

Editorial Introduction

Although period poverty remains an ongoing concern, from an infrastructural perspective the provision of disposal facilities for menstrual products in countries like Australia has been largely addressed for those identifying as female. By contrast, there remains a significant provision gap for trans and nonbinary people who menstruate. This briefing paper considers the impact of a lack of sanitation infrastructure for all people who menstruate and male staff and students with faecal or urinary incontinence or chronic bowel and bladder issues within higher education institutions. One of the practical problems both groups face in relation to using campus-based male-designated toileting facilities is a lack of sanitary infrastructure to support the discrete and hygienic disposal of continence and menstrual products and packaging. In a university context, this lack of access to sanitation infrastructure can negatively impact the ability of staff and students to fully engage in on-campus learning, teaching and social activities. This briefing paper explores the regulatory and justice arguments in support of providing additional sanitary disposal infrastructure in male-designated toilet stalls on the basis that failing to do so is not only inequitable as it may limit these individuals from fully participating in life on campus but may also potentially constitute prohibited discrimination.

About the Study

The recommendations in this briefing paper are based on consultation with a range of stakeholders including The University of Adelaide Pride Club, YouX Sports Clubs, South Australian Rainbow Advocacy Alliance, and The University of Adelaide Disability, Illness and Divergence Association.

Managing leaky bodies at work and study

Improving the provision of sanitary infrastructure in male-designated toilets at higher education institutions

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The bodily turn in organisational studies recognises the embodied nature of work and the impact of workplace practices and infrastructure on bodies at work (Remnant et al., 2023). Despite this, the realities of managing 'leaky' bodies in workplaces have been largely neglected in the occupational health literature. Furthermore, infrastructural discussions of gender and sanitation have typically ignored non-normative gender identities (Sang et al., 2021).

Although toilets are an integral part of the work environment and for participating in higher education, the absence of facilities for the hygienic and discrete disposal of incontinence and menstrual products has serious implications for staff and students attending higher education institutions and their capacity to fully engage in on-campus activities. Indeed, the gender segregation of public toilets can become a site of anxiety for transgender and gender non-conforming staff and students (Bonner-Thompson et al., 2021, Herman, 2013; Mearns et al., 2020; O'Riordan et al., 2023; Seelman et al., 2014a) as they are vulnerable to harassment, and violence, and denial of access (Beemyn, 2005). The gender-segregated provision of toilets also makes problematic assumptions about the bodies that use such spaces and the infrastructure they require (Ramster et al., 2018). For nonbinary or transgender people, accessing appropriate spaces to manage their menstruation can become difficult as male-designated spaces rarely contain the required infrastructure, specifically sanitary bins. As a result, many may attempt to avoid using public toilets during menstruation due to practical and psychological concerns (Chrisler et al., 2016)

This is because the infrastructure provided is determined by two societal norms. The first of these is that menstrual status should be concealed. The second is menstrual disposal options are not required in male-designated toilets because it is presumed that only men use these spaces and men do not menstruate (Barrington et al., 2021; Moffat & Pickering, 2019).

The needs of all people who menstruate need to be considered in the design of toilet facilities (Robinson & Barrington, 2021). This includes consideration of the provision of infrastructure that allows the sanitary and discrete disposal of a range of menstrual products including tampons, menstrual pads, and liners for intermenstrual use. The absence of such disposal facilities in male-designated toilets can be read by trans and nonbinary people “as a signal that their body and its natural processes [are] unwelcome in men’s spaces” (Franks, 2020, p.390). Furthermore, making menstruation visible through the absence of suitable disposal facilities can be a source of stigma and increase the risk of inadvertent outing or being negatively targeted by other toilet users. This can result in individuals absenting themselves from campus when menstruating.

These are not the only staff and students who are impacted by a lack of appropriate sanitary disposal infrastructure in male-designated toilets. Prevalence statistics (Hawthorne, 2006; AIHW, 2013) suggest chronic or acute urinary or faecal incontinence may potentially impact a substantial number of staff and students at Australian universities. These staff, including men, require access to sanitary disposal facilities for non-flushable products, such as wet wipes and incontinence pads (Alda-Vidal et al. 2020), as well as for disposing of used stoma products and ostomy bags (colostomy, urostomy, ileostomy). These products can be accommodated in the same receptacles used for menstrual products. However, the current lack of sanitation infrastructure can make it difficult for men to manage continence problems due to a lack of disposal facilities in individual toilet cubicles and a lack of general bins following the widespread installation of electric hand dryers (Evans, 2007).

A simple sanitary solution

Disposal decisions are influenced by the societal requirement for discretion as well as the design, accessibility and availability of appropriate disposal receptacles (Hawkins et al., 2019). Simply flushing menstrual absorbents and continence products is not a feasible option as improper disposal can result in toilet blockages and sewer network problems (Satorras et al., 2022). Indeed, recent media attention relating to disposal issues associated with so-called flushable wipes contributing to the creation of fatbergs suggests that a wide range of products require disposal methods other than flushing (Harvey, 2018).

Dedicated sanitary bins are routinely provided in female-designated toilets to receive menstrual products such as tampons and pads, as well as continence products including pads, catheters or stoma/ostomy bags.

Sanitary bins differ from general rubbish/waste bins in that they are typically provided within the cubicle rather than the shared ablutions space and are designed specifically to limit odour and bacteria by means of a self-closing lid and drop-tray which reduces contact with disposed waste.

The provision of sanitary bins in male-designated toilets is a relatively simple and sustainable intervention to ensure all staff and students can discretely and hygienically dispose of continence and menstrual products as well as products like wet wipes. The provision of sanitary bins can facilitate engagement by a staff and student community who may otherwise be excluded from campus life while also limiting the risk of costly remedial cleaning and plumbing work caused by blockages and consequential flooding resulting from flushing ‘unflushable’ products.

Are universities legally required to provide sanitary bins?

As most states do not have specific regulations relating to the management of sanitary product waste at workplaces, workplaces defer to the Safe Work Australia guidelines which state that under their primary duty of care under work health and safety requirements, workplaces must provide adequate and accessible facilities for the welfare of workers including providing access to toilets (SWA, 2018).

Under SafeWork Australia guidance “toilets should be supplied with...rubbish bins, and for female workers, hygienic means to dispose of sanitary items” (SWA, 2018, p.22). However, the SWA guidance does not specify if providing a dedicated sanitary bin is a legal requirement and no provision is made for meeting the sanitary disposal needs of those using male-designated toilets beyond providing rubbish bins.

Universities vary greatly in their support for staff and students with a disability (NUS, ALSA & AMSA, 2022) and the extent to which they provide trans-inclusive facilities (Goldberg et al., 2019). Thinking about how providing appropriate sanitation facilities might affect or affirm trans, gender diverse and disabled people is important. Failure to provide services that would enable their full inclusion may amount to prohibited discrimination under both state and Commonwealth legislation. Because there may be subtle differences between state legislation the following examples use South Australia as an exemplar.

Gender discrimination

Discrimination against individuals because of gender identity is prohibited in Part 3 of the *Equal Opportunity Act 1984* (SA). Prohibited discrimination includes treating someone unfavourably on the basis of a characteristic that appertains generally to persons of a particular gender identity (s29(2a)(c)) or requiring a person of a particular gender identity to assume characteristics of a sex with

which the person does not identify (s29(2a)(d)). It is probable that failure to provide sanitary bins for students and staff who identify as male and menstruate could amount to prohibited discrimination under these provisions. Universities are required to not engage in such discrimination against employed members of staff (s30(2)(d)) and students (s37(2)(d)). This type of discrimination is also likely prohibited under the *Sex Discrimination Act 1984* (Cth) which prohibits discrimination on the basis of gender identity (s5A) and intersex status (s5C).

Disability discrimination

Discrimination against people with disabilities is prohibited in Part 5 of the *Equal Opportunity Act 1984* (SA). Disability is defined in the legislation as, inter alia, total or partial loss of a person's bodily functions. This would encompass conditions associated with urinary and/or faecal continence. Prohibited discrimination includes unreasonable failure to provide special assistance or equipment required by a person in consequence of their disability (s66(d)(i)). It is probable that, given the number of individuals likely impacted and the efficacy and relatively low cost of the solution, failure to provide sanitary bins for students and staff who suffer incontinence would constitute an unreasonable failure and amount to prohibited discrimination. Universities are required not to engage in such discrimination against employed members of staff (s67(2)(d)) and students (s74(2)(d)). In addition, this type of discrimination is prohibited under the *Disability Discrimination Act 1992* (Cth).

Discriminatory failure to provide suitable disposal facilities in male-designated toilets could be the basis of a complaint being made to a state-based Equal Opportunity Commission, or the national Australian Human Rights Commission, respectively. Regardless of outcomes, such a complaint would risk adverse publicity and incur significant costs for the institution complained of.

Recommendations

Providing access to sanitation infrastructure is a matter of dignity, equality and non-discrimination (de Albuquerque, 2014). It is imperative that universities proactively implement measures to ensure all staff and students with incontinence or chronic bowel or bladder issues and men who menstruate can fully engage in on-campus activities. From a legal, risk management and equity perspective all higher education institutions should ensure that suitable sanitary disposal infrastructure is provided on campus for all staff and students to support their full participation in campus life.

RECOMMENDATION 1. Provide sanitary disposal bins in male-designated toilet infrastructure

As recommended by SWA, there is a currently high level of provision of sanitary disposal infrastructure in all-gender (unisex) and female-designated toilets. Supporting calls from BINS4Blokes, an Australia-wide awareness and advocacy campaign by the Continence Foundation of Australia, it is recommended that at least one toilet cubicle in every male-designated set of stalls is equipped with a receptacle suitable for the discrete and hygienic disposal of menstrual and continence products and packaging.

RECOMMENDATION 2. Promote the availability of sanitary disposal infrastructure

Information about the location of sanitary disposal receptacles needs to be able to be identified prior to accessing toilets, for instance via university websites. The availability of sanitary disposal infrastructure should also be advertised within toilet facilities.

If sanitary bins are not provided in all cubicles, labelling which identifies which cubicles have these facilities prior to entry is necessary. This signage needs to be clear but also discrete, so as not to call excessive attention to those who may be seeking them out due to the associated stigma and risk of inadvertently outing themselves or exposing themselves to being negatively targeted. Ideally this would be through signage on the external door of the toilets as well as the specific cubicle/s equipped with bins.

Inclusive wording of these signs is important. Trans people may receive unwanted attention if they are perceived to be using a bathroom designated for the exclusive use of mobility-impaired people (Transhub, n.d.). Gender-neutral wording such as that provided in the image below is also preferred over gendered references to facilities for the disposal of 'feminine' hygiene products (figure 1).



Image 1. Signage indicating availability of sanitary bins <https://braillesignsupplies.com.au/>

RECOMMENDATION 3. Universities should proactively engage staff and students regarding sanitation matters

Safe Work Australia's guidance is that workers must be given an opportunity to raise work health and safety matters and contribute to associated decision-making processes. This includes the adequacy of facilities for worker welfare such as the number and location of toilets, access for people with a disability, cleaning and maintenance of the facilities (SWA, 2018, p.8-9). It is therefore recommended that universities engage with a wide variety of staff and students in relation to their sanitation needs to ensure that they are met.

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