around these sensitive issues, schools are directed towards the prevailing guidance issued by Scottish Government: [Supporting Transgender Pupils](#)"

This guidance supports pupils using the opposite sex toilets:

Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

NORTH LANARKSHIRE	NUMBER OF APPLIANCES						* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs Urinals		Mixed-sex WCs Urinals		Single-user unisex Accessible Anyone			
[1] Airdrie Academy							Yes		
[2] Bellshill Academy							Yes		
[3] Braidhurst High School							Yes		
[4] Brannock High School							Yes		
[5] Calderhead High School							Yes		
[6] Caldervale High School							Yes		
[7] Cardinal Newman High School							Yes		
[8] Chryston High School							Yes		
[9] Clyde Valley High School							Yes		
[10] Coatbridge High School							Yes		
[11] Coltness High School							Yes		
[12] Cumbernauld Academy							Yes		
[13] Dalziel High School							Yes		
[14] Greenfaulds High School							Yes		
[15] Kilsyth Academy							Yes		
[16] Our Lady's High, Cumbernauld							Yes		
[17] Our Lady's High, Motherwell							Yes		
[18] St Aidan's High School							Yes		
[19] St Ambrose High School							Yes		
[20] St Andrew's High School							Yes		
[21] St Margaret's High School							Yes		
[22] St Maurice's High School							Yes		
[23] Taylor High School							Yes		

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 1032 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [2] School roll of 712 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [3] School roll of 573 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [4] School roll of 546 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [5] School roll of 558 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [6] School roll of 1053 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [7] School roll of 840 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [8] School roll of 946 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [9] School roll of 851 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [10] School roll of 1078 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [11] School roll of 916 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [12] School roll of 1021 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

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[13] School roll of 1002 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[14] School roll of 1398 requires 31 appliances for girls and 31 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[15] School roll of 441 requires 15 appliances for girls and 15 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[16] School roll of 846 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[17] School roll of 852 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[18] School roll of 915 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[19] School roll of 1464 requires 32 appliances for girls and 32 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[20] School roll of 1292 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[21] School roll of 1128 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[22] School roll of 953 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
[23] School roll of 988 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* North Lanarkshire Council state: "schools follow Scottish Government advice and guidance - [Supporting Transgender Pupils in Schools](#)"

This guidance supports pupils using the opposite sex toilets:

Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

The rest of the FOI was rejected due to cost - they misread thinking I wanted all schools, including primaries. An attempt to clarify and asking for info on only half the number of secondary schools was rejected as being a duplicate.

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

ORKNEY	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Kirkwall Grammar School	16	24	12	12	0	0	5	0	No	No	Unisex designated toilet.
[2] Sanday Junior High School	6	5	3	2	0	0	2	3	Yes	No	
[3] Westray Junior High School	8	10	5	5	0	0	1	1	No	No	Gender neutral toilet available.
[4] Stromness Academy	14	17	8	9	0	0	4	0	No	No	
[5] Stronsay Junior High School	3	4	3	1	0	0	1	1	No	No	Not appropriate in our setting.

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 861 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 25 requires 2 appliances for girls and 2 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 35 requires 3 appliances for girls and 3 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 338 requires 13 appliances for girls and 13 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 16 requires 2 appliances for girls and 2 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Orkney Council states: "National Guidance is followed which can be found at https://education.gov.scot/media/xpgo5atb/supporting-transgender-pupils-schools-guidance-scottish-schools_.pdf"
 This is the Scottish Government guidance which supports pupils using the opposite sex toilets:
 Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

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 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

PERTH AND KINROSS	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Urinals	Mixed-sex WCs	Urinals	Single-user unisex Accessible	Anyone			
[1] Bertha Park High School	21	21	21	0	42	0	20	17	Yes	No	
[2] Blairgowrie High School	13	6	5	1	2	0	?	10	Yes	No	
[3] Breadalbane Academy	40	38	31	7	6	0	25	0	Yes	No	
[4] Community School Auchterarder	?	?	?	?	?	?	?	?	Yes	?	
[5] Crieff High School	26	25	25	0	0	0	19	1	Yes	No	
[6] Kinross High School	34	34	34	0	0	0	19	0	Yes	No	
[7] Perth Academy	20	15	13	2	0	0	7	0	Yes	No	
[8] Perth Grammar School	13	12	10	2	0	0	3	3	Yes	No	
[9] Perth High School	28	27	25	2	0	0	6	2	Yes	No	
[10] Pitlochry High School	10	15	5	10	0	0	2	0	Yes	No	
[11] St John's RC Academy	21	21	21	0	26	0	21	0	Yes	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 645 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 [2] School roll of 912 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 [3] School roll of 410 requires 14 appliances for girls and 14 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 [4] School roll of 544 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 [5] School roll of 643 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 [6] School roll of 912 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 [7] School roll of 1011 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 [8] School roll of 728 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 [9] School roll of 1487 requires 32 appliances for girls and 32 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 [10] School roll of 117 requires 6 appliances for girls and 6 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 [11] School roll of 641 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Perth and Kinross Council state: "we can advise that the local authority abides by equality legislation and take account/have regard of/to relevant national guidance for school.

Please see the following link to further information in relation to this: [Supporting transgender Pupils: Guidance for Scottish schools](#)"

This guidance supports pupils using the opposite sex toilets:

Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

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Breadalbane Academy: "doesn't go full unisex - the cubicles are labelled male and female - but the washbasin area is mixed"

<https://www.bbc.com/news/uk-scotland-39192130>

Annex 2

RENFREWSHIRE	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Castlehead High School	37	19	15	4	0	0	8	3	No	No	
[2] Gleniffer High School	14	10	5	5	0	0	16	1	No	No	
[3] Gryffe High School	14	21	7	14	0	0	4	3	No	No	
[4] Johnstone High School	18	14	7	7	0	0	6	4	No	No	
[5] Linwood High School	19	40	20	20	0	0	6	0	No	No	
[6] Paisley Grammar	26	24	14	10	0	0	4	0	No	No	
[7] Park Mains High School	15	11	5	6	0	0	10	0	No	No	
[8] Renfrew High School	30	24	12	12	0	0	1	1	No	No	
[9] St Andrew's Academy	21	27	7	20	0	0	12	0	No	No	
[10] St Benedict's High School	24	16	12	4	0	0	7	0	No	No	
[11] Trinity High School	17	22	9	13	0	0	3	1	No	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 753 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 1110 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 958 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 869 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 436 requires 15 appliances for girls and 15 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 1066 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 1467 requires 32 appliances for girls and 32 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [8] School roll of 829 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [9] School roll of 1480 requires 32 appliances for girls and 32 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [10] School roll of 725 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [11] School roll of 953 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Renfrewshire Council state: "Yes, use of toilets would be discussed on an individual basis. Where appropriate, access to disabled toilets would be permitted."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

SCOTTISH BORDERS	NUMBER OF APPLIANCES								Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Berwickshire High School	21	12	7	5	15	0	17	2	No	No	
[2] Eyemouth High School	20	23	9	14	0	0	15	0	?	No	Not encountered this situation.
[3] Jedburgh Grammar School	0	0	0	0	?	0	0	18	N/A	N/A	All toilet cubicles are unisex, but are not in "rooms", they are sectioned off, very modern. They have sanitary bins in all toilets and sanitary products are distributed around the whole school toilets. No toilets are designated for disabled access but 18 larger cubicles contain a toilet and sink.
[4] Kelso High School	6	6	6	0	16	0	10	0	No	No	Can use gender-neutral toilets.
[5] Hawick High School	20	20	10	10	0	0	1	1	No	No	There is a designated toilet.
[6] Earlston High School	39	26	8	18	0	0	15	0	?	No	
[7] Selkirk High School	16	20	10	10	0	0	1	3	No	No	No. Gender-neutral toilets available.
[8] Galashiels Academy	21	22	9	13	0	0	2	0	No	No	No, use 2 gender-neutral toilets.
[9] Peebles High School	24	35	11	24	0	0	1	3	?	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 574 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 495 requires 16 appliances for girls and 16 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 381 requires 14 appliances for girls and 14 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 592 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 756 requires 20 appliances for girls and 20 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 1090 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 423 requires 15 appliances for girls and 15 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [8] School roll of 874 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [9] School roll of 1342 requires 30 appliances for girls and 30 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

SHETLAND	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Urinals	Mixed-sex WCs	Urinals	Single-user unisex Accessible	Anyone			
[1] Anderson High School									No		Accessible toilets are available
[2] Brae High School									?		
[3] Aith Junior High School									No		
[4] Baltasound Junior High School									No		
[5] Mid Yell Junior High School									N/A		All toilets are gender neutral
[6] Sandwick Junior High School									No		We have gender neutral toilets
[7] Whalsay School									No		

Schools in [blue](#) are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 986 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 163 requires 8 appliances for girls and 8 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 116 requires 6 appliances for girls and 6 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 25 requires 2 appliances for girls and 2 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 42 requires 3 appliances for girls and 3 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 82 requires 5 appliances for girls and 5 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 57 requires 4 appliances for girls and 4 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

NB. Shetland Council only gave figures as a total for all schools. They did state there are 31 mixed-sex toilets throughout the schools (secondary and primaries).

Notes: Figures in [green](#) are compliant with legislation, figures in [red](#) are not compliant with legislation
 If the figure for Boys WC + urinals is [red](#), there is no need to look at the ration of WCs to urinals, so those figures have been [greyed out](#).

Annex 2

SOUTH AYRSHIRE	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Ayr Academy	23	22	22	0	0	0	12	12	Yes	Yes	
[2] Belmont Academy	24	39	24	15	0	0	15	0	Yes	Yes	
[3] Carrick Academy	12	12	12	0	0	0	10	0	Yes	Yes	
[4] Girvan Academy	10	9	9	0	0	0	2	0	Yes	Yes	
[5] Kyle Academy	12	14	6	8	0	0	2	2	Yes	Yes	
[6] Marr College	21	21	21	0	14	0	9	8	Yes	Yes	
[7] Prestwick Academy	2	21	2	19	0	0	13	0	Yes	Yes	
[8] Queen Margaret Academy	19	19	19	0	4	0	13	12	Yes	Yes	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 602 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 1211 requires 28 appliances for girls and 28 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 391 requires 14 appliances for girls and 14 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 542 requires 17 appliances for girls and 17 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 821 requires 21 appliances for girls and 21 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 1122 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 1186 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [8] School roll of 681 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* South Ayrshire Council state: "They can if they feel comfortable to do so. See attached guidelines."

Guidelines provided by the council have been saved here: <https://forwomen.scot/wp-content/uploads/2024/04/South-Ayrshire-trans-guidance.pdf>

p10: "Recommended practice includes: Asking the young person about the facilities that they wish to use and if they have any worries, respecting the young person's gender identity."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

SOUTH LANARKSHIRE	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Biggar High School	16	17	9	8	0	0	7	0	No	No	
[2] Calderglen & Sanderson	48	48	30	18	0	0	15	0	No	No	
[3] Calderside Academy	25	29	17	12	0	0	10	0	No	No	
[4] Carlisle High School	29	29	11	18	0	0	11	0	No	No	
[5] Cathkin & Rutherglen	31	31	17	14	0	0	19	4	No	No	
[6] Duncanrig Secondary School	41	43	21	22	0	0	13	4	No	No	
[7] Hamilton Grammar	28	29	13	16	0	0	9	0	No	No	
[8] Holy Cross High School	33	35	13	22	0	0	12	0	No	No	
[9] Lanark Grammar School	19	19	12	8	0	0	13	2	No	No	
[10] Larkhall Academy	34	34	14	20	0	0	16	0	No	No	
[11] Lesmahagow High School	20	20	8	12	0	0	11	0	No	No	
[12] St Andrew's & St Bride's High School	37	38	16	22	0	0	12	2	No	No	
[13] St John Ogilvie High School	24	24	16	8	0	0	7	0	No	No	
[14] Stonelaw High School	30	28	12	16	0	0	9	1	No	No	
[15] Strathaven Academy	21	22	7	15	0	0	12	0	No	No	
[16] Trinity High School	29	29	20	9	0	0	9	2	No	No	
[17] Uddingston Grammar School	30	31	15	16	0	0	14	0	No	No	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 637 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 1280 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 1294 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 1118 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 1034 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 1752 requires 37 appliances for girls and 37 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 1302 requires 29 appliances for girls and 29 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [8] School roll of 1438 requires 31 appliances for girls and 31 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [9] School roll of 1143 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [10] School roll of 1234 requires 28 appliances for girls and 28 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [11] School roll of 634 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [12] School roll of 1694 requires 36 appliances for girls and 36 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [13] School roll of 1122 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [14] School roll of 1331 requires 30 appliances for girls and 30 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [15] School roll of 1007 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [16] School roll of 1231 requires 28 appliances for girls and 28 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [17] School roll of 1355 requires 30 appliances for girls and 30 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

Annex 2

* South Lanarkshire Council state: "I can confirm that none of our schools have moved from specific boys / girls toilets to completely gender-neutral. The Equality Act 2010 permits single sex facilities where this is a proportionate mean of achieving a legitimate aim. For pupils with the protected characteristic of gender reassignment we make reasonable adjustments on case by case basis.

For this purpose schools may have identified single toilets previously deemed disabled/staff toilets and designated them as gender-neutral or unisex. We note the Scottish Government's comments in their recently issued [transgender guidance](#): "If using existing facilities for disabled pupils to provide a gender-neutral option for a transgender young person, ensure this continues to be accessible for disabled pupils with clear signage and/or identifying it as an 'Accessible Toilet' for all."

Notes: Figures in **green** are compliant with legislation, figures in **red** are not compliant with legislation
If the figure for Boys WC + urinals is **red**, there is no need to look at the ration of WCs to urinals, so those figures have been **greyed out**.

Annex 2

STIRLING	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals		Mixed-sex WCs		Single-user unisex					
		WCs	Urinals	WCs	Urinals	Accessible	Anyone				
[1] Balfron High School	20	28	20	8	0	0	0	0	Yes	No	
[2] Bannockburn High School	16	16	8	8	0	0	0	0	Yes	No	
[3] Dunblane High School	25	42	26	16	0	0	0	8	Yes	No	
[4] McLaren High School	2	14	2	12	0	0	0	6	Yes	No	
[5] Stirling High School	5	21	5	16	0	0	0	13	Yes	No	
[6] St Modan's High School	27	27	11	16	0	0	0	3	Yes	No	
[7] Wallace High School	24	24	6	18	14	0	0	0	Yes	No	

Schools in [blue](#) are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 893 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [2] School roll of 506 requires 16 appliances for girls and 16 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [3] School roll of 928 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [4] School roll of 641 requires 18 appliances for girls and 18 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [5] School roll of 1095 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [6] School roll of 1005 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
 - [7] School roll of 1186 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* Stirling Council state: "All schools within Stirling Council follow Scottish Government guidance in relation to supporting transgender young people in schools. A number of considerations in relation to the provision of toilets are made in ensuring that schools incorporate this guidance. This guidance states that a transgender young person should not be made to use the toilet of their sex assigned at birth. Schools also recognise that some transgender young people may not be comfortable using a single sex toilet that matches their gender identify and accessible toilets are available in schools.

Please see link to Scottish Government guidance: [Supporting Transgender Pupils](#)"

This guidance supports pupils using the opposite sex toilets:

Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

Notes: Figures in [green](#) are compliant with legislation, figures in [red](#) are not compliant with legislation
 If the figure for Boys WC + urinals is [red](#), there is no need to look at the ration of WCs to urinals, so those figures have been [greyed out](#).

Annex 2

WEST DUNBARTONSHIRE	NUMBER OF APPLIANCES						Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school	
	Girls WCs	Boys WCs + urinals	Boys WCs	Urinals	Mixed-sex WCs	Urinals				Single-user unisex Accessible
[1] Clydebank High School				0		0	14	0	No	
[2] Dumbarton Academy				0	?	0	10	1	N/A	Yes, toilets not labelled by sex.
[3] Our Lady & St Patrick's High School				0		0	17	10	Yes	
[4] St Peter the Apostle High School				0		0	16	0	Yes	
[5] Vale of Leven Academy				0		0	16	2	Yes	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

[1] School roll of 1194 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

[2] School roll of 691 requires 19 appliances for girls and 19 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

[3] School roll of 1013 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

[4] School roll of 1517 requires 33 appliances for girls and 33 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

[5] School roll of 982 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

NB: West Dunbartonshire only gave a partial response to the FOI request.

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

WEST LOTHIAN	NUMBER OF APPLIANCES								* Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys WCs + urinals	Boys WCs	Boys Urinals	Mixed-sex WCs	Mixed-sex Urinals	Single-user unisex Accessible	Single-user unisex Anyone			
[1] Armadale Academy	39	40	30	10	0	0	3	12	Yes	No	
[2] Bathgate Academy	15	13	6	7	0	0	11	2	Yes	No	
[3] Broxburn Academy	25	27	9	18	0	0	4	3	Yes	No	
[4] Deans CHS	43	43	34	9	0	0	14	13	Yes	No	
[5] Inveralmond Community High School	25	28	23	5	0	0	6	0	Yes	No	
[6] James Young High School	27	19	12	7	0	0	3	9	Yes	No	
[7] Linlithgow Academy	25	30	16	14	0	0	4	0	Yes	No	
[8] St Margaret's Academy	31	31	15	16	0	0	3	1	Yes	No	
[9] St Kentigerns Academy	21	28	12	16	0	0	10	0	Yes	No	
[10] Sinclair Academy	0	0	0	0	32	0	13	9	N/A	N/A	
[11] West Calder High School	0	0	0	0	32	0	19	10	N/A	N/A	
[12] Whitburn Academy	23	44	10	34	0	0	2	2	Yes	No	
[13] Winchburgh Academy	0	0	0	0	33	0	3	6	N/A	N/A	

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

- [1] School roll of 1057 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [2] School roll of 1183 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [3] School roll of 911 requires 23 appliances for girls and 23 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [4] School roll of 1006 requires 24 appliances for girls and 24 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [5] School roll of 1033 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [6] School roll of 1197 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [7] School roll of 1329 requires 30 appliances for girls and 30 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [8] School roll of 1106 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [9] School roll of 1174 requires 27 appliances for girls and 27 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [10] School roll of 79 requires 5 appliances for girls and 5 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [11] School roll of 1132 requires 26 appliances for girls and 26 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [12] School roll of 851 requires 22 appliances for girls and 22 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)
- [13] School roll of 110 requires 6 appliances for girls and 6 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

* West Lothian state: "the council follows the Scottish government guidance [Supporting Transgender Pupils: Guidance for Scottish Schools](#). Support for each transitioning or non-binary child will be different. It will depend on the needs of the individual child and the support they require / ask for. It will also depend on the facilities available to them within their school, whilst taking in to account the feelings and needs of the other children in the school. There will be risk assessments undertaken to ensure all the young people in school feel safe.

There are too many variables to answer yes or no to these questions."

However, the Govt guidance supports pupils using the opposite sex toilets:

Page 27: "It is therefore important that young people, where possible, are able to use the facilities they feel most comfortable with."

Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation
 If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.

Annex 2

WESTERN ISLES	NUMBER OF APPLIANCES								Allow pupils to use opposite-sex toilets?	Sanitary bins in boys toilets?	Comments from the school
	Girls WCs	Boys		Mixed-sex		Single-user unisex					
		WCs + urinals	WCs	Urinals	WCs	Urinals	Accessible	Anyone			
[1] Castlebay School	9	9	3	6	0	0	1	0	No	No	We have single occupancy toilets that young people are asked to use if they identify as transgender or non-binary.
[2] Sgoil Lionacleit	13	12	5	7	0	0	1	4	No	No	We have single occupancy toilets that young people are asked to use if they identify as transgender or non-binary.
[3] Sir E Scott School	9	9	3	6	0	0	2	0	?	No	No current or previous cases. N/A
[4] The Nicolson Institute	20	15	6	9	0	0	4	16	No	No	We have single gender neutral toilets in the building.

Schools in blue are working towards or have achieved a Charter Award from LGBT Youth Scotland.

Min requirements according to the [School Premises \(General Requirements and Standards\) \(Scotland\) Regulations 1967](#):

[1] School roll of 92 requires 6 appliances for girls and 6 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

[2] School roll of 263 requires 11 appliances for girls and 11 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

[3] School roll of 100 requires 6 appliances for girls and 6 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

[4] School roll of 1022 requires 25 appliances for girls and 25 for boys (a max of a third of total appliances should be WCs, the rest should be urinals)

School rolls for 2023: <https://www.gov.scot/publications/school-level-summary-statistics/>

<p>Notes: Figures in green are compliant with legislation, figures in red are not compliant with legislation</p> <p>If the figure for Boys WC + urinals is red, there is no need to look at the ration of WCs to urinals, so those figures have been greyed out.</p>

FOR WOMEN SCOTLAND LTD.

re the

**the Equality Act 2010 and the provision,
on a sex-segregated basis, of toilets for
school pupils in schools in Scotland**

ADVICE

May 2022

Sindi Mules,
Balfour + Manson
Edinburgh

FOR WOMEN SCOTLAND LTD.

re the

the Equality Act 2010 and the provision, on a sex-segregated basis, of toilets for school pupils in schools in Scotland

ADVICE

1. INTRODUCTION

- 1.1 I refer to the consultation with my instructing solicitors and with the clients, For Women Scotland (FWS), held on 16 May 2022. FWS was established as a women’s rights group in June 2018 and was subsequently incorporated as a private company whose purpose is to seek to protect and strengthen the rights of women and of children in Scotland, both under both Scots law and wider GB/UK wide law.
- 1.2 In the course of the 16 May 2022 consultation I was asked to produce a formal written Advice concerning the Equality Act 2010 and the provision on a sex-segregated basis of toilets for school pupils.

2. SEX AND THE EQUALITY ACT 2010

- 2.1 The decision of the Second Division of the Inner House of the Court of Session in *For Women Scotland Ltd v Lord Advocate* [2022] CSIH 4, 2022 SLT 289 confirms that the Equality Act 2010 (EA 2010) recognises *only* two sexes – male or female¹ - in providing in Section 11 EA 2010:

“11 Sex

In relation to the protected characteristic of sex—

- (a) a reference to a person who has a particular protected characteristic is a reference *to a man or to a woman*;
- (b) a reference to persons who share a protected characteristic is a reference *persons of the same sex.*”

¹ UK law does *not* recognise as a distinct status in law those who would identify themselves as “non-binary” and/or as “non-gendered”: *qv R (Elan-Cane) v Home Secretary* [2021] UKSC 56 [2022] 2 WLR 133

2.2 The Inner House further confirmed in *For Women Scotland Ltd.* that Section 212(1) EA 2010 - which defines “woman” as meaning “a female of any age” and “man” as meaning “a male of any age” - means that for the purposes of understanding and applying the EA 2010 prohibitions against discrimination, victimisation and harassment, the protected characteristic of “sex” refers to an individual’s *biology* (rather than, say, any “gender identity” by which they might choose to identify themselves).² As was noted by Lord Reed *R (Elan-Cane) v Home Secretary* [2021] UKSC 56 [2022] 2 WLR 133 at para 3:

“The term ‘gender’ is used in this context to describe an individual’s feelings or choice of sexual identity, in distinction to the concept of ‘sex’, associated with the idea of biological differences which are generally binary and immutable.”

2.3 The “biological sex” of an individual is, in principle determined as a matter of law according to that person’s chromosomes and their endogenous sex organs (internal and external).³ The EA 2010 provisions on sex discrimination are predicated on the existence of two, and only two, *biological* sexes: female or male.⁴ No recognition is given, and no provision is made, in the EA 2010 for the *biologically* intersex or those diagnosed as DSD (Differences in Sex Development) - for example, those extremely rare

² See *R (Elan-Cane) v Home Secretary* [2018] EWHC 1530 (Admin) [2018] 1 WLR 5119 per Jeremy Baker J at §§ 96-97

“96 Over the years science’s understanding of the intertwined issues of sex and gender has become broader and more sophisticated; a snap-shot of which is evident from the development of medical and other evidence upon which courts have reached their decisions in cases such as *Corbett v Corbett* (or *Ashley*) [1971] P 83, *W v W (Physical Inter-sex)* [2001] Fam 111 and *Bellinger v Bellinger* [2002] Fam 150.

Although at one time the terms ‘sex’ and ‘gender’ were used interchangeably (and confusingly still are on occasions), due to an increased understanding of the importance of psychological factors (albeit these may be due to differences in the brain’s anatomy), sex is now more properly understood to refer to an individual’s physical characteristics, including chromosomal, gonadal and genital features, whereas gender is used to refer to the individual’s self-perception.

97 The established concepts of both sex and gender are based upon a binary differentiation between male and female. Certainly, as the defendant points out, this is the basis for current UK legislation relating to gender, hence the effect of a recognition certificate under the Gender Recognition Act 2004 enables the individual to acquire for all purposes either the male or female gender.”

³ *Corbett v Corbett* [1971] P 83, followed by *R v Tan* [1983] QB 1053 and *Bellinger v Bellinger* [2003] 2 AC 467

⁴ Section 11 EA 2010 provides so far as relevant as follows:

“11 Sex

In relation to the protected characteristic of sex—

- (a) a reference to a person who has a particular protected characteristic is a reference to a man or to a woman;
- (b) a reference to persons who share a protected characteristic is a reference to persons of the same sex.”

individuals whose sex chromosomes are not congruent with their endogenous sex organs (internal and external).

2.4 In its judgment in *For Women Scotland Ltd.*, the Inner House further noted (at paras 34, 36, 40):

“34. ... [I]t is important to recognise one aspect of the Equality Act 2010 which cannot be modified [by the Scottish Parliament], namely the definition of “protected characteristic”, which for the purpose of any exceptions has the same meaning as in the Equality Act 2010.

...

36. ... So far as the characteristic of sex is concerned, it would be open to the Scottish Parliament to make provision only for the inclusion of women, since a reference to a person who has a protected characteristic of sex is a reference *either to a man or to a woman*.

For this purpose a man is a male of any age; and a woman is a female of any age. Section 11(b) indicates that when one speaks of individuals sharing the protected characteristic of sex, one is taken to be referring to one or other sex, *either male or female*.

Thus an exception which allows the Scottish Parliament to take steps relating to the inclusion of women, as having a protected characteristic of sex, is limited to allowing provision to be made in respect of a “female of any age”. *Provisions in favour of women, in this context, by definition exclude those who are biologically male*.

...

40.[T]he definition of woman adopted in the legislation includes those with the protected sex characteristic of women, but only some of those with the protected characteristic of *gender reassignment*. It qualifies the latter characteristic by protecting only those with that characteristic who are also *living as women*.

The Lord Ordinary stated that the 2018 Act did not redefine “woman” for any other purpose than “to include transgender women as another category” of people who would benefit from the positive measure.

Therein lies the rub: “transgender women” is not a category for these purposes; it is not a protected characteristic and for the reasons given, the definition of “woman” adopted in the Act impinges on the nature of protected characteristics which is a reserved matter.

Changing the definitions of protected characteristic, even for the purpose of achieving the Gender Representation Objective, is not permitted and in this respect the 2018 Act is outwith legislative competence.

2.5 The decision in *For Women Scotland Ltd.* also makes clear that the EA 2010’s provisions are predicated on the *biological* protected characteristic of “sex” being a quite distinct category from the protected characteristic of gender reassignment. The court notes (at para 37, 38):

“37 Protected characteristic includ[es] that of gender reassignment. A person has that protected characteristic if the person is ‘proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the

person's sex by changing physiological or other attributes of sex': section 7(1) EA 2010.

A reference to a person having such a characteristic is a reference to a transsexual person (section 7(3)(a) EA 2010), and no distinction is made between those for whom the relevant process would involve reassignment male to female or *vice versa*.

This is emphasised by the fact that section 7(3)(b) EA 2010 specifies that in relation to gender reassignment a reference to those who share the characteristic is a reference to "transsexual persons".

In other words, it is the attribute of proposing to undergo, undergoing or having undergone a process (or part of a process) for the purpose of reassignment which is the common factor, not the sex into which the person is reassigned. It is reasonable to assume that at some stage of the process in question the individual will start living as a member of the sex to which they are seeking to transition, *but it is not a specified requirement for the acquisition of the protected characteristic.*

...

38. ... Whilst it [the CJEU decision in Case C-13/94 *P v S and Cornwall CC* EU:C:1996:170 [1996] ECR I-2143] recognised that discrimination on the basis of gender reassignment was most *likely* to be sex discrimination, neither it nor *Chief Constable of West Yorkshire v A* [2004] UKHL 21 [2005] 1 AC 51, which anticipated the Gender Recognition Act 2004, is authority for the proposition that a transgender person possesses the protected characteristic of the sex in which they present.

These cases do *not* vouch the proposition that sex and gender reassignment are to be conflated or combined, particularly in light of subsequent legislation on the matter in the form of the Equality Act 2010 *which maintained the distinct categories of protected characteristics*, and did so in the knowledge that the circumstances in which a person might acquire a gender recognition certificate under the Gender Recognition Act 2004 were limited."

2.6 Section 9 of the Gender Recognition Act 2004 (GRA 2004) provides as follows:

"9 General

(1) Where a full gender recognition certificate is issued to a person, the person's gender becomes for all purposes the acquired gender (so that, *if the acquired gender is the male gender, the person's sex becomes that of a man and, if it is the female gender, the person's sex becomes that of a woman*).

(2) Subsection (1) does not affect things done, or events occurring, before the certificate is issued; *but it does operate for the interpretation of enactments passed, and instruments and other documents made, before the certificate is issued (as well as those passed or made afterwards)*.

(3) Subsection (1) is subject to provision made by this Act *or any other enactment* or any subordinate legislation.

2.7 On the face of it, the wording of Section 9(1) GRA 2004 seem to be stating that the obtaining of a full gender recognition certificate (GRC) means that in law not just one's (social) gender but one's (biological) sex is deemed – albeit in the latter case by the

application of a legal fiction – to be changed.⁵ However, the approach taken by the Inner House in its decision *For Women Scotland* proceeds on the basis that the apparently general words of Section 9(1) GRA and their confusion/conflation of the otherwise distinct concepts of sex and gender have now to be read subject to (as envisaged by Section 9(3) GRA 2004) the statutory schema of the subsequently enacted

⁵ See e.g. *R (FDJ) v. Justice Secretary* [2021] EWHC 1746 (Admin) [2021] 1 WLR 5265 for an example of the Prison Estate in England distinguishing between persons with the protected characteristic of gender reassignment depending on whether they do or do not hold a Gender Recognition Certificate (GRC). Swift J notes in this judgment on this as follows:

“[T]ransgender woman prisoners who do *not* have a GRC will not be placed into a women’s prison other than following a decision of a Transgender Complex Case Board (‘CCB’. As Holroyde LJ explains, the Care and Management Policy provides that every such decision depends on a comprehensive process of identification and assessment of risk - both from the point of view of the transgender woman and from the point of view of the non-transgender women with whom she will be held if the CCB’s decision is that she should move to a women’s prison. Para 4.18 of the Care and Management Policy requires ‘all available evidence and intelligence’ to be considered and states that the objective is an ‘outcome that balances risks and promotes the safety of all individuals’. Although it is correct to say that risk or likelihood of non-physical harm is not one of the matters expressly listed under the heading ‘Potential risks presented by the [transgender prisoner]’, consideration of such risks is the necessary consequence of taking account of the matters that are listed. For example, a number of the listed matters concern the transgender prisoner’s past behaviour: considering these matters necessarily requires regard to be had as much to the risk of non-physical harm to other prisoners as to the risk of physical harm. *In this way, the policies, read as a whole, will not result in decisions to place a transgender woman without a GRC into a women’s prison unless the particular disadvantages that could arise for relevant non-transgender women have been assessed, and to the extent necessary, addressed by measures to be put in place in the women’s prison for that purpose.* A decision that did not do this could not be one that ‘promoted the safety of all individuals’ a requirement under the Care and Management policy.

102 *The position of transgender women prisoners with GRCs is different.* For this group the overarching rule is at para 4.64 of the Care and Management Policy they ‘must be placed in the women’s estate ... unless there are exceptional circumstances, as would be the case for biological women’. *Exceptional circumstances is a high bar; the working assumption must be that transwomen prisoners with a GRC will be placed in women’s prisons.*”

EA 2010.⁶ This is consistent with the approach taken by the Court of Appeal of England and Wales.⁷

⁶ Cf *Hamnett v Essex County Council* [2017] EWCA Civ 6 [2017] 1 WLR 1155 the Court of Appeal held that in the event of a conflict between the provisions of the EA 2010 and the provisions of an earlier statute (which allowed for the possibility of statutory review under the Road Traffic Regulation Act 1984 of local authorities' experimental traffic regulation orders) the provisions of the EA 2010 prevailed. Gross LJ noted:

“25 There is thus a conflict as to the forum in which a claim for contravention of section 29 of the 2010 Act must be pursued. Is it the High Court or the county court? What is the solution to the conundrum?”

26 To my mind, the answer lies in the well-known common law doctrine of implied repeal: where the provisions of two statutes cannot stand together, the later provisions prevail and the earlier provisions are treated as repealed by implication or amended to the extent necessary to remove the inconsistency. As expressed in Bennion, *Statutory Interpretation*, 6th ed (2013), para 87:

‘(1) Where a later enactment does not expressly repeal an earlier enactment which it has power to override, but the provisions of the later enactment are contrary to those of the earlier, the later by implication repeals the earlier in accordance with the maxim *leges posteriores priores contrarias abrogant* (later laws abrogate earlier laws). This is subject to the exception embodied in the maxim *generalia specialibus non derogant* ...’

It must be underlined that the court will not lightly invoke the doctrine of implied repeal; necessary repeals are usually effected expressly:

The rule is, therefore, that one provision repeals another by implication if, but only if, it is so inconsistent with or repugnant to that other that the two are incapable of standing together ...’ (Halsbury’s *Laws of England*, 5th ed, vol 96 (2012), para 698.)

See too *Ellen Street Estates Ltd v Minister of Health* [1934] 1 KB 590, 595-596, 597 and *Thoburn v Sunderland City Council* [2003] QB 151, esp, para 42 and following and para 60, per Laws LJ (a decision dealing with ‘constitutional statutes’, with which we are not concerned). As to the exception or qualification spoken of by Bennion, *the doctrine is inapplicable or more difficult to apply where the earlier enactment is particular and the later general, in nature: see Pattinson v Finningley Internal Drainage Bd* [1970] 2 QB 33, 37-39.

27 In the present case, as I have sought to demonstrate, the claimant, in so far as she alleges that the ETROs contravene section 29 of the 2010 Act, faces irreconcilable provisions as to jurisdiction: the RTRA 1984 providing for the High Court and the 2010 Act providing for the county court. Those provisions cannot be made to stand together. Nor can it be said that the RTRA 1984 provisions were ‘special’ and the 2010 Act provisions ‘general’ in nature. They are either both ‘general’ or, *if anything, the provisions of the 2010 Act are more __special__ in nature, dealing as they specifically do with discrimination.* In my judgment, therefore, the High Court jurisdiction provided for in Schedule 9 to the RTRA 1984 must, to the extent necessary, be regarded as impliedly repealed by the provision for county court jurisdiction contained in Part 9 of the 2010 Act.”

⁷ In *R. (McConnell) v Registrar General for England and Wales* [2020] EWCA Civ 559 [2020] 3 WLR 683 a transsexual person, originally a woman but who had the additional protected characteristic of gender reassignment and who had duly obtained a full gender recognition certificate, thereafter retained woman’s reproductive biological capacity to become pregnant and after artificial insemination carried and gave birth to a child. Notwithstanding the apparent unlimited terms of Section 9(1) GRA 2004 which appeared to require that he be recognised in law as a man *for all purposes*, the Court of Appeal held that he still required to be registered as the “mother” of his child.” The UK Supreme Court subsequently refused his application for permission to appeal to it against this decision.

- 2.8 What these decisions of the two appellate courts operating respectively north and south of the border mean is that the apparently general words of Section 9(1) GRA 2004 have, in a discrimination law context, to be read subject to the EA 2010's *reaffirmation* of the fundamental distinction between the objectively biologically determined protected characteristic of "sex" and the concept of gender reassignment.
- 2.9 This means that the acquisition of a final gender recognition certificate does *not* have the effect, as the Scottish Ministers had wrongly advised in their original Guidance on the operation of Gender Representation on Public Boards (Scotland) Act 2018 (and which the Inner House in its decision in *For Women Scotland* then ordered to be reduced/quashed) that "a trans woman with a UK Gender Recognition Certificate or with gender recognition from another EU Member State is legally a woman".
- 2.10 Accordingly when the Division alludes in its judgment in *For Women Scotland Ltd.* to Section 9 GRA 2004 it rephrases it to use only the terminology of (social) "gender" rather than suggesting any change of (biological) "sex", in noting as follows (at para 14):
- Gender Recognition Act 2004*
14. Generally speaking, a gender recognition certificate must be provided (section 2) where a gender recognition panel is satisfied that the applicant has or has had gender dysphoria; has lived in their acquired gender throughout a period of two years prior to the application; intends to continue to live in the acquired gender until death, and otherwise complies with the evidential requirements.
- Subject to other provisions in the Act, or other enactments, section 9 provides that where a full gender recognition certificate is issued to a person, the person's *gender* becomes for all purposes the acquired *gender*."

Single sex services

- 2.11 It is against the background of the EA 2010 protected characteristic of "sex" being an immutable biological referent which is wholly distinct from the (by definition) mutable medico-social referent of the protected characteristic of "gender reassignment" (which may be claimed regardless of whether the individual has obtained a gender recognition certificate under the GRA 2004 which has, as one pre-requisite, their prior diagnosis

with the medical condition of gender dysphoria or gender incongruence ⁸) that the provisions of the EA 2010 on the possibility of making provisions for separate services for the sexes has to be understood and applied.

2.12 In Part 3 EA 2010 which concerns Services and Public Functions, the following provision, so far as relevant to the matter at hand, is made in Section 29 EA 2010:

“29 Provision of services, etc.

(1) A person (a “service-provider”) concerned with the provision of a service to the public or a section of the public (for payment or not) must not discriminate against a person requiring the service by not providing the person with the service.

(2) A service-provider (A) must not, in providing the service, discriminate against a person (B)—

- (a) as to the terms on which A provides the service to B;
- (b) by terminating the provision of the service to B;
- (c) by subjecting B to any other detriment.

(3) A service-provider must not, in relation to the provision of the service, harass—

- (a) a person requiring the service, or
- (b) a person to whom the service-provider provides the service.

...

2.13 Schedule 3 EA 2010 is headed “Service and Public Functions: exceptions”. Part 7 of Schedule 3 bears the heading “Separate, single and concessionary services, etc.” and contains the following provisions, among others:

“26 Separate services for the sexes

(1) A person does not contravene section 29, so far as relating to sex discrimination, by providing *separate services* for persons of each sex if—

- (a) a joint service for persons of both sexes would be less effective, and

⁸ cf *Re JR111's Application for Judicial Review* [2021] NIQB 48 per Scofield J:

“Conclusion

[157] Accordingly:

(a) The applicant fails in her claim that, in principle, the general requirement for a diagnosis set out in a specialist medical report under sections 2(1)(a) and 3(1) of the Gender Recognition Act 2004 is a breach of her Article 8 ECHR rights. The UK’s Parliament’s determination that *an applicant for a gender recognition certificate must provide a report with specialist medical input in support of their application strikes a fair balance between her interests and those of the community having regard to the discretionary area of judgment available to Parliament on this issue and the aims which that requirement is designed to pursue.*

(b) The applicant succeeds in her claim insofar as the Gender Recognition Act 2004 imposes a requirement, through sections 2(1)(a) and 25(1), that she prove herself to be suffering or to have suffered from a “*disorder*” in order to secure a gender recognition certificate. Within the context of the scheme adopted by the UK Parliament, that specific requirement is now unnecessary and unjustified, particularly in light of diagnostic developments. *Even taking into account the UK Parliament’s discretionary area of judgment and the legitimate aims which the requirement for medical input pursues, the requirement to provide a specific diagnosis which is defined as “a disorder” fails to strike a fair balance between the interests of the applicant and those of the community generally.”*

(b) the limited provision is a proportionate means of achieving a legitimate aim.

(2) A person does not contravene section 29, so far as relating to sex discrimination, by providing *separate services differently for persons of each sex* if—

(a) a joint service for persons of both sexes would be less effective,

(b) the extent to which the service is required by one sex makes it not reasonably practicable to provide the service otherwise than as a separate service provided differently for each sex,

and

(c) the limited provision is a proportionate means of achieving a legitimate aim.

(3) This paragraph applies to a person exercising a public function in relation to the provision of a service as it applies to the person providing the service.

27 Single-sex services

(1) A person does not contravene section 29, so far as relating to sex discrimination, by providing a service *only to persons of one sex* if—

(a) *any* of the conditions in sub-paragraphs (2) to (7) is satisfied, and

(b) the limited provision is a proportionate means of achieving a legitimate aim.

(2) The condition is that only persons of that sex have need of the service.

(3) The condition is that—

(a) the service is also provided jointly for persons of both sexes, and

(b) the service would be insufficiently effective were it only to be provided jointly.

(4) The condition is that—

(a) a joint service for persons of both sexes would be less effective, and

(b) the extent to which the service is required by persons of each sex makes it not reasonably practicable to provide separate services.

(5) The condition is that the service is provided at a place which is, or is part of—

(a) a hospital, or

(b) another establishment for persons requiring special care, supervision or attention.

(6) The condition is that—

(a) *the service is provided for, or is likely to be used by, two or more persons at the same time, and*

(b) *the circumstances are such that a person of one sex might reasonably object to the presence of a person of the opposite sex.*

(7) The condition is that—

(a) there is likely to be physical contact between a person (A) to whom the service is provided and another person (B), and

(b) B might reasonably object if A were not of the same sex as B.

(8) This paragraph applies to a person exercising a public function in relation to the provision of a service as it applies to the person providing the service.

28 Gender reassignment

(1) A person does not contravene section 29, so far as relating to gender reassignment discrimination, only because of anything done in relation to a matter within sub-paragraph (2) if the conduct in question is a proportionate means of achieving a legitimate aim.

(2) The matters are—

- (a) the provision of separate services for persons of each sex;
- (b) the provision of separate services differently for persons of each sex;
- (c) the provision of a service only to persons of one sex.

2.14 It is of some interest (because confirmatory of the analysis of the structure of the EA 2010 which was the basis for the decision of the Inner House in *For Women Scotland Ltd.*) that the very terms of paragraph 28 of Schedule 7 EA 2010 are predicated on there being a clear distinction between “sex” as a biological category (and sex discrimination being done under reference to that biological category) and “gender reassignment” as a distinct medico-social category which may apply to persons of either sex.

Toilets and separate sex provision

2.15 In April 2022 the Equality and Human Rights Commission (EHRC) published its statutory guidance on these provisions: *Separate and single-sex service providers: a guide on the Equality Act sex and gender reassignment exceptions*. This contains the following passages, among others:

Who this guide is for

This guide is for service providers (anyone who provides goods, facilities or services to the public) who are looking to establish and operate a separate or single-sex service.

Separate or single-sex service providers are those who provide a service where some element or all of the service is available:

- only to one sex, or
- separately to each sex, or
- differently to people of each sex.

These could include but are not limited to:

- separate or single-sex toilets
- domestic violence refuges
- separate or single-sex changing rooms
- hospital wards

We refer to these services as separate or single-sex services throughout.

Summary

The Equality Act allows for the provision of separate or single sex services in certain circumstances under ‘exceptions’ relating to sex.

To establish a separate or single-sex service, you must show that you meet at least one of a number of statutory conditions (set out in this section of the guide) **and** that limiting the service on the basis of sex is a proportionate means of achieving a legitimate aim. For example, a legitimate aim could be for reasons of privacy, decency, to prevent trauma or to ensure health and safety. You must then be able to show that your action is a proportionate way of achieving that aim.

There are circumstances where a lawfully-established separate or single-sex service provider can prevent, limit or modify trans people's access to the service. This is allowed under the Act. However, limiting or modifying access to, or excluding a trans person from, the separate or single-sex service of the gender in which they present might be unlawful if you cannot show such action is a proportionate means of achieving a legitimate aim. This applies whether the person has a Gender Recognition Certificate or not.

When considering how your service is provided to trans people, you must balance the impact on all service users and show that there is a sufficiently good reason for excluding trans people or limiting or modifying their access to the service. Some service providers may find it helpful to have a policy for how services are provided to trans people. Where this is the case we recommend you develop a policy but this is not a legal requirement. If you do have a policy you should be prepared to consider whether particular circumstances justify departing from the policy.

What the Equality Act says about the protected characteristics of sex and gender reassignment

Under the Equality Act 2010, 'sex' is understood as binary, being a man or a woman. For the purposes of the Act, a person's legal sex is their biological sex as recorded on their birth certificate. A trans person can change their legal sex by obtaining a Gender Recognition Certificate. A trans person who does not have a Gender Recognition Certificate retains the sex recorded on their birth certificate for the purposes of the Act.

The Equality Act protects individuals from discrimination and harassment on the basis of a protected characteristic. Protected characteristics include sex (being a man or a woman) and gender reassignment (being an individual who is 'proposing to undergo, is undergoing or has undergone a process or part of a process to reassign their sex').

There is no requirement for a trans person to have any kind of medical supervision or intervention in order to be protected from gender reassignment discrimination. A person does not need a Gender Recognition Certificate to be protected under the characteristic of gender reassignment.

There are two types of discrimination, indirect and direct discrimination. It is generally against the law to discriminate against someone because of a protected characteristic. However, there are certain circumstances when services can be provided either:

- exclusively to one sex, or
- differently to each sex or
- separately to each sex.

Service providers must meet a number of conditions to lawfully establish a separate or single-sex service. These conditions are set out under exceptions relating to sex in the Act.

There are circumstances where a lawfully-established separate or single-sex service provider can exclude, modify or limit access to their service for trans people. This is allowed under provisions relating to gender reassignment in the Act.

...

Separate sex services

A separate-sex service is one which is provided to both sexes, but separately or differently.

You can only provide a separate-sex service if a joint service would be less effective and providing that separate service is a proportionate means of achieving a legitimate aim. For example, a legitimate aim could be the health and safety of others. You must then show that your action is a proportionate way to achieve that aim. This requires that you balance the impact on all service users of providing services separately.

...

Points to consider

You must be able to demonstrate that providing a separate or single-sex service is a proportionate means of achieving a legitimate aim. It is therefore good practice to record the reasons why you have taken the decision to provide a separate or single-sex service, along with any supporting evidence.

...

Gender reassignment provisions in the Equality Act (Schedule 3, para. 28)

If you have met the conditions set out above and have established a separate or single-sex service, you should consider your approach to trans people's use of the service. In considering your approach and when taking decisions you must meet the conditions set out under the gender reassignment provisions.

Under these provisions, your approach must be a proportionate means of achieving a legitimate aim. This will depend upon the nature of the service and may link to the reason the separate or single-sex service is needed. For example, a legitimate aim could be the privacy and dignity of others. You must then show that your action is a proportionate way to achieve that aim. This requires that you balance the impact upon all service users.

- *Example:* A gym has separate-sex communal changing rooms. There is concern about the safety and dignity of trans men changing in an open plan environment. The gym therefore decides to introduce an additional gender-neutral changing room with self-contained units.
- *Example:* A small cafe with limited space and facilities for public use has separate lockable, self-contained male and female toilets with hand basins in single units. To ensure they are fully inclusive, and to make the most effective use of the available facilities, the cafe decides to make them all gender neutral.
- *Example:* A community centre has separate male and female toilets. It conducts a survey in which some service users say that they would not use the centre if the toilets were open to members of the opposite biological sex, for reasons of privacy and dignity or because of their religious belief. It decides to introduce an additional gender-neutral toilet. It puts up signs telling all users that they may use

either the toilet for their biological sex or to use the gender neutral toilet if they feel more comfortable doing so.

If the toilets you provide for service users are also used as staff toilets, you will also need to take account of the Workplace (Health, Safety and Welfare) Regulations 1992 which require employers to provide a certain number of toilets and to provide separate toilet and washing facilities for men and women in some circumstances.⁹ Guidance can be found on the Health and Safety Executive website.

2.16 Simply from the point of view of completeness (given the last point from the EHRC Guidance about toilet provision within workplaces – which will of course include schools) it may be noted that in relation to toilets to be provided for school pupils in Scotland, Regulation 15 of the School Premises (General Requirements and Standards) (Scotland) Regulations 1967 makes the following provision:

15.— Sanitary accommodation for pupils

(1) Subject to paragraph (1A) of this regulation, in every school sanitary accommodation shall be provided for the pupils by appliances on a scale not less than that specified in Table VIII:

Provided that, except where paragraph (1A) of this regulation applies, in every school which is not designed exclusively for girls half the accommodation shall be for boys and not more than one third of the appliances for boys shall be water closets and the remainder shall be urinals, each 610 mm length of urinal being counted as one appliance for the purposes of Table VIII.

TABLE VIII

Number of pupils	Number of appliances
Every 15 pupils up to a total of 60	2
Every additional 30 pupils up to a total of 300	2
Every additional 60 pupils over 300 pupils	2

(1A) Every nursery school and every nursery class in a primary school shall have not less than 1 water closet for every 10 pupils.

(2) In every school providing for pupils beyond stage P IV in the sanitary accommodation for girls there shall be suitable provision for the disposal of sanitary towels.

⁹ Regulation 20 of Workplace (Health, Safety and Welfare) Regulations 1992 provides so far as relevant as follows:

20.— Sanitary conveniences

(1) Suitable and sufficient sanitary conveniences shall be provided at readily accessible places.

(2) Without prejudice to the generality of paragraph (1), sanitary conveniences shall *not* be suitable unless—

- (a) the rooms containing them are adequately ventilated and lit;
- (b) they and the rooms containing them are kept in a clean and orderly condition; and
- (c) separate rooms containing conveniences are provided for men and women except where and so far as each convenience is in a separate room the door of which is capable of being secured from inside.”

(3) In every school every sanitary appliance or group of sanitary appliances shall be situated near to a wash basin or wash basins.

(4) In every school every water closet shall be provided with a partition sufficient to secure privacy and, except in relation to a nursery school or nursery class in a primary school, with a lockable door.”

2.17 We may summarise the foregoing provisions by saying that it is in principle lawful for provision to be made for sex segregated toilets and that this will *not* constitute unlawful sex discrimination if such provision can be said to be in all the circumstances a proportionate measure seeking to realise a legitimate aim. Indeed it is almost impossible to envisage circumstances in which the provision of separate toilets for persons of each sex for such reasons as respecting privacy, preserving decency, preventing trauma and/or ensuring health and safety might be found to be disproportionate.

2.18 Once the proportionality of the measure is established or accepted from the viewpoint of lawfulness of the apparent sex discrimination, then it is difficult to see how this provisions can nonetheless be stigmatised as constituting unlawful gender reassignment discrimination if persons of a different sex from that to which the particular toilet is assigned are, notwithstanding their protected status of gender reassignment, still refused the right to use the other sex’s assigned toilet on grounds such as respecting the privacy, preserving decency or preventing trauma to its other users. It may be that the more proportionate response would be that - in addition to, but separately from, the provision of communal sex-segregated toilets for pupils - schools may consider it advisable also to provide for a number of self-contained individual gender neutral toilets to cater to the needs of those pupils with the protected characteristic of gender reassignment.¹⁰

Schools’ EA 2010 obligations to avoid or desist from creating an intimidating, hostile, degrading, humiliating or offensive environment for their pupils

2.19 Although the provision of sex segregated toilets in schools would in principle appear to be compatible with the requirements of the EA 2010, the question I am asked to consider

¹⁰ See e.g. *Croft v Royal Mail Group* [2003] EWCA Civ 1045 [2003] ICR 1425 where the lawfulness of a policy of an employer that an individual with the protected characteristic of gender re-assignment should have access to a toilet designated for disabled persons, rather than to use the women’s toilet facilities (being female being the gender with which the employee now identified) was upheld at all stages of the litigation up to and including the Court of Appeal on the basis that the employers could not be held to be acting unlawfully when they had provided adequate toilet facilities in a context where they were obliged to provide separate sex-segregated facilities to their workforce.

is whether there may be said to be an *obligation* by virtue of the EA 2010 for schools to provide sex-segregated toilets.

2.20 In this regard I would refer first to the provisions of Section 26 EA 2010 which so far as relevant provides as follows:

“26 Harassment

- (1) A person (A) harasses another (B) if—
- (a) A engages in unwanted conduct related to a relevant protected characteristic, and
 - (b) the conduct has the purpose or effect of—
 - (i) violating B's dignity, *or*
 - (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

....

- (4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following *must* be taken into account—
- (a) the perception of B;
 - (b) the other circumstances of the case;
 - (c) whether it is reasonable for the conduct to have that effect.

- (5) The relevant protected characteristics are—
- age;
 - disability;
 - gender reassignment;
 - race;
 - religion or belief;
 - sex;
 - sexual orientation.

2.21 In the case of schools this Section 26 EA prohibition against, among other things, against conduct has the purpose or effect of (i) violating another's dignity, *or* (ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for that other has then to be read together with Section 85, 87 and 89 all in Chapter 1 of Part 6 EA 2010 headed “Education: Schools” and which so far as relevant to Scotland provide as follows

“85 Pupils: admission and treatment, etc.

- (1) ...
- (2) The responsible body of such a school [to which this section applies] must not discriminate against a pupil—
- (a) in the way it provides education for the pupil;
 - (b) *in the way it affords the pupil access to a benefit, facility or service;*
 - (c) by not providing education for the pupil;
 - (d) *by not affording the pupil access to a benefit, facility or service;*
 - (e) by excluding the pupil from the school;
 - (f) *by subjecting the pupil to any other detriment.*

- (3) The responsible body of such a school must not harass—
- (a) a pupil;
 - (b) a person who has applied for admission as a pupil.

- ...
- (8) In relation to Scotland, this section applies to—
- (a) a school managed by an education authority;
 - (b) an independent school;
 - (c) a school in respect of which the managers are for the time being receiving grants under section 73(c) or (d) of the Education (Scotland) Act 1980.
- (9) The responsible body of a school to which this section applies is—
- (a) ...
 - (b) ...
 - (c) if it is within subsection (8)(a), the education authority;
 - (d) if it is within subsection (8)(b), the proprietor;
 - (e) if it is within subsection (8)(c), the managers.
- (10) In the application of section 26 for the purposes of subsection (3), *none* of the following is a relevant protected characteristic—
- (a) *gender reassignment*;
 - (b) religion or belief;
 - (c) sexual orientation.

...

87 Application of enforcement powers under education legislation

(1) ... Section 70 of the Education (Scotland) Act 1980 (powers to give directions where responsible body of school in default of obligations, etc.) apply to the performance of a duty under section 85 EA 2010.¹¹

(2) But ... section 70 of the Education (Scotland) Act 1980 does *not* apply to the performance of a duty under that section by the proprietor of an independent school

...

89 Interpretation and exceptions

(1) This section applies for the purposes of this Chapter.

(2) Nothing in this Chapter applies to anything done in connection with the content of the curriculum.

(3) “Pupil” —

- (a) ...

¹¹ Section 70(1) of the Education (Scotland) Act 1980 relevantly provides as follows:

70. Powers to enforce duty of education authorities and other persons.

(1) If the Secretary of State is satisfied, either on complaint by any person interested or otherwise, that an education authority, the managers of a school or educational establishment, or other persons have failed to discharge any duty imposed on them by or for the purposes of this Act or of any other enactment relating to education, the Secretary of State may make an order declaring them to be in default in respect of that duty and requiring them before a date stated in the order to discharge that duty. If by the said date the education authority, managers or other persons have not discharged the duty, one or other of the following steps may be taken to secure the discharge thereof—

- (a) the Secretary of State may make such arrangements as he thinks fit for the discharge of the duty, and all expenses incurred by the Secretary of State in so doing shall be recoverable as a debt due by the authority, managers or other persons to the Secretary of State; or
- (b) the Court of Session may, on the application of the Lord Advocate, order specific performance of the duty.”

(b) in relation to Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.¹²

(4) “Proprietor” –

(a) ...

(b) in relation to a school in Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.¹³

(5) “School” –

(a) ...

(b) in relation to Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.¹⁴

...

(8) “Independent school” –

(a) ...

(b) in relation to Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.¹⁵

....

(11) “Education authority”, in relation to Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.¹⁶

(12) Schedule 11 (exceptions) has effect.”

2.22 What we can draw from these provisions is the EA 2010 prohibition against harassment creates a positive obligation on schools in Scotland not to follow (or to desist from) any course of conduct which can be said to be related to the pupils’ biological sex

¹² Section 135(1) of the Education (Scotland) Act 1980 defines “pupil”, where used without qualification, as meaning a person of any age for whom education is or is required to be provided under this Act; and a pupil shall be deemed to be attending or in attendance at a school if he is shown by the register of admission and withdrawal kept at the school in accordance with regulations made under this Act, or by any other register approved by the Secretary of State and kept for a similar purpose, to have been admitted to, but not to have been withdrawn from, or to have been readmitted to, and not thereafter to have been withdrawn from, the school; and similar expressions, whether relating to schools or to other educational establishments, shall be similarly interpreted

¹³ Section 135(1) of the Education (Scotland) Act 1980 defines “proprietor” in relation to an independent school as meaning the managers of such school, and for the purposes of the provisions of this Act relating to applications for the registration of independent schools includes any person or body of persons proposing to be the managers;

¹⁴ Section 135(1) of the Education (Scotland) Act 1980 defines “school” as meaning an institution for the provision of primary or secondary education or both primary and secondary education being a public school, a grant-aided school or an independent school, and includes a nursery school and a special school; and the expression “school” where used without qualification includes any such school or all such schools as the context may require

¹⁵ Section 135(1) of the Education (Scotland) Act 1980 defines “independent school” as meaning a school at which full-time education is provided for pupils of school age (whether or not such education is also provided for pupils under or over that age), not being a public school or a grant-aided school

¹⁶ Section 135(1) of the Education (Scotland) Act 1980 defines “education authority” as meaning a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 , and “area” in relation to an education authority shall be construed accordingly;

and which can be perceived by those pupils as having the effect either of violating their dignity *or* of creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

2.23 It also follows from, in particular the terms of Section 85(10)(a) EA 2010 that schools do *not* have a parallel positive obligation not to follow (or to desist from) any course of conduct which can be said to be related to any pupil's protected characteristic of gender reassignment, notwithstanding that the conduct in question which can be perceived by those pupils with the protected characteristic of gender reassignment as having the effect either of violating their dignity *or* of creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

3. CONCLUSION

- 3.1 In the light of the above provisions of the EA 2010 we may conclude that there can be said to be an enforceable legal obligation on both local authority and private co-educational schools in Scotland to make provision for separate toilets for boys and girls both in the interests of respect for privacy, preserving decency, preventing trauma and/or ensuring health and safety particularly of girl pupils; and to avoid creating what girl pupils in particular might perceive and experience as an intimidating, hostile, degrading, humiliating or offensive environment for them.
- 3.2 The question of what toilet provision might properly be made for those pupils with the protected characteristic of gender reassignment *cannot* lawfully be relied upon to undermine the basic decision and duty on schools (in the light of their Section, 26(1)/85(3) EA 2010 non-harassment obligations to avoid or desist from unwanted conduct related to a sex) to make separate toilet provision for boys and girls. As noted above, the effect of paragraph 28 of Schedule 7 EA 2010 is that since the provision of such sex-segregated toilet provision for school pupils may be said to be a proportionate means of achieving a legitimate aim it cannot then be said to be in contravention of Section 29 EA 2010, so far as relating to gender reassignment discrimination. And further and in any event, the duty of schools Section 26(1)/85(3) EA 2010 to avoid or desist from unwanted conduct does *not* extend to the schools' conduct related to gender reassignment.
- 3.3 The enforcement of any breach of this obligation to make provision for separate toilets for boys and girls pupils being derived from the provisions of the EA 2010 - rather than from general public law regulatory obligations such as those set out in Regulation 15 of the School Premises (General Requirements and Standards) (Scotland) Regulations 1967 or in Regulation 20 of Workplace (Health, Safety and Welfare) Regulations 1992 – is that these duties can be enforced against local authority and private schools in Scotland by wholly private enforcement actions brought by pupils (individually or collectively) alleging a breach by the schools of the non-harassment obligations related to the sex of their pupils.
- 3.4 The scheme of the EA 2010 recognises the more serious nature of harassment involving the creation of a hostile school environment could give rise to an award of compensation to pupils not just for any pecuniary losses (which might be difficult to quantify) but for losses in respect of injury to feelings and aggravated damages (*solatium*), which would not be achievable under the claim of indirect sex discrimination. A further key difference relevant to remedy is that on a claim of indirect sex discrimination the court

or tribunal had to determine whether the indirect discrimination was or was not *intentional* before moving to a consideration of compensation. By contrast, however, on a claim of harassment, the court or tribunal is not obliged to ask whether there was any *intention* on the part of the school to discriminate, or to consider other remedies, before awarding compensation for the loss, pain, injury, upset and damage attributable to the school's having created or permitted an intimidating, hostile, degrading, humiliating or offensive environment to exist in breach of its non-harassment obligations related to the (biological) sex of its pupils.¹⁷

3.5 I have nothing more to add at this stage. I trust that the foregoing is sufficient at this stage for the purposes of my instructing solicitor and clients.

18 May 2022

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¹⁷ See *Bessong v. Pennine Care NHS Trust* [2020] ICR 849, EAT for a fuller discussion by Choudhury P of the remedies associated with harassment claims under the EA 2010.