

Title: The Building (Amendment) (England) Regulations 2024 Impact Assessment IA No: N/A RPC Reference No: N/A Lead department or agency: The Department for Levelling Up, Housing and Communities Other departments or agencies: N/A	Impact Assessment (IA)		
	Date: 15/05/2024		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Secondary Legislation		
	Contact for enquiries: building.assurance@levellingup.gov.uk		
Summary: Intervention and Options			RPC Opinion: Not applicable

Cost of Preferred (or more likely) Option (in 2019 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
-£40.9m	-£40.9m	£4.8m	Qualifying provision

What is the problem under consideration? Why is government action or intervention necessary?

In October 2020, government published a call for evidence on toilet provisions. Responses received called for greater consideration in the range of toilets and to preserve safety, privacy and dignity. Legislation is required as the Building Regulations do not currently prescribe single-sex or universal toilets, nor specify the size, layout, fitting and equipment, the latter of which represent a potential cost to private developers. This cost is likely to exceed any indirect benefits accrued to developers as they are not fully reflected in the market prices, or incentives, associated with improvements to the size, layout, fitting and equipment for single sex or universal toilets in non-domestic buildings.

What are the policy objectives of the action or intervention and the intended effects?

A new Part T will be added to Schedule 1 of the Building Regulations 2010. The new requirement will state provision must be made for specific types of toilet accommodation in buildings other than dwellings (excluding exemptions). The objective of this requirement is to require toilet accommodation to be separate single-sex toilets, with single-sex shared or individual hand-washing facilities. Universal toilets can be provided in addition to single-sex provision and where space allows. Where there is not sufficient space to provide single-sex toilet facilities, fully enclosed universal toilets should be provided. This policy will ensure the safety, privacy and dignity for members of society when using toilets.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0 – do nothing: private developers would continue to lack incentives to ensure the suitable provision of toilet types, in terms of the size, layout fitting and equipment, and therefore toilets in non-domestic buildings would continue to be built without suitable provision. Given the government’s objective of ensuring the safety, privacy and dignity for members of society when using toilets, this option would be detrimental for achieving this aim.

Option 1 – amendment to the Building Regulations 2010 by adding a new Part T to Schedule 1, stating provision must be made for specific types of toilet accommodation in buildings other than dwellings (excluding exemptions). This would provide the mechanism to meet the government’s policy objective of ensuring the safety, privacy and dignity of members of society when using toilets. Therefore, this is the preferred option.

Will the policy be reviewed? No. If applicable, set review date: N/A				
Is this measure likely to impact on international trade and investment?			No	
Are any of these organisations in scope?		Micro Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: _____ Lee Rowley _____ Date: _____ 13/05/2024 _____

Summary: Analysis & Evidence: Preferred Option (Policy Option 1)

Description: Schedule 1 of the Building Regulations 2010 will be amended, and a new Part T will be added to ensure provision is made for specific types of toilet accommodation in all new buildings other than dwellings and a small number of exceptions.

FULL ECONOMIC ASSESSMENT

Price Base Year 2019	PV Base Year 2020	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -£26.2m	High: -£57.8m	Best Estimate: -£40.9m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£0.1m	£3.1m	£26.2m
High	£0.2m	£6.7m	£57.8m
Best Estimate	£0.2m	£4.8m	£40.9m

Description and scale of key monetised costs by 'main affected groups'

- The capital cost of the extra materials required to build the toilet accommodation to the new policy requirement (£29.9m).
- The capitalised value of the area taken from lettable floorspace and used for larger toilet accommodation (£10.8m).
- Familiarisation cost for architects, interior designers and building control officers, working on non-domestic buildings (£0.2m).

Other key non-monetised costs by 'main affected groups'

There are no other non-monetised costs.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

Description and scale of key monetised benefits by 'main affected groups'

We have not monetised any benefits associated with the policy.

Other key non-monetised benefits by 'main affected groups'

- The provision of single-sex and universal toilets as described in the guidance is a reasonable arrangement that should create larger toilets and therefore more space for all users.
- The inclusive design recommendations based on recent and specifically commissioned research should create toilets with more targeted designs to accommodate a wider range of building users.
- The policy will have a positive impact on women, enhancing their privacy by ensuring the reasonable provision of single-sex toilets.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
-------------------------------------	-------------------	------

Key sensitivities

- Low and high figures for capital costs reflect consultants' confidence in how likely the reference building used for the costing is representative of the typical building in scope.
- Low and high figures for the loss of lettable floorspace reflect uncertainty regarding the proportion of additional floorspace used for toilets which may be taken from lettable area.
- For familiarisation costs, consultants utilised +/- 30% of the central estimate in the low and high scenarios as a best estimate of the range in costs.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: £4.8m	Benefits: N/A	Net: -£4.8m	

Background

1. Most building work being carried out in England must comply with the Building Regulations 2010. The Building Regulations are made under powers in the Building Act 1984.
2. The Building Regulations apply when new building work is being undertaken or where a building is undergoing a material change of use. Building work is defined in regulation 3 of the Building Regulations 2010 to include new construction, extensions, provision of services or fittings, or material alterations. Material change of use is defined in regulation 5 of the Building Regulations 2010. It states there is a material change of use where there is a change in the purposes for which a building is used, for example the building being used as a shop, where previously it was not. The powers in the Building Act and Building Regulations are not retrospective and do not set the standards for existing buildings. The Building Regulations do not direct how buildings should be managed or used.
3. The Department for Levelling Up, Housing and Communities (DLUHC) publishes statutory guidance called 'Approved Documents' on how to meet the requirements in the Building Regulations for common building situations. The government regularly reviews the Approved Documents to ensure the guidance provided remains relevant. To support this, the government undertakes calls for evidence, public consultations and research on key topics.
4. In October 2020, government published a technical call for evidence on toilet provisions for men and women. This followed concerns that increasing numbers of publicly accessible toilets were being converted into 'gender neutral' facilities with shared waiting and hand-washing facilities, causing safety and privacy concerns, especially for women. Women need safe spaces considering their biological, health and sanitary needs (for example, women who are menstruating, pregnant or menopausal, may need to use the toilet more often). Women are also less likely to feel comfortable using mixed sex facilities.
5. Government received 17,589 responses to the initial call for evidence, generally calling for greater consideration in the range of toilets and to preserve safety, privacy and dignity for all. 86% of responses cited safety concerns for identified groups of people using toilets. 79% of responses mentioned safety for trans/non-binary people and 75% mentioned safety concerns for women. More than 12,000 responses raised issues with each of the following regarding current provision of toilets: menstruation, family use, disabled use and medical conditions.
6. Following this, in July 2022, government announced via a written ministerial statement, its intention to amend the Building Regulations and statutory guidance to ensure separate toilets for men and women continue to be provided, that the provision of universal toilets is encouraged where space allows, and where universal toilets are provided, that privacy is ensured.
7. In the same statement, the government also announced its intention to launch a technical consultation on formal changes to the Building Regulations and a new Approved Document. That consultation ran from 13 August 2023 to 8 October 2023. The proposed changes would ensure the provision of specific types of toilet accommodation for non-domestic buildings. 81% agreed with the intention for separate single-sex toilet facilities and 82% agreed with the intention to provide universal toilets where space allows.

8. Government also commissioned consultants, Ove Arup Limited (Arup), to research and propose the layout and equipment for new toilets. The purpose of their report was to provide DLUHC with data, layouts and evidence to inform future consideration and policy development work on the design of toilet facilities to meet the requirements (including space requirements) of a range of different users.
9. Following analysis of the technical consultation responses, the government proposes to amend the Building Regulations and develop new statutory guidance to ensure provision is made for specific types of toilet accommodation in buildings other than dwellings and a small number of exemptions.
10. The guidance on proposed layouts for new types of toilet accommodation was then developed. DLUHC commissioned economic and architectural consultants to produce cost estimates as part of an impact assessment of the proposed layouts being applied to non-domestic buildings, including new builds and material change of use.

Rationale for intervention

11. Currently, the Building Regulations do not prescribe single-sex or universal toilets, nor specifically the size, layout, fitting and equipment. Developers of non-domestic buildings therefore currently lack sufficient incentive to ensure the provision for specific types of toilet accommodation, as highlighted through the public interest and responses captured by the call for evidence.
12. This is because the size, layout, fitting and equipment provided in single-sex and universal toilets come at a potential cost to developers of non-domestic buildings. This cost could potentially accrue because additional space requirements lead to a loss in lettable area¹ or additional capital spend is required to adhere to the policy.
13. Any indirect benefits accrued to developers from improvements to the provision of the size, layout, fitting and equipment for single-sex or universal toilets, are unlikely to exceed these costs. Industry expertise from external consultants suggests that the sale value of non-domestic properties is primarily based on lettable area which is net of toilet space. Whilst there is likely to be some willingness to pay an increased rent for improvements to the provision of the size, layout, fitting of toilet accommodation, the fact that the revenue generating area has not changed will limit this².
14. Therefore, absent of amendments to the current Building Regulations (Option 0 – see below), developers of non-domestic buildings would continue to provide potentially inadequate provision of single-sex and universal toilets in terms of their size, layout, fitting and equipment.

What are the current or future harms that is being tackled?

15. Following concerns that increasing numbers of publicly accessible toilets were being converted into 'gender neutral' facilities, the majority of the 17,589 responses to the call for

¹ The value of non-residential buildings is based on the amount that they can be let for, which is derived from lettable floor area – that where the main business activity takes place. Circulation space, which includes space allocated to toilets, is not included in the value for lettable floor area.

² For example, an office will still have the same number of desk spaces or a restaurant the same number of tables, and therefore revenue generating ability.

evidence (October 2020) indicated a need for a greater consideration in the range of toilets provided.

16. Absent of the proposed amendments to the Building Regulations, the safety, privacy and dignity for all users of toilets in non-domestic buildings would fail to be addressed. In particular, the call for evidence suggests that various groups including women, who may need to use toilet facilities more often because of pregnancy and sanitary needs, could be more adversely impacted if the proposed changes fail to be made.

What sectors / markets / stakeholders will be affected, and how, if the government does intervene?

17. Developers conducting building work or a material change of use to non-domestic buildings, will be impacted by having to adhere architectural designs to the updated regulations. The cost incurred has been evaluated through the capital cost of extra materials required to build the toilet facilities to standard, and the value of the area taken from lettable floorspace to be used for larger toilet accommodation.
18. The new regulation does not require toilets to be retrospectively changed in existing, non-domestic buildings. The Building Regulations only apply when undertaking building work or a material change of use to an existing building, and do not specify the management and use of buildings.
19. There will also be a small impact on architects, interior designers and building control officers working on building works, or material change of use, to non-domestic buildings, as they will be required to familiarise themselves with the updated guidance in the regulations. The time spent doing so has been monetised as part of the impact assessment.

Why is government best placed to resolve the issue?

20. The proposed amendments to the Building Regulations represent a potential cost imposed on private developers, which accrues due to a requirement for additional space, loss of lettable space or additional capital cost. This cost is likely to exceed any indirect benefits accrued to developers, as they are not fully reflected in the market prices, or incentives, associated with improvements to the size, layout fitting and equipment for single-sex or universal toilets in non-domestic buildings.
21. Therefore, without government amending the Building Regulations and introducing new statutory guidance, the market alone would fail to ensure that provision of the size, layout, fitting and equipment for single-sex and universal toilets in non-domestic buildings was appropriate.

Description of options considered

Option 0 – Do Nothing

22. There will be no amendments made to the Building Regulations to ensure provision must be made for specific types of toilet accommodation in buildings other than dwellings. As such, the Building Regulations 2010 would remain in its current state. Therefore, private developers would continue to lack incentives to ensure the provision of specific types of toilet accommodation for all users and a proportion of non-domestic buildings would

continue to be built without this suitable provision. Given government's objective of ensuring the safety, privacy and dignity for members of society when using toilets, this option would be detrimental for achieving this aim.

Option 1 – Legislate (Preferred Option)

23. An amendment to Schedule 1 of the Building Regulations 2010 by adding a new Part T and the requirement, T1:
- T1.** (1) Toilet accommodation in buildings other than dwellings
- a. must consist of—
 - i. reasonable provision for male and female single-sex toilets, or
 - ii. where space precludes provision of single-sex toilets, universal toilets, and
 - b. may consist of universal toilets in addition to single-sex toilets.
24. Requirement T1 does not apply to: en-suite facilities in individual rooms for residential purposes; residential rooms in care homes (as defined in Section 3 of the Care Standards Act 2000); schools (as defined in Section 4 of the Education Act 1996), premises or part of premises, used wholly or mainly for early years provision within the meaning of Section 20 of the Childcare Act 2006 by an early years provider to whom section 40 of the Childcare Act 2006 (duty to implement Early Years Foundation Stage) applies; and cellular accommodation in custodial facilities. The regulation does not require toilets to be retrospectively changed in existing, non-domestic buildings (unless building work or a material change of use takes place).
25. Compliance with the new requirement T1 is met by ensuring all of the following:
- Separate single-sex toilet facilities are provided. Universal toilets can be provided in addition to single-sex provision and where space allows. All toilet accommodation should have clear and appropriate signage.
 - Where space precludes single-sex toilet facilities from being provided, fully enclosed universal toilets should be provided.
26. Consequently, more non-domestic buildings will provide toilets in line with the new regulations and therefore support the policy objective. This option aims to ensure that there should be balanced consideration of how the needs of all should be accommodated and that the requirement as set out, constitutes a proportionate means of achieving a legitimate aim, that is to ensure the safety, privacy and dignity of all toilet users. This option offers a proportionate and viable approach to ensuring the widest possible range of toilets depending on the available space and allows some discretion for building owners to provide provision for their building users.
27. New statutory guidance (Approved Document T) will be introduced alongside the new legislation. Approved Document T describes the size, layout, fittings and equipment of four types of toilet accommodation that are suitable for meeting requirement T1:
- Type A – Fully enclosed self-contained ambulant universal toilet.
 - Type B - Fully enclosed self-contained universal toilet.
 - Type C - Ambulant single-sex toilet cubicle (not self-contained).
 - Type D - Single-sex toilet cubicle (not self-contained).

28. Existing statutory guidance in Approved Document M and G is more established and familiar to developers/architects. Approved Document T brings updated guidance in view of the latest call for evidence. Approved Document T will reference existing guidance in Approved Documents G and M to minimise overlaps between the Approved Documents. Amendment booklets for Approved Documents G and M will also be published to ensure consistency of standards referenced across the suite of Approved Documents.
29. Requirement T1 sets a requirement for the provision of specific facilities that should be provided in addition to requirements for general sanitary provision (WCs and urinals) required under regulation 20 of the Workplace (Health, Safety and Welfare) Regulations 1992 (Workplace Regulations). In establishing provision, reference should be made to guidance on the calculation of sanitary provision contained in the Approved Code of Practice for those regulations (HSE publication L24, available at <https://www.hse.gov.uk/pubns/books/l24.htm>).
30. Guidance on the design of a wheelchair-accessible unisex toilet and a WC cubicle for ambulant disabled people is provided in Section 5 of Approved Document M, Volume 2. The layout with dimensions and fittings for two options of WC for ambulant disabled people (Type A and Type C) is additional guidance detailed in Approved Document T, giving ambulant versions of single-sex and universal toilets.
31. Other sanitary provision for baby changing and Changing Places toilets should be provided as described in Section 5 of Approved Document M, Volume 2, and in BS6465-4, Section 10.2 covering children and babies and Section 10.3 covering disabled people.
32. Part T does not cover the number of toilets or the access to and use of toilets. A method to calculate the number of sanitary appliances for public toilets is provided in Chapter 11 of BS6465-4. Guidance on the number of toilets required for a building type is provided in paragraphs 4.12 to 4.14 of Approved Document G.
33. Approved Document G also covers the provision of handwashing facilities and the separation of toilets from kitchens and areas where food is prepared. Other best practice guidance on the provision and design of toilets is given in BS6465-1.
34. For those toilets where the Workplace Regulations apply, reference should be made to the current Approved Code of Practice for levels of provision of WCs, washbasins and urinals. The provision specified in requirement T1 deals with the arrangement of such appliances within toilet accommodation.
35. For guidance on the provision of toilet accommodation in sports buildings refer to Sport England's guidance on 'Accessible facilities'. For educational buildings the current standards relating to toilets are contained in: the School Premises (England) Regulations 2012 (for maintained (local authority) schools) and the Education (Independent School Standards) Regulations 2014 (for Academies and independent schools). For healthcare settings refer to NHS England's Health Building Notice 00-02: Sanitary spaces. The greater dimension standard for ambulant toilets in Approved Document T should be achieved where there is a conflict.

Policy Objective

36. The policy objective is to ensure the safety, privacy and dignity for members of society when using toilets, through the provision of specific types of toilet accommodation.
37. By amending the Building Regulations to make provision for specific types of toilet accommodation in buildings other than dwellings, the government aims to ensure its intended outcomes are met. That is to require toilet accommodation in non-domestic buildings to be separate single-sex toilets, with single-sex shared or individual hand-washing facilities. Universal toilets can be provided in addition to single-sex provision and where space allows. Where there is not sufficient space to provide single-sex toilet facilities, fully enclosed universal toilets should be provided. Available space for toilet accommodation will vary from building to building; once reasonable provision is made for single-sex toilet facilities, any remaining space for toilet accommodation can be considered for universal toilet provision. These outcomes ensure the government's policy aims, as set out in the written ministerial statement in July 2022, are met.
38. The approach will mean women, who may need to use facilities more often because of pregnancy and sanitary needs, will now be guaranteed appropriate facilities through, for example, a separate single-sex space, with shared or individual hand-washing facilities, or through a fully enclosed universal toilet where space precludes single-sex toilets from being provided. A universal toilet, which is a fully enclosed room which contains a water-closet and washbasin and hand-drying facilities and is intended for individual use by persons of either sex, will also maximise safety, privacy and dignity.

Summary and preferred option with description of implementation plan

39. Secondary legislation will be used to amend the Building Regulations 2010 via a negative procedure statutory instrument. The Instrument will make an amendment to Schedule 1 of the Building Regulations by adding a new Part T and the requirement, T1. Consequential amendments to the regulations will also be made. The new requirement will state provision must be made for specific types of toilet accommodation in buildings other than dwellings (excluding exemptions).
40. Following the legislation being laid, the new requirement will come into force on 1 October 2024. The new requirement will not apply in any case where a building notice, an initial notice or an application for building control approval with full plans, has been given to the relevant authority in respect of that building before the 1 October 2024, and either the building work to which it relates is sufficiently progressed before that day or is sufficiently progressed within the period of 6 months beginning on that day. These transition arrangements are to ensure there is minimal impact on the construction of new, non-domestic buildings, allowing time for industry to prepare for the changes.
41. New statutory guidance (Approved Document T) will be introduced alongside the new legislation to support industry in complying with the new regulation.
42. Building work must comply with the Building Regulations 2010. As part of the building control process, the relevant building control body enforces the regulations, either a local authority building control, a registered building control approver or the Building Safety Regulator for high-risk buildings. The Manual to the Building Regulations gives an overview

of the building regulatory system in England and information on enforcements and sanctions.

Analytical approach

43. The analysis in this impact assessment aims to quantify the costs associated with adding a new requirement to Schedule 1 of the Building Regulations 2010, ensuring that provision must be made for specific types of toilet accommodation in buildings other than dwellings. It reflects estimates of representative examples provided, and analysed, by architectural and economic consultants. Uncertainty around the cost estimates for each example that require adjustments to comply with the new regulation, has been reflected in our high and low-cost estimates.
44. The analysis is based on estimates prepared by economic, architectural, cost and planning and viability consultants, with input from DLUHC. The use of consultants provides policy cost benefit analysis expertise combined with industry expertise in designing and costing.
45. The figures within this impact assessment assume a 10-year appraisal period of 2024-2033 and include economic costs along with non-monetised benefits. Costs have been presented in 2019 prices and discounted to 2020 present value.
46. Cost estimates are produced by applying the policy to non-domestic buildings, including building works and material change of use, as defined in the Building Regulations.
47. We identified 30 archetypes, provided in **Table 1**, of non-domestic buildings chosen based on the most common types of non-domestic buildings granted planning permission in the last three years. For each archetype, architects reviewed recently approved planning applications to find a representative example and mapped each archetype to the most relevant example.

Table 1: A list of the archetypes used in the analysis and the given quantity of each archetype used as part of the impact assessment.

Example/archetype	Quantity included in analysis
Café/small restaurant	2
Cinema	1
Community centre	1
Exhibition hall	1
Faith centre – Church	1
Faith centre – Mosque	1
Gym	2
Health centre	1
Hospital	1
Hotel	1
Leisure centre	1
Library	1
Nightclub	1
Office large	2
Office medium	2
Office small	1

Park	1
Pub	1
Restaurant	2
Retail store large	1
Retail store small	1
Service station	1
Sports stadium	1
Standalone toilet	1
Supermarket	1
Temporary venue	1
University	1
Visitor/tourist facility	1
Warehouse/distribution centre	1
Bar	0

48. The gym, large office, medium office, restaurant and cafe archetypes feature two separate examples in the analysis:
- The two gym examples were chosen to capture the large degree of variation observed in the layout of toilets from the planning applications for this archetype.
 - The use of two examples for both large and medium offices is to reflect their prevalence amongst common non-domestic buildings granted planning permission in the last three years.
 - The restaurant and café archetypes have been included twice in the analysis, as they are representative archetypes for both new building works/material change of use and material alterations. The distinction between calculations for new building works/material change of use and material alterations has been provided below.
49. Due to the concerns raised at consultation surrounding increasing numbers of publicly accessible toilets being converted into ‘gender neutral’ facilities, the bar was selected as a representative archetype for non-domestic buildings with shared handwashing facilities. Whilst planning permission data revealed that this archetype does not account for a sufficient proportion of all non-domestic buildings to warrant inclusion in the analysis, results have been included in **Annex A**.
50. The total cost of the adjustment required due to the policy was based on a combination of:
- a. **Capital costs:** The cost of the extra materials required to build the toilet accommodation to standard³. Includes tiling, paint, partitions, floor finishes.
 - b. **Loss of lettable floorspace:** The capitalised value of the area taken from lettable floorspace and used for larger toilet accommodation.
51. The calculations implicitly assume that the cost of material change of use works is the same as for new building works. However, we have included a set of additional cost calculations for material alterations, which is defined in regulation 3 of the Building Regulations 2010 under the definition of building work.
52. Glenigans planning application data was used by the consultants to identify representative examples for each archetype. This data contains planning applications for new building

³ As specified in the ADT guidance.

works, material change of use and large material alterations that exceed a total cost threshold of £250k. There are however material alterations which include alterations to toilet accommodation that fall under the £250k threshold. Based on industry expertise from the consultants, we expect these works to be concentrated in the small food and drinks industry.

53. We have therefore included additional cost calculations which aim to capture the impact of the policy on material alterations that fall short of the assumed £250k threshold but include alterations to the toilet accommodation. These calculations are based on planning data, publicly available data and industry expertise from the consultants. Archetypes included in these calculations are both pub examples, the restaurant, the cafe and the nightclub.
54. We have also included familiarisation costs in our low, central and high-cost estimates for option 1. These estimates capture the value of the time taken for architects, interior designers and building control officers working on non-domestic buildings to familiarise themselves with the updated regulations.

Summary of the expected costs and benefits of the proposed approach

55. Costs identified in this analysis fall under the category of either transition costs or recurring costs. Transition costs are one off and are incurred as a result of transitioning to the amended Building Regulations. Recurring costs are the net additional costs to developers of compliance with the amended Building Regulations incurred for each non-domestic new build project, material alteration or material change of use, taking place each year, over the 10-year appraisal period.
56. The single monetised transition cost is the cost of familiarisation for affected professionals (architects, interior designers and building control officers) working on non-domestic buildings. Recurring costs, comprise capital costs and the loss of lettable floorspace (as described above), have been calculated for new building work/material change of use, and material alterations.
57. The first order impact of these recurring costs are assumed to fall on the private sector as they are borne by developers. A proportion of these costs may be passed onto government or local authorities, for example through the cost of purchasing the building, however the direct cost in this analysis has been assumed to be incurred by business.
58. All transition costs (excluding 50% of building control officers familiarisation cost⁴) are assumed to fall on the private sector.

Familiarisation costs

59. Data from the Annual Population Survey, 2023 provides estimates for the number of employed architects and interior designers in England. Data from the Building Safety Regulator also provides the number of employed building control officers in England, in 2023. Of those architects, interior designers and building control officers in employment, 25% are assumed to be working on non-domestic buildings, as per the split of contractors working on domestic and non-domestic developments taken from ONS.

⁴ 50% of building control officers are assumed to work in the private sector.

60. The consultants estimated an average time of 0.5 hours would be required per affected individual to familiarise themselves with the updated regulations. The time required was monetised for each profession with reference to the value of hourly time given in the Annual Survey of Hours and Earnings, 2022.
61. To account for non-wage related costs (national insurance, pension contributions, etc.) that are not captured within the Annual Survey of Hours and Earnings, the wage related costs were uplifted by 20.2%. Finally, a GDP deflator and present value rebase was applied to gain the final estimate of £150,000 in 2019 prices and 2020 present value.
62. Based on historical data on the split of registered building control approvers and local authority building control officers from the Building Safety Regulator, 50% of building control officers are assumed to be working in the private sector. The remainder are assumed to work in the social sector however, the cost impact is low (approximately £7,500 of total) and therefore has not been included as part of our final cost estimates.

Table 2: a list and description of the assumptions utilised in familiarisation cost calculations and their individual value/s and data source.

Assumption	Description	Value	Source
1) Number of architects/interior designers/building control officers	Employees	36,900 / 20,400 / 7,500	Annual Population Survey, 2023.
2) Proportion of architects/interior designers/building control officers working on non-domestic buildings	% of all architects/interior designers/building control officers (based on split between contractors working on domestic and non-domestic)	25%	ONS SIC: 41201;412020
3) Average time for Continued Professional Development	Hours	0.5	Consultants estimate
4) Value of architects/interior designers/building control officers time	£/hour	21.13 / 17.96 / 17.29	Annual Survey of Hours and Earnings, 2022
5) On-costs	% uplift to capture non-wage related costs.	20.20%	Index of Labour Costs per Hour, 2020
6) GDP deflator	2022 to 2023 prices	102.89%	HMT
7) GDP deflator	2023 to 2019 prices	88.07%	HMT
8) Present value year rebase	Rebase present value from 2024 to 2020	0.871	HMT
9) Private/social split of building control officers	% based on previous split of registered building control approvers (private) and local authority building control officer	50%/50%	BSR

Area change and capital cost calculations

63. Architectural consultants provided per square metre gross internal area, and internal toilet accommodation area, measurements for each of the 34 examples included in the analysis. This was obtained by reviewing planning permission data for each archetype and selecting a representative example. For archetypes that have more than one example included in the analysis, the next most preferable representative example was also selected.
64. The analysis assumes that the number of toilets in each planning permission meets the requirements of Approved Document G⁵. We have therefore assumed that planning applications chosen as representative examples have already met the required standards in terms of the number of toilets provided. Therefore, the impact of the policy will be on the type of toilets (not the number), and on any additional fixtures and fittings required.
65. We have also assumed that the planning permission examples selected for this analysis cannot expand the buildings footprint to accommodate the policy. This is because in the vast majority of cases, any loss in floorspace as a result of the policy can be taken from internal circulation space, and it would be more expensive to increase the building footprint compared to minor adjustments of floorplans.

i) Area change

66. In each case, architects assessed whether the updated provisions as a result of the policy would fit into existing internal toilet accommodation area measurements (specifically, ensuring that in examples with universal toilets there is at least one Type A toilet, and in examples with single-sex toilets that there is at least one Type C toilet).
67. In the event that existing internal area measurements did not provide sufficient space to accommodate the updated provisions, architects calculated the additional area that would be required to adhere to the policy. This provided an estimate for the change in area (m²), per example, required as a result of the policy.
68. The toilet area change as a result of the policy (m²) was then divided by the gross internal area (m²) for each archetype, which provided the change in floorspace allocated to toilets as a result of the policy, in square metres of toilet per square metres of total building size.
69. For material alterations, the change in area (m²) required as a result of the policy was calculated twice for each example. Firstly, with the toilet accommodation kept in the same location under the counterfactual (constrained), and then also remodelled in the most efficient layout (unconstrained). This is to account for instances in which the structure of the building does not permit for toilet accommodation to be reconfigured to accommodate the policy compliant toilet designs without significant structural alterations.

ii) Capital costs

70. The consultants also provided estimates for the cost of the extra materials required to construct the toilet accommodation to standard. For example, tiling, paint, partitions and floor varnishes.

⁵ The number of sanitary appliances for public toilets is covered in Chapter 11 of BS6465-4, and the number of toilets required for a building type is provided in Approved Document G.

71. For each of the representative examples, the counterfactual, which is the cost of the quantity of materials under current toilet provisions, was subtracted from the cost of the quantity of materials under the proposed Building Regulation amendments, and divided by the gross internal area⁶ (m²). This provided an estimate for the cost of toilet provisions required for each archetype (£ per m²) in terms of additional materials required under the policy.

Scaling up calculations

72. Once capital costs (£ per m²) and the change in floorspace allocated to toilets (square metres of toilet per square metres of total building size) as a result of the policy had been calculated, they were then scaled up over the 10-year appraisal period. This was calculated by forecasting the quantity of i) new building works/material change of use and, ii) material alterations, in square metres per annum for each archetype. Then scaling by iii) capital costs and, iv) the cost of lost lettable floorspace over the appraisal period.

i) New building works/material change of use calculations

73. To forecast the quantity of new building works/material change of use for each archetype over the appraisal period, consultants reviewed planning permission data to find the average number of developments started in the past 3-years. The average number of developments started is assumed to be 79% of the planning applications granted (based on the consultants' experience).
74. The quantity of annual new builds/material change of use was divided by the gross internal area (m²) for each archetype to gain the quantity of annual new builds/material change of use for each archetype, in square metres per annum.
75. Due to the 6-month transition agreement, it is assumed that in the first year of the policy 50% of new builds/material change of use will be built to the previous Building Regulations. This is because, in the consultants' experience, new builds/material change of use projects take, on average, approximately 6 months to start on site following the submission for a building notice.
76. The figures for the quantity of annual new building works/material change of use, in square metres per annum, are then forecast to be held constant over the remainder of the 10-year appraisal period.

ii) Material alteration calculations

77. To forecast the total quantity of material alterations for each relevant archetype, the consultants assumed that 14% of the total number of restaurants, pubs and nightclubs (VOA 2023), net of new starts (2023, Business Demography, ONS) and takeaways⁷ (2023 business enterprise figures, ONS), are existing buildings undergoing material alteration. This assumption was made based on information provided to consultants by sector

⁶ For both large office examples, the GIA (m²) was taken only to include the floors on which the assessed toilets are located. This is because there are additional toilets on floors that were not included in the planning permissions.

⁷ Takeaways were deducted from the number of new starts on the grounds that they are unlikely to provide public toilets provision.

specialists, which suggests that material alterations in the small food and drink industry occur, on average, once every seven years.

78. Consultants then multiplied this figure by 10%, which is their estimate of the number of material alterations undertaken that include works to toilet accommodation. This provided the number of existing businesses conducting material alterations which include works to toilet accommodation.
79. To calculate the number of new developments conducting material alterations which involve works to toilet accommodation, the consultants multiplied the number of new starts per annum by the % of new developments involving material alterations which include works to toilet accommodation, and subtracted the percentage of premises that are takeaways.
80. The number of existing and new developments involving material alterations, which include works to toilet accommodation, were summed together and multiplied by the average size of food and drink premises (m2), to gain the annual number of material alterations (m2).

Table 3: the assumptions and calculations, their values and sources, used to obtain the annual number of material alterations (m2)

Assumption/Calculation	Value	Source
1) Number of restaurants, pubs and nightclubs (including takeaways)	159,000	VOA 2023
2) Number of new developments per annum	21,025	2023, Business Demography, ONS
3) % of food and drink premises that are take-aways	45%	2023 business enterprise figures, ONS
4) % of existing buildings involving alterations	14%	Consultant estimate (Implies a alteration every seven years, as provided by sector specialist)
5) Number of existing businesses conducting alterations	10,841	Calculation
6) % involving alterations which involve works to toilets	10%	Consultants estimate
7) Number of new starts undertaking alterations which involve works to toilets	1,156	Calculation
8) Number of existing buildings undertaking alterations which involve works to toilets	1,084	Calculation
9) Total number of developments undertaking alterations which involve works to toilets	2,240	Calculation
10) Average size of food and drink premises (m2)	297	ND NEED 2015
11) Annual number of material alterations (m2)	665,418	Calculation
12) Estimated number of annual planning permissions for material alterations	Restaurants 870 (43%) Pubs/Wine Bars/Clubs 771 (38%) Cafes	Glenigans planning permission data

	392 (19%)	
13) Number of businesses	Licensed restaurants 16,380 (30%) Unlicensed restaurants and cafes 17,695 (33%) Licensed clubs 3,940 (7%) Public houses and bars 16,955 (31%)	2023 business enterprise figures, ONS

81. The annual number of material alterations (m2) was apportioned between the five archetypes, according to figures taken from a combination of publicly available (2023 business enterprise figures, ONS) and planning data (Glenigans planning permission data), to gain the quantity of annual material alterations involving works to the toilets, in square metres per annum.
82. Consultants assume that the average material alteration takes 3 months to complete following the submission of building control notice. Therefore, it is assumed that 25% of material alterations will be built to the previous Building Regulations in the first year of the policy. The figures for the quantity of material alterations, in square metres per annum, are then forecast to be held constant over the remainder of the 10-year appraisal period.

iii) Capital costs

83. The respective quantities of new building works/material change of use, and material alterations, in square metres per annum were then multiplied by the cost of toilet provisions under the policy (£ per m2), for each of the archetypes requiring additional area to comply with the policy, across the 10-year appraisal period. The net present value for the capital cost of toilet provisions was then calculated using the Green Book discount rate of 3.5% for each archetype.

iv) Cost of the loss of lettable floorspace

84. Based on industry expertise from our external consultants, the quantity of material alterations (m2) was apportioned evenly between constrained and unconstrained material alterations for each archetype. For the constrained proportion of material alterations, a further 54% was subtracted from the total change in floor space required as a result of the policy (square metres of toilet per square metres of total building size). This is because the consultants assume that this percentage of constrained material alterations can apply the 'non-worsening' principle⁸ as set out in regulation 4(3) of the Building Regulations 2010.
85. For all examples, the change in floor space required as a result of the policy (in square metres of toilet per square metres of total building size) was then multiplied by 30% for each archetype. That is the assumed value for the proportion of additional floorspace that will be taken from lettable area, based on industry consultants estimates. This is because

⁸ Whereby, if they can demonstrate that it is not possible to meet the proposed policy, but the toilet accommodation will be no worse compared with the Building Regulations at the time of construction, they will not be required to adhere to the updated Building Regulations. As set out in regulation 4(3) of the Building Regulations 2010.

it is expected that the majority of space used for the additional provision of toilets will be taken from circulation space which does not have a lettable value.

86. The result was then multiplied by the forecast quantity for each example (m² per annum) and multiplied again by the capitalised value (£ per m²) of lettable space. The consultants provided two separate estimates⁹ for the capitalised value of lettable space, which are a weighted England average based on the location of development.
87. The net present value was then calculated across the 10-year appraisal period to give the overall value of lost lettable space for each archetype.

Benefits

88. We have not monetised any benefits associated with the policy. Non-monetised benefits that might arise include:
 - The provision of single-sex and universal toilets as described in the guidance is a reasonable arrangement that should create larger toilets and therefore more space for all users.
 - The inclusive design recommendations based on recent and specifically commissioned research should create toilets with more targeted designs to accommodate a wider range of building users.
 - The policy will have a positive impact on women, enhancing their privacy by ensuring the provision of single-sex toilets.
 - Ensuring single-sex toilets provision is maintained will mean spaces remain for people with religions or beliefs that discourage the use of shared-sex toilet facilities.
 - Increased standards for toilet accommodation in terms of their size, layout, fitting and equipment with the introduction of regulation for single-sex and universal toilets for the first time.
 - Protect businesses from litigation against failure to address the safety, privacy and dignity for all users of toilets in non-domestic buildings.

Net costs to society / business

89. Current modelling indicates that the total cost over a 10-year appraisal period is £40.90m in the central scenario, shown in **Table 4**, and the EANDCB (Equivalent Annual Net Direct Cost to Business) is £4.75m in the central scenario, shown in **Table 5**.
90. Sensitivities around various assumptions have been assessed to find the best- and worst-case net present values. This includes:
 - Familiarisation costs – The consultants utilised +/- 30% of the central estimate in the low and high scenarios as a best estimate of the range in costs.
 - Capital costs – Low and high figures reflect consultants' confidence in how likely the reference building used for the costing is representative of the typical building in scope.
 - Cost of reduced lettable floorspace - Low and high figures reflect uncertainty regarding the proportion of additional floorspace used for toilets which may be taken from lettable area.

⁹ £4,842 was estimated for office archetypes, and £3,153 for all other non-domestic buildings.

91. The sensitivities used suggest that under the high and low NPV scenarios, the net present cost will be approximately £57.83m and £26.22m, respectively, as shown in **Table 4**. **Table 5** indicates a EANDCB of £6.72m in the high scenario and £3.05m in the low scenario.

Table 4: estimated 10-year present value of the policy, broken down by transition costs and policy costs, in the low central and high scenario, in 2019 prices and 2020 present value base year

10-year PV (£m)			
	Low	Central	High
Transition Cost			
Familiarisation - Architect	£0.06	£0.09	£0.12
Familiarisation – Interior designer	£0.03	£0.04	£0.06
Familiarisation – Building control officer	£0.01	£0.02	£0.02
Policy cost – New build and change of use			
Capital cost	£13.03	£16.73	£20.43
Reduced lettable floorspace	£3.20	£6.66	£11.36
Policy cost – Refurbishments			
Capital cost	£8.11	£13.18	£18.26
Reduced lettable floorspace	£1.77	£4.17	£7.58
Total policy cost	£26.22	£40.90	£57.83

Table 5: overall net cost to business and society, broken down by transition costs and policy costs, in the low, central and high scenario, in 2019 prices and 2020 present value base year

EANDCB (£m)			
	Low	Central	High
Transition Cost			
Familiarisation - Architect	£0.01	£0.01	£0.01
Familiarisation – Interior designer	£0.00	£0.01	£0.01
Familiarisation – Building control officer	£0.00	£0.00	£0.00
Policy cost – New build and change of use			
Capital cost	£1.51	£1.94	£2.37
Reduced lettable floorspace	£0.37	£0.77	£1.32
Policy cost – Refurbishments			
Capital cost	£0.94	£1.53	£2.12
Reduced lettable floorspace	£0.21	£0.48	£0.88
Total policy cost	£3.05	£4.75	£6.72

Risks and assumptions

92. Any remaining data and assumptions that have not been previously outlined are displayed in **Table 6**. In instances where data is not available, we have relied on industry expertise from our consultants. The confidence placed in each of our assumptions is proportionate given the relatively low level of cost associated with the policy.

Table 6: assumptions and the relevant data sources used in the analysis

Assumption	Description	Data source
1) New build non-domestic planning permissions granted per annum	Square metre gross internal area	Glenigans planning permission data
2) Value of lost lettable space – office	Capital value per square metre of lettable space (8% yield and rent of £3.35 per square metre)	QUOD – weighted England average based on the location of development
3) Value of lost lettable space – retail/other	Capital value per square metre of lettable space (8% yield and rent of £2.18 per square metre)	QUOD – weighted England average based on the location of development
4) GDP deflator	2022 to 2023 prices	MGAC

5) GDP deflator	2023 prices to 2019 prices	HMT
6) PV year rebase	Rebase present value from 2024 to 2020	HMT
7) Capital costing basis	Gross costs (including overheads but excluding VAT)	HMT

93. To account for variability around some assumptions, sensitivity analysis has been conducted on all assumptions by creating a low and high scenario for policy option 1. The high and low scenarios reflect potential variation in the cost assumptions and the central scenario, assumed the most accurate representation of the market, lies in the middle of these two ranges. Conducting sensitivity analysis mitigates the risks posed by an absence of data, such as under or overestimating the cost level by presenting a range within which the value could be.

Impact on small and micro businesses

94. Developments of non-residential buildings are normally undertaken by large businesses that fall outside the scope of a SaMBA (Small and Micro Business Assessment). However, small businesses in the food and drink industry undertaking material alterations, which involve works to toilet accommodation, could still be disproportionately impacted by the policy. This is because, in the event that the policy requires an increase in the space allocated to toilet accommodation, this could imply a reduction in areas previously allocated to dining, drinking or socialising. **Table 7** displays data from ONS which gives the number of micro, small, medium and large-sized businesses across the four industries that we believe will most likely be disproportionately impacted by the policy.

Table 7: enterprises by industry and employment size band (ONS)

Industry	Employees			
	Micro (0 - 9)	Small (10 - 49)	Med (50 – 249)	Large (250 +)
Licensed restaurants	16,380	9,570	655	120
Unlicensed restaurants & clubs	17,965	4,180	235	160
Licensed clubs	3,940	1,300	80	5
Public houses & bars	16,955	8,250	330	35

95. The policy has been designed in a way to reduce the impact on small businesses. Fully enclosed universal toilets can be provided where space precludes single-sex toilets from being provided. For example, this includes the ability for smaller businesses to provide a single universal toilet where space precludes single-sex toilets from being provided (a wheelchair-accessible unisex toilet should be provided where there is space for only one toilet, as described in Approved Document M, Volume 2 - 5.7a). This has been included to ensure the impact on smaller businesses, who have relatively less space/area overall, is reduced.
96. As reflected in the analysis, we assume that a number of constrained material alterations will be able to apply the 'non-worsening' principle. This occurs in cases whereby businesses can demonstrate that it is not possible to meet the proposed policy, but the toilet accommodation will be no worse compared with the Building Regulations at the time of construction. In such event they will not be required to adhere to the updated Building Regulations and will be exempt from the policy. This will also reduce the impact of the policy on small and medium businesses.

97. However, exempting all small businesses from the requirements of the policy will have a sizeable impact that undermines the overall effectiveness, and desired outcomes, of the amendments to the existing Building Regulations. If small businesses are excluded, this could limit or remove some of the benefits that might arise as a result of the policy.
98. Therefore, due to the relatively small-scale cost impact of the policy, the considerations that have been made in light of the expected impacts of the policy on smaller business conducting material alterations, and the limitations that removing small and micro businesses would place on the policy achieving its desired outcomes, we have decided to not exempt any businesses from the proposed amendments to the Building Regulations except the limitations set out in the T1 requirement.

Wider impacts (consider the impacts of your proposals)

99. This policy will instruct developers of non-domestic buildings on the provision of specific types of toilet accommodation. Therefore, it is not expected to have a wider economic impact other than the direct cost to developers, the cost of familiarisation to building control officers, architects and interior designers, and the direct benefit to users of toilets in non-domestic buildings.
100. Whilst a proportion of the increased capital costs resulting from the policy may be passed onto government or local authorities, for example through the cost of purchasing the building, we do not expect this to be significant in the majority of cases. This is because whilst there may be some willingness to pay increased rent for the benefits associated with improvements to the size, fitting, layout and equipment for single-sex and universal toilets in non-domestic buildings, the fact that the revenue generating area has not changed will limit this.

A summary of the potential trade implications of measure

101. The policy will have no implications on international trade and investment.

Monitoring and Evaluation

102. The approach to monitoring this legislation is through engagement with local authority building control and relevant authorities, by the department and the Building Safety Regulator (BSR). As part of the Building Safety Regulator's governance structures, the Building Advisory Committee (BAC - a high-level steering group made up of members from different parts of industry and underpinned by separate working groups) provides advice and information on new and emerging issues across the built environment. Meetings of the steering group take place on at least four occasions per annum. While the Building Safety Regulator continually reviews the suite of Approved Documents to ensure the statutory guidance remains relevant, as well as advising government on the safety and standards of all buildings. With BAC support, the BSR will be considering the ongoing effectiveness of Building Regulations in use. DLUHC and the BSR are always keen to receive feedback on the real-world application of the Building Regulations and will consider comments received, monitor stakeholder experience, and keep the new Approved Document T under review. DLUHC retains responsibility for the stewardship of the regulatory system and policy

decisions on the scope and effect of the Building Regulations. As set out in the Building Safety Act, the DLUHC may seek advice from the BSR on these matters.

103. The transitional arrangements will ensure there is minimal impact on the construction of new, non-domestic buildings, allowing time for industry to prepare for the changes and consequently support the successful implementation of the policy.

Annex A – Shared handwashing facilities

104. The purpose of this annex is to discuss the effect of the policy being applied to an example that is representative of shared handwashing, or ‘gender neutral’, toilet accommodation. It has been included due to concerns raised at consultation surrounding increasing numbers of publicly accessible toilets being converted into ‘gender neutral’ facilities.
105. Planning permission data revealed that fewer than 1 in 100 plans included gender neutral toilets with shared handwashing facilities. As such, the decision was made that this archetype does not account for a sufficient proportion of non-domestic buildings overall to warrant inclusion in the analysis. Whilst this archetype has not been scaled up in our cost estimates as part of the impact assessment, the bar was selected as a representative example, and results have been included in Table 1.
106. Table 1 indicates that there is an additional space requirement of 0.24 (m²) as a result of the proposed amendments to the Building Regulations, specifically for the representative example selected for the shared handwashing archetype. This additional space requirement results from the implementation of larger universal toilets, in place of the previously used single-sex toilets. To maintain the original quantity of toilets provided, two cubicles have been placed in existing space that was previously allocated as circulation space.
107. There is also an additional capital cost, calculated at £12,152.75. This increased capital cost accrues from the change from what were single-sex toilet accommodation under the counterfactual, to more expensive universal toilets that have been signed in equal proportions as either male or female as a result of the policy.

Table 1: the resulting area change and capital cost for the representative shared handwashing example, as a result of the proposed amendments to the Building Regulations.

	Shared handwashing archetype - Bar (Students Union)
Area change (m²)	0.24
Cost differential	£12,152.75