Equality of Toilet Provision

Guide to Accessible Toilet Standards and Equality Act Requirements

Sanitation away from home

Dignified, Hygienic, Safe, Comfortable, Equal

www.toiletaccess.wordpress.com
About this Guide

This guide is to raise awareness about the standards, guidelines and equality laws surrounding the provision of toilets for use by disabled people and their carers/assistants.

We hope you will find the information useful if you:

- Are passionate about improving the accessibility and usefulness of toilets for disabled people through campaigns and personal discussions.
- Wish to raise discussions with a business concerning a difficulty you have had accessing or using provided toilets.
- Provide toilets for disabled staff, visitors, customers and volunteers - and wishes to provide the highest possible standard of ‘away from home’ toilets.
- Are committed to the welcoming provision of a truly accessible toilet to demonstrate your commitment to social inclusion and equality.
## Contents

**About this Guide**

**British Standards and AD M**

- When do AD M requirements apply?  
  3
- What if a new toilet does not follow these standards?  
  4

**Types of accessible toilets**

**Equality of toilet provision - what the law says.**

- Be aware of ‘compliant’ suppliers  
  7
- The duty to make reasonable adjustment and AD M  
  8
- Do I have to follow the solutions in AD M?  
  8
- Employment law  
  11
- Human rights  
  12
- UN Convention on the Rights of Persons with Disabilities  
  14

**Making adjustments**

- Reasonable adjustments might include  
  16
- Auxiliary aids or services  
  16
- Attracting customers and improving community inclusion  
  17
- Facilities on request.  
  17

**Thank you to:**

  18
The current guidance for providing accessible toilets are found in:

- British Standard 8300 (2009) - Design of buildings and their approaches to meet the needs of disabled people.
- Approved Document M: Access to and use of buildings - Volume 2: Buildings other than dwellings [Section 5: Sanitary accommodation].

Approved Document M is abbreviated to **AD M** in this guide.

Following the recommended solutions in these documents, to meet standards, does not mean they comply with the Equality Act 2010. You may need to go beyond these to meet your Equality Act duties. Approved Documents are given legal status by the Building Act 1984.

*The 2015 version comes into force in October 2015 and is available from:*

http://www.planningportal.gov.uk/buildingregulations/approveddocuments/partm/

**When do AD M requirements apply?**

The current Part M (and Approved Document M) applies to new buildings and existing non-domestic buildings undergoing an extension, alteration or change of use. (Certain sections only apply for change of use).

If Part M applies:

“Reasonable provision should be made … so that people, regardless of disability, age or gender, can have access into, and within, any storey of the building and to the building’s facilities… regarding sanitary accommodation.”

[Approved Document M : 0.14 - c]
What if a new toilet does not follow these standards?

Building control bodies make judgements about whether proposals for building works make reasonable provision during planning approval stages.

An Access Statement may be submitted to support the planned works - this should describe how toilet facilities will meet the needs of disabled people and how BS 8300 (which the guidance from AD M is largely derived from and compliments) has been applied (amongst other access provision).

It should also provide convincing arguments if the proposal is an alternative solution that will achieve the same, better, or more convenient outcome.

Plans should not be approved if they do not meet the requirements.

Types of accessible toilets

There are design considerations and recommendations for 3 types of accessible toilets.

1) Toilets for **ambulant disabled people** (which may also be described as an ‘accessible toilet’ or ‘adapted’ toilet).

These may be cubicle based, single gender and suitable for people able to walk but who might also require the use of support rails for example.

At least one cubicle must be provided for ambulant disabled people in each separate-sex toilet area. [AD M; 5.7 c].

These toilets are often depicted by a figure with one or more sticks.
2) Wheelchair Accessible Toilets.

Suitable for a range of people including manual wheelchair users, those with mobility aids, sensory impairments, short stature, mental health problems and medical conditions where access to an emergency alarm is required.

These toilets are depicted by the wheelchair symbol and may be single cubicles in separate-sex toilet/washrooms or self-contained, unisex toilets.

A unisex toilet should always be provided in addition to separate-sex washrooms [AD M: 5.5] at each location in a building where sanitary facilities are provided for visitors/customers/workers.

Sports venues and leisure centres may have additional toilet/changing/shower facilities.

Layout and facilities vary in each toilet but should be compliant with UK law and guidelines noted above at the time they were built. Entry is often via a National Key Scheme [NKS] toilet key (RADAR Key).

3) Changing Places (CP toilets)

For people who need to use a hoist, changing bench, large space or hygiene facilities. They are recommended in the British Standard 8300 (2009) [Section 12.7 and Annex G] and referenced in AD M for large building developments. They are also included in government guidance ‘Improving Public Access to Better Quality Toilets’.

Facilities may optionally include automated washing/drying toilets, adjustable height toilet/sink and shower facilities. These toilets are depicted with the Changing Places (CP) symbol.

Entry is often via a National Key Scheme toilet key (RADAR Key) or opened on request using a key or card located from reception / information area staff nearby.

Mobile units can be hired for events.
Equality of toilet provision - what the law says.

Whilst not a legal guide, information is provided to help you assess if your toilet provision is meeting the required standards and your Equality Act duties. Only a court can decide if you have failed to prevent or caused disability discrimination. Similarly, toilets which do not comply with health and safety will be subject to further actions and investigation from relevant safety bodies.

Facilities being offered must provide equal access to toilets for disabled customers / visitors and employees, to the same standard as non-disabled people. This means meeting their Equality Act 2010 obligations. Public bodies such as councils, schools and hospitals have additional duties under human rights law.

In the UK, the Equality Act protects the rights of all disabled people, as individuals - which includes sanitary facilities that are provided.

The Equality Act does not recognise ‘minimum standards’. An individual disabled person or carer could argue that there has been no ‘reasonable adjustments’, as required by law, as it relates to them. Also, what is ‘reasonable’ changes over time and adjustment is an ongoing obligation.

A business should pay close attention to how ‘reasonable’ is judged in courts and described in the Equality Act. Many businesses underestimate the extent of their duty to make adjustments and do what is reasonable in all of the circumstances. Citing ‘too expensive’ or ‘disruptive’ without evidence of a thorough assessment and providing strong reasoning would be unwise.
Businesses must take positive steps to remove barriers to disabled people and make reasonable adjustment. They must think ahead and plan to remove barriers - not wait until a person has had difficulties.

Listen to the experiences of disabled people and if a problem has occurred take reasonable action to prevent discrimination from re-occurring in a timely manner - the ongoing obligations of the Act.

If someone doesn’t cooperate with their duty to make adjustments, the Equality Act says it’s unlawful discrimination.

Be aware of ‘compliant’ suppliers

There are many well known companies and long standing UK brands who sell or make ‘compliant’ accessible toilet packages. However, when you cross check with the dimensions/heights and elements required, they do not comply. You need to ensure that you are purchasing supplies that actually satisfy the regulations (or your contractors are) as this reason for discrimination is unlikely to stand up in court.

Because of supplier problems, this is a huge problem and the law is not preventing them selling these packs as compliant.
The duty to make reasonable adjustment, imposed by the Equality Act 2010, means that provisions beyond that in Approved Document M [AD M] are likely to be required to anticipate the needs of a range of disabled people.

**Guidance clearly states:**

Although the guidance in this Approved Document, if followed, tends to demonstrate compliance with Part M of the Building Regulations, this does not necessarily equate to compliance with the obligations and duties set out in the EA [Equality Act].

This is because service providers and employers are required by the EA to make reasonable adjustment to any physical feature which might put a disabled person at a substantial disadvantage compared to a non-disabled person.

In some instances this will include designing features or making reasonable adjustments to features which are outside the scope of Approved Document M. It remains for the persons undertaking building works to consider if further provision, beyond that described in Approved Document M, is appropriate.


**Do I have to follow the solutions in AD M?**

There is no obligation for a business to adopt a particular solution contained in an Approved Document if the requirements can be met in another, possible better, way.

A recommendation from BS 8300 that is of a higher standard. eg. the provision of Changing Places toilets, might be more appropriate to fulfil the legal requirements - especially if BS 8300 post dates the publication of AD M that was used at the time the toilet was built.
“It remains for the persons undertaking building works to consider if further provision, beyond that described in Approved Document M, is appropriate.” [AD M 2013: 6]

10 Year Exemption

There is an exemption where it is deemed not reasonable to make adjustments for disabled people. If a feature, such as a toilet area, has been provided to help with accessing a building or using its facilities, and it met the design standards relevant at the time, then it doesn’t have to be altered or changed (providing it is less than 10 years old). Nearly all of the main features of accessible toilets, were however, introduced within the last 10 years.

Independent Living

Over the last 10 years things have changed for many disabled people. Those with severe impairments are living longer and more active lives due to having more choice and control over health and social care, improvements in transport, education and health and advances in technology.

The standard of access to and use of sanitary provision has not kept up with these changes.

Wheelchairs, for example, have become bigger and more technologically advanced (or more built for purpose e.g. wide or elongated sports wheelchairs, outdoor powered chairs, sit-to-stand wheelchairs, all-terrain chairs and scooters).

Standards don’t take into account how well a person can manoeuvre their wheelchair / scooter or consider how stamina and technique affect space requirements. A person who is still learning (or temporarily using a chair e.g after a limb injury), may not be able to turn tight corners or do a 360 degree turn as efficiently as a long term, skilled, user.

Standards, therefore, still fall short of the actual space that is needed by active wheelchair users today - and it is the actual requirements of people that the Equality Act will look at.
“I would have liked to continue volunteer work and doing some university lectures - but they didn’t have any toilets with a hoist, so I left.”

Older people are less likely to be living in communal (residential or nursing) homes, choosing to remain in their family home with personalised support or assistance. People have greater opportunities to get out and about - and are going to need suitable toilets to use.

Overall, people are accessing their communities more for work, education, leisure, to receive health care, socialising, to practice a faith or belief and general day to day family life - or at least they have opportunities to. However, people are finding themselves severely restricted or unable to go outside of their homes because of a lack of accessible toilet facilities they can use.

Essentially, the toilet spaces and standards of facilities deemed appropriate ten years ago, with little change, are not meeting the needs of many disabled people today and may not meet the needs of people in the future.

- Physical features may satisfy the requirements for design standards if less than 10 years have passed since the installation / construction.

- Physical features, must however, have met the standards (objectives, design considerations) that were applicable at the time and described in Approved Document M (whichever edition was current at the time of the build e.g. 1991 and upwards) and relevant Building Regulations.

- It is not deemed reasonable, in law, to have to alter a physical feature (or remove one) if it satisfied the design standards at the time it was built.

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### Employment law

All employers have to provide at least one toilet in the workplace for each group of workers (e.g. different buildings, separate departments) - and that includes disabled staff. Any building that also has visiting members of the public must provide additional toilets.

By not providing fully accessible toilets for a range of disabled people, employers are acting outside of the law. These laws include the Equality Act 2010 and the Approved Code of Practice (ACOP) to the Workplace (Health, Safety and Welfare) Regulations 1992.

Work places need to ensure that the needs of staff (and potential staff) who require facilities such as a hoist are met and this should not be a reason to deny a hoist user the offer of an interview or employment. Reasonable might be to hold interviews at a venue with a Changing Places toilet for example.
Human rights

Public bodies such as a council, school or hospital must also follow human rights law.

In July 2010, the UN General Assembly Resolution 64/292 adopted a groundbreaking resolution officially recognising sanitation – access to, and use of, excreta and wastewater facilities and services – as a human right. Because denying access to sanitation is denying basic human rights.

Provision of toilets are the most overlooked Human Right contained in the European Convention on Human Rights and the UK Human Rights Act.

Public authorities must never torture disabled people or treat them in an inhuman or degrading way under any circumstance - a right which can't be breached, restricted or limited.

This might include situations which impact human dignity where:

- a disabled person is forced to self limit fluids because of no toilet facilities they can use.
- a frail elderly person who is left in soiled incontinence pads for several hours because of no changing facilities or assistance.
- a person who has not had immediate access to facilities and who then urinates or has a bowel movement before they can get to the toilet (perhaps because it is kept locked or available on request only).
- a person who has been abused by being withheld food or drink to reduce the need to assist them to the toilet as frequently.
- a person who is refused a home adaptation and told to use a commode in their living room (also impacting social inclusion, dignity, privacy and family life).
- feeding someone whilst strapped to a commode.

Some of the above have already been found by the court to be inhumane or degrading treatment.
The right to a private life includes privacy concerning a person’s body. Choosing who sees or touches our body is recognised as being very important. A disabled person who normally maintains privacy and dignity using equipment such as automated washing and drying toilets may feel a loss of dignity when going to the toilet where these are not provided and other people need to assist with wiping.

How the person perceives a loss of dignity is the key factor as to whether their rights have been breached, restricted or limited.

I notified the hospital I couldn’t sit on a flat based commode due to my impairment which affects my muscle tone and pelvic shape. When I arrived for an overnight stay, they said they had no alternative. I can’t use a bed pan neither because of the same pelvis problem. I had no option but to use what was provided and the pain was indescribable. I couldn’t relax, balance and the pain took my breath away. I had to go twice, hunched forward over my knees with my feet balanced on a suitcase. I had nerve and pressure pain and bruising for a few weeks because of that. It was torture and we swore we couldn’t ever go through that again.

[Louise Watch, Kent]

The right to private life may be involved if a disabled person is unable to participate in the life of the community or access essential economic, cultural, social and recreational activities because there are no usable toilets.

The right not to be discriminated against is protected by the Equality Act 2010.

Left: Alfie Buck being changed on a public toilet floor because of no changing facilities.

Only 34 NHS hospitals and clinics provide a hoist and adult changing bed in accessible toilets. [May 2015].
UN Convention on the Rights of Persons with Disabilities

The UK ratified this convention on June 8th 2009 and agreed to ensure the rights of disabled people. A person’s health is compromised if they can’t urinate, defecate, maintain menstrual hygiene, lay in soiled pads/clothes or are forced to restrict food or fluid to reduce the need for the toilet.

“Countries must protect the physical and mental integrity of persons with disabilities, just as for everyone else (Article 17), guarantee freedom from torture and from cruel, inhuman or degrading treatment or punishment, and prohibit medical or scientific experiments without the consent of the person concerned (Article 15).”

[Source: United Nations].

“On the fundamental issue of accessibility (Article 9), the Convention requires countries to identify and eliminate obstacles and barriers and ensure that persons with disabilities can access their environment, transportation, public facilities and services, and information and communications technologies.”

[Source: United Nations].

“Persons with disabilities have the right to the highest attainable standard of health without discrimination on the basis of disability.”

They are to receive the same range, quality and standard of free or affordable health services as provided other persons, receive those health services needed because of their disabilities, and not to be discriminated against in the provision of health insurance.” (Article 25)

[Source: United Nations].

To ensure implementation and monitoring of the Convention, countries are to designate a focal point in the government and create a national mechanism to promote and monitor implementation (Article 33).

Councils and the NHS, for example, must work within the Convention and Human Rights law with regard to sanitation facilities for disabled people.
Making adjustments

If toilet facilities are not meeting the needs of individual disabled people, organisations must change things to make sure there is suitable toilet provision. Not having useable toilet facilities would be a major barrier to using / visiting, or working for an organisation.

Having no usable toilet facilities is also highly likely to prevent substantial income generation from disabled people and their families because they would be unable to visit, or visit for the same length of time non-disabled people might.

Disabled women experience additional discrimination (being susceptible to more health consequences of having no usable toilet facilities). Women who have no alternative but to sit on a toilet to urinate or manage menstrual hygiene are placed at a greater disadvantage. Unisex accessible toilets also do not generally have machines to obtain sanitary hygiene products or condoms as found in gender specific toilet areas.

Quick guide to ensure accessible toilets for all

- Basics - Are you achieving the minimum guidelines in Approved Document M.
- Step it up - Boost equality and customer service by planning to going beyond the guidelines.
- Mix it up - Provide some alternatives if you have more than one toilet. Vary the room shape / size, colours, mirrored layouts etc.
- Provide a Changing Places toilet / washroom.
Reasonable adjustments might include

- Gaining a thorough understanding of the needs of a range of different people and understanding particular needs e.g. asking “what do we need to do specifically for people with profound and multiple learning difficulties” as opposed to ‘what facilities do disabled people need’ or ‘what is the minimum standard we have to meet’.

- Auditing toilet facilities thoroughly - not just against minimum standards.

- Consulting with disabled staff, customers or other organisations to ensure facilities meet a wide range of people with different hygiene needs.

- Making physical adjustments / building new toilets.

- Providing Changing Places toilets or hiring a mobile unit

- Publishing access statements about toilet facilities.

- Making people aware of the type of facilities you have (e.g. widths of doors, heights of toilets, layout of grab rails, type of lighting etc).

Auxiliary aids or services

These are defined as things like:

- Removal, replacement or provision of furniture, furnishings, materials, equipment and other chattels

- replacement of signs or notices

- replacement of taps or door handles

- replacement or provision of adapted door entry systems

- changing the colour of a wall or door (or other surface)

- provision of raised toilet seats

- provision of a step/stool to aid balance
Auxiliary aids do not usually include slings to lift/move in - people will bring their own to use in a Changing Places toilet for safety, hygiene and comfort reasons.

**Attracting customers and improving community inclusion**

To attract the business of disabled people and their families / friends, the better your toilet facilities are, the more likely they will visit you, recommend you to others, stay longer or return.

Our Guides ‘Beyond the minimum requirements’ and ‘What makes a toilet accessible’, explains how toilet facilities can be improved upon and why they are so important to get right.

**Facilities on request.**

This could be viewed as a lesser quality provision because non-disabled people do not have to request access to toilets they can use or wait for them to be opened.

Asking people to explain their needs to a reception desk/Information point (such as requesting equipment or a special door key) could be embarrassing and may be unlawful if privacy is compromised or staff aren’t trained appropriately.

Asking people to wait whilst a hoist, key or other equipment is located and brought to a toilet area adds pressure and worry to people who have urgency needs where they suddenly need immediate toilet access. Equally a person may be asked to wait for staff to become available to help or open up a room which is likely to be unlawful.

The right facilities means people can spontaneously use a dedicated toilet quickly, conveniently and safely, in a dignified manner as non disabled people can.
Thank you to:

Everyone who has shared their personal experiences and photographs around what can be a difficult subject to discuss.

Produced by World of Accessible Toilets [https://toiletaccess.wordpress.com] and https://www.facebook.com/pages/Accessible-Toilets/1475973905956018

The World of Accessible Toilets is a volunteer project run by Louse Watch with support from other disabled people and their families. We share our lived experiences and knowledge to promote equality of toilet access for disabled people in the UK.

One of the biggest restrictions in daily life, for disabled people and their families, focuses around the toilet.

The aims of the project are to provide news, reviews, access, information & share disabled people's experiences around finding or using accessible toilets, hygiene and equipment.

Accuracy of information

Every care has been taken to compile, and reference correctly, the information in this awareness guide. Louise Watch cannot accept any responsibility for incorrect information or use of information in this guide.

Please check with the latest versions of documents such as Approved Document M from the official planning portal web-site [http://www.planningportal.gov.uk] for the most up to date information and documents.