# Scottish court orders separate boys’ and girls’ toilets in all state schools



A landmark ruling by the Court of Session in Edinburgh has established that all state schools in Scotland must provide separate male and female toilets. The decision follows a legal challenge brought by parents Sean Stratford and Leigh Hurley against Scottish Borders Council concerning the new Earlston Primary School.

The £16.6 million replacement school, which opened with only gender-neutral lavatories, was said by the parents to breach legal requirements and potentially endanger children. Scottish Borders Council conceded in court that it had failed to comply with the School Premises (General Requirements and Standards) (Scotland) Regulations 1967, which mandate single-sex toilet facilities in schools.

Lady Ross KC, presiding over the case, confirmed she would issue a formal court order clarifying the legal obligation for all Scottish schools to maintain single-sex lavatories.

Rosie Walker, solicitor for Stratford and Hurley and partner at Gilson Gray LLP, commented on the ruling’s significance, saying: “This case, on top of the Supreme Court decision last week, gives focus to the importance of protecting sex-based rights and single-sex spaces.” She anticipated that the ruling would have “far-reaching implications” across Scotland’s educational institutions. Walker also criticised public bodies for deferring to advice from activist organisations rather than adhering strictly to legal statutes, stating, “It’s a huge problem that schools and councils have deferred to campaign groups rather than sticking to their legal obligations.”

Ms Hurley, who works at Earlston Primary as a pupil support worker, first voiced concerns in late 2023 regarding the school’s broader transgender inclusion policies. These policies included allowing a pupil to socially transition and participate in sports aligned with their gender identity, as well as a planned removal of all sex-segregated toilet facilities. The school had also developed disciplinary measures against “misgendering” peers, which the parents found contentious.

Speaking about their motivation, Hurley said, “We just want all children to be safeguarded. We have great empathy for any child, but we just wanted our rights respected at the same time, and that wasn’t happening.” The couple eventually withdrew their eight-year-old son from Earlston Primary, citing emotional distress and concerns for their younger daughter, who would have faced the same use of gender-neutral toilets when she eventually enrolled.

Sean Stratford remarked, “We’ve won, but common sense says we should never have been in this position in the first place. We brought this to their attention when it was still a building site.”

The challenge was supported by the campaign group For Women Scotland, which recently secured a significant legal victory at the UK Supreme Court affirming that the definition of “woman” under equalities law refers to biological sex. While the Supreme Court case did not directly address school toilet regulations, it helped reinforce the legal framework protecting single-sex spaces.

Scottish Borders Council has been ordered to reconsider the broader complaints raised by Stratford and Hurley, including policies on transgender inclusion and school discipline, with a requirement to respond within 20 days. A council spokesperson acknowledged the issue pertained to Earlston Primary School, confirmed acceptance of the legal position prior to the court hearing, and stated the complaint would now be reviewed. No further comment was provided.

The Scottish Government disclosed that it is reviewing the implications of both the Court of Session and Supreme Court rulings. A government spokesperson outlined that local authorities hold statutory responsibility for school facilities, including toilets, and emphasised a commitment to keeping the Transgender Guidance for Schools current and robust. They added, “As with any significant legal or policy developments, we will consider whether the guidance requires to be updated to reflect upon these.”

Furthermore, ministers are scheduled to meet with the Equality and Human Rights Commission later this week to discuss the matter, with updated national guidance expected in the near future.

Source: [Noah Wire Services](https://www.noahwire.com)

## Bibliography

1. <https://www.telegraph.co.uk/news/2025/04/23/scotland-schools-single-sex-toilets/> - Details the Court of Session ruling requiring single-sex toilets in Scottish schools and mentions the involvement of parents Sean Stratford and Leigh Hurley in challenging Scottish Borders Council over Earlston Primary School's gender-neutral facilities.
2. <https://www.scotsman.com/news/scotland/judge-orders-schools-to-provide-single-sex-toilets-in-wake-of-supreme-court-ruling-5096515> - Confirms Lady Ross KC's judicial order for single-sex toilets in Scottish state schools and references the Supreme Court's recent decision on trans rights, which informed the broader legal context.
3. <https://www.telegraph.co.uk/news/2025/04/23/scotland-schools-single-sex-toilets/> - Notes Scottish Borders Council's admission of legal non-compliance with 1967 regulations and its agreement to review transgender inclusion policies and disciplinary measures related to misgendering.
4. <https://www.telegraph.co.uk/news/2025/04/23/scotland-schools-single-sex-toilets/> - Highlights For Women Scotland's role in supporting the parents' legal challenge and its recent Supreme Court victory clarifying the legal definition of 'woman' as biological sex.
5. <https://www.telegraph.co.uk/news/2025/04/23/scotland-schools-single-sex-toilets/> - Quotes Rosie Walker's commentary on the ruling's significance for protecting sex-based rights and her criticism of public bodies prioritizing activist advice over legal obligations.
6. <https://www.telegraph.co.uk/news/2025/04/23/scotland-schools-single-sex-toilets/> - Describes the Scottish Government's ongoing review of the rulings' implications and plans to update transgender guidance for schools following discussions with the Equality and Human Rights Commission.
7. <https://www.dailyrecord.co.uk/news/scottish-news/scottish-schools-must-provide-single-35107133> - Please view link - unable to able to access data