

Washroom facilities

Following the recent Supreme Court ruling that the definition of the terms “man” and “woman” is made in relation to biological sex at birth, we have reviewed actions taken by other organisations and the options available for the Lowden building.

Washroom facilities in the Optima building are provided by the managing agent for the building. We have contacted the Optima managing agent for details of how they intend to proceed and are awaiting their reply.

It is not possible to simply re-designate any of the men’s or women’s washrooms as gender-neutral as a gender-neutral washroom must be separate rooms which are lockable from the inside, and both sexes’ designated facilities have cubicles and shared, open handwashing which is incompatible with this requirement.

References

- [EHRC's interim update on the practical implications of the Supreme Court judgment](#)
- [HSE: Have the right workplace facilities](#)
- [Lewis Silkin summary of equality watchdog guidance](#)
- [Holyrood Parliament's decision to create gender-neutral washrooms alongside its existing male and female washrooms](#)
- [Barclay's decision to ban transgender women from female washrooms](#)

Options

Option 1: Do nothing

Lowden has designated male, female, and accessible toilets on each floor, including in the SMF building.

Pros:

- No cost to the business.
- No disruption of current infrastructure.

Cons:

- Under the Equality Act (2010), employers must not discriminate against people based on transgender status or gender reassignment. Failing to have adequate toilet provisions for transgender employees could constitute unfair treatment and open SQA to claims under the Equality Act.
- Providing no gender-neutral facilities could force transgender colleagues to “out” themselves by using a washroom that does not match their outward appearance and open them to unfavourable treatment by other colleagues.

Option 2: Designate accessible washrooms as gender-neutral

The accessible toilets are fully enclosed, lockable washrooms with handwashing facilities inside, and are already gender-neutral. With this option, we would leave washroom facilities as-is and officially designate the accessible toilets as gender-neutral washrooms. Our shower rooms are also for mixed-sex use and only one person can use the room at a time, and each is enclosed and lockable from the inside.

Pros:

- Minimal cost to the business.
- No disruption of current infrastructure.
- This follows EHRC's [interim guidance](#) regarding toilet facilities which accommodate transgender people.
- Continues to meet the requirements of the Health and Safety at Work Act (1974) on workplace provisions of single-sex toilet facilities for men and women.

Cons:

- This could encourage heavier use of the accessible toilets and thus leave washroom facilities unavailable for disabled colleagues when required.

Option 3: Undertake refurbishments to create new a gender-neutral washroom

Convert the shower room on the first floor into a gender-neutral toilet facility, with fully enclosed, locking provisions as required under the Health and Safety at Work Act.

Pros:

- Sufficient toilet provisions for both sexes and for transgender people who do not wish to use a washroom which does not match their chosen gender.

Cons:

- This option would entail a prohibitively high cost.
- Would result in significant disruption in the office during works.

Recommendation

The ideal scenario would be to create enough washrooms to have provisions for men, women, and gender-neutral options. However, such significant building works have not been budgeted for in this financial year and would require approval and allocation of the required costs.

Taking into consideration suitable provisions and budgetary restrictions, as well as noting that updated guidance on washroom facilities is still pending, it is recommended to take Option 2.