

TRUST WIDE POLICY DOCUMENT

DELIVERING SAME SEX ACCOMMODATION (DSSA) MIXED- SEX OCCURRENCE

Policy Number:	SA47
Scope of this Document:	All Staff
Recommending Committee:	Operational Management Board
Approving Committee:	Executive Committee
Date Ratified:	May 2019
Next Review Date (by):	May 2021
Version Number:	2019 - Version 2
Lead Executive Director:	Executive Director of Nursing and Operations
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2019 – Version 2

*Striving for perfect care and a
just culture*

DELIVERING SAME SEX ACCOMMODATION (DSSA) MIXED-SEX OCCURRENCE

Further information about this document:

Document name	SA47 DELIVERING SAME SEX ACCOMMODATION (DSSA) MIXED-SEX OCCURRENCE POLICY AND PROCEDURE
Document summary	These guidelines provide clear guidance in respect of the requirements of the same sex accommodation standards and establishes how the Trust will monitor and respond in the event of any exception to ensure the delivery of clean, safe environments which provide care that guarantees privacy and dignity
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Published by Copies of this document are available from the Author(s) and via the trust's website	Mersey Care NHS Foundation Trust V7 Building Kings Business Park Prescot Merseyside L34 1PJ Trust's Website www.merseycare.nhs.uk
To be read in conjunction with	Not applicable
This document can be made available in a range of alternative formats including various languages, large print and braille etc	
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Version Control:

		Version History:
Version 1	New Trust wide document	April 2017
Version 2	Trust wide document	May 2019

SUPPORTING STATEMENTS

this document should be read in conjunction with the following statements:

SAFEGUARDING IS EVERYBODY'S BUSINESS

All Mersey Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and adults, including:

- being alert to the possibility of child / adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child / adult;
- knowing how to deal with a disclosure or allegation of child /adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child / adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the trust's safeguarding team;
- participating in multi-agency working to safeguard the child or adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

EQUALITY AND HUMAN RIGHTS

Mersey Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, gender, race, religion or belief, sexual orientation and transgender. The Equality Act also requires regard to socio-economic factors including pregnancy /maternity and marriage/civil partnership.

The trust is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line the with a Human Rights based approach and the FREDA principles of **F**airness, **R**espect, **E**quality **D**ignity, and **A**utonomy

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1. PURPOSE AND RATIONALE

- 1.1 Mersey Care NHS Foundation Trust is committed to improving the quality of the patient experience.
- 1.2 These guidelines provide clear guidance in respect of the requirements of the same sex accommodation standards and establishes how the Trust will monitor and respond in the event of any **exception** to ensure the delivery of clean, safe environments which provide care that guarantees privacy and dignity.
- 1.3 The Board of Directors have set a benchmark of full compliance against these standards with the Trust's arrangements being subject to performance monitoring by the CCG's. These guidelines seek to embed these standards by the establishment of processes that demonstrate compliance and continuous service improvement.

2. OUTCOME FOCUSED AIMS AND OBJECTIVES

- 2.1 To improve service users experience where identified as requiring an inpatient stay.
- 2.2 To ensure Care Pathway is correct.
- 2.3 To ensure Privacy and Dignity is maintained.
- 2.4 The Trust reports 'nil' returns for gender breaches.
- 2.5 To ensure that Transgender service users are provided the correct environment and care.
- 2.6 Report monthly to Unify 2 in Breaches and/or Compliance.

3. SCOPE

- 3.1 The application of the definition of mixed-sex occurrences need to be considered in relation to:
 - a) Any admission to an in-patient area.
 - b) At all points on a service user's in-patient pathway.
 - c) In all clinical areas where service users are admitted. In respect of Mersey Care NHS Trust this includes but may not be limited to the following areas:
 - Adult Mental Health Care (acute care and rehabilitation services).
 - Psychiatric Intensive Care Units and Crisis beds.
 - Older Peoples.
 - Learning Disabilities.
 - Addictions services.
 - Ward 35, Aintree

This policy document applies to all staff employed by the Trust (whether temporary or permanent contract)

Clinical Justification

- 3.2 **Mixed sex occurrence should be considered a never event.** Mixing should only occur where it is clinically justified for all the service users affected. There are no blanket exemptions for particular specialties, and no exemptions at all from the need to provide high standards of privacy and dignity at all times.

- 3.3 In circumstances where there is clinical justification, the mixed-sex occurrence reporting procedure must be followed.

4. DEFINITION OF MIXED SEX OCCURENCE

- 4.1 The placement of a patient within a clinical setting following admission, where one or more of the following criteria apply and where no clinical justification exists or where a clinical justification which had been applied is no longer appropriate.
- a) The patient occupies a bed space that is either next to or directly opposite a member of the opposite gender.
 - b) The patient occupies a bed space that does not have access to single-sex washing and toileting facilities.
 - c) The patient must pass through an area designated for occupation by members of the opposite sex to gain access to washing and toileting facilities i.e. a sleeping bay or areas not with fixed walls.

5. DUTIES

Board of Directors

- 5.1 The Board has responsibility for ensuring that an effective systems exists that deliver compliance with the DSSA standards and that all staff working in the Trust are aware of and operate within any policy standards established.

Executive Director of Nursing & Operations

- 5.2 The Executive Director of Nursing and Operations is responsible for ensuring that systems for delivering same sex accommodation are established; that they are implemented effectively; and that effective monitoring of the standards and arrangements for the safe management of any breaches are put in place.

Quality Assurance Committee

- 5.3 The Quality Assurance Committee is authorised under the constitutional arrangements established by the Board to provide assurance that the provision of same sex accommodation standards are both effectively delivered and robustly managed across the organisation. The committee ensures that the policy framework is appropriate (and approves the policy) and ensures compliance of the requirements of this policy through the receipt of regular assurance reports based on service information, audit activity and patient experience.

Chief Operating Officers:

- 5.4 To develop the policy and governance arrangements to deliver the required standards.
- 5.5 Receive assurance from Divisional leads that all the requirements of these guidelines have been delivered.
- 5.6 To provide the Quality Assurance Committee and accountable directors with evidence and data in support of the assurances received from Local Leads about their compliance with DSSA standards.
- 5.7 To ensure that any breaches are appropriately escalated and reported.

- 5.8 To ensure that all routine reporting process through the contract monitoring arrangements are appropriately delivered.

Trust Clinical Leads

- 5.9 Each division of the Trust will have a Clinical Lead who will ensure that reporting arrangements are in place for any in-patient areas where there are mixed sex arrangements.
- 5.10 Patient Perception audits are undertaken, Breaches are reported and action plans delivered.
- 5.11 Self Assessments are completed and action plans produced.

Service & Clinical Directors have a responsibility to:

- 5.12 Ensure all staff in their area are aware of the guidelines.
- 5.13 Ensure the policy is implemented.
- 5.14 Ensure that all identified staff receives the necessary local induction and additional training identified within this policy.
- 5.15 Identify and deploy any resources to safely deliver this policy.
- 5.16 Monitor and respond to patient reported experiences of their respective services
- 5.17 Embed the arrangements to deliver continuing compliance within the respective divisional governance arrangements.

Ward nurse managers, inpatient medical staff and matrons have a responsibility to:

- 5.18 Ensure that they understand the policy arrangements and establish care plans that fully support the privacy, dignity and personal safety of service users.
- 5.19 Ensure adherence to the policy.
- 5.20 Ensure appropriate clear signage is provided on wards and that information in relation to privacy and dignity is readily available to service users and their carers.
- 5.21 To efficiently deploy the available resources to safely deliver these guidelines particularly where a potential breach to the guidelines has been identified.

Registered inpatient clinical staff have a responsibility to:

- 5.22 Complete care plans for their named patients and make any necessary contingency arrangements to guarantee their individual privacy and dignity.
- 5.23 Ensure any care plan is appropriately implemented.
- 5.24 Complete all the required documentation, particularly in respect of any breach to the policy arrangements.
- 5.25 Fully familiarise themselves with the guidelines.

Non-registered inpatient clinical staff have a responsibility to:

- 5.26 Be familiar with, and implement, the service user's care plan.
- 5.27 Report any relevant information that would assist the effective review of the service user's needs.
- 5.28 Fully familiarise themselves with the guidelines.

6. PROCESS

- 6.1 In the event of a mixed-sex occurrence, **including those with clinical justification**, the following procedure will be followed. In all cases, staff must:
- Explain the reasons for mixing with the service user and / or their relatives, carers or loved ones.
 - Record the discussion in the patient note.
 - Review the impact on **all service users involved**.
 - Use the appropriate recording and reporting process.
 - Alert via the on-call arrangements the Silver on Call that a breach has occurred.
 - Ensure that Clinical Directors / Chief Operation Officers with responsibility for the Service and the Executive Director of Nursing & Operations, who is the board lead for Patient Safety, are advised within 12 hours of the breach.
 - Move the person to same-sex accommodation as soon as possible (NB. This should occur within 72 hours of admission).

Recording & Reporting

- 6.2 Any incident of this nature should be reported through the Trust's incident reporting system e.g. Datix, Ulysses. In addition, an alert in relation to any incident of this type will be completed by the ward affected by the incident which will be forwarded to the relevant managers within the division who oversee Flow and Capacity. Clinical Leads will oversee the collation and analysis of any incidences and ensure prompt remedial action is taken to resolve any breach.
- 6.3 This ward-led breach alert must include:
- identification of the clinical area.
 - the number of patients affected.
 - the type of mixed-sex occurrence (bed location, location of bathrooms or toilets).
 - reason for the occurrence (e.g. clinical justification, patient choice, capacity).
- 6.4 *The alert form can be downloaded from the Trust's website.*

Root Cause Analysis

- 6.5 To aid the investigation and analysis of mixed-sex occurrences, a reflective practice review of the incident will occur including all the key stakeholders involved in the decision making process which will be co-ordinated by the senior managers with responsibility for the service. In line with the Trust Policy on the Management and Review of Untoward incidents, the Trust may also decide to commission a further more detailed review in line with the DoH / NPSA Root Cause Analysis methodology (DoH / NPSA 2009).

Divisional Reporting

- 6.6 Divisional Board Reporting - through its performance reports the lead commissioner will receive regular monthly reports of activity in this area. Triangulation with other data sources (eg PALS, complaints, LINKs, capacity & flow, patient survey) will be a routine part of the analysis and subsequent action planning. The Quality Assurance Committee on behalf of the Board will routinely receive an assurance and compliance report in relation to the delivery of Same Sex Accommodation requirements.

Contract Monitoring and Assurance Process

- 6.7 Under the existing contract arrangements the Trust is required to self certify compliance. Activity in this area will be reported on exemption basis to commissioners and will be subject to formal review on a bi-monthly basis as part of the contract monitoring arrangements.

Corporate Procedure (How)

- 6.8 See appendix B for flow chart.

7. DEVELOPMENT AND CONSULTATION

- 7.1 The guidelines development has been led by Mr Matty Byrne, Professional Project Manager working within Local Division. Mr Byrne also currently has a trust-wide responsibility in relation to supporting and facilitating compliance against this domain within all the Trust's inpatient estate.
- Psychiatric Consultants
 - Modern Matron (Local Division)
 - Ward Manager (Local Division)
 - Senior Manager Operations Group (Local Division)
 - Lead Nurse Local Division

8. MONITORING COMPLIANCE

Measuring the Patient Experience

- 8.1 The Trust uses a system to capture inpatient experiences of the DSSA standards which are reported on a monthly basis to Unify 2. The process provides useful intelligence in relation to the service areas and assurance about the practices in place. Where problems may be identified, the approach allows the Division to drill down and target any areas where concerns have been raised about patient safety so that these are dealt with promptly and robustly.

Audit

- 8.2 As part of these guidelines arrangements the Trust will undertake a monthly audit to demonstrate compliance with the same sex standards. All wards are sent a questionnaire with 2 questions. 7 patients are interviewed on each ward. The first question asks if the patient has shared a bay or a room with a member of the opposite sex. The second question refers to the patient 'feeling safe' if this question is answered 'no' a follow up e-mail is sent to the ward manager asking how this has been addressed and is entered onto our RiO system.

Estates

- 8.3 Divisional leaders are aware of the significant implications of a breach of any of the standards described within the guidelines. Business planning arrangements will therefore take this issue into account and ensure that a systematic approach to remedial or refurbishment work is adopted which pro-actively deals with any concerns that may emerge in relation to this agenda on a rolling basis. Service areas will be expected to ensure that active steps are taken to ensure that environments are maintained at an appropriate level to ensure the integrity of provision and recognise that no compromise in relation to single sex requirements will be tolerated. Environmental audits and PLACE inspections will be used to ensure that concerns about any aspect of a ward's environment are addressed and escalated if ready solutions can not be expediently established.

Systems and Processes

- 8.4 The Division will account for its practice within its own internal governance arrangements which will demonstrate how the Service has responded to reported patient experience. Other intelligence, such as the reporting of adverse incidents that raise concerns about privacy and dignity, will need to be acted upon and demonstrate appropriate responsiveness. Feedback will be communicated to staff groups so that an ongoing appreciation of the importance of delivering against these standards becomes embedded within the organisation. Routine reports will be collated and submitted to the Quality Assurance Committee, as the designated Committee of the Trust Board, to appraise it of progress and delivery against these standards. Compliance with this policy framework will be established as part of the contract monitoring arrangements and the Trust Board will receive its assurance through the ongoing work of the Quality Assurance Committee.
- 8.5 Exception reports in relation to untoward incidents or will be reported directly to the Board by the Executive Director of Nursing and Operations. It is anticipated that the reporting arrangements associated with the policy provision will feature as part of the routine Board performance report.

Staff Culture

- 8.6 Staff, service users and carers will be provided with all the necessary information to ensure effective adherence to this policy. Information, including leaflets and reporting templates are available from the DSSA page of the Trust's web-site. In line with Section 5 of this policy there is an expectation that incidents will be formally reported in relation to any perceived breach.
- 8.7 In circumstances where staff or other stakeholders feel that a concern or breach had not been addressed, individuals are encouraged to make explicit their concerns using the Trust's existing whistle blowing policy. In such circumstances the complainant may remain anonymous but be assured that their action will trigger a review of the breach that is handled sensitively and which does not disclose the identity of the complainant.

9. REFERENCES AND BIBLIOGRAPHY

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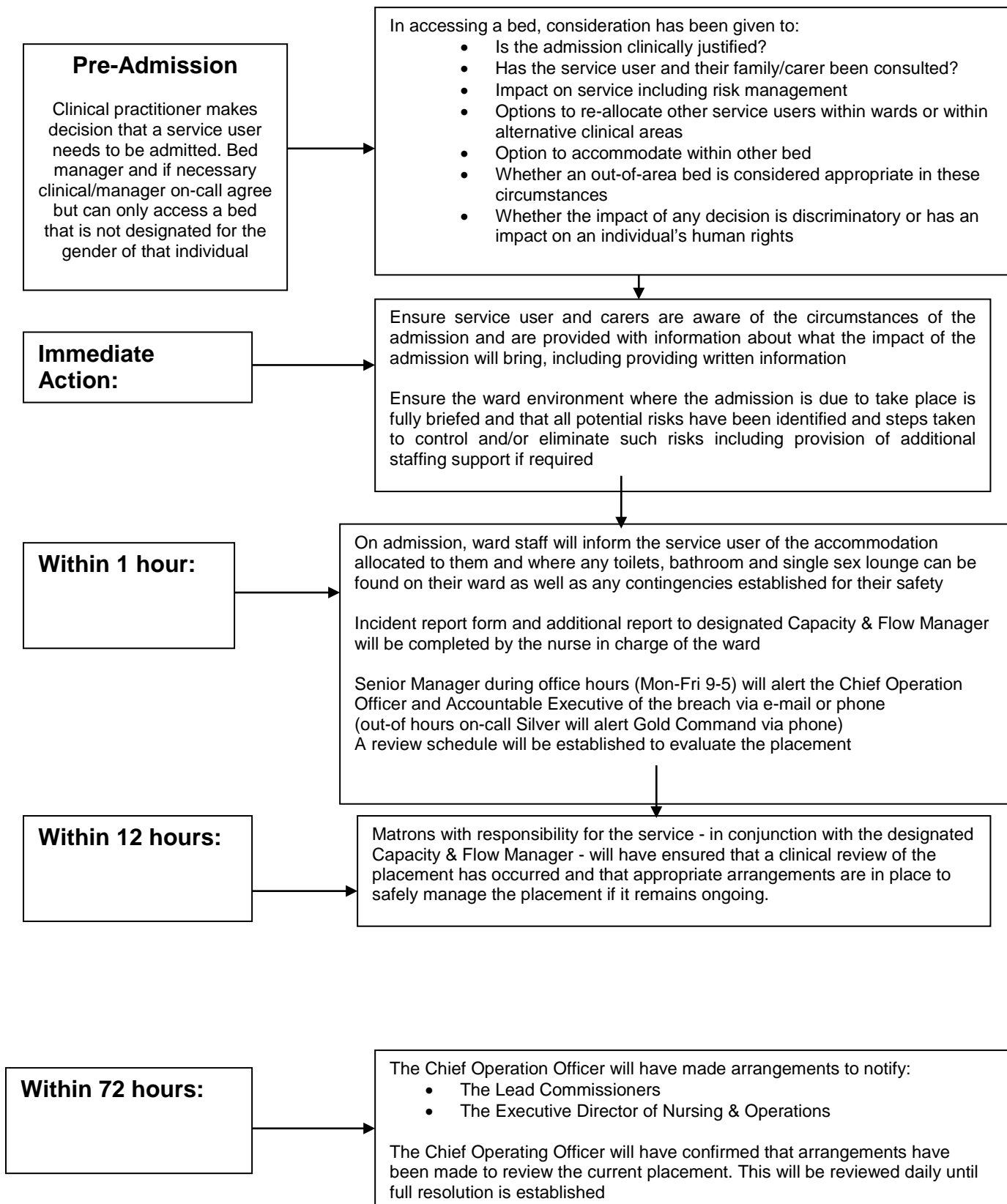
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- http://www.pickereurope.org/Filestore/Quality/Factsheets/resp_priv_dign_newsletter_feb03.pdf
- Supporting Information
- DH "Dignity in Care" Network:
- <http://www.dhcarenetworks.org.uk/dignityincare/>
- DH Same-sex accommodation webpage:
- <http://www.dh.gov.uk/en/Healthcare/Samesexaccommodation/index.htm>
- http://webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/Healthcare/Samesexaccommodation/Questionsandanswers/DH_112152#_1
- NHS Institute for Innovation and Improvement Eliminating Mixed Sex accommodation Good practice guidance and checklist:
- http://www.institute.nhs.uk/quality_and_value/introduction/privacy_and_dignity.html
- RCN Dignity campaign homepage:
- <http://www.rcn.org.uk/newsevents/campaigns/dignity>

Appendix A - Action plan template

This part of the template is to help you develop your action plan. You might want to change the categories in the first column to reflect the actions needed for your policy.

Category	Actions	Target date	Person responsible and their area of responsibility
Monitoring			
Engagement			
Increasing accessibility			

Appendix B – Mixed sex occurrence procedure flow chart



Appendix C
BREACH MIXED-SEX OCCURRENCE FORM

DATE / TIME & REASON MIXED-SEX OCCURRENCE OCCURRED As soon as decision to place patient is made	CLINICAL AREA Where mixed-sex occurrence took place	PATIENT NUMBER/GENDER Of the patient who caused the breach	NUMBER OF OTHER PATIENTS AFFECTED Total number of other occupants within room	APOLOGY or INFORMATION GIVEN BY:- Trust Flow and Capacity Coordinator Escalate up to Director of Nursing or deputy Silver on Call (out of hours)	DATE & TIME MIXED-SEX OCCURRENCE ENDED When patient was relocated to same sex accommodation

*NB. If a subsequent patient moves in to the now mixed-bay, this will also constitute a further mixed-sex occurrence so please add patient details. Clinical Teams to complete and inform specialty matron and escalate to their flow manager who will share at the next Operations Meeting for planning

Appendix D: GUIDANCE ON DSSA BREACHES

This guidance should be read in combination with detail on the DSSA website http://www.dh.gov.uk/en/Healthcare/Samesexaccommodation/Practicalsupport/DH_111408

The definition of a “breach” is for local determination. The following guidance aims to support local determination and the setting of standards.

It should be noted that a robust system should be in place to report and measure ALL episodes of mixing (DH, 2010c). Breach data should then be reported according to the agreed local determination.

DSSA Principles

- There are no exemptions from the need to provide high standards of privacy and dignity.
- Males and females should not have to sleep in the same room, unless sharing can be justified by the need for treatment, or by patient/service user choice.
- Males and females should not have to share mixed bathing and WC facilities, unless they need specialised equipment such as hoists or specialist baths.
- Patients/Service users should not have to pass directly through opposite-sex areas to reach their own facilities.
- In exceptional circumstances, mixing of the sexes can be justified. Decisions should be based on the needs of each individual patient/service user, not the constraints of the environment, or the convenience of staff.
- Where mixing of sexes does occur, it must be acceptable and appropriate for *all* the patients/service users affected.

This guidance includes:

- In General Ward Areas
- Specialist Units
- Mental Health and Learning Disability accommodation
- Children’s and young people’s services

General Ward Areas

The mixing of sexes is a “Nationally specified event” and as such should be regarded in the same manner as a “never event”. (DH, 2009d)

A breach is defined as occurring when males and females are required to:

- 1. Share sleeping accommodation**
- 2. Share toilets or bathrooms**
- 3. Pass through an area of opposite sex accommodation to access toilets/bathrooms or their own sleeping accommodation. (DH, 2010c)**

It is acceptable to have toilets and washing facilities that can be allocated to men or women according to need, as long as there is good signage to make it clear which sex is designated at any particular time. "Passing through" opposite sex areas

explicitly relates to situations where patients have to pass between or across the foot of beds occupied by the opposite sex (e.g. through an occupied room or bay).

However, in mixed-sex wards, it is good practice to create separate parts of the ward for men and women with designated areas, or zones, for the bedrooms and toilet/washing facilities for each sex. There maybe times, albeit not ideal, when a corridor or the bedroom area of a ward may be mixed. If this occurs, bedrooms, toilet and bathing facilities should be designated to achieve as much gender separation as possible and care supported by appropriate staffing.

Men and women should not have to pass through the bedrooms or bed bays of the opposite sex to access their own bedrooms or toilet/washing facilities. Ideally, service users should not pass through mixed, communal areas adjacent to their bedrooms or bed bays to access their washing facilities. The exception is toilet facilities used while in day areas where service users are fully dressed.

Some WCs and bathrooms contain specialist facilities (eg hoists) to make them accessible for disabled users. Such facilities may be designated unisex as long as they are for use by one person at a time, are lockable from the inside (with external override), a risk assessment has been conducted and, where necessary, the service user is escorted by a member of staff. The ideal remains to have segregated accessible facilities where this is possible.

Any breach will be considered to have taken place as soon as the above circumstances described above have occurred and lasts until they are resolved.

The number of breaches caused by a particular event will be equal to the total number of patients affected (1 female in a bay with 3 males is 4 breaches).

Where mixing of the sexes is unavoidable, the situation should be rectified as soon as possible. The patient, relatives, carers and/or advocate should be informed why the situation has occurred, what is being done to address it, who is dealing with it, and an indication provided about when the situation will be resolved. All actions should be recorded.

When a breach occurs the organisational escalation policy should be implemented. This should quickly escalate the breach to an executive level.

It is good practice to undertake a Root Cause Analysis (DH / NPSA 2009) and implement the lessons learned.

Specialist Units

There are exceptional times when the need to treat and admit can override the need for complete segregation. This might apply, for instance, with:

- A patient needing high-tech care with one-to-one nursing, e.g. ICU, HDU. (DH, 2009a Annex C: Critical Care settings key principles)
- A patient needing very specialised care, where one nurse might be caring for a small number of patients (DH, 2009a Annex D: Children's units key principles)

- A patient needing very urgent care, e.g. rapid admission following heart attack. (DH, 2009a Annex A: Emergency admissions key principles)

Where mixing does occur, it must be justifiable for *all* the patients affected. There are no blanket exemptions for particular specialties, and no exemptions at all from the need to provide high standards of privacy and dignity at all times.

In these settings a breach will occur when:

1. An individual or group of patients continue to be accommodated in the mixed environment when their clinical condition no longer requires this.

In order to facilitate the relocation to more suitable same-sex accommodation, it may be helpful to specify an acceptable time frame. If this is the case, it should be locally agreed, specified and measured.

Whilst in principle the breach will affect all patients in the unit the practical application will be only to those patients who are now inappropriately placed because of their changed clinical condition.

The placing of patients in mixed sex specialist units when this is not clinically justified (eg in order to accommodate them) puts these patients in the same position as those in general wards (above).

Mental Health and Learning Disabilities

In these settings commissioners and providers of service should aspire to provide single room en-suite accommodation. It is also a requirement of policy that a female only lounge is provided.

For the purposes of determining when a breach has occurred, the rules for general wards should apply. In addition a breach will also occur when there is a failure to provide a female only lounge. The number of breaches in this case will be the total number of females denied this facility.

Children’s and young people’s services

In these settings a breach will occur when:

1. A child or young person (or parent where applicable) is not able to exercise their choice for same-sex accommodation rather than mixed sex accommodation based on clinical need, age or stage of development. Providers of children’s services will need to be able to demonstrate how children (parents) have exercised this choice.

Contractual penalties and upwards reporting

The circumstances under which the contractual penalty for breaches will or will not apply should be agreed, along with a process of PCT exception reporting to NHS NW when the provider is at risk of contract sanctions (DH 2010c, Annex 5 sanctions matrix).

For example:

Penalties are <i>unlikely</i> to apply	Penalties are <i>likely</i> to apply
----------------------------------------	--------------------------------------

<p>Force Majeure Unprecedented operational pressure</p>	<p>Failure to have a DSSA declaration Failure to have a DSSA plan Missing a milestone in the DSSA plan Breach of the DSSA plan Breach or failure to have a “DSSA Remedial Action Plan” if requested by the commissioner</p>
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Clarification for others will be provided by the commissioner and wider system issues will need to be considered (eg in the event of operational pressures caused by lack of commissioned alternatives to admission).

Appendix E: Emergency Admissions

Clinical need must be judged for each individual patient. If a patient is admitted into a multi-bed room, then either all patients must be same sex or mixing must be clinically justified for all patients in the room, not just the newly-admitted one.

Where patients cannot be immediately admitted to the 'right bed' (i.e. one in the right specialty, with same-sex accommodation) then the final placement decision should weigh the benefits and disadvantages of each available option. Wherever possible, the patient or their family should be consulted.

Clearly, patient safety is paramount, but the requirement for segregation should not be ignored. It should be demonstrably possible for the large majority of emergency patients to have their clinical needs met within segregated accommodation.

Key principles

- Decisions should be based on the needs of each individual patient, not the constraints of the environment or the convenience of staff
- Admissions units should be capable of delivering segregation for most of patients for most of the time.
- Patient preference should be sought, recorded and where possible respected. Ideally, this should be in conjunction with relatives, carers or loved ones
- The reasons for mixing, and the steps being taken to put things right, should be explained fully to the patient and their family and friends.
- Staff should make clear to the patient that the trust considers mixing to be the exception, never the norm.
- Greater segregation should be provided where patients' modesty may be compromised (e.g. when wearing hospital gowns/nightwear, or where the body (other than the extremities) is exposed).
- Greater protection should be provided where patients are unable to preserve their own modesty (for example when semi-conscious or sedated).
- Where mixing is unavoidable, transfer to same-sex accommodation should be effected as soon as possible. Only in the most exceptional circumstances should this exceed 24 hours

Appendix F: Transgender People

Transsexual people (that is, individuals who have proposed, commenced or completed reassignment of gender) enjoy legal protection against discrimination. In addition, good practice requires that clinical responses be patient-centered, respectful and flexible towards all transgender people who do not meet these criteria but who live **continuously or temporarily** in the gender role that is opposite to their natal sex.

General key points are that:

- Trans people should be accommodated according to their presentation (the way they dress, and the name and pronouns that they currently use)
- This presentation may not always accord with the physical sex appearance of the chest or genitalia
- It does not depend upon their having a gender recognition certificate (GRC) or legal name change
- It applies to toilet and bathing facilities (except, for instance, that pre-operative trans people should not share open shower facilities)
- The views of the trans person should take precedence over those of family members where these are not the same.

Those who have undergone full-time transition should **always** be accommodated according to their gender presentation. Different genital or breast sex appearance is **not** a bar to this, since sufficient privacy can usually be ensured through the use of curtains or by accommodation in a single side room adjacent to a sex-appropriate ward. This approach may only be varied under special circumstances where, for instance, the treatment is sex-specific and necessitates a transgender person being placed in an otherwise opposite sex ward. Such departures should be proportionate to achieving a 'legitimate aim', for instance, a safe nursing environment.

This may arise, for instance, when a transgender man is having a hysterectomy in a hospital, or hospital ward that is designated specifically for women, and no side room is available. The situation should be discussed with the individual concerned and a joint decision made as to how to resolve it. At all times this should be done according to the wishes of the patient, rather than the convenience of the staff.

In addition to these safeguards, where admission/triage staff are unsure of a person's gender, they should, where possible, ask **discreetly** where the person would be most comfortably accommodated. They should then comply with the patient's preference immediately, or as soon as practicable. If patients are transferred to a ward, this should also be in accordance with their **continuous** gender presentation (unless the patient requests otherwise).

If upon admission it is impossible to ask the view of the person because he or she is unconscious or incapacitated then, in the first instance, inferences should be drawn from presentation and mode of dress. No investigation as to the genital sex of the person should be undertaken unless this is specifically necessary in order to carry out treatment.

In addition to the usual safeguards outlined in relation to all other patients, it is important to take into account that immediately post-operatively, or while unconscious for any reason, those transgender women who usually wear wigs are unlikely to be wearing them and so may be 'read' incorrectly as men. Extra care is therefore required so that their privacy and dignity as women is appropriately ensured.

Transgender men whose facial appearance is clearly male may still have female genital appearance, so extra care is needed to ensure their dignity and privacy as men.

Considerations for gender variant children and young people

- Gender variant children and young people should be accorded the same respect for their self-defined gender as are trans adults, regardless of their genital sex.
- Where there is no segregation, as is often the case with children, there may be no requirement to treat a young gender variant person any differently from other children and young people. Where segregation is deemed necessary, then it should be in accordance with the dress, preferred name and/or stated gender identity of the child or young person.
- In some instances, parents or those with parental responsibility may have a view that is not consistent with the child's view. If possible, the child's preference should prevail even if the child is not Gillick competent.
- More in-depth discussion and greater sensitivity may need to be extended to adolescents whose secondary sex characteristics have developed and whose view of their gender identity may have consolidated in contradiction to their sex appearance. It should be borne in mind that they are extremely likely to continue to experience a gender identity that is inconsistent with their natal sex appearance so their current gender identity should be fully supported in terms of their accommodation and use of toilet and bathing facilities.
- It should also be noted that, although rare, children may have conditions where genital appearance is not clearly male or female and therefore personal privacy may be a priority.

Appendix G: Mental Health and Learning Disabilities

Consideration will be given to how each mental health and learning disability area can adhere to the DSSA compliance regime. This would ideally be evidenced through an options appraisal, acted upon and communicated to all staff.

A significant number of service users will be detained under The Mental Health Act 1983 (2007 Amendments) and will require a protective approach to their care and the environment that care is delivered in.

Where clinically appropriate, service users will be encouraged to mix with members of the opposite sex, for the delivery of therapeutic and social programmes. Safety and respect will be central to the delivery of those programmes and the environment in which the programmes are delivered.

Single rooms with en-suite facilities will be the standard that Trusts should aspire to.

A female-only lounge should be made available and separate dining areas should be considered.

Staff carrying out physical examinations should either be of the same sex or there should be a same-sex chaperone present.

Planning & Commissioning

- In planning new facilities or the refurbishment of existing facilities, design will support segregation of accommodation, toilets and bathrooms.
- All business cases for proposed new build mental health units must provide separate day rooms, to which women only have access.
- There will be a review of bed stock to ensure it delivers against the capacity demands of commissioned services whilst delivering same-sex accommodation.
- Commissioning of female/male-only treatment facilities out of area may need to be considered where same-sex wards are not available.
- Commissioning arrangements should be in place for young people requiring specialist inpatient treatment and who require single sex treatment facilities, due to past abuse or vulnerability issues.

Governance

- Leadership and governance structures will ensure risk assessment processes to clearly identify vulnerability, sexually disinhibited and predatory behaviours and risks.
- Reporting to CQC (formerly Mental Health Act Commission) is mandatory for a lone woman detained in Psychiatric Intensive Care Units.
- Ideally patient/service user views on Privacy and Dignity will be sought with actions taken within a specific time frame and shortfalls addressed.
- DSSA and Privacy and Dignity policies will be explained to all patients.
- DSSA guidance and escalation procedure will be included in mandatory and induction training.

- Bed management processes will adhere to DSSA guidelines and an escalation process will be in place for when mixed-sex occurrences take place.

Information for Service Users

- All newly admitted service users and or their relatives, carers or loved ones must be given information about the configuration of the unit/ layout of the ward and its same-sex facilities, and have the opportunity to ask questions.
- Service users are offered a choice in allocation of a key worker, where possible offering choice of sex of key worker but also considering ethnicity, age and professional issues.
- Except in an emergency, patients should be informed, prior to admission, if any parts of the clinical area are shared between men and women. Relatives and carers views should be sought in relation to privacy and dignity. However the Mental Capacity Act 2005 provides the legal framework for making decisions on behalf of individuals who do not have capacity to make particular decisions for themselves.

Considerations for Female Service users

- Female service users should have the opportunity to associate together in women-only lounge areas, if they wish, and to take part in women only therapy groups and social activities. This should apply particularly in units where female service users are in the minority, for example, in some secure settings.
- Female service users should have access to a female member of staff at all times, and an escort of the same gender should always be available (particularly in secure psychiatric facilities when a patient poses a risk of escaping).
- Female service users should have access, where possible, to a female doctor for physical health care.

Appendix H –Provider Declaration and plans to virtually eliminate mixed sex accommodation

Delivering Same-Sex Accommodation Declaration of compliance (March 2010)

Mersey Care NHS Trust can confirm that mixed sex accommodation has been virtually eliminated in all of its premises. Service users who are admitted to any of our hospital settings will, in the main, access environments and care facilities that are explicitly gender specific.

Where clinical accommodation caters for both genders, service users will only share the room where they sleep with members of the same sex. Furthermore same sex toilets and bathroom areas are located close to or immediately adjacent to the bedroom areas.

The Trust recognises that every service user has the right to receive high quality care that is safe, effective and respects privacy and dignity and is committed to ensuring same sex accommodation is provided at a time when service users are often at their most vulnerable in order to safeguard individual service users' privacy and dignity.

10 Equality and Human Rights Analysis

Title:
Area covered:
What are the intended outcomes of this work? <i>Include outline of objectives and function aims</i>
Who will be affected? <i>e.g. staff, patients, service users etc</i>
Evidence
What evidence have you considered?
Disability (including learning disability)
Sex
Race <i>Consider and detail (including the source of any evidence) on difference ethnic groups, Gypsies, Roma gypsies, Irish travellers, language barriers.</i>
Age <i>Consider and detail (including the source of any evidence) across age ranges on old and younger. This can include safeguarding, consent and child welfare.</i>
Gender reassignment (including transgender) <i>Consider and detail (including the source of any evidence) on transgender and transsexual people. This can include issues such as privacy of data and consent.</i>
Sexual orientation <i>Consider and detail (including the source of any evidence) on heterosexual people as well as lesbian, gay and bi-sexual people.</i>
Religion or belief <i>Consider and detail (including the source of any evidence) on people with different religions, beliefs or no belief.</i>
Pregnancy and maternity <i>Consider and detail (including the source of any evidence) on working women, part-time working, infant caring responsibilities.</i>
Carers <i>Consider and detail (including the source of any evidence) on part-time working, shift-patterns, caring responsibilities.</i>
Other identified groups <i>Consider and detail and include the source of any evidence on different socio-economic groups, area inequality, income, resident status (migrants) and other groups experiencing disadvantage and barriers to access.</i>
Cross Cutting <i>implications to more than 1 protected characteristic</i>

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Human Rights	Is there an impact? How this right could be protected?
Right to life (Article 2)	<i>Use not engaged if Not applicable</i>
Right of freedom from inhuman and degrading treatment (Article 3)	<i>Use supportive of a HRBA if applicable</i>
Right to liberty (Article 5)	
Right to a fair trial (Article 6)	
Right to private and family life (Article 8)	
Right of freedom of religion or belief (Article 9)	
Right to freedom of expression Note: this does not include insulting speech such as racism (Article 10)	
Right freedom from discrimination (Article 14)	

Engagement and Involvement <i>detail any engagement and involvement that was completed inputting together.</i>

Summary of Analysis <i>This highlights specific areas which indicate whether the whole of the document meets the trust to meet general duties of the Equality Act 2010</i>
Eliminate discrimination, harassment and victimisation
Advance equality of opportunity
Promote good relations between groups

What is the overall impact?

Addressing the impact on equalities

There needs to be greater consideration re health inequalities and the impact of each individual /change in relation to the protected characteristics and vulnerable groups

Action planning for improvement

Detail in the action plan below the challenges and opportunities you have identified. *Include here any or the following, based on your assessment*

- *Plans already under way or in development to address the **challenges** and **priorities** identified.*
- *Arrangements for continued engagement of stakeholders.*
- *Arrangements for continued monitoring and evaluating the policy for its impact on different groups as the policy is implemented (or pilot activity progresses)*
- *Arrangements for embedding findings of the assessment within the wider system, OGDs, other agencies, local service providers and regulatory bodies*
- *Arrangements for publishing the assessment and ensuring relevant colleagues are informed of the results*
- *Arrangements for making information accessible to staff, patients, service users and the public*
- *Arrangements to make sure the assessment contributes to reviews of DH strategic equality objectives.*

For the record

Name of persons who carried out this assessment:

Date assessment completed:

Name of responsible Director:

Date assessment was signed: