



**STREETPRIDE, LEISURE AND PUBLIC
SPACES CABINET MEMBER MEETING
24 November 2022**

ITEM 4

Report sponsor: Douglas Walkman
Report author: Elizabeth Blaney

Provision of Toilets in Commercial Premises

Purpose

- 1.1 There are various pieces of legislation which impact on the provision of toilets in commercial premises, such as Health and Safety and Building Regulations etc., these provide a basis on which regulatory decisions are made. However, British Standards provide guidance for officers to determine toilet numbers and types of installations.
- 1.2 The legislation which allows the Council to require the provision of toilet facilities on certain circumstances comes under Section 20 of the Local Government (Miscellaneous Provisions) Act 1976. This legislation is over 40 years old, the guidance and legislation is often confusing and conflicting. There are also, other matters relating to toilet provision that require further guidance, such as whether takeaways with seating areas should provide toilets, or what constitutes a suitable location for toilets within food premises.
- 1.3 In Derby City there had been several occasions, where it has been identified that it would be in the public interest to develop a policy on issues relating to toilet provision within commercial premises in Derby.
- 1.4 A policy was introduced in October 2005 and reviewed in January 2007. This policy was reviewed in March 2019, but due to changing work priorities because of the Covid pandemic, there has been a significant delay in seeking approval in Recommendation in 2.1 below.
- 1.6 An effective start date of this policy of 1st January 2023 is proposed.

Recommendation

- 2.1 Authority to implement the revised policy for the regulation of toilet provision in commercial premises within the City.

Reason

- 3.1 This policy would provide a common framework for officers from relevant Council Departments to be able to offer consistent advice to proprietors of new or existing commercial premises, as well as raising standards for the public.

Supporting Information

- 4.1 Press coverage of the decision in *Kingston-Upon-Hull City Council v Secretary of State for Business Innovation and Skills* has prompted a review of Derby City Council's policy.
- 4.2 The outcome of the case (and various appeals), in essence means that in premises providing provision to eat/drink on the premises, with more than 10 seats, toilet provision must be provided for members of the public. See Appendix 1 for information about the case.
- 4.3 The reviewed policy is set out in Appendix 2.

Public Stakeholder Engagement

- 5.1 At the time of the review in March 2019, all other Derbyshire local authorities and several other regional unitary authorities were consulted to ensure consistency in regional provision of toilets in commercial premises.
- 5.2 Also since March 2019 – present, where applicable, businesses have been advised of the requirements of the existing policy and the proposed changes, which are due to come into effect on 1st January 2023.
- 5.3 Derby City Councils Access Hub was consulted on the policy (Appendix 2) and Equality Impact Assessment (Appendix 3) in November 2022.

Other Options

- 6.1 The proposed review is needed considering changes in guidance.

Financial and Value for Money Issues

- 7.1 None directly arising from this report.

Legal Implications

- 8.1 The outcome of the case and associated appeals mentioned in Section 4.1 above has meant the Food and Safety Team has had to review its policy to ensure it is consistent where toilet provision must be provided for members of the public.

Climate Change Implications

- 9.1 None directly arising from this report.

Other Significant Implications

- 10.1 Existing premises will not be expected to upgrade to these standards unless significant structural alterations are being made.
- 10.2 Advise given to new premises/conversions before 1st January 2023 (where records are held but works not necessarily commenced) are eligible to comply with former toilet policy.

- 10.3 Any new premises/conversions where no advice has been sought will be expected to fully comply with these new standards.
- 10.4 A full Equality Impact Assessment has been completed (Appendix 3) and has been signed off by the Councils Lead for Equality and Diversity.
- 10.5 Changing Place provision has been incorporated into the policy.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Olu Idowu	08/09/21 10/11/22
Service Director(s)	Samantha Dennis	16/09/21
Report sponsor	Douglas Walkman	24/09/21 10/11/22
Other(s)	Ann Webster	15/11/22

Background papers:	None
List of appendices:	Appendix 1 – Greggs withdraws Loo Legal Challenge Appendix 2 - Derby City Councils Provision of Toilets in Commercial Premises Appendix 3 – Equality Impact Assessment