

Assessment of same-sex accommodation

Context and policy position

The Chief Nursing Officer and Deputy NHS Chief Executive required providers to declare by 1 April 2011 that all hospital accommodation is same-sex.¹ The requirement covers sleeping accommodation, bathroom/toilet accommodation and (in mental health and learning disability providers) day rooms/lounges. Providers are required to report breaches relating to sleeping accommodation **only** to NHS England every month via Unify2.

Breaches of same-sex accommodation identified during inspections of mental health and community health service providers may result in a requirement notice or a warning notice. Unlike the national breach recording system, this applies to sleeping, bathroom and day accommodations.

Evidence required

For every ward/inpatient unit that accommodates both men and women, the inspection team should assess whether the layout of the ward/unit meets the definition of providing accommodation that is 'same-sex' (the definition is given in the appendix below). If a ward/unit does not meet the definition, the team must record exactly why this is the case and what effect this has/might have on the safety and/or dignity of patient care (with actual examples of where safety and/or dignity have been compromised if they observe or hear of any).

The inspection team must confirm that there is no 'acceptable justification' for this ward/unit not providing same-sex accommodation. A letter from the Chief Nursing Officer and Deputy NHS Chief Executive (November 2010)² lists what is and what is not considered to be a breach and should be referred to before concluding that a breach has been identified (if in doubt, seek advice from our legal adviser).

Reporting

The inspection team should report the finding to the provider board at the feedback session that ends the site visit and a letter confirming that we consider that a breach has occurred should be sent to the provider's Chief Executive immediately after the inspection visit.

The inspection report should link the breach to the Mental Health Act Code of Practice (paragraphs 8.25-6)³ which states that:

"All sleeping and bathroom areas should be segregated, and patients should not have to walk through an area occupied by another sex to reach toilets or bathrooms. Separate male and female toilets and bathrooms should be provided, as should women-only day rooms. Women-only environments are important because of the increased risk of sexual and physical abuse and risk of trauma for women who have had prior experience of such abuse. Consideration should be given to the particular needs of transgender patients.

¹ *Eliminating Mixed-Sex Accommodation*. From the Chief Nursing Officer and Deputy NHS Chief Executive. 10 February 2011. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/215773/dh_124233.pdf

² *Eliminating Mixed Sex Accommodation*: From the Chief Nursing Officer and Deputy NHS Chief Executive. November 2010. PL/CNO/2010/3. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/215932/dh_121860.pdf

³ Mental Health Act 1983: Code of Practice. Department of Health. 2015. <https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983>

A patient should not be admitted to mixed-sex accommodation. It may be acceptable, in a clinical emergency, to admit a patient temporarily to a single, en-suite room in the opposite-gender area of a ward. In such cases, a full risk-assessment should be carried out and the patient's safety, privacy and dignity maintained. Steps should be taken to rectify the situation as soon as possible. For more information see NHS guidance on eliminating the use of mixed-sex accommodation in relation to mental health patients. This includes information on temporary admissions in exceptional circumstances and the required reporting to the NHS Commissioning Board on mental health patients.”

Link to regulations

If there is evidence that privacy, dignity and/or safety have been compromised, this should be considered a breach of Regulation 10 (paragraph 10(2)(a)). If there is no evidence that privacy, dignity and/or safety have been compromised but a mixed ward/unit is part of the local service model, Regulation 17 may be considered.

Appendix: Definition of same-sex accommodation

For the purposes of inspecting mental health care providers, we will use the definition of same-sex accommodation developed by the NHS Confederation.⁴ Same-sex accommodation means that:

- service users are accommodated in same-sex wards, where the whole ward is occupied by men or women only **or**
- sleeping accommodation is in single rooms within mixed wards, with toilet and washing facilities en-suite or very close by; these facilities are clearly designated either male or female **or**
- sleeping accommodation within mixed wards is in shared rooms (good practice would suggest that bays are entirely enclosed with solid walls with a door that can be shut) used solely by male or female users **and**
- on mixed wards with single or shared bedrooms giving out on to one corridor, single bedrooms, toilet and bathing facilities are grouped to achieve as much gender separation as possible (for example, women towards one end of the corridor, men towards the other) **and**
- no one should have to pass through rooms occupied by the opposite sex to reach their toilet and washing facilities near to their bedrooms and bed bays. The exception is toilet facilities used while in day areas where service users are fully dressed. If there are limited facilities for disabled people which need to be used by both men and women, people who may be vulnerable could be escorted by a member of staff **and**
- on mixed wards good practice requires a day lounge for use by women only (mandatory for services provided in facilities built or refurbished since 2000) as well as spaces where men and women can socialise and take part in therapeutic activities together **and**
- every effort is made to ensure the availability of staff who are the same sex as the users they are caring for, especially for intimate care.

The need to provide gender sensitive care, which promotes privacy and dignity, applies to all ages, and therefore includes children's and adolescent units. This means that boys and girls should not share bedrooms or bed bays and that toilets and washing facilities should be same-sex. An exception to this might be in the event of a family admission on a children's unit, in which case brothers and sisters may, if appropriate, share bedrooms, bathrooms or shower and toilets.

Precisely how same-sex accommodation looks will vary from one ward or unit to another. However, this is the set of criteria by which services will be measured. On mixed wards it is essential that service users and their families and friends are given a clear explanation of how the bedrooms and other facilities are organised to ensure privacy and dignity.

⁴ Delivering same-sex accommodation in mental health and learning disability services. NHS Confederation. January 2010. Briefing 195. www.nhsconfed.org/Publications/briefings/Pages/Delivering-same-sex-accommodation-mental-health-learning-disability.aspx