



## Public conveniences

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Author: Louise Smith

Section Science and Environment Section

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Local authorities have **discretionary powers but not a duty** to provide public conveniences. Section 20 of the *Local Government (Miscellaneous Provisions) Act 1976* simply empowers local authorities to require the provision of toilets at places of entertainment or other 'relevant places', and to maintain them. Local authorities are also empowered to require free-of-charge toilets in certain places of entertainment, and where food and drink is sold for consumption on the premises.

There has been a series of Private Member's Bills, Early Day Motions and Petitions on the subject and the British Toilet Association (BTA) is campaigning for a statutory duty to provide public conveniences. Successive Governments have resisted this on the grounds that it is best left up to local communities to decide. On 6 March 2008 the Department for Communities and Local Government published [guidance aimed at encouraging local authorities to provide better access and better quality toilets](#).

Section 87 of the *Public Health Act 1936, as amended* allows local authorities to make a fair and reasonable charge for public conveniences.

A campaign by various organizations including Mencap to improve the provision of facilities suitable for disabled people has been running since 2006. The *Disability Discrimination Act 1995* requires public facilities to be accessible to disabled people. Part 3 of the Act states that reasonable steps must be taken to remove, alter or provide a reasonable means of avoiding a physical feature which makes it impossible or reasonably difficult for disabled people to use a particular service (public toilets in this case).

The Royal Association for Disability and Rehabilitation (RADAR), in conjunction with disability organisations, local authorities and others established a National Key Scheme for toilets for disabled people in 1981. Under the scheme, if a local authority needs to lock public toilets for disabled people, it can use a standard lock and give a key to people with disabilities in its area. The scheme now offers access to some 7,000 toilets around the country.

This note sets out the law and standards relating to the provision of public conveniences in more detail and also provides information about provision of toilets on public transport and in schools.

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## 1 Legal position

Local authorities are under no statutory obligation to provide public conveniences.

### 1.1 Public Health Act 1936

Section 87 of the *Public Health Act 1936* states that:

1) "A county council, ... a local authority or a parish or community council may, subject to subsection (2) of this section, provide sanitary conveniences in proper and convenient situations."

The Act goes on:

- (3) [Any such council or] authority who provide any public sanitary conveniences, may—
- (a) make byelaws as to the conduct of persons using or entering them;
  - (b) let them for such term, at such rent, and subject to such conditions as they think fit;
  - (c) charge such fees for the use of any such conveniences as they think fit.
- (4) In this section the expression "sanitary conveniences" includes lavatories.<sup>1</sup>

In its response to the Communities and Local Government Committee's report on public toilets, the Government reiterated its position that it has no plans to amend the 1936 Act to impose a duty.<sup>2</sup>

### 1.2 Local Government (Miscellaneous Provisions) Act 1976

Section 20 of the *Local Government (Miscellaneous Provisions) Act 1976* empowers local authorities to require the provision of toilets at places of entertainment or other 'relevant places', and to maintain them. 'Relevant places' include places normally or occasionally used for any of the following purposes:

- places for holding any entertainment, exhibition or sporting event to which members of the public are admitted either as spectators or otherwise
- places where food or drink is sold to members of the public for consumption at the place.

The requirement can be for facilities can be made available to the public free of charge.<sup>3</sup>

### 1.3 Other legislation

The provision and the location of toilets may be the subject of other legislation:

- *Workplace (Health, Safety and Welfare) Regulations*, SI 1992/3004. Approved Code of Practice and Guidance.
- *Food Hygiene (General) Regulations 1970*

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<sup>1</sup> *Public Health Act 1936*, [Section 87](#)

<sup>2</sup> *Government Response to the Communities and Local Government Committee Report on the Provision of Public Toilets*, DCLG, January 2009

<sup>3</sup> *Local Government (Miscellaneous Provisions) Act 1976*, [Section 20](#)

- Part M of Schedule 1 to the 1991 Building Regulations (Access and facilities for Disabled People).
- Building Regulations state that toilets should be separated from food preparation areas by a door.<sup>4</sup>
- Section 68 of The *Building Act 1984* places restrictions on the construction of public toilets accessible from a street; local authority consent is required.

## 2 Fees and charges

Section 87 of the *Public Health Act 1936* used to allow local authorities “to charge such fees for the use of any such conveniences, other than urinals, as they think fit” but the Act was amended in 2008 to give councils discretion to make fair and reasonable charge for both toilets and urinals.<sup>5</sup>

## 3 Business Valuation and Rates

Public conveniences are subject to business rates and they are assessed by the Valuation Agency. Details of the method and basis of valuation of public lavatories for non-domestic rating are set out in the [Valuation Office Agency's Rating Manual](#).

The business rating of public toilets provides statistics on their provision (see section 7, below)

## 4 Strategic Guide March 2008

On 6 March 2008 the Department for Communities and Local Government published guidance aimed at encouraging local authorities to provide better access and better quality toilets.<sup>6</sup> A press release outlined some of the measures that may be used:<sup>7</sup>

- SatLav – a charged service whereby text information about the nearest public toilet is sent to the subscriber’s mobile phone
- Community Toilet Schemes – where local shops and businesses open up public access to their toilets.
- Use of the planning system to encourage developers to fund new toilets.
- Use of strategic and spatial plans to ensure a better mix of provision, adopting a range of approaches to meet needs at different times of the day, and to improve poor quality facilities that attract criminal activity and bring down the reputation of neighbourhoods.

In November of the same year, supplementary good practice guidance was published.<sup>8</sup>

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<sup>4</sup> V Howell-Smith and M.J. Billington, *The Building Regulations Explained and Illustrated*. Chapter 12 *Hygiene* Tenth edition, *Blackwells*, 1995.

<sup>5</sup> [The Sex Discrimination \(Amendment of Legislation\) Regulations 2008](#)(SI 2008 No. 963)

<sup>6</sup> [Improving Public Access to Better Quality Toilets: A Strategic Guide](#), DCLG, 6 March 2008

<sup>7</sup> DCLG News Release, Government toilet plans: all cisterns go, 6 March 2008

<sup>8</sup> [Improving Public Access to Toilets: Guidance on Community Toilet Schemes and SatLav](#), DCLG, November 2008

## 5 Pressure for a statutory duty

There has been a series of Private Member's Bills, Early Day Motions and Petitions on the subject and the British Toilet Association (BTA)<sup>9</sup> is campaigning for a statutory duty to provide public conveniences. Successive Governments have resisted this on the grounds that it is best left up to local communities to decide.

In October 2008 the Select Committee on Communities and Local Government conducted an inquiry.<sup>10</sup> The Committee did not recommend putting a duty on local authorities, but it did suggest requiring local authorities to draw up a strategy on public conveniences in consultation with the local community.

In its response to the report, the Government rejected the Committee's recommendation that the strategy should be made compulsory:

We welcome the strong support for our Strategic Guide conveyed in this recommendation, which reinforces our guidance to local authorities and their partners about improving access to public toilets.

The Government considers that decisions about the provision of local services and amenities, such as public toilets, are best made at a local level. Therefore we have devolved powers, resources, and flexibilities to local authority partnerships, while taking concerted action to empower communities so people have more influence over local decisions. We believe that this is the right way to bring about the changes that people want to see in their areas, a better and more sustainable approach than direction from the centre, mandating approaches to particular public services and constraining the ability of councils to respond in ways they think best meet local needs.

We do not believe that compulsion is the only – or in all circumstances the best – way to change behaviour. For example, significant improvements in the quality of parks and urban green spaces have been achieved through Government guidance and sharing of best practice. Through the Local Government Performance Framework, we are devolving powers and resources to local authority partnerships to enable them to take the action that they consider is needed to improve the delivery of local services. In parallel with this we consider that highlighting the powers available to local authorities, removing barriers to taking positive action, and exemplifying approaches that have worked, is an effective way to achieve improvements in services and local amenities that people want to see.

That was what our Strategic Guide and detailed guidance set out to achieve, and we are already seeing local authorities taking positive action to improve the level and quality of the provision in their areas without placing additional pressure on council tax payers. We believe the Guide and detailed guidance we have published, reinforced by the Committee's report, will encourage further improvements across the country.<sup>11</sup>

## 6 British Standard

*British Standard 6465: Part 1:1984* gives some guidance on an acceptable level of provision:

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<sup>9</sup> [British Toilet Association website](#) [on 23 April 2010]

<sup>10</sup> Communities and Local Government Committee, [The provision of public toilets](#), 22 October 2008, HC 636 2007-08

<sup>11</sup> [Government Response](#) to the Communities and Local Government Committee Report on the Provision of Public Toilets, Cm 7530, January 2009, p3

The number of sanitary appliances which should be provided in a public convenience will be determined by local circumstances.

[...] Although the British Standard does not give a table of minimum requirements for public conveniences, it does so for places of public entertainment. The specification for cinemas is a minimum of 1 WC for up to 250 males, plus 1 for every additional 500 males or part thereof. The corresponding specification for women reads "minimum 2 [WCs] for up to 75 females, 3 for 76 to 150 females, plus 1 for every additional 80 females or part thereof". A rather more generous provision is specified for theatres. The British Standard is being revised and there are proposals to improve provision for women, particularly in places of entertainment.

The Standard also notes the necessity of providing facilities for the disposal of sanitary dressings.

## 7 Toilets for disabled people

A campaign by various organizations including Mencap to improve the provision of facilities suitable for disabled people has been running since 2006. The campaign's website says:

The Changing Places Consortium has launched its campaign on behalf of those people who cannot use standard accessible toilets. This includes people with profound and multiple learning disabilities and their carers, as well as many other disabled people.

They need Changing Places toilets with enough space and the right equipment, including a height adjustable changing bench and a hoist.<sup>12</sup>

Some changes have been made to improve provision in this area. A revised version of British Standard 'BS8300 Design of Buildings and their approaches to meet the need of disabled people—Code of Practice', which includes expanded guidance on the design and provision of conveniences for the disabled, was published in March 2009. The Government said in July 2009 that it would review Part M of the Building Regulations (access to and use of buildings), which includes consideration of the provision of sanitary facilities for disabled people.<sup>13</sup> It plans to issue revised guidance in 2013.

The *Disability Discrimination Act 1995* requires public facilities to be accessible to disabled people. Part 3 of the Act states that reasonable steps must be taken to remove, alter or provide a reasonable means of avoiding a physical feature which makes it impossible or reasonably difficult for disabled people to use a particular service (public toilets in this case).

The Royal Association for Disability and Rehabilitation (RADAR), in conjunction with disability organisations, local authorities and others established a National Key Scheme for toilets for disabled people in 1981. Under the scheme, if a local authority needs to lock public toilets for disabled people, it can use a standard lock and give a key to people with disabilities in its area. The scheme has proved a success, offering access to some 7000 toilets around the country.<sup>14</sup>

## 8 Numbers of public toilets

Until 2001 figures on the numbers of public toilets were collected by the Audit Commission. In 2000 there were just over 6,600 public toilets in England. In 2008, the Labour Government

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<sup>12</sup> [Changing places website](#), [on 23 April 2010]

<sup>13</sup> HC Deb 15 July 2009, c499-500W

<sup>14</sup> RADAR web page [National Key Scheme](#) [23 April 2010]

provided the latest figures in a [PQ](#), based on registration for business rates: as at 30 January 2008, there were 5,084 public conveniences included in the 2005 rating lists for England and Wales.<sup>15</sup>

## 9 Transport

Department for Transport Circular 01/2008 requires motorway service area operators to provide toilets and washbasins for all road users, free of charge, every day of the year. The number of toilets operators are required to provide is linked to the traffic flow on the motorway which the facility serves.<sup>16</sup>

There are no specific obligations on bus or train operators to provide toilet facilities either on board buses or trains or at stations. Rail services franchise agreements do not require toilet facilities to be provided.

In January 2003, London Transport Users Committee carried out research on forty transport interchanges and stations around London. They found that almost a quarter (22%) had no public toilets and another quarter (25%) had toilets which were out of use and that signage was often poor.

## 10 Toilets in schools

Toilet and washbasin provision in schools is governed by the *Education (School Premises) Regulations 1999*, setting out minimum levels of provision according to pupil age and whether it is a special school. The regulations require separate male and female toilets for pupils over the age of 8.

The Department for Children Families and Schools publishes *Toilets in Schools*, guidance on the design and maintenance of school toilets, to inform the Building Schools for the Future programme.<sup>17</sup> For staff, the *Workplace (Health, Safety and Welfare) Regulations 1992* apply.

## 11 Anti-Social Behaviour

Anti-social behaviour, including drug taking and vandalism, has forced many local authorities to close their public toilets. Powers contained in the *Anti-Social Behaviour Act 2003* allow the Police, Local Authority Officers and Community Support Officers to issue a Fixed Penalty Notice to anyone caught graffitiing or vandalising.

Section 71 of the *Sexual Offences Act 2003* brought in a new offence, making it unlawful to conduct "sexual activity in a public lavatory", with a maximum penalty of six months' imprisonment.<sup>18</sup>

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<sup>15</sup> HC Deb 13 March 2008, [c583-4W](#)

<sup>16</sup> [Policy on service areas and roadside facilities on motorways and all-purpose trunk roads in England](#), Department for Transport circular 01/2008, 2 April 2008

<sup>17</sup> [Toilets in Schools, Standard Specifications Layouts and Dimensions 3](#), DCFS, 2007

<sup>18</sup> HC Deb 6 October 2003