

Draft Policy Statement Hygiene Facilities City of Edinburgh Council

1. Background

- 1.1 On 5 August 2026, the Equality and Human Rights Commission's updated Code of Practice on Services, Public Functions and Associations (the "Services Code") came into effect. The majority of the changes to this Code of Practice are to account for the Supreme Court's decision in *For Women Scotland v Scottish Ministers* (the "Supreme Court Ruling") that, for the purposes of the Equality Act 2010 (the "2010 Act"), the term 'sex' refers to a person's sex assigned at birth only. That decision has required changes to a number of sections of the Services Code, but its largest impact is seen in relation to the provision of single-sex services.
- 1.2 These changes will impact a number of areas; however, one of the most prevalent is the provision of hygiene facilities. As a result of the Supreme Court Judgement, where single-sex toilets are offered, transgender and non-binary persons are not able to use the toilet associated with their affirmed gender and may not be able to use the toilet associated with their sex assigned at birth. Alternative provision may therefore be required to ensure that transgender and non-binary persons are not left without a facility to use.
- 1.3 The Council has therefore undertaken a review of its hygiene facilities across over 600 buildings across 282 sites to understand what is currently offered and inform any changes that may be required. This draft policy document outlines the proposed principles which will be used when determining from that review what changes are required to the Council's buildings. The Council is seeking to engage on this draft policy with any groups that may have insight into the impact these changes may have.
- 1.4 This draft policy statement aligns with the decision of the Council's Policy and Sustainability Committee on item 8.5 at its meeting of 18 August 2026. It is intended that this draft policy statement (along with details of any engagement in respect of it) will be put before the Council's Policy and Sustainability Committee at its next meeting on 20 October 2026.
- 1.5 Before finalising this policy, an Integrated Impact Assessment ("IIA") will be completed to fully consider the impacts of the policy. Any engagement received at this stage will also be taken into account in the preparation of that IIA.

2. Draft Policy Statement Hygiene Facilities

- 2.1 The Council intends to review its hygiene facilities in line with the following principles:
- 2.1.1 Where single-sex hygiene facilities are required by law (e.g. by the School Premises (Requirements and Standards) (Scotland) Regulations 1967) these will be provided.
 - 2.1.2 Hygiene facilities with multiple cubicles and a shared sink area will be designated as single-sex, to ensure that privacy is afforded while using these facilities.
 - 2.1.3 Hygiene facilities (other than accessible facilities) where a sink and toilet are provided in a single fully enclosed lockable cubicle will be designated as gender-neutral, to maximise the facilities open for all to use.
 - 2.1.4 The Council will (as far as is proportionate) ensure that all of its buildings have at least one gender-neutral hygiene facility, to ensure persons are not left without a facility to use. Where demand for facilities is such that a building requires additional gender-neutral facilities, this will be considered and provided where proportionate.
 - 2.1.5 The Council will (unless practically unfeasible or financially disproportionate) provide gender-neutral hygiene facilities in addition to existing accessible facilities, in order not to reduce the ability of those with accessibility needs to access those facilities.
- 2.2 Any changes needed across the Council's estate will be assessed on a location-by-location basis in order to take into consideration unique circumstances, such as the age and fabric and use of a building and which options for adaptation represent best value.
- 2.3 Consultation and engagement will not routinely take place for each building or location, but may be necessary where options for adaptation are complex, prohibitively expensive or where it is otherwise considered appropriate.

3. How you can tell us your views

The Council welcomes your written feedback on the above draft policy statement to deborah.smart@edinburgh.gov.uk by 5 pm Friday 18 September.

Dr Deborah Smart, is available if you wish to discuss further details associated with this draft policy or the Council's approach to arrange this please contact Lisa Kernan lisa.kernan@edinburgh.gov.uk