

## **How to report your workplace toilets to the Health and Safety Executive**

### Reporting safety concerns if your employer has adopted a toilets policy that permits access based on self-identified gender

#### **Step 1: Find out your employer's policy on who can access which toilets**

The relevant provisions will be contained within HR policies. These might have titles similar to: *Gender Identity policy*, *Gender Reassignment policy*, or *Transitioning at Work policy*. The policy may be on your employer's intranet, or you may need to ask your HR department. Ask as neutrally as possible - there might be some reluctance to share these documents.

#### **Step 2: Understand your protections as a whistleblower**

You should read the official government information on [whistleblowing](#), your contract of employment and any internal whistleblowing policy. This guide is not a legal document and is not written with the intention of providing legal advice.

#### **Step 3: Submit a concern to the Health and Safety Executive**

The Health and Safety Executive (HSE) is a [prescribed body](#) which can receive disclosures about *"the health and safety of individuals at work, or the health and safety of the public arising out of or in connection with the activities of persons at work"*.

You can submit your concerns using an online form on the HSE website, available [here](#). Read the webpage and click 'Start now'.

The form consists mainly of short, simple questions such as the location of the issue and your contact information. You can ask to remain anonymous from your employer.

Towards the end of the form there is a free text box asking *"What is your issue?"*. Annex A of this guide (below) provides example text that you can amend and enter into the form. The text box allows 3000 characters.

The HSE says that it aims to email you within 15 working days (3 weeks) to give you the outcome.

#### **Step 4: If your concern is rejected, you can appeal**

To appeal, email the HSE at [appeals@hse.gov.uk](mailto:appeals@hse.gov.uk). You must do this within 10 days of the HSE telling you the outcome. More details are available [here](#).

#### **Step 5: If you are not satisfied, you can complain**

[This guidance](#) explains what you should do if you want to make a complaint because you're unhappy with the way that HSE has dealt with you or your situation.

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## Annexe A: Example text for the HSE online form.

### Summary

My employer permits access to single-sex toilets according to self-identified gender. This has the effect of designating these facilities as mixed-sex. The facilities are not constructed in such a way as to be suitable for mixed-sex use, and they do not comply with regulations that fall within the remit of the HSE. This places female employees at serious risk of harm such as assault, harassment, voyeurism and indecent exposure.

My employer's policy is titled **[enter title]**.

### A self-ID policy means that the facilities are, in effect, mixed sex

It is not possible for someone to change sex through self-identification. Therefore, a policy that permits access based on self-identified gender has the effect of allowing anyone of any sex to access any facilities. When any male person is allowed into the female single-sex facilities, those facilities cease to be single sex, and become mixed sex. Criteria such as “presenting as a woman” to access the women’s toilets are irrelevant and unworkable. It is not necessary to permit access to single sex toilets based on self-ID in order to comply with the Equality Act 2010.

### The facilities are inappropriate for mixed-sex use

1. The toilets have stalls, not separate lockable rooms, and they have a shared sink area. Therefore, they cannot be considered “unisex”.
2. The communal sink areas are secluded spaces, which are not visible or covered by CCTV, which presents an opportunity for assault, harassment and indecent exposure.
3. The use of stalls, rather than fully enclosed rooms with walls, presents opportunities for voyeurism.

### This breach of regulations falls with the remit of the Health and Safety Executive

[The Workplace \(Health, Safety and Welfare\) Regulations 1992, Regulation 20, Sanitary conveniences, Clause 2\(c\)](#) states that:

*“[...] sanitary conveniences shall not be suitable unless [...] 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.”*

According to the HSE web page [“Statutory Instruments owned and enforced by HSE/local authorities”](#), the HSE owns or enforces this regulation.

The HSE web page [Have the right workplace facilities](#) states that:

*“Employers have to provide [...] where possible, separate facilities for men and women – failing that, rooms with lockable doors”*

### **I believe that there is a serious risk of harm**

1. **Breadth of harm:** The number of people impacted by this change is significant. The policy does not just impact employees, but also contractors and visitors.
2. **Severity of harm:** The potential harm to women is serious. This includes assault, harassment, voyeurism and indecent exposure. The risk is not specifically from males who are transgender, but from any male who might use this policy in order to access female single-sex spaces.
3. **Probability of harm:** Sexual harassment is all too common in workplaces. It is almost certainly underreported and it is not appropriate to evaluate the risk using historical data, since this new policy significantly increases the level of risk.