

Response ID ANON-TU53-5R1P-S

Submitted to Proposals to update the School Premises Regulations
Submitted on 2026-03-30 15:19:05

Questions 1-12

1 Do you agree that adding a link to Building Bulletin 93 for Regulation 24 (Acoustic Conditions) adequately covers the requirements for acoustic conditions?

Not Answered

If not, why not?:

2 Do you agree that Regulation 25 (Water supply) adequately covers the requirements for water supply?

Not Answered

If not, why not?:

3 Do you agree that the new Regulations should apply to grant-aided schools?

Not Answered

If not, why not?:

4 Do you agree that Regulation 14 (Kitchen Premises) can be retained?

Not Answered

If not, why not?:

5 Should Regulation 20 (Outdoor education and recreational areas) be retained and be updated to require schools to have a mix of outdoor environments to further support the delivery of learning, play, sport and access to nature?

Yes

If not, why not?:

6 Do you agree that if there is a mixture of grass pitches and synthetic pitches then the area required in some circumstances can be less than that currently defined for grass pitches?

Not Answered

If not, why not?:

7 Do you agree that accommodation metrics is an appropriate method to calculate the educational accommodation required?

Not Answered

If not, why not?:

8 Do you agree that the number of appliances per pupil as set out in Regulation 15 (Sanitary accommodation for pupils) are still appropriate?

Yes

If not, why not?:

9 Do you agree that these proposals cover the modern requirements for toilet and washing facilities?

No

If not, why not?:

The School Premises Regulations 1967 have stood the test of time for a very good reason: they specify the most hygienic and safe way of providing suitable and standardised sanitary facilities for nursery and school children. Evidence repeatedly shows mixed-sex toilets are universally disliked and the privacy and dignity of single-sex facilities is highly valued. [1] Provision is generous compared to that in public buildings which minimises queues even at times of peak use, and is split equally between boys and girls. The consultation document provides no justification for the proposals to remove key parts of such longstanding best practice.

Accessible facilities and sanitary disposal units from age 8:

It seems sensible to add the specifications for accessible facilities for pupils who are disabled to the legislation rather than retained separately in the Non-domestic Technical Handbook which states it provides guidance only. Similarly the amendment to provide sanitary disposal units in cubicles used by girls aged 8 and over rather than the current specification of units in the “accommodation” for girls “beyond Primary IV” provides greater privacy and reflects that girls are now more likely to start their periods at a younger age. [2] Beyond these two proposals little evidence is available to support further amendments.

Nurseries:

In contradiction to adding the requirements for accessible toilets into the legislation, it is suggested that those relating to nurseries can be removed from the law and subject instead to the vagaries of the Care Inspectorate non-statutory guidance and its often irregular and lengthy inspection intervals. It is also particularly worrying when the guidance in question currently misstates the law regarding toilet provision. [3] It is more sensible to keep all the legal requirements in the one place, in the relevant law rather than guidance documents, and as indisputable specifications when planning and building warranties are assessed. It also makes it more straightforward for parents or authorities to pursue legal action if the provision of facilities is below par.

Urinals:

The suggestion to remove the requirement for urinals in boys toilets simply states “Modern practice is also for less reliance on urinals” and provides no indication of any supporting evidence or benefit to be obtained by their removal. “Modern practice” seems to be shorthand for the minority of local authorities [4] that removed urinals from schools during renovation, or not installed them in new builds, in order to pave the way for mixed-sex toilets that align with Scottish Government policies on “inclusiveness”, and acting in complete disregard for compliance with the law. It also entirely misses the practical benefits of keeping urinals for boys: efficient use of available floor space, cheaper to install and maintain with fewer plumbing issues, reduced water usage, and less frequent cleaning requirements compared to cubicles. They are ideal for high traffic times during school breaks where they help to reduce wait times and, importantly, since they are designed for standing use they reduce the potential for contact with surfaces that harbour germs or bacteria. Urinals are often equipped with devices or systems that help control odours and splashes more effectively than WCs, whereas fully enclosed cubicles with poor ventilation are likely to smell unpleasant very quickly and require more frequent cleaning. There is no good reason to remove urinals for boys and plenty of reasons why they should be kept.

Single-sex and unisex provision:

A recent study on bacteria in different types of toilets in Lanarkshire hospitals found that women’s toilets contained fewer microbes than men’s, while unisex (fully lockable rooms for use by one person at a time) and disabled toilets carried the most germs, with a far higher microbial burden, including drug resistant superbugs. This is primarily due to aerosolised droplets from toilet flushing contaminating the sink and hand dryer enclosed within the unisex room. The researchers said “the findings were a warning against replacing single-sex lavatories with unisex models”. [5]

Given this evidence it is not clear why it should be proposed that the School Premises Regulations “need to include provision of separate sanitary facilities for boys and girls except where they are provided as a fully lockable room (including hand washing) for use by one pupil at a time”. No reasoning or justification is provided, there is no explanation of who would need these separate facilities, why, or the numbers required. Are the single-user rooms in addition to the minimum numbers of sanitary facilities for boys and girls or is the intention for single-sex toilets blocks to be reduced in preference for single-user rooms? For such a costly change we would expect to see some evidence of need, scale, safety and welfare considerations related to fully enclosed private spaces, and perhaps the results of an independent representative survey in schools.

Reference is also made in the consultation document to pupils who may need to use “gender neutral” toilets, although no definition was offered for this term. We presume it can only mean a fully lockable room (including hand washing) for use by one pupil at a time, and not communal toilet blocks used by both sexes at the same time, but this is a confusing term for respondents as it is often used interchangeably and should be clarified. There is currently no provision in the Regulations for mixed-sex toilets and it would be helpful if this was spelled out in the update. In the last few years several new build schools unlawfully provided mixed-sex toilets for pupils [6] but after the Hurley v Scottish Borders Council ruling are now seeking to reinstate single-sex facilities.

A legal opinion we sought from Aidan O’Neill KC in 2022 was clear that the provision of any mixed-sex toilets - even if over and above the minimum number of single-sex facilities required under the Regulations - would lead to a breach of the Equality Act 2010. Local authorities and schools have a positive obligation under the Act to prevent harassment related to a pupil’s sex (Sections 85(3) and 26) and it is entirely foreseeable that at least some children, in particular girls, would experience such mixed-sex toilets and changing rooms as a violation of their dignity or an intimidating, hostile, degrading, humiliating or offensive environment. [7] This legal duty means that the School Premises Regulations would be outwith competence should provision for mixed-sex facilities be introduced.

There may be a small number of pupils who hold the protected characteristic of gender reassignment and may feel distraught at the thought of using the toilet provided for their sex and who might benefit from the privacy of accessible toilet rooms and/or additional single-user toilet rooms. This is a difficult situation for schools to manage and care should be taken on decisions to affirm a social transition and treat a child as if they were the opposite sex. As explained in the Cass Review, this is an active psychological intervention which should be done with medical oversight. [8] Support to feel comfortable using the toilet for their biological sex and dealing with any bullying issues may be a better long term solution.

No information is given on the relevant numbers, but a drop in clinical referrals combined with some surveys showing a peak and subsequent decline in children adopting a trans identity indicate that the trend may be on the wane. As a broad sweep analysis, when the Scottish census results are applied to the population size of secondary schools it suggests there is likely to be a total of around 90 (biological) boys and 95 (biological) girls who may have the protected characteristic of gender reassignment. [9] While there could be clusters as a result of social contagion this does demonstrate that, in general across the country, existing accessible facilities can easily accommodate another 185 children. These facilities have long been a requirement in schools and it is extremely unlikely that the addition of one extra child in every other school (there are 360 secondary schools) using these facilities will be burdensome.

Unless the Scottish Government can provide any better data it seems that supplementing the requirements for single-sex provision with fully lockable rooms (including hand washing) for use by one pupil at a time is simply not necessary. Further consideration should be given to this issue before committing to making it a costly legal requirement for local authorities. As well as the known hygiene risks, providing more enclosed private spaces for

pupils can lead to an increase in anti-social behaviour such as vaping, self harm and secret video recording, as well as the very real risk of medical emergencies going undetected.

Use of facilities:

It is concerning to see paragraph 45 of the consultation document state that decisions on the use of school toilets are for education authorities and schools to take in consultation with their school communities. This sounds very much like the Good Law Project's case on the interim update published by the Equality and Human Rights Commission where they argued that, as long as physical facilities were provided in line with the Workplace Regulations, it would not be a breach to allow both women and transwomen (biological males with the protected characteristic of gender reassignment) to use it. The High Court rejected these submissions, concluding that the argument "places form over substance, disregarding the obvious purpose of regulations 20-21 and 24" which require separate provision of sanitary, changing, and showering facilities to be provided for men and women "for reasons of conventional decency". [10]

The High Court rejected every claim brought by the Good Law Project and upheld the lawfulness of the interim update, concluding that it contained no errors of law and there was no interference with Convention rights. Although the interim update has been withdrawn in anticipation of the UK Government publishing the full Code of Practice it is worth noting its entirely lawful and accurate advice:

"The law in Scotland requires schools, irrespective of pupils' age, to provide separate toilet facilities for boys and for girls. Toilet cubicles are required to be partitioned and have lockable doors.

Pupils who identify as trans girls (biological boys) should not be permitted to use the girls' toilet or changing facilities, and pupils who identify as trans boys (biological girls) should not be permitted to use the boys' toilet or changing facilities. Suitable alternative provisions may be required." [11]

The Scottish Government has long since known that provisions in favour of women "by definition exclude those who are biologically male" [12] and it is unforgivable for it to have suggested otherwise. This misstatement of law may well have adversely influenced how respondents answer this consultation question.

Provision split half for girls, half for boys:

It is proposed that this ratio of sanitary provision is removed from the School Premises Regulations on the basis that "school populations will vary and distribution will need to be decided on locally in line with the statutory responsibilities of local authorities". It is not clear what other statutory responsibilities are referred to here or how there has been any conflict with upholding the Regulations over the last 59 years.

The School Level Summary Statistics produced by the Scottish Government shows that the current 50:50 provision matches that of the secondary school population, which has a reliably constant figure of 49.6% girls and 50.4% boys, although there is some indication of variability particularly for small rural primary schools. [13] All schools must have at least one sanitary appliance for girls and another, separately, for boys, and for very small schools (up to 15 pupils) this basic provision could not be changed or reallocated even if there were, for example, 12 boys and 3 girls. Obviously, the larger the school, the closer the proportions will be to 50:50 boys to girls but we acknowledge there are examples of schools of smaller size where the numbers of sanitary appliances for each sex is disproportionate to the numbers of male and female pupils.

However, since schools of this size often have just one block of toilets for each sex it is not simply a case of reallocating provision to the over-represented sex. Given the determination of the Scottish Government to remove single-sex facilities we remain suspicious about any suggestion that this is a genuine problem that may be resolved by giving boys access to cubicles within the girls provision (or vice versa). It could easily be seen as yet another attempt to create mixed-sex toilets, at least in some smaller schools, and paving the way for it to be rolled out across all schools. This would leave children and their families with little idea of the likely availability of single-sex provision in any particular school or even whether the Regulations can be enforced in larger schools.

No detailed justification or evidence has been provided for this proposed change and we simply do not have the time or resources to analyse the available data in full. We remain unconvinced that this is a significant problem and, if indeed it is, would prefer to see a standardised solution embedded in legislation rather than discretionary and variable measures with little accountability. We do note, however, the inherent contradiction with the consultation document's assertion that the higher number of appliances per pupil stipulated by the Regulations "is particularly important in smaller schools, which are prevalent in Scotland, where the existing Regulations provision may be double that prescribed in the British Standard" which implies the generous provision for each sex balances out any possible problems resulting from a discrepancy between the proportions of girls and boys.

References:

[1] 91% of people said that public spaces should include separate toilets for men and women (up from 85% in 2020). Only 5% say all facilities should be gender-neutral.

<https://yougov.com/en-gb/trackers/support-for-separate-toilets-for-men-and-women-and-gender-neutral-toilets-in-public-spaces>

56% of women say they feel generally uncomfortable and only 35% feel comfortable using gender neutral toilets.

<https://yougov.com/en-gb/trackers/how-comfortable-brits-feel-using-gender-neutral-toilets-in-public-spaces>

[2] <https://www.icr.ac.uk/about-us/icr-news/detail/girls-ages-at-first-period-getting-younger-particularly-those-from-poorer-backgrounds>

[3] Page 52 states "SACC settings should have separate gender specific toilets, unless the environment they are based in has purpose built suitable communal facilities or the toilet and hand wash basin is provided within an individual room." This is incorrect: toilets are sex specific not gender specific, and there is no provision in the legislation for mixed-sex communal facilities.

<https://hub.careinspectorate.com/media/5784/space-to-grow-and-thrive.pdf>

[4] Page 14 of For Women Scotland's report What's Happening to Your Child's School Toilets? shows that 19% of the 113 schools who responded to a Freedom of Information request have no urinals.

<https://forwomen.scot/wp-content/uploads/2024/09/Whats-Happening-to-Your-Childs-School-Toilets.pdf>

[5] <https://www.telegraph.co.uk/news/2024/04/30/gender-neutral-lavatories-more-germs-than-single-sex-ones/>
Archived: <https://archive.ph/N0j3Z>

[6] At the date of the For Women Scotland's report What's Happening to Your Child's School Toilets?, June 2024:
Page 18: 13 secondary schools only provided mixed-sex toilets
Page 24: 39 secondary schools provided mixed-sex toilets and single-sex toilets
<https://forwomen.scot/wp-content/uploads/2024/09/Whats-Happening-to-Your-Childs-School-Toilets.pdf>

[7] <https://forwomen.scot/wp-content/uploads/2024/05/Aidan-ONeill-KC-Single-sex-school-toilets-May2022.pdf>

[8] The Cass Report Interim Review:
<https://webarchive.nationalarchives.gov.uk/ukgwa/20250310143846/https://cass.independent-review.uk/home/publications/interim-report/>

[9] According to the 2022 Census report there are 3088 transwomen and 3307 transmen in Scotland (0.0568 and 0.0608 per cent of the population respectively)
<https://www.scotlandscensus.gov.uk/2022-reports/scotland-s-census-2022-sexual-orientation-and-trans-status-or-history/>
<https://www.scotlandscensus.gov.uk/2022-reports/scotland-s-census-2022-rounded-population-estimates/>
Applying these percentages to the secondary school population in 2024 (158750 males and 156308 females) gives a total of 90 boys and 95 girls who claim a trans identity as the opposite sex.
<https://www.gov.scot/publications/school-level-summary-statistics/>

[10] Paragraph 36: Good Law Project v Equality and Human Rights Commission [2026] EWHC 279 (Admin)
<https://www.judiciary.uk/wp-content/uploads/2026/02/good-law-project-EHRC-AC-2025-1953-judgment-13Feb26.pdf>

[11] EHRC: An interim update on the practical implications of the UK Supreme Court judgment
Archived 27 August 2025: <https://archive.ph/7IPLw>

[12] Paragraph 36: For Women Scotland v Scottish Ministers [2022] CSIH 4
<https://www.scotcourts.gov.uk/media/0a1plqgo/court-of-session-judgment-reclaiming-motion-by-for-women-scotland-limited-against-the-lord-advocate-and-others>

[13] Average calculated from the school level summary statistics 2019-2024 for Scottish secondary schools.
<https://www.gov.scot/publications/school-level-summary-statistics/>

10 Do you agree that Regulation 18 (Medical inspection and rest room accommodation) covers the requirements for medical inspection and rest room accommodation?

Not Answered

If not, why not?:

11 Do you agree that wellbeing spaces, including nurture spaces, should be included in the regulations?

Not Answered

If not, why not?:

12 Do you agree that the updated regulations should include a principle based requirement for digital infrastructure and connectivity in all schools?

Not Answered

If not, why not? Please provide examples of how digital provision supports educational outcomes in your context.:

Questions: 13-25

13 Do you agree that Regulation 21 (Lighting) covers the requirements for lighting?

Not Answered

If not, why not?:

14 Do you agree that Regulation 22 (Ventilation) should be retained and updated?

Not Answered

If not, why not? :

15 Do you agree Regulation 23 (Heating) can be retained and updated?

Not Answered

If not, why not?:

16 Do you agree that Regulation 4 (General Requirements) can be removed?

Not Answered

If not, why not? :

17 Do you agree that Regulation 7 (Sites for primary and secondary schools) can be removed?

Not Answered

If not, why not?:

18 Do you agree that Regulation 11 (Educational accommodation in schools providing both primary and secondary education) should be removed?

Not Answered

If not, why not? :

19 Do you agree that Regulation 12 (Playroom accommodation in nursery schools and classes) is no longer required and can be removed, and that ELC settings, including those housed within school buildings should be specifically excluded in the updated Regulations?

Not Answered

If not, why not?:

20 Do you agree that Regulation 13 (Educational accommodation in special schools) should be removed?

Not Answered

If not, why not?:

21 Do you agree that Regulation 16 (Washing accommodation for pupils) is no longer required as it is met within the revised toilets and washing facilities Regulation?

Not Answered

If not, why not? :

22 Do you agree that Regulation 17 (Accommodation for staff) can be removed?

Not Answered

If not, why not?:

23 Do you agree that Regulation 19 (Storage accommodation) can be removed?

Not Answered

If not, why not?:

24 Please tell us about any potential equality impacts, either positive or negative, that you consider the proposals in this consultation may have, with reference to the 'protected characteristics' listed. Please be as specific as possible.

Please tell us about any potential equality impacts, either positive or negative, that you consider the proposals in this consultation may have, with reference to the 'protected characteristics' listed above. Please be as specific as possible.:

25 Are there any aspects of a child's rights or wellbeing that you think might be affected either positively or negatively by the proposals covered in this consultation?

Are there any aspects of a child's rights or wellbeing that you think might be affected either positively or negatively by the proposals covered in this consultation?:

About you

What is your name?

Name:

Trina Budge

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

For Women Scotland

Further information about your organisation's response

Please add any additional context:

For Women Scotland is a not-for-profit organisation working to protect women and children's rights and secured the landmark UK Supreme Court judgment providing clarity on the definition of sex as a biological term in the Equality Act 2010.

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

Do you consent to Scottish Government contacting you again in relation to this consultation exercise?

Yes

What is your email address?

Email:

info@forwomen.scot

Where did you hear about this consultation?

Scottish Government website

If other, please say where::

Evaluation

How satisfied were you with this consultation?

Not Answered

Please enter comments here.:

How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?

Not Answered

Please enter comments here.: