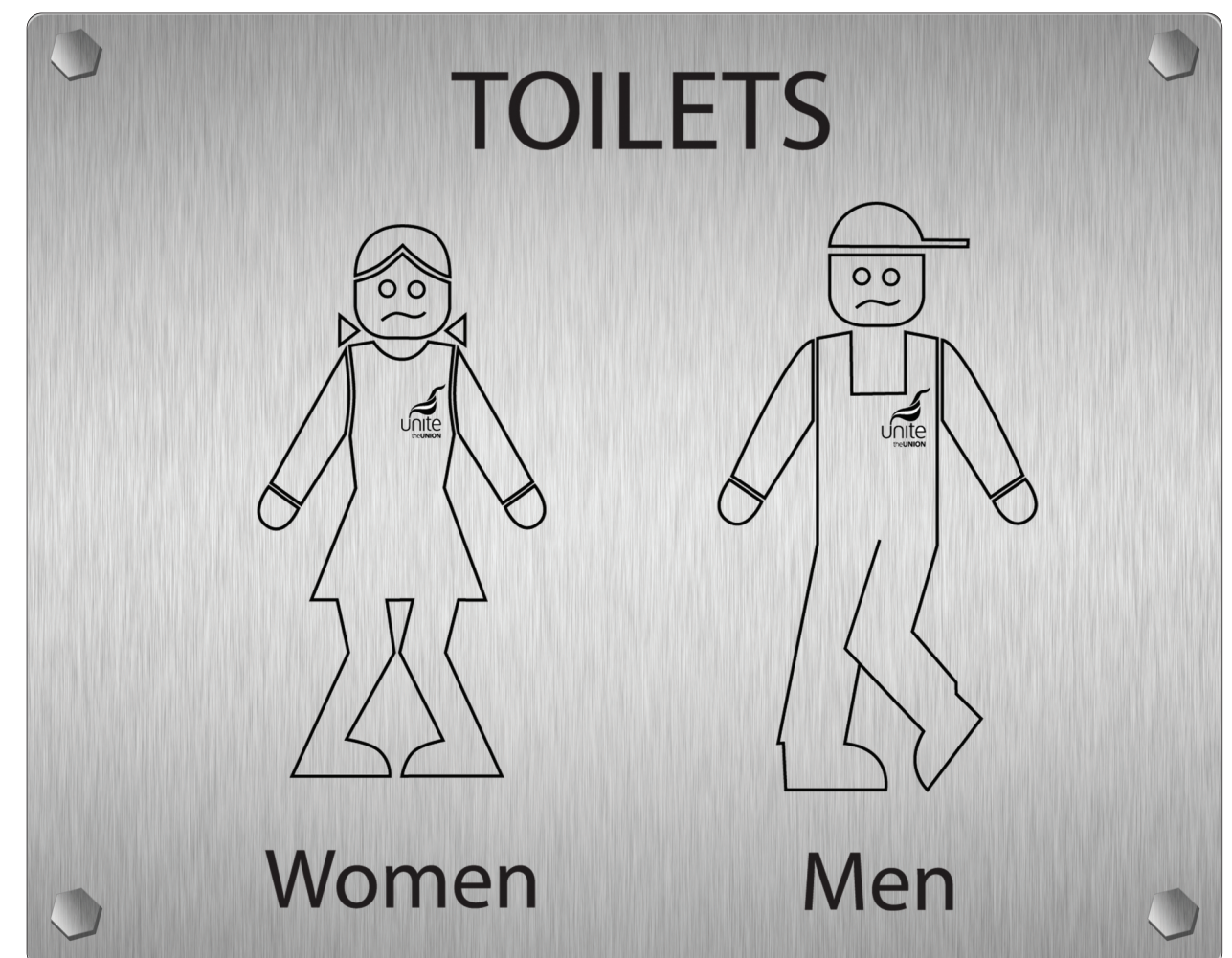


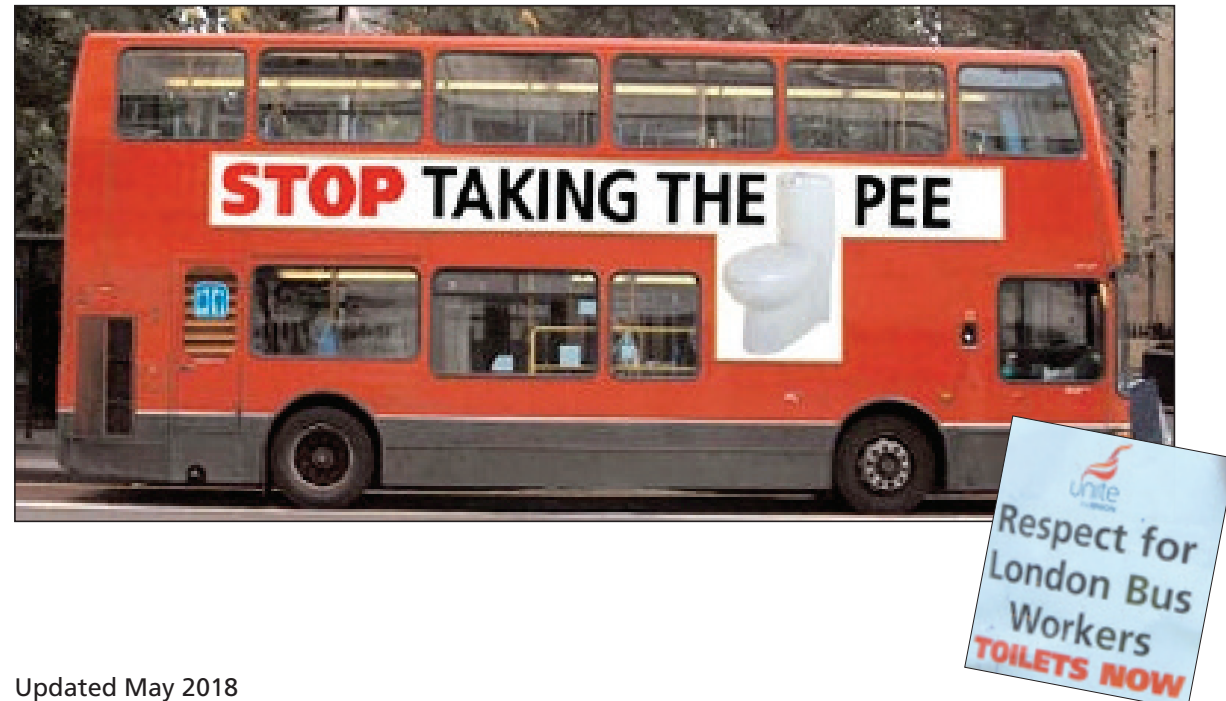


Dignity, Respect, Equality and Welfare at work:

it's time for a toilet break!

Guidance for Unite members





Updated May 2018

Dignity, Respect, Equality and Welfare at work: it's time for a toilet break!

Introduction – why this leaflet?

Unite members often raise concerns about lack of good welfare facilities at work and difficulties in getting access to them when they need to. Unite is campaigning for improved welfare provision in all workplaces and Unite's policy conference 2014 debated the devastating effect the closure of public toilets has had on workers' health, especially mobile workers, as well as the consequences for society, in particular disabled people.

Lack of access to adequate welfare facilities at work within a reasonable time is likely to impact on workers' safety and their physical and mental health. Closures of public toilets because of government cuts are only making the situation worse.

Unite wants all workers to be treated fairly and with dignity when they need to carry out this most basic human need when they are at work. Unite also wants to ensure that all groups – women, men, disabled people, Black and Ethnic Minority (BAEM), older and younger workers and trans people are treated with respect.

This leaflet provides advice on the action Unite members can take to improve welfare arrangements at work.

The problem

- Many workers have difficulty in getting access to toilets and washing facilities at all
- Mobile workers are particularly affected. Toilet closures are one factor, and access to facilities is often an issue when making deliveries, especially if they have to queue for a long period. Many employers refuse to give access to non-employees, and even when they do so facilities are often dirty and of very poor quality. This leads to drivers having to "hold on", use the roadside, drink less fluid when working or put up with worse – for example it was reported recently that bus workers in Thailand were issued with adult nappies to wear on the job.
- Civil aviation workers report that aircraft have departed on long haul flights without any functioning toilet or water facilities on board. Unite is campaigning to make it a legal requirement to have running water and toilets on all passenger aircraft.
- Office workers asked to put their hands up when they want to go
- Factory workers being denied pay for toilet breaks
- The needs of women in male-dominated workplaces being ignored (even in new build workplaces) – eg women engineers in bus garages or railway engineering premises having no designated facilities near their work areas; pregnant women's workstations being located unacceptably far from facilities; and lack of consideration for other issues in risk assessments, such as menopause.
- Bins for sanitary product disposal not being provided: many women are unable to use alternative sanitary methods for cultural or medical reasons
- Welfare facilities alongside railway track are either non-existent or demolished without consultation – leaving trackworkers at remote worksites without access to washing, rest and toilet facilities
- Toilets not being provided at all: the HSE still regularly has to take enforcement action regarding lack of welfare facilities for workers on construction sites
- Disabled workers – and lorry drivers – being blamed for the state of the toilet
- Workplace toilet access can become contentious in workplaces when Trans people are making the transition if the situation is not managed sensitively.

Workers' health and safety is at risk

Lack of access to welfare facilities is bad for workers' health – for example increasing the risk of developing urinary or digestive problems – and can also potentially affect theirs and others' safety. Research has shown that people who are inhibited from urinating when they need to suffer from temporary lack of concentration and memory loss. This could have devastating consequences eg for a driver on a tight delivery schedule who only has to lose concentration for a moment on the public road or in a busy transport yard when making deliveries.

The HSE states in online guidance on delivering safely: *Drivers are often the victims of delivery accidents. It is often unrealistic and sometimes unsafe to expect drivers to stay in their cab throughout (un)loading of their vehicle. A designated safe area for visiting drivers with easy, safe access to toilet and refreshment facilities reduces risks considerably.*

<http://www.hse.gov.uk/workplacetransport/information/cooperation.htm>

Unite Free to Pee campaign

A few years ago, bus drivers in Bristol set up a successful campaign which aimed to:

- Ensure that toilet facilities were available at every depot including after hours
- Maintain and improve public toilets
- Ensure that a Radar key was issued to every driver in the city
- Give access for drivers to all local authority buildings
- Set up reciprocal arrangements between bus companies, taxi firms, and transport firms to use their toilets, including after hours.
- Make it compulsory to provide toilet facilities at each end of every bus route

What the law says

Under the **Health and Safety at Work etc Act 1974** employers must:

- ensure the health, safety and welfare at work of all their employees, and maintain the workplace so that it is safe and without risks to health.
- provide adequate facilities and arrangements for their employees' welfare at work
- ensure that they operate so that people not in their employment (eg visitors to their premises) are not exposed to risks to their health and safety

The Workplace (Health, Safety and Welfare) Regulations 1992 and the associated approved code of practice and guidance mean that employers must:

- Provide suitable and sufficient sanitary conveniences and washing facilities at readily accessible places to allow everyone at work to use them without unreasonable delay. The facilities should provide adequate privacy and be able to be locked from the inside and in toilets used by women, suitable means for the disposal of sanitary dressings should be provided.
- Provide minimum numbers of toilets and washbasins for men and women depending on the size of the workforce.
- Keep them clean, adequately ventilated and lit, with adequate protection from the weather
- Provide hot and cold or warm water in washing facilities, soap and clean towels or other methods of cleaning or drying
- Provide showers if required
- Ensure that facilities provide easy access for disabled workers

- Locate rest room facilities for pregnant women and breast feeding mothers conveniently for the toilets.
- Ensure privacy: provide separate facilities for men and women unless each facility is in a separate room with a lockable door and is for use by only one person at a time
- Make arrangements for remote workplaces and for temporary worksites such as providing portable loos.

HSE guidance to these regulations states that public toilets should only be relied upon **as a last resort** if there is nothing suitable.

Action point – read the HSE publications about welfare at work

Unite safety representatives should obtain the HSE publication number L24 **Workplace health, safety and welfare** which includes the regulations and detailed interpretation of the regulations in the approved code of practice and guidance. There is also a shorter guidance leaflet.

Both are available free of charge on line – see below – and your employer should provide a copy.

In addition, for members working on construction sites, there is guidance on site welfare provision required by the **Construction (Design and Management) Regulations 2015**.

Please refer to the Further information at the back of this leaflet for details of the publications

Management of Health and Safety at Work Regulations 1999: health and safety co-operation

Where two or more employers share a workplace (whether on a temporary or a permanent basis) they must co-operate and co-ordinate with each other to enable them to comply with health and safety requirements including providing welfare facilities.

Unite action brings about change in HSE policy – visiting drivers must have access to welfare facilities

This is now the HSE position

HSE has been aware for some time of concerns around access to welfare facilities for visiting delivery drivers. We have reviewed our approach including guidance to duty holders and re-examined the Workplace (Health, Safety and Welfare) Regulations 1992, in particular Regulations 20 and 21. We will begin to update our guidance to say that drivers must have access to welfare facilities in the premises they visit as part of their work. As this is likely to take some time, key stakeholders are being informed now.

The welfare of all workers is a priority and we have consistently said that drivers should have this sort of access. We also recognise that the majority of duty holders do already provide reasonable access to toilets.

<http://www.hse.gov.uk/logistics/index.htm>

Unite has produced ACCESS TO FACILITIES a driver's guide which includes a Model Access to Facilities Agreement.

This is on Unite's website and available from Unite's Road Transport Commercial Retail Logistics Sector.



Unite sectors – examples of guidance and action

Road transport retail logistics

Co-operation in deliveries and collections – guidance from the Health and Safety Executive

The HSE's **Guide to Workplace Transport Safety** - an employer's guide (2014) para 127 states in relation to visiting drivers:

When deliveries and collections are made loading and unloading areas should have a safe area for drivers to wait to allow them to rest between driving shifts, especially if they may be waiting for several hours, with easy and safe access to toilet, washing and refreshment facilities and shelter in case of bad weather.

Consultation with drivers about route planning and welfare

HSE's guidance leaflet "Driving for Work" has this question for employers:

Do you plan routes in consultation with drivers or their representatives, taking account of, for example, the need for rest breaks and access to toilets and washing facilities?

And for **warehousing health and safety ...**

It is recommended that toilet and welfare facilities are provided or made available for use by visiting drivers, both male and female.

Warehousing and Storage – Guide to health and Safety at para 225 (HSE, 2007)

Unite action: facilities for visiting drivers

Automotive sector

As a result of concerns raised by Unite car delivery members a major automotive employer in the West Midlands has built a new block of welfare facilities for use exclusively by visiting drivers. The Unite shop stewards at the factory work with the Unite delivery drivers to carry out regular inspections to ensure that the cleaning and maintenance arrangements for the facilities are effective.

Docks and waterways sector

A woman lorry driver and Unite member was concerned that there were shower facilities for men but not women drivers at one of Britain's major ports. A Unite campaign resulted in shower facilities being provided for women drivers too.

Take action: Unite better Loos 4 U campaign

Toilet breaks are a basic necessity, but for the UK's 300,000 truck drivers getting access – if at all – to decent loos is a lottery. It's humiliating and degrading – not to mention a public health hazard.

Our truck driver members regularly report serious failings, including filthy facilities, no running water, no lockable cubicles, no soap or loo roll in facilities provided by employers and public conveniences. In some cases access to toilets is denied altogether.

Getting access to good quality facilities across the road network is very difficult. Unite is asking our lorry driver members to rate the facilities they visit so we can find the best (and worst).

What you can do:

- Complete the online survey here:
- <http://www.unitetheunion.org/how-we-help/list-of-sectors/road-transport-commercial-logistics-and-retail-distribution/better-loos-4-u/>
- Put a sticker on the facility to rate it
- Spread the word about the campaign.

Temporary and remote worksites – including rail workers

The Workplace Regulations ACOP require employers of workers at remote worksites without access to sewage to provide enough water in containers for washing; and a sufficient number of chemical toilets.

Railway workers face particular problems when working trackside. They are not only working on temporary and remote sites but also have the added hazard of release of effluent from passing trains (where the train toilets are not fitted with tanks to collect waste). Employers should co-operate to ensure that workers are able to gain easy and quick access to washing facilities in the event of such an incident.

Employers of workers at temporary worksites are covered by the regulations and should make appropriate provision including temporary washing and toilets facilities if this is necessary.

Unite Action for women forestry workers working in remote locations

Forestry employees work in areas and woodlands which are located beyond walking distance to toilet and washing facilities - this is of particular concern for women workers. The employer and the union identified local facilities which workers can use at any time during the working day including public recreation sites. Line managers together with staff are made aware of the nearest facilities to the worksite and it is agreed that staff may use the employer's official transport if and when these facilities are needed.

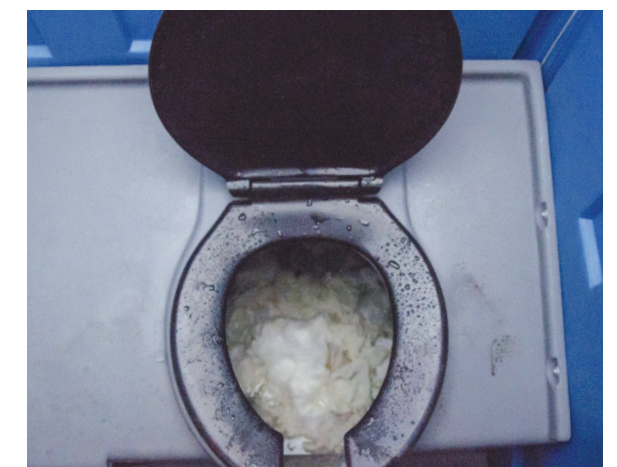
Construction

The **Construction (Design and Management) Regulations 2015** set out minimum requirements for the provision of welfare facilities on construction sites.

Schedule 2 of the regulations defines minimum welfare facilities required for construction sites. Sanitary conveniences must be provided or made available at readily accessible places, must be adequately ventilated and well lit and sanitary conveniences and the rooms containing them must be kept in a clean and orderly condition. There are also requirements ventilation, lighting, and separate facilities for women and men.

Agriculture

The International Labour Office (ILO) code of practice **Safety and Health in Agriculture** states that the employer provide facilities and "should allow each worker reasonable opportunities during the workday to use (the facilities)."



Equalities: preventing discrimination

Humiliating and degrading treatment of the kind described above is not only totally unacceptable, it may also be unlawful.

The Equality Act 2010 outlaws discrimination against individuals in employment in relation to gender, race, disability, sexual orientation, gender identity, age and religion or belief.

Disability

Regardless of their disability, people should be able to gain access to their workplace and use the facilities.

The Workplace Regulations require employers to organise those parts of the workplace used or occupied by disabled persons (including doors, passageways, showers, washbasins and toilets) “to take account of such persons”.

Long-term physical or mental conditions (usually over 12 months) may be covered under the Equality Act 2010. This may include conditions where easy access to welfare facilities is crucial to a worker’s health and welfare such as irritable bowel syndrome.

Cancer – including prostate cancer where men may need the facilities more frequently - is specifically covered as a disability under the Equality Act 2010.

Gender equality and health and safety

Everyone has an equal right to protection from harm at work. The TUC Gender and Occupational Safety and Health Working Group (G&OSH) has produced a Gender and Occupational Safety and Health “gender sensitivity” checklist to help union safety reps and others to check whether their workplace health and safety policies and practices are gender sensitive.

The Checklist can be found, with advice on how to use it, on the TUC G&OSH pages on the TUC website. www.tuc.org.uk

Pregnancy

Risk assessments for pregnant workers are required under health and safety law. These should include access to welfare facilities. Not carrying out a risk assessment for a pregnant worker is likely to be sex discrimination.

Trans equality at work

A Trans person is likely to want to use the facilities of their chosen sex such as toilets, showers or changing rooms; their colleagues may not be happy about this. The employer has a duty to dispel prejudice amongst employees.

Whilst an employee may be willing to use separate, unisex or disabled facilities, they should not be compelled to do so, and if they are forced to do so in the long term this may constitute discrimination even if they have not undergone a gender reassignment operation.

Once they have completed their transition to the new gender they should be treated as being of that gender and should have the right to use the appropriate facilities.

Unite action

Unite Safety Representatives

Unite’s **Looking for Trouble** campaign – Look for it, find it, fix it! – has a leaflet for safety reps about the benefits of union organisation in the workplace and ideas about how reps can use their rights to make improvements for their members. This includes improving welfare provision at work.

Unite safety representatives can take action to ensure that everyone has a right to proper access to toilet and welfare facilities when they need to.

- Include toilet and washing facilities in their regular safety inspections
- Ask members if they are satisfied with the washing and toilet provisions. Carry out a survey or mapping exercise to encourage ideas for improvements.
- Encourage members to report all problems about workplace welfare facilities including hygiene, access and breaks. You could design a special Unite report form for this purpose
- Review your health and safety policy so that it includes the arrangements for visiting drivers and other site visitors and contractors to use suitable and safely located facilities on site if they need to.
- Get involved in all discussions and take every opportunity to ensure that adequate welfare facilities for men and women are provided - and involve your members – for example if the workplace is being redesigned or new work areas are being constructed or you are moving to a new site.
- If members report that they have to ask for permission to go to the toilet negotiate a toilet breaks policy to ensure that workers’ health and dignity is not put at risk.
- Ensure that your agreements and health and safety policies explicitly provide for paid rest breaks, paid toilet breaks, provision of welfare facilities and easy access to them during the working day.
- Work with your employer to ensure that drivers’ schedules provide for access to welfare facilities at appropriate stages on their bus route or delivery route and these are reviewed regularly to reflect changes in bus services or location of facilities.
- Work together with Unite equality reps to ensure that you have covered all the issues of concern raised by members.
- If the employer refuses to provide the minimum requirements and the local procedures have been exhausted speak to your Unite regional officer about making a complaint to the enforcing authority.



Unite action

At a bus garage plumbing in the toilets became blocked with plastic cups and a flood into the kitchen resulted. Unite members negotiated the installation of a bidet in a lockable cubicle to provide easier and more private access for washing.

Safety Reps' Rights

Unite safety reps are a key part of providing better health and safety for Unite members at work. Safety reps have specific rights enshrined in law, which enable them to:

- Inspect the workplace regularly.
- Investigate employee complaints concerning health and safety issues at work.
- Investigate accidents, dangerous occurrences and potential hazards.
- Represent workers on health, safety, and welfare matters to their employer.
- Inspect health and safety documents.
- Receive information from HSE inspectors.
- Establish a joint union-management Safety Committee.
- Receive time off to fulfil these rights and receive training.

Employers are required to consult safety reps, especially about:

- Measures introduced at a workplace that may substantially affect health and safety.
- Arrangements for appointing health & safety competent persons and emergencies.
- Health & safety information required to be provided to employees.
- Health & safety training arrangements for the workforce, such as induction training.
- New technology introduced and planned, regarding consequences to health & safety.

Employers must provide safety reps with the resources to carry out their role. This should include:

- Room with desk and chairs at work, for carrying out interviews and meetings.
- Secure facilities for storing documents.
- Access to a telephone and other communication media used or permitted in the workplace such as e-mail, intranet and internet.
- Access to printer and photocopier.
- Notice board.

Other facilities should include copies of relevant statutes, Regulations, Approved Codes of Practice and HSE guidance, copies of safety journals, and legal and international standards that are relevant to the workplace.



More information

Unite health and safety information

<http://www.unitetheunion.org/unite-at-work/healthsafety/>

Unite's Looking for Trouble campaign leaflet

<http://www.unitetheunion.org/uploaded/documents/0000022-Looking%20For%20Trouble%20A5%20Leaflet%20final11-19797.pdf>

Unite Better loos 4 U campaign

<http://www.unitetheunion.org/how-we-help/list-of-sectors/road-transport-commercial-logistics-and-retail-distribution/better-loos-4-u/>

Unite Women's Health Safety and Wellbeing at Work Negotiator's guide

[http://www.unitetheunion.org/uploaded/documents/Women's%20Health,%20Safety%20%26%20Well-being%20at%20Work%20\(Unite%20guide\)11-5062.pdf](http://www.unitetheunion.org/uploaded/documents/Women's%20Health,%20Safety%20%26%20Well-being%20at%20Work%20(Unite%20guide)11-5062.pdf)

TUC

Guidance leaflet – Give us a (loo) break

<http://www.tuc.org.uk/extras/loobreaksguidance.doc>

Gender and occupational safety and health

<https://www.tuc.org.uk/equality-issues/gender-equality/workplace-issues/health-and-safety/tuc-gender-and-occupational>

Hazards Magazine

Toilet breaks campaign

<http://www.hazards.org/toiletbreaks/>

British Toilet Association

Truckers Toilets Campaign

http://www.britloos.co.uk/?page_id=469

Health and Safety Executive (HSE)

All this information is downloadable free from the HSE's website.

Approved Code of Practice and guidance (L24) - Workplace health, safety and welfare - the Workplace (Health, Safety and Welfare) Regulations 1992

<http://www.hse.gov.uk/pubns/books/l24.htm>

HSE guidance leaflet - INDG 293 – Welfare at work

<http://www.hse.gov.uk/pubns/indg293.pdf>

Warehousing and Storage – Guide to health and Safety – HSG76

<http://www.hse.gov.uk/pubns/books/hsg76.htm>

HSE guidance leaflet – INDG382 - Driving for Work - Managing work-related road safety.

<http://www.hse.gov.uk/pubns/indg382.pdf>

HSE website guidance on co-operation in deliveries including providing welfare facilities for visiting drivers.

<http://www.hse.gov.uk/workplacetransport/information/cooperation.htm>

HSE Construction (Design and Management) Regulations 2015 (CDM 2015) website

<http://www.hse.gov.uk/construction/cdm.htm>

CDM 2015 Legal Series guidance L153 which includes guidance on site welfare.

<http://www.hse.gov.uk/pubns/books/l153.htm>

HSE construction health and safety – organising site welfare

<http://www.hse.gov.uk/construction/safetytopics/welfare.htm>

HSE guidance on health and safety and pregnant workers

www.hse.gov.uk/mothers

HSE guidance on health and safety and disability

www.hse.gov.uk/disability

Equality and Human Rights Commission

<http://www.equalityhumanrights.com/>