

FOI REF: 25/001

10th January 2025**Eastbourne District General Hospital**Kings Drive
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Tel: 0300 131 4500

Website: www.esht.nhs.uk**FREEDOM OF INFORMATION ACT**

I am responding to your request for information under the Freedom of Information Act. The answers to your specific questions are as follows:

I am writing to request information under the Freedom of Information Act 2000. I would like to request the following information:

- 1. The number of single sex wards the Trust has across its sites at the present time.**

1.

- 2. The number of female single sex wards currently allocated**

1.

- 3. The number of male single sex wards currently allocated**

0.

- 4. A copy of your policy on allocation of Trans women in single sex wards/bays as of 1st January 2024 and the same currently in force, if different.**

Please see the attached document – ‘01571_P’.

Please note that it is the Trust’s FOI policy to only provide the names of Trust staff that are grade 8a or above, therefore staff that are below that grade, or have left the Trust, have been redacted from the attached policy.

I can confirm that we hold this information, but it is exempt under section 40(2) of the Freedom of Information Act 2000 – Personal Information of third parties. This is because this information may allow the identification of individuals and disclosure would breach the principles of the Data Protection Act.

This is an absolute exemption and there is, therefore, no requirement to consider the public interest.

Cont.../

Please note that this policy is due to be reviewed but we are currently waiting for an update from NHS England, prior to updating the Trust's policy.

- 5. Has the Trust received any complaints from a patient regarding the presence of a trans person admitted into the hospital, across any of your sites in the period 1st June 2023- 1st December 2024?**

0.

If I can be of any further assistance, please do not hesitate to contact me.

Should you be dissatisfied with the Trust's response to your request, you have the right to request an internal review. Please write to the Freedom of Information Department (esh-tr.foi@nhs.net), quoting the above reference, within 40 working days. The Trust is not obliged to accept an internal review after this date.

Should you still be dissatisfied with your FOI request, you have the right of complaint to the Information Commissioner at the following address:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Telephone: 0303 123 1113

Yours sincerely

Freedom of Information Department
esh-tr.foi@nhs.net

Same Sex Accommodation (SSA) Breach Policy

Document ID	1571
Version:	V3.0
Ratified by:	Patient Documentation and Policy Ratification Group
Date ratified:	06 th January 2020
Name of author and title:	Hazel Tonge, Deputy Director of Nursing, reviewed by [REDACTED], Assistant Director of Nursing
Date Written:	January 2018, reviewed December 2019
Name of responsible committee/individual:	Chief Operating Officer/Director of Nursing
Date issued:	10 th January 2020
Review date:	December 2022
Target audience:	Front line staff, Senior Management Team, Site team, Knowledge management Team
CQC Fundamental Standard:	Dignity and respect, Person-centred care, Consent, Safeguarding from abuse, Complaints and Premises & Estates
Compliance with any other external requirements (e.g. Information Governance):	Transgender legislation, Equality Act
Associated Documents:	Patient Privacy and Dignity Policy Supporting Transgender People Policy

Did you print this yourself?

Please be advised the Trust discourages retention of hard copies of procedural documents and can only guarantee that the procedural document on the Trust website is the most up to date version

Version Control Table

Version number and issue number	Date	Author	Reason for Change	Description of Changes Made
V1.0 2016080	April 2016		Review of practice	Removal of SBAR tool
V1.1 2016114	June 2016		Independent review of the policy Leslie Walton Gillian Hooper	2.2 – enhanced scope of policy description 3. added the Chief Operating officer / General Manager as responsible for Board and Clinical Unit 4.1 – amended themes and trends 4.3 letter amended to include copy in the patients notes SBAR tool removed Respiratory bay added for exclusion due to dependency
V2.0 2018340	February 2018	H. Tonge	Updated based on feedback from DON/ site team	Amended Appendix 2 Apology letter included Appendix 4. Clarification of further scenarios Appendix 3 Apology letter removed and replaced by a patient leaflet
V3.0	December 2019		Full review following updated NHSE/ Guidance	Addition of National Guidance table and FAQ, amendment of process and responsibilities, addition of local flowchart

Consultation Table

This document has been developed in consultation with the groups and/or individuals in this table:

Name of Individual or group	Title	Date
Vikki Carruth	DON	March 2018
[REDACTED]	Site team	March 2018
[REDACTED]	Hospital Directors	March 2018
Executive Directors		March 2018
[REDACTED]	Knowledge Management Team	March 2018
[REDACTED]	Equality Lead	March 2018
[REDACTED]	Dementia Lead	April 2018
Vikki Carruth	DON	December 2019
[REDACTED]	Chief Operating Officer	December 2019
[REDACTED]	Site team	December 2019
James Blake	Information Management Team	December 2019
[REDACTED]	Head of Equality & Human Rights	December 2019
Professional Advisory Group		December 2019

This information may be made available in alternative languages and formats, such as large print, upon request. Please contact the document author to discuss.

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1. Introduction

Every patient has the right to receive high quality care that is safe and effective and respects their privacy and dignity. Providers of NHS-funded care are expected to have a zero-tolerance approach to mixed sex accommodation, except where it is in the overall best interest of all patients affected.

2. Purpose

2.1 Rationale

Monitoring of same sex accommodation (SSA) breaches began in December 2010. This followed a programme of investment to support reductions in the number of patients sharing sleeping accommodation with members of the opposite sex. In March 2012 the NHS Constitution introduced a pledge that if admitted to hospital, patients will not have to share sleeping accommodation with members of the opposite sex, except where appropriate. In March 2013 SSA monthly reporting was included in the NHS Standard Contract as an Operational Standard.

In 2014 SSA was included in Care Quality Commission (CQC) Regulations 201 Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 10: Paragraph 10(2)(a). In April 2011, reporting of breaches to same-sex accommodation guidance became mandatory. Since then, ESHT have continued to report nationally on a monthly basis. As practice has developed particularly the way emergency assessments and patient admissions are managed the national guidance has been reviewed in September 2019.

2.2 Principles

Respect, dignity, compassion and care should be at the core of how patients are treated; not only because that is the right thing to do, but because patient safety, experience and outcomes are all improved. The same sex accommodation guidance supports staff to manage operational flow and provides guidance on managing and reporting both locally and nationally. Providers of NHS-funded care are expected to have a zero-tolerance approach to mixed-sex accommodation, except where it is in the overall best interest of all patients affected.

- All providers are responsible for ensuring that all patients and relatives/carers as appropriate are aware of the guidance and are informed of any decisions that may lead to the patient being placed in, or remaining in, mixed-sex accommodation.
- Decisions to mix should be based on the patient's clinical condition and not on constraints of the environment or convenience of staff.
- The risks of clinical deterioration associated with moving patients to facilitate segregation must be assessed.
- All providers are responsible for ensuring all staff are aware of the guidance and how they manage requirements around recognising, reporting and eliminating same-sex breaches.
- There are situations where it is clearly in the patient's best interest to receive rapid or specialist treatment, and same-sex accommodation is not the immediate priority. In these cases, privacy and dignity must still be protected.

- Patient choice for mixing must be considered and may be justified. In all cases, privacy and dignity should be assured for all patients.
- There are no exemptions from the need to provide high standards of privacy and dignity at all times.
- Identifying the right patient for the right bed first time improves patient outcomes by improving patient experience.

2.3 Scope

This policy applies to all areas of East Sussex Healthcare NHS Trust (ESHT) that have sleeping accommodation at any time and mixing in bath/shower/wash rooms or toilet facilities. This policy applies to NHS funded patients. Privately funded patients are out of the scope of this policy.

All units (see Annex A for definitions of unit) where a patient may be referred directly for assessment, treatment or observation are not included pending a final decision to admit to another area. In all cases, breaches should be recorded from when the decision to admit is made or when the patient arrives in the unit and a decision to admit has already been made. Accident and emergency departments are not included and therefore out of scope of this policy.

3. Definitions

3.1 What is a same-sex accommodation breach?

This description of a mixed-sex accommodation breach refers to all patients in sleeping accommodation who have been admitted to hospital.

- A breach occurs at the point a patient is admitted to mixed-sex accommodation outside the guidance.
- Patients should not normally have to share sleeping accommodation with members of the opposite sex.
- Patients should not have to share toilet or bathroom facilities with members of the opposite sex.
- Patients should not have to walk through an area occupied by patients of the opposite sex to reach toilets or bathrooms; this excludes corridors.
- Non-permanent structure changes to the estate can support the delivery of same-sex accommodation where the partition is solid, opaque, floor to ceiling, and protects the privacy and dignity of the individual patient.

3.2 A bay is defined as:

- A single or multi-bedded sleeping area which is fully enclosed on three sides with solid walls
- The fourth side may be a solid wall or partially enclosed
- The use of curtains or 'Kwick' screens alone between bays is not acceptable.

3.3 Sleeping areas are defined as:

- Areas where patients are admitted and cared for on beds or trolleys, even if they do not stay overnight

- Sleeping accommodation includes all areas where patients are admitted and cared for on beds or trolleys, even when they do not stay overnight.
- An admitted patient is one who undergoes a hospital's admission process to receive treatment and/or care.

4. Justified Breaches

- 4.1 There are times when the need to urgently admit and treat a patient can override the need for complete segregation of sexes. In these cases, all reasonable steps should be taken to maintain the privacy and dignity of all patients affected.
- 4.2 There are some clinical circumstances where mixing can be justified. These are few, and mainly confined to patients who need highly specialised care, such as that delivered in Critical Care Units. Further detail on the circumstances in which mixing is justified (and therefore does not constitute a breach) is provided in Annex A below.
- 4.3 Locally the only justified breaches that are to be reported are those in in-patient wards relating to infection prevention and control issues (e.g flu and norovirus co-hort bays)

5. Unjustified Breaches (to be reported nationally)

- 5.1 This is where mixing occurs that cannot be clinically justified. The NHS England/NHS Improvement guidance (September 2019) displays this information in the form of a table called *Annexe A: Decision Matrix*. (Also refer to Appendices C & D)

Decision matrix	Justified breaches	Notes
Critical care levels 2 and 3: eg intensive care unit/ coronary care units/high dependency units/hyper acute stroke units	Green Almost always	When a clinical decision is made for a patient to be stepped down from level 2 or 3 care, they should be transferred within four hours of being ready to be moved. An unjustified breach should be recorded if a patient does not transfer within the four-hour period. For the comfort and safety of patients, transfers should not take place between the hours of 10.00pm and 7.00am. Breaches should not be counted within this period, they should start/restart from 7.00am.
End-of-life care	Green Almost always	A patient receiving end-of-life care should not be moved solely to achieve segregation – in this case a breach would be justified, there is no time limit.
Assessment/ observation units, eg medical/ surgical assessment units/clinical decision making units/ observation wards	Green Almost always	A patient should be moved from an assessment / observation unit within four hours of a decision to admit or from when the patient arrives in the unit and a decision to admit has already been made. If mixing occurs after the four hour period, breaches should be recorded as unjustified.
Areas where treatment is delivered, eg chemotherapy units/ ambulatory day care/ radiotherapy/ renal dialysis/ medical day units	Green Almost always	Mixing should not be recorded as an unjustified breach wherever regular treatment is required, especially where patients may derive comfort from the presence of other patients with similar conditions. A very high degree of privacy and dignity should be maintained during all clinical or personal care procedures.

Children / young people's units (including neonates)	Amber Sometimes	Children (or their parents in the case of very young children) and young people should have the choice of whether care is segregated according to age or gender. There are no exemptions from the need to provide high standards of privacy and dignity.
Area where a procedure is taking place and the patient will require a period of recovery, eg day surgery/ endoscopy units/recovery units attached to theatres/ procedure rooms	Red Almost never	Segregation should be provided where patients' modesty may be compromised, eg when wearing hospital gowns/ nightwear, or where the body (other than the extremities) is exposed. Where high observation bays are used for patients in the first stage of recovery or when they require a period of close observation but not level 2 or 3 care, any breaches that occur will be classed as justified.
Mental health	Red Never	All episodes of mixing in mental health inpatient units and in women-only areas should be reported.
Inpatient wards	Red Never	All episodes of mixing in inpatient wards should be reported.

6. Delivering Same-Sex Accommodation for Trans People

- 6.1** Transgender, or trans, is a broad, inclusive term referring to anyone whose personal experience of gender extends beyond the typical experiences of their assigned sex at birth. It includes those who identify as non-binary.
- 6.2** Trans people should be accommodated according to their presentation: the way they dress, and the name and pronouns that they currently use. Those who have undergone full-time transition to a new gender role should always be accommodated according to their gender presentation. This may not always accord with the physical sex appearance of the chest or genitalia, and it does not depend upon their having a Gender Recognition Certificate (GRC) or legal name change. Views of family members may not accord with the trans person's wishes, in which case, the trans person's view takes priority.
- 6.3** In some circumstances it may not always be possible to care for patients with other patients identifying of the same sex. This could be due to clinical or safety needs such as the need to use special equipment e.g. in critical and high dependency areas such as Critical Care Units and Hyper Acute Stroke Units.
- 6.4** If there is any question about which ward a trans patient should be in, it is the duty of the clinical staff member to discuss this with the patient, discreetly, and to try to reach an agreement about where the trans patient will stay. It may be that compromise will be necessary on both sides.

7. Children and Young People

- 7.1** 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.

Available on-line from <https://www.nhs.uk/conditions/consent-to-treatment/children/>

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, as adults, 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.

8 Further Clarification of Unjustified Breaches

The new guidance features an *Annex C: Frequently asked questions* (Appendix A). Other situations that would constitute an unjustified breach might be:

- Placing a patient in mixed-sex accommodation for the convenience of medical, nursing or other staff, or from a desire to group patients within a clinical specialty
- Placing a patient in mixed-sex accommodation because of a shortage of staff or poor skill mix
- Placing a patient in mixed-sex accommodation because of restrictions imposed by old or difficult estate
- Placing a patient in mixed-sex accommodation because of a shortage of beds
- Placing a patient in mixed-sex accommodation because of predictable fluctuations in activity or seasonal pressures
- Placing a patient in mixed-sex accommodation because of a predictable non-clinical incident e.g. ward closure
- Placing a patient in mixed-sex accommodation for regular but not constant observation
- It is not acceptable to mix sexes purely on the basis of clinical specialism. For instance, in a stroke unit, it may be acceptable to mix patients immediately following admission (life-threatening emergency, and in need of one-to-one nursing), but not to maintain mixing throughout the rehabilitation.

9. Patient consent

All occurrences of mixing should be recorded within the patient record and should identify:

- what information was given to the patient about SSA (Appendix D)
- if the patient was given a choice about mixing
- if the patient verbally consented to mixing

10. Accountabilities and Responsibilities

- 10.1** The Director of Nursing (DoN) and Chief Operating Officer (COO) are jointly accountable for overseeing compliance with this guidance. There should be a review at Executive Board Level of the numbers of unjustified breaches and ESHT should seek a method of feedback for patients affected by SSA.

The Corporate Nursing Team are responsible for authorising the submission of the monthly data Strategic Data Collection Service.

- 10.2** The Clinical Site Team (CST) are responsible for supporting the clinical areas to report their breaches and ensuring that SSA data is ready for monthly submission by validating the data. The CST will input data onto EIS for all wards and gateway areas: AAU/AMU/SAU/UAU/CDU
- 10.3** The Nurse in Charge of each clinical area or team is responsible for ensuring that the Clinical Site Team are made aware of any breaches and that they have completed the form provided (Appendix B) which should include all breaches that have occurred over a 24 period. They are responsible for giving the forms to the CST.
- 10.4** Areas that regularly breach for clinical reasons will input their data directly onto EIS. The areas identified are Stroke, Coronary Care Unit (CCU Conquest) and Critical Care (CCU EDGH to be included when adequate training has been given).
- 10.5** The Information Management team will create a report from EIS and send to the Clinical Site Team for validation each month.
- 10.6** The Clinical Site Team will send the 2 validated reports (National and Local) to the Corporate Nursing Team for authorisation.

11. Procedures and Actions to Follow

(Please see Appendix C for local reporting processes specific to individual areas)

11.1 Who to count:

- Where mixing occurs the person causing the breach and ALL other affected patients should be counted (except in the case of patient choice when only those affected should be counted).

11.2 When to count:

- All occurrences of mixing, throughout the day, should be counted
- Point prevalence counting (i.e. occurrences at a single point in time each day) should **not** be used
- No moves should take place between 22.00 and 07.00 and therefore no breaches should occur between these times (for CCU, Critical Care and Stroke)

11.3 Where to report:

11.3.1 National reporting

All admitted patients placed in (sleeping) mixed-sex accommodation, where there is no acceptable justification (unjustified), should be reported nationally via the monthly return (see red column Appendix C) and as per the new National Guidance *Delivering same-sex accommodation* (NHSI/E 2019). Breaches should be reported per occurrence only regardless of duration.

11.3.2 Local reporting

All breaches (sleeping and bathroom) as defined locally (see blue column Appendix C), should be reported locally via agreed provider and commissioner governance systems and processes (Appendix E). Every 24 hours the same occurrence is counted again as a new breach.

12. Evidence base/References

Eliminating Mixed Sex Accommodation (*Department of Health*)
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/215932/dh_121860.pdf

NHS England KSS MSA Audit December 2017
<https://www.england.nhs.uk/statistics/statistical-work-areas/mixed-sex-accommodation/>

NHS England/Improvement September 2019. *Delivering same-sex accommodation*.
<https://improvement.nhs.uk/resources/delivering-same-sex-accommodation/>

NHS England KSS MSA guidance December 2017

NHS England/Improvement. 2019. *Monthly Mixed-Sex Accommodation Return: Collection Guidance*.

13. Training

Equality & Human Rights training is delivered to all staff every three years. Clinical staff receive additional training regarding protecting the privacy & dignity of Transgender patients. Training on how to input breach data electronically will be provided.

14. Monitoring Compliance with the Document

Monitoring Table

Element to be Monitored	Lead	Tool for Monitoring	Frequency	Responsible Individual/Group/ Committee for review of results/report	Responsible individual/ group/ committee for acting on recommendations/action plan	Responsible individual/group/ committee for ensuring action plan/lessons learnt are Implemented
Number of unjustified/justified breaches	██████████ ████████████████████ ██████████	Excel spreadsheet (Data extracted by IM from EIS)	Monthly	Patient Experience/Trust Board/Divisional IPR	Professional Advisory Group/ Divisional IPR	Professional Advisory Group/ Divisional IPR

15. Equality and Human Rights Statement

All staff at ESHT have a responsibility to ensure that they have the required competence to provide evidence that they have considered the equality and human rights needs of their patients who access the services provided (Appendix G).

Appendix A

Annex C: Frequently asked questions

1. Is it acceptable to set a time limit before recording mixing as a breach of the standard, eg two hours, four hours, twelve hours?

A) In a ward, this is not acceptable. The breach occurs the moment the patient is placed in mixed-sex accommodation. However, in a high acuity area (as described in Annex A), a patient who is 'fit' to be stepped down from level 2 and 3 care, should be transferred within four hours of being ready to be moved. Transfers should not take place between the hours of 10.00pm and 7:00am. Annex A also confirms that when a patient is in an assessment unit and a decision to admit is made the transfer should occur within four hours of that decision being made *or when the patient arrives in the unit and a decision to admit has already been made.*

2. Are assessment units exempt?

A) Patients in assessment units are excluded until a decision to admit is made *or when the patient arrives in the unit and a decision to admit has already been made*, after which they will be counted as a breach if not admitted within four hours.

3. Are critical care units exempt?

A). Within critical care, some patients may have a clinical need to be in that environment, and therefore should be recorded and monitored locally as a justified breach. Annex A outlines the procedure for managing critical care breaches. For example, in an eight-bedded critical care unit there are four male patients and four female patients. This is to be recorded locally as eight patients in justified mixing. One of the male patients becomes ready to be transferred to a level 1 unit, but there is no available bed for his transfer: this would then become an unjustified breach four hours after he is ready to be moved. As only this patient is classed as an unjustified breach, this would be counted as one breach only.

4. If a patient in critical care becomes an unjustified breach at 9.00pm and is not transferred before 10pm, does that count as a separate breach at 7.00am?

A) Breaches are not counted between the hours of 10.00pm and 7.00am. In this case, the four-hour period from the patient being ready to transfer would start again from 7.00am, any previous count before 10.00pm would be disregarded. Given this is the same occurrence the breach would only be reported nationally once.

5. If a patient needs to be admitted to a bed on a ward in the middle of the night, and the only option is to put them in a mixed-sex bay, would this be a breach?

A) Yes, this is still a breach and should be reported. However, you must admit patients, including transfers, even if you can't provide the right gender bed.

6. Does the MSA policy apply to children? Is there an age limit at which a breach can occur?

A) It is recognised that for many children and young people, clinical need and age take precedence over gender considerations. Children and young people should therefore have the choice whether their care is segregated according to age or gender – hence, mixing may be acceptable. If the child's preference cannot be met and there is no clinical justification to support the patient being placed in mixed-sex accommodation, this should be recorded as a breach. If the child's request is to be with others of a similar age and this results in a mixed bay, then all patients in that bay must choose to be in mixed-sex accommodation otherwise the mixing of all patients should be recorded as breaches. There is no specific age limit – for very young children, the wishes of the parent may be sought.

7. How do I record breaches if a patient has been moved several times?

A) All occurrences of mixing should be recorded and reported. During a stay in hospital, if a patient experiences mixing on multiple wards, each occurrence of mixing should be recorded.

8. How do I determine and record patient choice?

A) On the rare occasion where, for example, a husband and wife choose to be placed together, this should be recorded in both their notes. The breach should still be recorded locally but as justified due to the patient choice. Where a patient has specifically indicated that they wish to be cared for in mixed-sex accommodation, only that patient should not be recorded as a breach, (but all other patients would be in breach if this is not their personal choice). Where patient choice occurs, the privacy and dignity of all patients should be protected.

9. Mixing has occurred in a multi-bedded bay. Do I record all patients as breaches or just the one patient that 'triggered' the mixing?

A) All patients in the bay are experiencing mixed-sex accommodation and therefore they should all be recorded. Where the bay is within a critical care area the rules about recording breaches in that area should be applied, so breaches are only counted for those patients who have waited for over four hours from being assessed as well enough to stepdown from level 2 and 3 care and ready to be transferred.

10. In an independent sector treatment centre, how do I record my NHS funded patients that are in breach?

A) Using an example of a four-bedded bay which is mixed-sex accommodation: three patients are privately funded and one patient is NHS-funded. Only the NHS funded patient is reportable. Private patients can trigger a breach if they are sharing with NHS patients, but only the NHS-funded patients should be reported as breaches nationally.

11. It is not possible for patients to be placed in mixed-sex accommodation at our organisation, do we still need to submit a data return?

A) Yes, all providers with the facilities to admit 10 or more patients at any one time

are included in the data return - simply submit a 'nil' each month. Please see the reporting guidance

12. In a six-bedded bay, there are four male patients and one female patient. I count this as five breaches. Then an extra female patient is added into the same bay as the four male and one female patient who have already been counted as a breach in that bay. Do I count everyone again or just the extra female patient?

A) Regardless of whether an extra male or female patient is admitted it is counted as one additional breach. This means there are now six breaches.

13. After initial mixing in a four-bedded bay, same-sex accommodation is achieved in the bay. However, later the same day a new spell of mixing occurs which involves two of the patients from the original scenario – how is this counted?

A) In the above situation, the first set of (four) breaches is 'cancelled' when the bay becomes same-sex although they would have already attracted a fine. However, when the later mixing occurs, we still have two of the original patients having their privacy and dignity breached (for the second time that day), hence a further four breaches would be reported nationally. A fine would however only be applicable to the two new patients – as the two involved in the original mixing would already have attracted a fine.

14. Can we turn patients away if same-sex accommodation is not available?

A) No, the priority will always be to admit patients and treat them promptly. If you fully understand your capacity and demand this should not happen except in extreme circumstances, in which case you should ensure they are placed in same sex accommodation as soon as possible.

15. Can visitors cause a breach?

A) No, visitors cannot trigger a breach of the mixed-sex accommodation standard as they are not admitted patients. More pertinently, though, they cannot cause an admitted patient to breach the standard.

16. How can an organisation cope with fluctuations in the proportion of male and female patients admitted?

A) Most fluctuations in flow can be predicted and accommodated. It is important to understand the anticipated flow of unscheduled patients into your unit so you can manage it appropriately. Reviewing previous admissions patterns for the number of male and female patients will help.

17. How do we position eliminating mixed-sex accommodation in the long list of clinical and organisational priorities?

A) Protecting patients' privacy and dignity is integral to good quality patient care and should be part of an organisation's overall ethos and approach.

18. How can I ensure that the wishes of all patients in an area or on a ward/bay are considered when accommodating the wishes of a small number of those patients?

A) Staff should remember that, under the Equalities Act and the Public Sector Equality Duty, it is a legal requirement to ensure that trans people are not

discriminated against. This guidance clearly states that trans and non-binary people should be accommodated in line with their stated gender identity. In all cases staff should communicate to all patients and or their carers the situation that arises, ensuring sensitivity to all views and acting accordingly to protect the privacy and dignity of all patients. Where the situation, for example, relates to trans patients, staff should do everything they can to respond to the wishes of all patients, while still protecting the dignity and legal rights of the trans person. There may be some circumstances where it is lawful to provide a different service or exclude a trans person from a single sex ward of their preferred gender but only if this is a proportionate means of achieving a legitimate aim. Any decision to do this must therefore be made on a case-by-case basis, and based on:

- an objective and evidence-based assessment of the circumstances and relevant information
- respecting the rights and needs of the trans person and the detriment to them if they are denied access and balancing that against the needs of other service users and any detriment to them if the trans person is admitted.

Appendix B ESHT Breach Report Form for Business Continuity

Clinical Area:.....

Date	Time Decision to Admit or Decision to Move	Time of Arrival into clinical area (for AAU/UAU/AMU/SAU/CDU)	Time of Breach	NHS/Hospital No of Patient Initiating the Breach and Gender	No of people affected	NHS/Hospital No of people affected	Reason for Mix	Leaflet and verbal information given to the patient Y/N

Appendix C Specific SSA Guide for Individual ESHT Areas (Red is what ESHT report Nationally, blue is for local reporting and identifying areas for improvement). Please follow the blue column when reporting ESHT breaches onto EIS or via the Clinical Site Team.

National Monthly Reporting to the Strategic Data Collection Service (SDCS) (All unjustified breaches with new guidance applied)		Options for Local Monthly Reporting (Unjustified breaches as reported by ESHT)	
Method	Per occurrence regardless of duration. Numbers reported are all breaches within a 24 hour period (not spot audit).	Method	Every 24 hours the same occurrence is counted as a new breach. Numbers reported are all breaches within a 24 hour period (not spot audit).
AAU/AMU/SAU/CDU/UAU	Report as an unjustified breach when >4 hours from decision to admit (DTA) or from when the patient arrives in the unit and a decision to admit has already been made.	AAU/AMU/SAU/CDU/UAU	Report as an unjustified breach when >4 hours from decision to admit (DTA) or from when the patient arrives in the unit.
Critical Care levels 2-3/Coronary Care Unit (CCU)/Stroke Unit	Report as unjustified breach when >4 hours from when the patient is ready to be moved. Only count the person who is causing the breach. No breaches to be counted between 22.00 – 07.00 because patients should not be moved during this time. If patient is ready to be moved at 22.00 but doesn't move until 08.00 the next day then the breach from the previous day is discounted.	Critical Care levels 2-3/Coronary Care Unit (CCU)/Stroke Unit	Report as unjustified breach when >4 hours from when the patient is ready to be moved. Count all patients affected by the breach. Night breaches to be counted.
End of Life Care	Not reportable, a patient who is in last days/hours of life should not be moved to avoid a breach. This would be a justified breach	End of Life Care	Not reportable, a patient who is in last days/hours of life should not be moved to avoid a breach. This would be a justified breach
Judy Beard/Pevensey (Day Cases) /Ambulatory Care Units/Renal Dialysis Unit	Not reportable as these are justified breaches.	Judy Beard/Pevensey (Day Cases) /Ambulatory Care Units/Renal Dialysis Unit	Not reportable as these are justified breaches.
In-Patient Areas	Report as unjustified breaches. Only count each occurrence regardless of duration.	In-Patient Areas	Report as unjustified breaches. Count each breach as a new occurrence every 24 hours. Report justified breaches when relating to Infection Prevention and Control.
Endoscopy & Day Surgery	Report all unjustified breaches	Endoscopy & Day Surgery Units	Report all unjustified breaches
Michelham Unit	Only count NHS funded breaches. Count each occurrence once regardless of duration.	Michelham Unit	Only report NHS funded breaches. Report each breach as a new occurrence every 24 hours.

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Children	A child can choose (or parents with young children) but if others do not agree, it is an unjustified breach. Do not report the child but report those affected by the breach. Only count the breach once regardless of duration.	Children	A child can choose (or parents with young children) but if others do not agree report as an unjustified breach. Do not report the child but report those affected by the breach. Report the breach as a new occurrence every 24 hours.
Patient Choice	Do not count the person but all others affected if not their choice. Count each breach as one occurrence regardless of duration.	Patient Choice	Do not report the person but all others affected if not their choice. Report each breach as a new occurrence every 24 hours.
PACU	Not reportable as these are justified breaches.	PACU	Not reportable as these are justified breaches.

Appendix D - Patient Information leaflet

Our commitment to minimising mixed sex accommodation

We remain committed to ensuring and protecting the privacy and dignity for all of our patients. Part of this relates to sleeping accommodation. We will always endeavour to treat patients in the “right” bed in the right specialty and will not mix except where it is in the overall best interest of the patient. This would usually relate to specialist treatment, for example intensive or critical care or specialist services such as acute stroke. We monitor this very closely and report on it nationally to ensure transparency. If there is a need to mix we will explain why to patients.

What does this mean for patients?

If you need help to use the toilet or take a bath (e.g. you need a hoist or special bath) then you may be taken to a bathroom used by both men and women at different times, but a member of staff will be with you to ensure your privacy is maintained.

There will be both male and female patients on the ward, but they typically will be in different bays or on occasions in side rooms.

You may share some communal space, such as day rooms or dining rooms, and it is very likely that you will see both male and female patients as you move around the hospital.

It is probable that visitors of the opposite gender will come into the room where your bed is, and this may include patients visiting each other.

It is almost certain that both male and female nurses, doctors and other staff will come into your bed area.

The NHS will not turn patients away just because a “right-sex” bed is not immediately available.

How will we measure success?

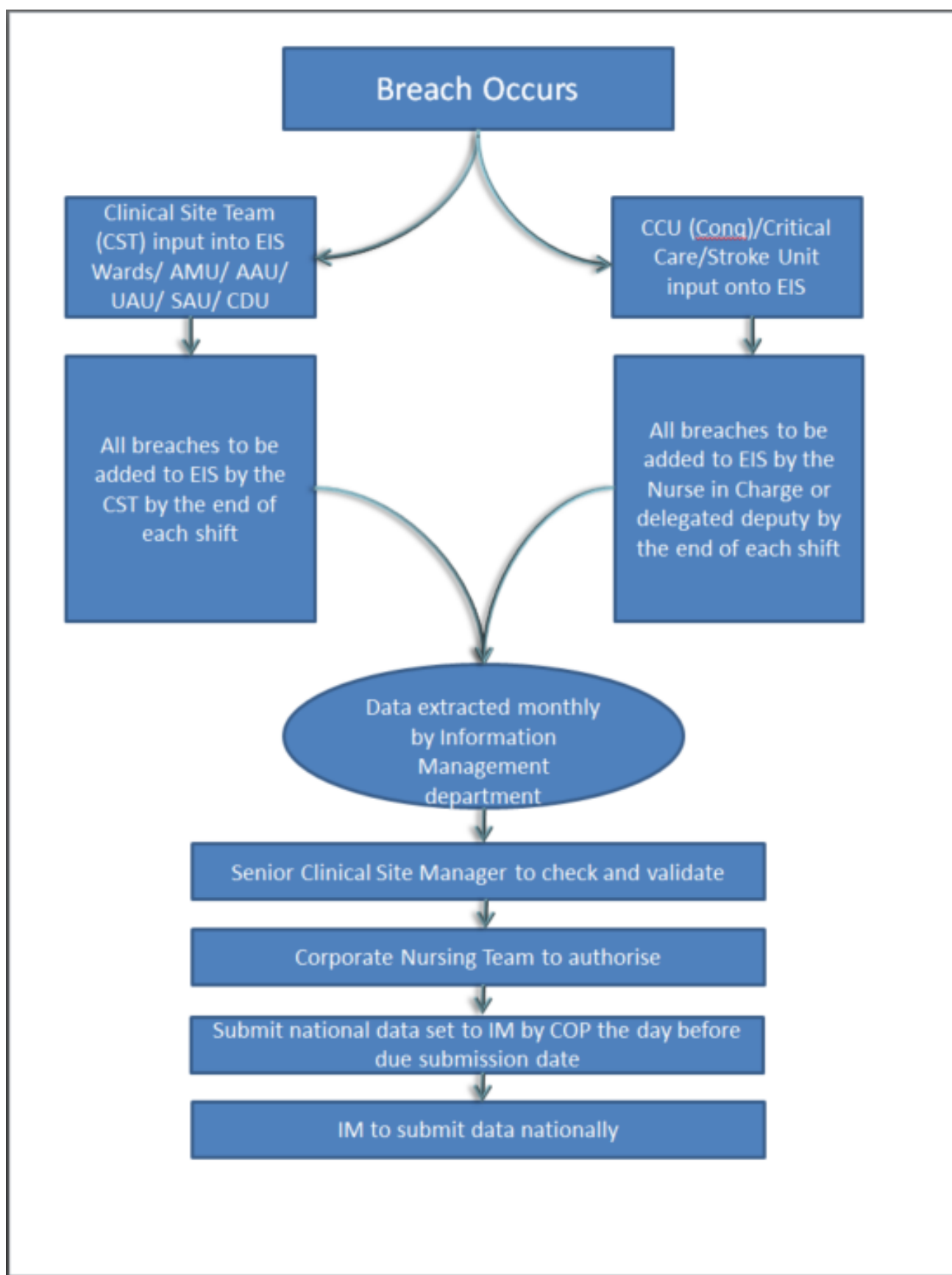
Every day we will make an assessment of all our areas and review any incident where same sex accommodation has not been provided. Should this occur it will be rectified as soon as possible.

What do you do if you think you are in mixed sex accommodation?

If you have any concerns or queries please feel free to discuss this with the nurse in charge of your area or our Patient Advice and Liaison team.

Vikki Carruth, Director of Nursing, March 2018

Appendix E Breach Process



Appendix F

SOP for inputting Same Sex Accommodation onto the Executive Information System (EIS)

1. Put EIS into the Trust Intranet search box



[Home](#) [Corporate Information](#) [News](#) [How do I?](#)

[Home](#) > Search results for 'EIS'

Search results for: EIS

Found 2 results

[Executive Information System \(EIS\)_\(system link\)](#)

Task System Link

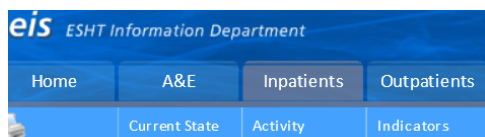
EIS

[Telephone Directory](#) | [A to Z](#) | [Document search](#)

Filter results

- ☐ Blog posts
- ☐ Documents
- ☐ Events
- ☐ News
- ☐ News updates
- ☐ Tasks
- ☐ Teams
- ☐ Staff profiles

2. Click on In-Patient Tab & SSA Overview



▼ Current State

[By Site](#) Live bed state, by hospital site.

[MRSA/Cdiff](#) Current inpatients flagged with MRSA/C d

▼ Activity

[Admits and Discharges](#) Summary of admissions/disch

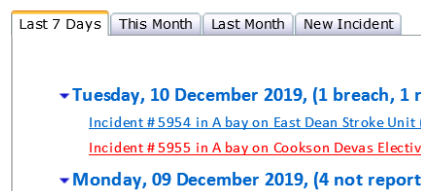
[Disch \(special exclusions\)](#) Summary of discharges for

[SSA Overview](#) Mixing sex accommodation recording.

3. Click on 'New Incident'



Mixed Sex Accommodation Overview



- Complete all the fields in the incident detail. It is important to include the time of the breach in order to reveal the correct patient names.

New Mixing Incident

[Incident Detail](#)

Date: 11/12/2019

Time: 18:00

Hospital: Conquest Hospital

Ward: Clinical Decision Unit (H)

Area:

Reason: Lack of bed capacity

Sub reason: Please select a reason

Decision maker: Please select a decision maker

Comment:

REASON – ONLY USE *LACK OF BED CAPACITY (or SUITABLE X FER FROM ITU BREACH FOR CRITICAL CARE)*.

SUB REASON - ONLY USE *LACK OF BED CAPACITY*

- Scroll down until you see the list of patient names

[Admissions](#)

Incl.	Pat ID	Pat Name	Sex	Primary
<input checked="" type="checkbox"/>			F	<input type="checkbox"/>
<input checked="" type="checkbox"/>			F	<input type="checkbox"/>
<input checked="" type="checkbox"/>			M	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>			F	<input type="checkbox"/>
<input checked="" type="checkbox"/>			F	<input type="checkbox"/>
<input type="checkbox"/>			M	<input type="checkbox"/>
<input type="checkbox"/>			M	<input type="checkbox"/>
<input type="checkbox"/>			M	<input type="checkbox"/>
<input type="checkbox"/>			F	<input type="checkbox"/>
<input type="checkbox"/>			M	<input type="checkbox"/>

- Tick the patient who has initiated the breach on the right hand 'primary' column
- Tick the patients who have been affected by the breach on the left hand 'incl.' column
- Click on 'Save'.

Appendix G – EHRA Form

A Due Regard, Equality & Human Rights Analysis form must be completed for all procedural documents used by East Sussex Healthcare NHS Trust. Guidance for the form can be found [here on the Equality and Diversity Extranet page](#).

Due Regard, Equality & Human Rights Analysis

Title of document: Same Sex Accommodation Policy
Who will be affected by this work? Staff, patients, service users
Please include a brief summary of intended outcome: The same sex accommodation guidance supports staff to manage operational flow and provides guidance on managing and reporting both locally and nationally.

		Yes/No	Comments, Evidence & Link to main content
1.	Does the work affect one group less or more favourably than another on the basis of: (Ensure you comment on any affected characteristic and link to main policy with page/paragraph number)		
	• Age	Yes	Children and young people including Gender variant children are considered within the policy as different rules apply to mixed sex breach.
	• Disability (including carers)	No	
	• Race	No	
	• Religion & Belief	No	
	• Gender	Yes	Section 2 - The revised Operating Framework for 2012/13 makes it clear that all NHS organisations are expected to minimise mixed-sex accommodation (MSA), except where it is in the overall best interest of the patient, or reflects their personal choice.
	• Sexual Orientation (LGB)	No	
	• Pregnancy & Maternity	No	
	• Marriage & Civil Partnership	No	
	• Gender Reassignment	Yes	Page 7 - Special consideration is given to protect the privacy and dignity of a transgender person including their gender status.
	• Other Identified Groups		
2.	Is there any evidence that some groups are affected differently and what is/are the evidence source(s)?		(Ensure you comment and link to main policy with page/paragraph number)
3.	What are the impacts and alternatives of implementing / not implementing the work / policy?	The policy sets out best practice guidance but acknowledges that in some circumstances it may not be possible to	

		archive, due to capacity. If the policy is not adhered to the patients will be cared for safety but the patient experience will be affected adversely
4.	Please evidence how this work / policy seeks to “eliminate unlawful discrimination, harassment and victimisation” as per the Equality Act 2010?	Transgender patients will be supported to ensure they are accommodated in the most appropriate setting for them. This may involve single ensuite rooms
5.	Please evidence how this work / policy seeks to “advance equality of opportunity between people sharing a protected characteristic and those who do not” as per the Equality Act 2010?	Special care is taken to ensure Transgender patients’ privacy and dignity is protected
6.	Please evidence how this work / policy will “Foster good relations between people sharing a protected characteristic and those who do not” as per the Equality Act 2010?	Training is provided to all clinical staff on protecting transgender privacy in healthcare settings.
7.	Has the policy/guidance been assessed in terms of Human Rights to ensure service users, carers and staff are treated in line with the FREDA principles (fairness, respect, equality, dignity and autonomy)	Training is provided to ensure service users, carers and staff are treated with fairness, respect, equality, dignity and autonomy.
8.	Please evidence how have you engaged stakeholders with an interest in protected characteristics in gathering evidence or testing the evidence available?	The policy is based on national guideline and has not been locally reviewed by patients with protected characteristics. The national team were consulted to ensure users had been engaged.
9.	Have you have identified any negative impacts or inequalities on any protected characteristic and others? (Please attach evidence and plan of action ensure this negative impact / inequality is being monitored and addressed).	No