

WCs in takeaways and the workplace

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Takeaways - the relevance of a relevant place...

A local authority may require an owner/occupier of a “*relevant place*” to allow the public access to sanitary facilities free of charge, under the [Public Local Government Miscellaneous Provisions Act 1976](#). The Act describes a “*relevant place*” as:

- a place which is (or is proposed to be) normally used for any of the following purposes:
 - holding any entertainment, exhibition or sporting event to which members of the public are admitted either as spectators or otherwise,
 - the sale of food or drink to members of the public for consumption at that place;
- a place which is (or is proposed to be) used on occasion(s) for any of the above purposes; and
- a betting office.

Following a 1997 case, the widespread assumption was that when it came to takeaways, a “*relevant place*” constituted the premises where the majority of food was consumed on the premises, and which had more than 10 seats. However, a [2016 case](#) altered this understanding of the law.

In 2016, Mr Justice Kerr confirmed that the definition of a “*relevant place*” did not include a numerical threshold, nor did it include a test of whether a takeaway’s walk in or sit-down custom was the predominant part of its business.

A local authority, therefore, has the power to require a relevant place, such as a takeaway, to provide sanitary facilities if it deems them desirable. It is then open to that

business to appeal to the courts for an order to be dismissed on the grounds that it is unreasonable.

Nonetheless, the case confirms that many takeaways, throughout the country, may be required by a local authority to provide sanitary facilities - even if they predominantly serve takeaway food for consumption off the premises and provide a limited number of seats.

Workplace conveniences

The [Workplace \(Health, Safety & Welfare\) Regulations 1992](#) deal with the provision of sanitary conveniences in the workplace.

The Regulations define “*workplace*” as “*any premises or part of premises which are not domestic premises and are made available to any person at a place of work...*”. However, the Regulations do not apply to certain workplaces such as shipyards, docks and mines.

[Paragraph 20](#) stipulates that sanitary conveniences shall be provided at readily accessible places, and shall not be deemed suitable unless:

1. they are adequately lit and ventilated;
2. they (and the rooms containing them) are kept in a clean and orderly condition; and
3. separate rooms are provided for men and women, except where, and so far as each convenience is in a separate room, the door is capable of being secured from the inside.

The Regulations further state that at least one WC for every 25:

- women should be female only; and
- men should be male only.

[Paragraph 21](#) states that suitable washing facilities, including showers (if required by the nature of the work or for health reasons), shall be provided at readily accessible places.

Washing facilities shall not be suitable unless they:

1. are in the immediate vicinity of every sanitary convenience (regardless of whether provided elsewhere);
2. are in the immediate vicinity of any changing rooms;
3. include a supply of clean hot and cold water;
4. include soap and towels or other suitable means of cleaning/drying;
5. are kept in a clean and orderly condition; and
6. separate facilities are provided for men and women, or have lockable doors.

It is important to note that the above specifications only apply to a “workplace” and **not** a “new workplace”.

New workplace conveniences

A “new workplace” is defined as “a workplace used for the first time as a workplace after 31 December 1992.” Unhelpfully, the Regulations give no indication of what constitutes the suitable and sufficient provision of sanitary conveniences for new workplaces. However, the Health & Safety Executive (HSE) have provided some useful [guidance](#) and have said that, where possible, there should be separate facilities for men and women, failing which there should be rooms with lockable doors.

Toilets used by women only

No. of People	No. of WCs	No. of Washbasins
1-5	1	1
6-25	2	2
26-50	3	3
51-75	4	4
76-100	5	5

Toilets used by men only

No. of Men	No. of Toilets	No. of Urinals
1-15	1	1
16-30	2	1
31-45	2	2
46-60	3	2
61-75	3	3
76-90	4	3
91-100	4	4

The HSE guidance further recommends that:

1. toilet paper is supplied and, for female employees, a means of disposing of sanitary dressings is provided;
2. the facilities should be well lit and ventilated;
3. the facilities should be kept clean and in good condition;
4. the facilities should have hot and cold running water and have plenty of soap or other washing agents;
5. if necessary, the basin should be large enough to wash your arms or forearms in;
6. there should be a means for drying hands; and
7. where necessary, there should be showers for particularly dirty work.

This means that effective systems to maintain any conveniences to a high standard need to be put in place.

For more information, contact property lawyer Joseph O’Neill today.

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Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

