

Trust Headquarters
Russell's Hall Hospital
Dudley
West Midlands
DY1 2HQ

Ref: FOI-072024-000969

Date: 01/07/2024

Address / Email:

Dear

Request Under Freedom of Information Act 2000

Thank you for requesting information under the Freedom of Information Act 2000.

Request

Dear The Dudley Group NHS Foundation Trust,

Please provide:

- 1) Gender reassignment and/or transgender guidance and policies relating to staff**
- 2) Gender reassignment and/or transgender guidance and policies relating to patients**
- 3) Related Equality Impact Assessments if separate**
- 4) Policies on mixed sex and/or same sex accommodation**

Response

- 1) Gender reassignment and/or transgender guidance and policies relating to staff.**

Please see attached Guideline.

- 2) Gender reassignment and/or transgender guidance and policies relating to patients.**

N/A

- 3) Related Equality Impact Assessments if separate.**

We have recently started our Equality Impact Assessments; therefore, we do not have a current EIA for the attached documents.

- 4) Policies on mixed sex and/or same sex accommodation**

Please see attached policy.

If you are dissatisfied with our response, you have the right to appeal in line with guidance from the Information Commissioner. In the first instance you may contact the Information Governance Manager of the Trust.

Information Governance Manager
Trust Headquarters
Russell's Hall Hospital
Dudley
West Midlands
DY1 2HQ
Email: dgft.dpo@nhs.net

Should you disagree with the contents of our response to your appeal, you have the right to appeal to the Information Commissioners Office at.

Information Commissioners Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 0303 123 1113
www.ico.org.uk

If you require further clarification, please do not hesitate to contact us.

Yours sincerely

Freedom of Information Team
The Dudley Group NHS Foundation Trust

PRIVACY AND DIGNITY (INCORPORATING SAME SEX/MIXED SEX ACCOMMODATION) POLICY	DOCUMENT TITLE:	PRIVACY AND DIGNITY (INCORPORATING SAME SEX/MIXED SEX ACCOMMODATION) POLICY
	Name of Originator/Author /Designation & Specialty:	██████████ Quality Lead
	Director Lead:	Chief Nurse
	Target Audience:	All staff employed by The Dudley Group NHS Foundation Trust
	Version:	6.0
	Date of Final Ratification:	09/05/2022
	Name of Ratifying Director Lead/Sponsor:	██████████ Chief Nurse
	Review Date:	May 2025
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	Relevant Documents /Legislation/Standards	CQC Regulation 10: Dignity and Respect (2021) The code for nurses and midwives (2020) Good Medical Practice (2019) Standards of proficiency for midwives (2019) Handbook to the NHS Constitution for England (2022) Delivering same-sex accommodation (2019)
	Contributors: <i>Individuals involved in developing the document.</i>	Designation: Deputy Chief Nurses Divisional Chief Nurses Deputy Divisional Chief Nurses Matron for Coronary Care Deputy Matron for Critical Care Quality Lead Deputy Contracts and Performance Manager Statutory and Mandatory Training Lead
	The electronic version of this document is the definitive version	

CHANGE HISTORY

Version	Date	Reason
1.0	January 2005	New document
2.0	June 2011	Full review of previous document
3.0	April 2013	Full review of previous document

4.0	January 2017	Privacy/Dignity issues and Single Sex Accommodation issues separated into two separate policies
5.0	January 2019	Full review of previous document
6.0	May 2022	Full review of previous document and amalgamation with Same Sex Accommodation Policy

A translation service is available for this document. The Interpretation/Translation Policy, Guidance for Staff is located on the intranet under Trust-wide Policies.

1 Contents

1	INTRODUCTION.....	4
2	STATEMENT OF INTENT and /PURPOSE	4
3	DEFINITIONS	4
4	DUTIES (RESPONSIBILITIES)	5
4.1	Trust Board.....	5
4.2	Chief Executive Officer	5
4.3	Director Lead.....	5
4.4	Out of Hours On-Call Director.....	6
4.5	On-Call Manager (Out-of-Hours)	6
4.6	Clinical Site Co-ordinators and Bed Managers.....	6
4.7	Divisional Chief Nurses and Matrons	6
4.8	Head of Patient Experience	6
4.9	Information Department.....	6
4.10	Ward and Departmental Managers.....	7
4.11	All Trust Staff.....	7
5	PROCESS.....	7
5.1	Privacy and Dignity Generic Principles	7
5.2	Assessment and Intervention for Patient Privacy.....	8
5.3	Assessment and Intervention for Patient Dignity.....	9
5.4	Privacy of Personal Information	10
5.5	Same Sex / Mixed Sex Accommodation.....	10
6	TRAINING/SUPPORT	14
7	PROCESS FOR MONITORING COMPLIANCE	15
8	EQUALITY.....	17
9	REFERENCES.....	17
10	APPENDICES.....	19

THE DUDLEY GROUP NHS FOUNDATION TRUST

PRIVACY AND DIGNITY (INCORPORATING SAME SEX/MIXED SEX ACCOMMODATION) POLICY

1 INTRODUCTION

The Trust recognises the fundamental importance of ensuring that patients, relatives, and carers experience care that is delivered with compassion and empathy in a respectful and non-judgemental way. This includes arrangements for ensuring privacy, dignity and same sex/mixed sex accommodation requirements are met.

The policy sets out a minimum standard for all staff to achieve whilst going about their daily duties in order to ensure the rights of the individual are protected and upheld at all times.

2 STATEMENT OF INTENT and /PURPOSE

This policy provides staff with guidance to assist those who have contact with service users, their relatives, and carers to maintain high standards of privacy and dignity across the Trust. It also provides guidance for ensuring same sex/mixed sex accommodation needs are met and a reporting process for any identified breaches of this process.

3 DEFINITIONS

Privacy

Refers to freedom from intrusion and embarrassment and relates to all information and practice that is personal or sensitive in nature to an individual. Privacy is a key principle, which underpins human dignity, and remains a basic human right and the reasonable expectation of every person. (Human Rights Act 1998).

Dignity

Refers to “how people feel, think, and behave in relation to the worth and value of themselves and others. To treat someone with dignity is to treat them as being of worth, in a way that is respectful of them as individuals.” (RCN 2008). This is irrespective of differences such as age, race, culture, gender, sexual orientation, social background, health, marital status, disability, religion, or political conviction.

Respect

A positive regard shown to a person as an individual by others; demonstrated as courtesy; good communication; taking time; equal access.

Modesty

Modesty refers to treatment that is being given in a manner which avoids unnecessary exposure and minimises anxiety and distress.

Same Sex/Mixed Sex Accommodation

Same sex/mixed sex accommodation refers to the provision of sleeping accommodation shared with other patients of the same sex.

Justified Breach

There are times when the need to urgently admit and treat a patient overrides the need for complete segregation of sexes. In these cases, all reasonable steps are taken to maintain the privacy and dignity of all patients affected. There are some clinical circumstances where mixing is 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 [Appendix 1](#).

Unjustified Breach

This is where mixed-sex accommodation occurs that cannot be clinically justified.

Abbreviations

AHP	Allied Health Professional
BM	Bed Manager
CCG	Clinical Commissioning Group
CEO	Chief Executive Officer
COO	Chief Operating Officer
CQC	Care Quality Commission
CSC	Clinical Site Co-ordinator
GMC	General Medical Council
HCPC	Health and Care Professions Council
IMCA	Independent Mental Capacity Advocate
MSA	Mixed Sex Accommodation
NMC	Nursing and Midwifery Council
RCN	Royal College of Nursing
SDCS	Strategic Data Collection Service
SOP	Standard Operating Procedure
SQPR	Stream Query Planning with Reuse (Data processing tool)

4 DUTIES (RESPONSIBILITIES)

4.1 Trust Board

The Trust Board is responsible for ensuring that the Trust has appropriate processes and systems in place to ensure the privacy, dignity and segregation of same sex patients can be maintained, acting on any escalations of non-compliance.

4.2 Chief Executive Officer

The CEO is the accountable officer and will ensure that there are processes in place that ensure patients are treated in a way that means their privacy and dignity is maintained at all times.

4.3 Director Lead

The Director Lead is the Chief Nurse, who holds the corporate role for Quality of Care, and is responsible for ensuring that Trust staff uphold the principles of Privacy and Dignity (Incorporating Same Sex/Mixed Sex Accommodation Policy, May 22, V6 Page 5 of 22

privacy, dignity and segregation of sexes when dealing with all patients and their carers; utilising strategies and delegation to ensure the key principles are promoted at all levels throughout the organisation. The Deputy Chief Nurses will support this process in the absence of the Chief Nurse.

4.4 Out of Hours On-Call Director

The Director On-Call (Out-of-Hours) is responsible for ensuring that every action to prevent a same sex/mixed sex accommodation breach has been considered. ONLY the Director on-call out of hours can make the decision to create a mixed sex area in order to avoid breaching the Trust performance targets.

4.5 On-Call Manager (Out-of-Hours)

The on-call manager is responsible for exploring all avenues to avoid breaching same sex accommodation; they are responsible for liaising with the Director on-call and for updating them on current Trust capacity.

4.6 Clinical Site Co-ordinators and Bed Managers.

This staff group has the responsibility for identifying and matching bed availability to the clinical needs of patients requiring admission to the Trust, whilst ensuring same sex accommodation is maintained. They will raise a potential breach in the Capacity meetings when an action plan to prevent the breach will be agreed.

4.7 Divisional Chief Nurses and Matrons

Divisional Chief Nurse and Matrons are responsible for assessing all clinical areas within their Divisions/Directorates to identify areas that may be at risk of breaching [Delivering same-sex accommodation document \(2019\)](#). Those areas at risk of breaching the guidelines will:

- have a risk assessment in place to manage the segregation of patients
- report every same-sex accommodation breach on Datix

During normal working hours, Divisional Chief Nurses and Matrons are responsible for promoting and monitoring the principles of privacy and dignity; ensuring associated Trust strategies are shared; preventing and/or challenging any breaches to same sex accommodation. They will provide support to nursing staff to resolve any identified issues as soon as practicably possible.

4.8 Head of Patient Experience

The Head of Patient Experience is responsible for ensuring that there are systems in place to gain patients' views on privacy, dignity, and same sex accommodation, ensuring that results are communicated both to Divisions/Directorates and in relevant Trust wide forums.

4.9 Information Department

The Information Department is responsible for collecting the information on same sex/mixed sex breaches, reporting each month as part of the Integrated Performance Report. This report is shared as part of the Trust Governance

processes with the Quality and Safety Committee and the Clinical Commissioning Group (CCG).

4.10 Ward and Departmental Managers

Ward and departmental managers are directly responsible for ensuring this policy is implemented in their ward and unit. This includes monitoring compliance, with prompt reporting of potential and/or actual same sex accommodation breaches.

4.11 All Trust Staff

All staff are responsible for following the principles laid down in this Policy and for reporting any concerns on this issue to the ward/departmental manager. They are expected to comply with the CQC (2021) regulation 10 which states: 'When people receive care and treatment, all staff must treat them with dignity and respect at all times. This includes staff treating them in a caring and compassionate way.'

In addition they should also comply with the same sex accommodation guidance set out in the [Delivering same-sex accommodation document \(2019\)](#).

Relevant staff should take note of the requirements of their professional bodies, e.g.

- Medical Staff: GMC (2019) 'You must treat patients as individuals and respect their dignity and privacy'
- Nursing and Midwifery Staff: NMC (2018) 'You make patients care and safety your main concern and make sure that their dignity is preserved and their needs are recognised, assessed and responded to. You make sure that those receiving care are treated with respect, that their rights are upheld and that any discriminatory attitudes and behaviours towards those receiving care are challenged.'
- Allied Health Professionals: HCPC (2018) 'You must treat service users and carers as individuals, respecting their privacy and dignity.'

5 PROCESS

5.1 Privacy and Dignity Generic Principles

- This policy applies to all patients irrespective of age, ethnicity, social, cultural, gender, psychological and physical dependencies.
- At all times, staff will treat patients, their relatives, or carers, in a manner that makes them feel that they are valued and respected.
- Staff will be able to recognise patients who have a mental health issue or learning difficulty and will adjust for these patients as set out in the Equality Act (2010). For example: asking the person what they want; what support they need; including the individual at all stages of the care planning process; use of care passports or existing care plans.
- Patients will receive care in an environment that actively encompasses their individual values, beliefs, and personal relationships.

- The personal space of patients and their relatives will be respected at all times.
- Communication with patients will take place in a manner that respects their individual knowledge, abilities, and preferences.
- Patients will be cared for in an environment that actively promotes their privacy.
- Information about their diagnosis and care will be shared with patients in the first instance and their relatives where the patient agrees. If, by virtue of their physical or mental illness, a patient is unable to make a reasoned and informed decision, a relative/carer identified by a prior power of attorney agreement will receive updates on diagnosis and care plans.
- When a patient lacks capacity, and no nominated relative/carer/advocate arrangement is in place, it is the Nursing/Medical staff responsibility to ensure an Independent Mental Capacity Advocate (IMCA) is enlisted to protect/uphold the rights of the individual in the absence of any next of kin or significant other. Details can be found in the [Independent Mental Capacity Advocate \(IMCA\) Service Use Policy](#).
- Private space will be made available for patients and their relatives to spend time away from other patients and for private interviews between staff and patients. Care should be taken, especially when discussing sensitive issues, to ensure confidentiality of personal conversations.

5.2 Assessment and Intervention for Patient Privacy

- Curtains/doors will be closed during all examinations and procedures, including curtain/blinds to windows and doors (in the absence of blinds opaque glass should be utilised).
- All curtains will be the correct size for the space they are to be used in and correct size should allow for overlap. If curtains do not fit it is the nursing staff responsibility to contact the Help Desk on extension 1234 and request additional or alternative curtains.
- When curtains/doors are closed staff will ask for permission from the patient before entering. Signs are recommended to be attached to curtains to remind staff and other visitors to request permission before entering (if these are not already integrated in curtain material).
- No visitor may visit without that patient's explicit agreement. There should be enough space for visitors to sit by the patient, avoiding intrusion from neighbouring patients. Visiting will be arranged in line with the Trust [Visitor Policy](#) and any local visiting restrictions that may exist at that time (e.g. restrictions due to infection outbreaks).
- Patients will always be adequately dressed and covered when leaving a clinical area for any reason, so that their privacy is maintained, and they are warm and comfortable.

- All nursing and medical staff will ensure that those patients with additional vulnerabilities are never left without a covering to maintain their decency. During personal care delivery and physical examination, additional attention must be taken to ensure minimum exposure occurs, especially during personal care and changing of linen/clothing.
- Every effort will be made to ensure that vulnerable patients who may continually expose themselves are shielded from the view of other patients and visitors to the ward. Similarly, patients who are lucid, but expose themselves need to be made aware of other patients' privacy and dignity and asked to cover themselves.
- Staff have an obligation to ensure all patients can communicate effectively, utilising supportive and alternate methods to assist in this. Staff have a responsibility to ensure all hearing aids are inserted; dentures cleaned and fitted as required.
- Consideration of the need for a chaperone should be made in line with the requirements of the [Chaperone Policy](#).

5.3 Assessment and Intervention for Patient Dignity

- Staff will not discuss any confidential patient or visitor information within the hearing of another patient or visitor without the agreement of the patient, or outside of the clinical area they are working in.
- Staff will not discuss their personal lives over a patient to the exclusion of that patient from the conversation.
- Patients may read their care evaluation and nursing care evaluation documentation if they choose to do so. Next of kin may read this information with the patient's consent.
- People with learning disabilities are a diverse patient group. Staff can promote dignity by recognising each person as an individual with a unique personality, history, and range of abilities. (RCN 2010) If required, further advice on their management should be sought from their health [passport](#), carer or the Learning Disabilities Team.
- Facilities are available to translate/interpret for patients who are unable to hear fully or who cannot communicate in English and should be accessed for this group of patients. Written information can be made available in large print, different languages or Braille (via the Patient Information Officer). Further information can be found in the [Interpreting and Translating Policy](#).
- All patients will have their diagnosis, care and treatment explained to them in a manner that they are able to understand. Written information will be provided in an easy read text format.

- All patients will have the opportunity to discuss their care/treatment/condition with the medical staff; Nurse or Midwife; Lead Nurse/Lead Midwife; AHP on a daily basis.
- Staff will be respectful of each patient's individual needs including religious and cultural beliefs. They are expected to take the time to establish how each patient would like to be addressed. It should never be assumed that every patient will want to be called by their first name.
- All patients will be asked about their preferred name. This will be recorded and used. Terms such as "Love", "Dear" and "Chick" may be seen to be disrespectful and are actively discouraged when engaging in conversations with patients and their visitors.
- The Trust is committed to the spiritual care of patients and their relatives. As part of this commitment, the Chaplaincy Service aims to:
 - help facilitate the spiritual care of patients and their visitors
 - to meet whatever religious needs patients may have
 - make provision for patients to practice their religion if they wish to do so
- The Chaplaincy team can be contacted on ext. [REDACTED] or by email at [REDACTED]. Patients may also visit the Prayer Centre/Chaplaincy office in person.

5.4 Privacy of Personal Information

Patients have the right to expect that:

- All staff are bound by a legal duty of confidence to protect personal information that they may come into contact with.
- All staff are obliged to keep any personal identifiable information safe and strictly confidential.
- Patient information is only shared to enable care, with their consent.
- Trust staff will adhere to the Trust [Confidentiality Policy](#) which includes Caldicott Guidance, regarding the secure handling of personal patient information.

5.5 Same Sex / Mixed Sex Accommodation

5.5.1 Background

Monitoring of mixed-sex accommodation (MSA) breaches began in December 2010 following a national 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 would not have to share sleeping accommodation with members of the opposite sex, except where appropriate.

In March 2013 MSA monthly reporting was included in the NHS Standard Contract as an Operational Standard and in 2014 it was included in [Care Quality Commission \(CQC\) Regulations 2014 Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014: Regulation 10: Paragraph 10\(2\)\(a\)](#)

Every patient has the right to receive high quality care that is safe and effective and respects their privacy and dignity. This is one of the guiding principles of the NHS Constitution and is at the core of local NHS visions. The [Delivering Same-Sex Accommodation guidance](#) updates requirements around recognising, reporting and eliminating same sex accommodation breaches.

General privacy and dignity are very important to people receiving care. Therefore all the guidance given in this policy should be taken into consideration with this in mind. Privacy and dignity should be maintained for all patients regardless of the setting. This is a basic human right. The requirement not to mix patients of opposite sex applies to all areas with a few exceptions. [Appendix 1](#) provides a decision matrix for clinical locations where it is acceptable to provide mixed sex care.

5.5.2 Out of scope

All units (see [Appendix 1](#) 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 in the [Delivering Same-Sex Accommodation Guidance](#).

5.5.3 General Ward and Same Sex Accommodation Compliance

The nurse-in-charge of each shift is responsible for ensuring that same sex accommodation is maintained throughout their shift. Any potential or actual breach should be reported to the Matron (or Site Co-ordinators out of hours) immediately. All general ward areas will accommodate both male and female patients.

Each ward is sub divided into 12-16 bedded stations. Each station consists of 4 bedded bays and single occupancy side rooms. Same sex accommodation will be provided in each 4 bedded bay with the adjacent toilets and bathrooms allocated to the same sex of the occupancy. During infection outbreaks however it may be appropriate to reallocate toilets for infective patients, in this instance patients will be asked to utilise an alternate toilet/bathroom facility. Door signage will be altered to reflect which gender is using the individual toilet/bathroom facilities.

Monitoring of same sex occupancy will be undertaken by the Matron for the area and also by the site co-ordinators to ensure no breaches occur and patients are allocated to wards appropriately. **If mixing of the sexes does occur then the number of breaches are the number of patients in that bay, so for example, one woman and three men in one bay counts as four breaches.**

5.5.4 Clinical Areas Providing Level 2 or 3 Care

In a high acuity area (as described in [Appendix 1](#)), 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.

[Appendix 1](#) 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 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.**

The [Critical Care Mixed Sex Breach Avoidance and Escalation](#) SOP provides further detail for management of any patient who may breach in this clinical area.

5.5.4 Transgender Patients and Same Sex Accommodation Compliance

Transgender patients (trans men – female to male and trans women – male to female) must be accommodated according to their gender in which they present, unless they specify otherwise. It is important that these patients do not experience discrimination in the clinical setting. Appropriate dignity and modesty considerations must also be given to other patients in the same bay through the appropriate use of screens/curtains or the option of using a side room where available.

5.5.5 Potential Same Sex Accommodation Breach Due to Capacity Issues

- If a same sex accommodation breach is potentially going to occur, the ward/unit and Site Co-ordinator must liaise and make every effort to prevent this by taking appropriate actions, such as moving patients to different areas.
- The potential breach should also be raised at the first available Capacity Meeting when an agreed plan of action with a lead identified. The actions and communication channels as outlined in [Appendix 4](#) should occur.
- If the Matron and/or Site Co-ordinator are unable to resolve the issue, the escalation process involving a Divisional Chief Nurse and Deputy Chief Nurse (in hours) or Manager and Director On Call (out-of-hours) should be informed for their assistance before a breach occurs. The actions in [Appendix 4](#) should be taken and form [Appendix 2](#) should be completed

5.5.7 Justified Reasons for Mixed Sex Accommodation (not a breach)

- In the event of a life-threatening emergency, either on admission or due to a sudden deterioration in a patient's condition
- Where critically ill patients require level 2 or 3 care
- Where a short period of close patient observation is needed e.g. immediate post-anaesthetic recovery, or where there is a high risk of adverse drug reactions
- On the joint admission of couples or family groups

5.5.8 Unjustified Reasons for a Mixed Sex Accommodation Breach (Definite Breach)

- When a decision is made that patients in ITU/HDU etc. no longer need level 2 or 3 care but cannot be placed in an appropriate ward within 4 hours.
- In recovery unit where patients remain after meeting recovery discharge criteria if not transferred to an appropriate ward within 4 hours.
- 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 layouts
- 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., a ward closure
- Placing a patient in mixed-sex accommodation for regular but not constant observation

5.5.9 Actual Breach Reporting

Reports of single sex/mixed sex breaches should include:

- Any toilet or bathroom breaches
- Any cases of justified and unjustified breaches of sleeping accommodation in each 24-hour period, regardless of whether it is the same occurrence of mixing.

Reporting by General Wards (Level 1 Care)

Ensuring the privacy and dignity of all the patients affected should be a priority for the ward staff. If the breach occurs out of hours, the Matron (or deputy) should be informed immediately when on duty by the ward staff.

All patients should receive an apology and explanation within 24 hours of the breach by the lead nurse or Matron. Every effort should be made to move the patient to appropriate accommodation as soon as possible.

The Lead Nurse (or nurse in charge) or Site Co-ordinator (out-of-hours) should immediately complete a Datix using the codes:

- **Type of Incident:** Appointments, Discharge & Transfers
- **Category:** Admissions/Appointments/Access to Services
- **Sub-Category:** Single Sex Breach

When a breach occurs a root cause analysis investigation will be undertaken by the Lead Nurse and the Matron from the transferring area using the form provided in [Appendix 3](#) and uploaded to the Datix system.

Critical Care (Level 2/3 Care)

Critical Care staff will report single sex/mixed sex breaches in their area using the process detailed in the [Critical Care Mixed Sex Breach Avoidance and Escalation SOP](#).

At the end of each calendar month, the Critical Care Matron will forward details of all breaches in Critical Care to the Trust Contracts and Performance Team who enter the data into SQPR, (a dashboard shared with the CCG and Specialised Commissioning Team).

Monthly breach data is subsequently reviewed by the CCG and Specialised Commissioning Team.

The name of any breached patient will also be forwarded by the Lead Nurse/Matron to the Nursing Directorate Quality Lead. The information is collated and submitted bi-monthly to the Trust Quality and Safety Committee.

Directorates and Divisions will monitor breaches as part of their Governance Meeting Structures, ensuring RCAs have been completed, actions taken, and any lessons learned are shared as appropriate.

National reporting

All occurrences of unjustified breaches of sleeping accommodation must be reported via the Strategic Data Collection System (SDCS). Each occurrence should be counted once for national reporting purposes, regardless of duration. For this Trust, data is submitted by the Quality Lead to NHS Digital via SDCS monthly.

National data is published on the NHS England web site and can be accessed via NHS England [Mixed-Sex Accommodation Data](#) page.

6 TRAINING/SUPPORT

Privacy and Dignity is encompassed in Trust induction as part of the discussion on the Trust Vision and Values. It is covered in mandatory Equality and Diversity training. The topics are covered in all care worker, Band 5 and Band 6 development programmes. Privacy and Dignity is also included in all Safeguarding training.

Same sex/mixed sex accommodation is encompassed in Equality and Diversity training for all Trust staff.

7 PROCESS FOR MONITORING COMPLIANCE

Monitoring of Compliance Chart

	Lead	Tool	Frequency	Reporting arrangements	Acting on recommendations and Lead(s)	Change in practice and lessons to be shared
Patient views of their care	Head of Patient Experience	Internal 'real time' and National patient surveys Complaints Database	Continual and Annually Continual monitoring	Any concerns can be raised through PEIG and PEG. Clinical Quality and Patient Experience Committee receive a monthly paper. Monthly feedback to wards on ward reports. Aggregated learning report to CQSPE	Action planning will be undertaken following the reports.	Information is shared directly towards/departments and senior nursing staff. Screen Savers. Training and development programmes
PLACE Inspection	Head of Facilities and Property Management	PLACE Assessment	Annually	Head of Facilities and Property Management will report to board.	Action planning will be undertaken following the inspection	Matrons network.
Recognising areas that may experience same-sex breaches	Divisional Chief Nurses Matrons	Risk assessment of all clinical areas	Annually and on commencement of any new clinical service	Division Governance meetings Divisional Chief Nurse to Nursing Directorate Quality Lead	Divisional Chief Nurses	Action plan for relevant clinical areas Share learning across Divisions

<p>Breaches of the Delivering same-sex accommodation document (2019)</p>	<p>Matrons Head of Information Department</p>	<p>Record of Breaches Monthly return to CCG/DoH Trust Integrated Performance Report Datix</p>	<p>When breaches occur/Monthly</p>	<p>Matrons to Matrons Group and Divisional Nursing Meeting Bimonthly to Quality and Safety Committee Head of Information to CCG/DoH Division Governance meetings</p>	<p>Chief Nurse to Quality and Safety Committee and Board by exception Divisions via Governance meetings</p>	<p>As appropriate, dependant on cause</p>
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8 EQUALITY

The Dudley Group NHS Foundation Trust is committed to ensuring that, as far as is reasonably practicable the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on any grounds.

With respect to this policy, patients have the right to:

- Have their spiritual and cultural needs recognised and respected
- Have their gender, race, sexuality, disability, illness, or age recognised and respected
- Be cared for in same sex accommodation when requiring level 1 care
- Receive help to access Trust services or direction to the most appropriate services

9 REFERENCES

CQC (2021) Regulation 10: Dignity and Respect at: <https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-10-dignity-respect#guidance> (Accessed: 22 February 2022).

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10 APPENDICES

10.1 Appendix 1

Decisions Matrix for Providers and Commissioners

Category	Acceptable Breach	Notes
Critical Care Levels 2 & 3 <ul style="list-style-type: none"> ICU/Coronary Care High Dependency Units Hyper Acute Stroke Units Recovery Areas attached to theatres 	Almost Always G	<ul style="list-style-type: none"> When a clinical decision is made for a patient to be stepped down from level 2 or 3 care, they should be transferred within 4 hours of being ready to move. An unjustified breach should be recorded if the patient does not transfer within the 4-hour window. For the comfort and safety of patients, transfers should not take place between the hours of 22:00 and 07:00. Breaches should not be counted within this period; they should start/restart from 07:00.
End of life care	Almost Always G	<ul style="list-style-type: none"> 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 limit.
Assessment/observation units, e.g. medical/surgical assessment units; clinical decision making units; observation wards	Almost Always G	<ul style="list-style-type: none"> A patient should be moved from an assessment/observation unit within 4 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 4-hour period, breaches should be recorded as unjustified.
Areas where treatment is delivered, e.g. chemotherapy units; ambulatory day care; radiotherapy; renal dialysis; medical day units	Almost Always G	<ul style="list-style-type: none"> 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 level of privacy and dignity should be maintained during all clinical or personal care procedures.
Children/young people's units (Including Neonates)	Sometimes A	<ul style="list-style-type: none"> 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, e.g., day surgery; endoscopy units; recovery units attached to theatres; procedure rooms	Almost never R	<ul style="list-style-type: none"> Segregation should be provided where patients modesty may be compromised e.g., when wearing hospital gowns/nightwear; or where the body (other than extremities) may be 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 and LD	Never R	<ul style="list-style-type: none"> All episodes of mixing in Mental Health in-patient Units and in women only areas should be reported.
In-patient wards	Never R	<ul style="list-style-type: none"> All episodes of mixing in in-patient wards should be reported.

Extract from: [Delivering Same Sex Accommodation \(2019\)](#)

10.2 Appendix 2

THE DUDLEY GROUP NHS FOUNDATION TRUST

Transfer of Level 1 patients from level 2 or level 3 care to a ward avoiding Same Sex Breach

Process and record of escalation process to take place within 4 hours

Patients will normally be declared Level 1 on the morning ward round, although this may take place at other times when emergency care has to take priority.

Level of care will only change out of hours when an emergency patient requires admission and needs to take priority for the bed and all other alternatives have been exhausted.

Patients at End of Life are exempt. Patients in a side room are exempt.

Patient name	
Date and time declared Level 1 by Consultant or deputy. Confirm this is documented in patient medical records and ICNARC.	
Contact Clinical Site Co-ordinator (CSC), Bleep [REDACTED], Surgical Bed Manager (BM), Bleep [REDACTED] and request a bed. Notify the Capacity or weekend Matron (during daytime) and notify of requirement for level 1 bed to avoid same sex breach. Unless a bed is found before, a plan of action will be agreed at the first Capacity Meeting. Record: 1) Time of the above requests for ward bed 2) Name of persons spoken to 3) If side room is required and requested Prepare to attend next capacity meeting to escalate request if no bed found	
After 2 hours with no bed allocated You will be contacted by BM/CSC and plan of action discussed. Also, discuss with own Matron if not already involved – record time call(s) made.	
After 3 hours with no bed allocated Discuss with BM/CSC and Unit Matron to contact Head of Nursing/Directorate Manager for assistance and inform that same sex breach is imminent. Matron or CSC (out of hours) to escalate to on-call manager	

Ward allocated at.....

Transfer took place at.....

Reasons for any other delays

Form completed by..... Date.....

10.3 Appendix 3

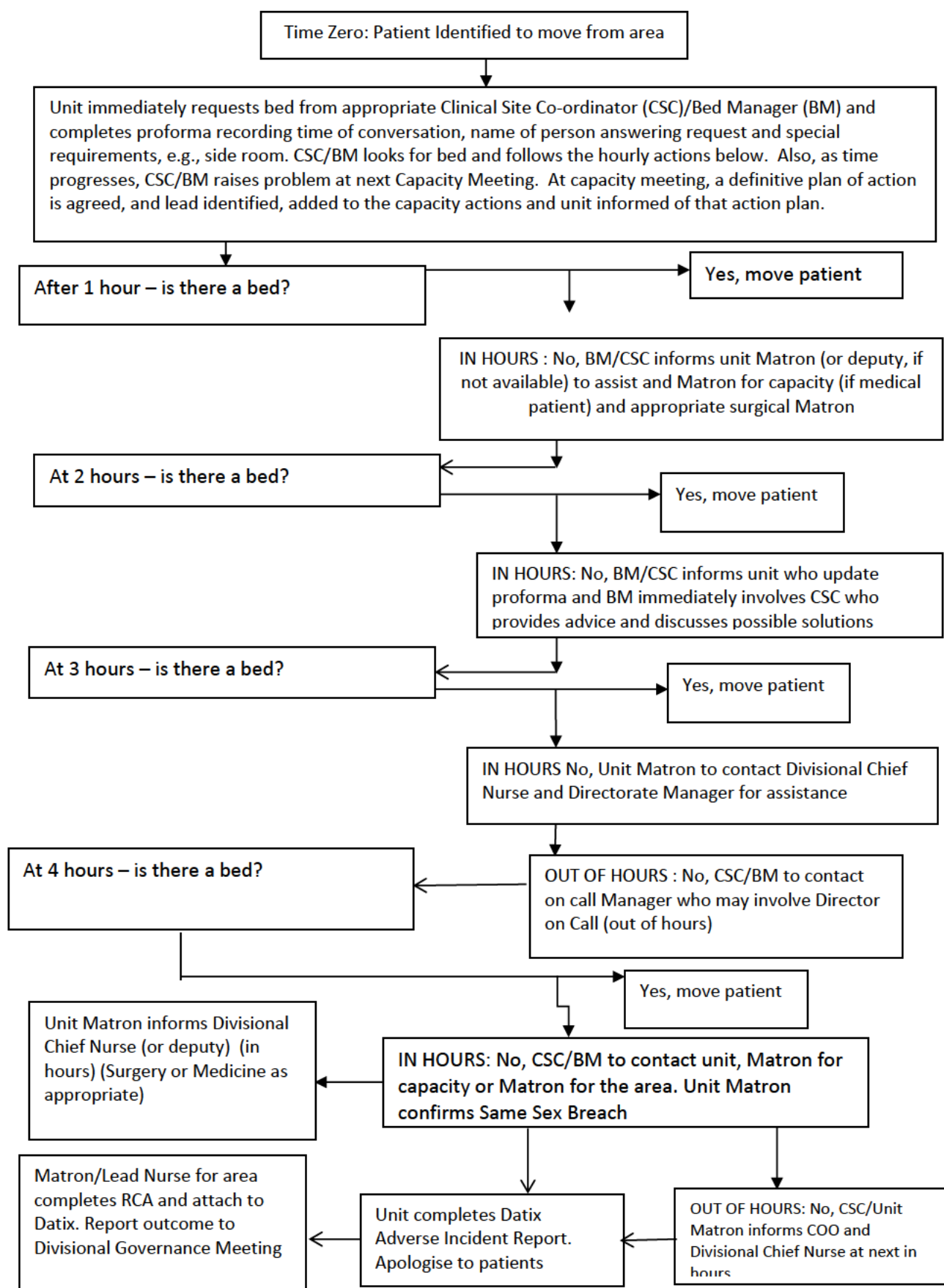
Single Sex/Mixed Sex Breach RCA			
Datix INC No		Patient Unit Number	
Date and time of MSB		Date and time of actual move to ward bed.	
Location and speciality patient required.			
Time of escalation to Bed Manager and action.			
Time of escalation to CSC if appropriate and action taken.			
Time of escalation to Lead Nurse and action taken.			
Time of escalation to Nursing Manager/Deputy and action taken.			
Time of escalation to Surgical Capacity Manager and action taken.			
Contributory factors for MSB.			
Patient explanation and discussion completed.			
Outcome			
Root cause.			
Lessons learned.			
Recommendations.			

RCA Completed by: Print _____ Position _____

Date Completed _____

10.4 Appendix 4

FLOWCHART OF ACTIONS TO PREVENT 4 HOUR BREACH WHEN PATIENTS ARE MOVING FROM SPECIALIST AREAS TO GENERAL WARDS



SUPPORTING GENDER TRANSITIONING COLLEAGUE GUIDELINE	DOCUMENT TITLE:	SUPPORTING GENDER TRANSITIONING COLLEAGUE GUIDELINE		
	Name of Originator/Author /Designation & Specialty:	██████████ – Inclusion and Culture Lead		
	Local / Trust wide	Trust Wide		
	Statement of Intent:	<p>The aim of these guidelines is to communicate The Dudley Group's commitment to the promotion of equality.</p> <p>The guidelines seek to ensure that the provision for transgender (Trans) people is responsive to individual need, is prejudice free and challenges the discrimination individuals may experience. The guidelines will provide a framework for managers and clinical staff to support staff who identify with a gender other than that assigned at birth.</p>		
	Target Audience:	All staff		
	Version:	2.0		
	Name of Group and Date when Recommended for Ratification	LGBTQ+ Staff Network	August 2021	
	Name of Division and Date of Final Ratification:	Head of Operational HR ██████████	17/11/2021	
	Review Date:	30/11/2024		
	Contributors:	Designation: HR Team Stonewall LGBTQ+ Network & Gender Lead Recruitment Team Payroll Services		
	The electronic version of this document is the definitive version			

CHANGE HISTORY

Version	Date	Full Review or Minor Amendment	Reason
V1	September 2020	New document	This is a new document.
V2	November 2021	Update on language	1 st year review of new document

A translation service is available for this document. The Interpretation/Translation Policy, Guidance for Staff is located on the intranet under Trust-wide Policies.

THE DUDLEY GROUP NHS FOUNDATION TRUST

SUPPORTING GENDER TRANSITIONING COLLEAGUE GUIDELINE

1. GUIDELINE DETAIL

The Dudley Group NHS Foundation Trust are committed to ensuring an inclusive environment for our lesbian, gay, bisexual, trans, non-binary and questioning (LGBTQ+) Colleagues across the Trust. Embracing our diverse culture and inspiring collaboration is key to the success of the Trust. Embedding an environment of Equality and Inclusion is a pivotal pillar of the Dudley People Plan, which has the full support and championship of the Trust Board.

We are dedicated to raising awareness and educating our colleagues about the LGBTQ+ community, while simultaneously supporting our LGBTQ+ employees within the Trust. This commitment reflects our core values, which shape our culture, define our character, and foster our ability to deliver high quality patient care.

All Colleagues who are part of The Dudley Group will be treated in their correct gender for all purposes of daily living from the point they commence living and working in their new gender in their role. It is important that everyone observes the privacy of trans people afforded by the Gender Recognition Act and the Equality Act.

This legislation states that a trans or transitioning person no longer has to be under medical supervision or have a gender recognition certificate to prove that they have the protected characteristic of gender reassignment. For example, a trans person who simply starts using different pronouns (she, he, and they) is protected by the Equality Act regardless of whether or not they wish to take any hormones or have any surgeries. They must be treated in accordance with their gender identity.

Discrimination against a trans person will be challenged, whether the discrimination stems from staff, patients, or the public. The Dudley Group NHS Foundation Trust has a zero-tolerance approach to discrimination of trans people.

Supporting colleagues going through transition

The successful support and management of an employee's transition depends crucially on taking account of the individual's views on how to proceed. Transition is a personal process (rather than a medical process), which involves a person expressing their gender in any way that differs from the physical sex they were assigned at birth. This is a unique and personal process; it may include undergoing medical procedures or may include choosing to dress in a different way as part of the personal process of change.

It is best practice to assume any trans person has a gender recognition certificate and to treat them accordingly. It should be noted that the first contact may be just to "sound out options". Some trans people may take several months or years to gradually explore the possibility of transitioning. An individual's gender identity does not always match their gender expression; it is therefore important not to assume someone's gender on the basis of their external appearance.

When a member of staff considers embarking on transitioning, the individual should discuss this with whoever they feel most comfortable. Staff members should feel confident to discuss their feelings regarding transitioning with their immediate line manager, service leader, Director and/or HR Team, Inclusion & Culture Lead, Staff Health and Wellbeing Department, or any other person that the staff members feel comfortable to talk to in the first instance. At this stage it may be that the individual does not wish this to be discussed any further and this decision must be respected.

Role of the Managers

Every manager employed by The Dudley Group is responsible for promoting equal opportunities and embedding a culture of genuine inclusion each and every day, and for preventing patient and staff discrimination.

Line managers are responsible for:

- Ensuring that all staff are aware of these guidelines and attend relevant training
- Uphold the Trust's Behavioural Framework and meet the standards that it sets, including challenging any and all forms of discrimination and ensuring that relevant procedures are followed i.e., Dignity at Work.
- Supporting their staff to challenge discrimination from patients or the public
- Agreeing a support plan with a staff member who is proposing to transition to ensure that they are supported throughout the process, including physical, emotional, and mental health support, which might involve input from Staff Health and Well-being and/or other suitable support options
- Ensuring that a trans person is addressed and treated as their correct gender. This is likely to involve engaging the staff member's colleagues/team, this will be done sensitively and confidentially. In such instances, additional advice, support, and guidance is available from the HR team, and also through the Trust's LGBTQ+ Staff Network (via the Network Leads).

Initially, managers (and any other member of staff acting as a point of contact/support) should ensure they are familiar with the Equal Opportunity and Diversity Policy and other appropriate guidelines in order to support the individual fully.

First Meeting

Depending on the circumstances, the employee may be anxious at the first meeting, so it is important to spend time building trust and rapport.

If an employee is transitioning or due to transition, it is good practice for the manager to consult with them sensitively about their needs in the workplace and whether there are any reasonable and practical steps that can be taken to help the employee as they undergo their transition process.

It may help to support the discussion to use Appendix 4 as a guide to work with the staff member as a joint action plan for managing the transition or non-binary identity at work. This, along with any other notes of the meeting, must be kept strictly confidential in a secure location.

Developing a joint plan for supporting non-binary or transitioning colleagues at work:

The action plan must include:-

- The anticipated point or phase of change of name, personal details, and social gender.

- A plan around communicating the changes needs to be jointly developed and agreed between the employee and line manager. This should include who will be informed, when they will be informed and who will deliver that communication. Support, advice, and guidance is available from the HR Team, as well as the LGBTQ+ Inclusion Network.
- Date of starting to work in their correct gender / non-binary identity needs to be jointly agreed
- Colleagues who are professionally registered are advised to contact their professional bodies to find out whether there are any specific requirements in terms of name changes etc. Where the Trust has to keep evidence of professional status or qualifications, it should be discussed with the member of staff how this information will be retained so as not to compromise or breach disclosure of protected information. In some instances, certificates can be re-issued with the new chosen name of the trans person.
- Identify if a change in uniform will be required and agree how this will be facilitated.
- Agree the point when facilities change for the employee such as toilets, changing rooms and showers in their correct gender.
- Think about if additional specific training or information on transgender issues is required and if so, who could attend, to best support the member of staff and to ensure no discrimination occurs.
- Discuss if the change of gender identity may affect the job role i.e., does the role have a “genuine occupational requirement” to be a particular gender.
- Discuss any employee concerns about whether they wish to stay in their current position or if they would like to discuss options for redeployment. Decisions regarding potential redeployment must only be made following full discussion and consideration of the employee concerned. There is lots of support available for employees to access when considering redeployment, including line managers, senior leaders, professional leads, and HR Team. Additional opportunities to talk to people independent of the workplace also exist, i.e., confidential counselling and the LGBTQ+ Staff Network.
- Discuss any time off required for any medical treatment, you should allow flexibility, plan for the absence, and cover appropriately. Gender-affirming medical treatment must not be regarded as cosmetic or elective and colleagues must not be subjected to any disadvantage for taking time off to transition or undergo gender-affirming medical treatment including surgery.
- The Trusts Communications Team will provide any support that may be required to address any external media attention, working closely with the employee and their line manager. Again, this will be done sensitively, and the employee will be given the full support of the Trust.
- After a person has successfully transitioned into their correct gender, it is not appropriate to keep records within the personal file. Any

information relating to an individual's transition should be destroyed unless there is an essential reason for keeping it. If such reasons can be evidenced, the documents should be secured to restrict access to authorised managers. These documents should be locked within the personnel file in a sealed envelope with clear instructions on the front of the authorised managers and roles. If opened by the authorised managers this must be recorded on the envelope with the date and reason why, then resealed.

Time off work

The Trust appreciates that time away from work will be required to attend appointments and potentially for surgical procedures. Wherever possible, managers will discuss how much time is anticipated that the individual will need away from work. Joint planning between the employee and their line manager will be important, as substantial time away from work may be required, therefore there will be a need to ensure that there is necessary staffing cover to meet service requirements, as well as appropriate support in place (including keeping in touch arrangements etc) for the employee.

The Trust will support any person who undergoes any surgical or medical treatment in relation to transitioning, including reference to the Special Leave Policy, Flexible Working Policy and Annual Leave Policy. Time off for medical appointments will be supported by the line manager being as flexible as possible, given the needs of services and patients, as well as supporting the employee to attend their appointments. People requesting time off for medical appointments which relate to transition will not be treated any more or less favourably than people who take time off for any other medical appointment.

The amount of absence and overall length of a transition will depend on factors such as the employee's needs, the availability and location of medical consultations and treatments, and maybe the employee's own funds. For example, the employee's transition may include consultations with medical staff, assessments with psychiatrists, hormone treatment, surgery, removal of facial hair or a hair transplant, and sessions to adjust their voice, and waits between these steps

There is no law in place to specify any minimum or maximum time allowed for transition to take place and the Trust commits to be as supportive and flexible as possible, based on the individual circumstances of the individual employee. Where an employee is absent for a long period of time, for example when a colleague has an operation with a recovery period or medical complications that are not anticipated in the plan or are generally unwell and not fit for work as a consequence the Trust's Sickness Absence policy will apply. The situation will be supported in compliance with the policy as for all members of staff with consideration and flexibility being exercised in managing triggers.

Where a person works part-time, they should arrange appointments on non-working days wherever possible, or at the beginning of the day. However, the Trust recognises this is not always possible.

Single Sex Facilities

The Dudley Group supports the use of single sex facilities for trans colleagues and non-binary colleagues in accordance with their gender identity.

Where sex specific facilities do not afford reasonable levels of privacy for male and female staff (shared changing areas etc.) reasonable measures will be taken to review facilities to meet this need. This is to ensure that all members of staff, irrespective of their age, disability, gender, gender recognition, race/ethnicity, religion/belief, or sexual orientation is afforded the right to privacy.

The use of changing/showering facilities and toilets will be part of the discussion process with the colleague who is transitioning, with a view to agreeing the point at which the use of facilities should change.

Everyone has a legal right under the Equality act 2010 to access facilities such as changing rooms and toilets according to the gender with which they identify. This may mean that a colleague will change the facilities they use at the point when they start to live in their affirmed gender. Ultimately, it's everyone's choice which facilities they feel comfortable using. Suggesting that a Trans or a non-binary colleague cannot use the single sex facilities they feel comfortable with such as toilets can be classed as harassment and will be treated as such.

In particular, trans people must not be asked, expected, or required to use accessible facilities allocated for people with disabilities (unless they have a disability which requires this). Where a Trans person freely prefers to use accessible gender-neutral facilities, perhaps because they have a non-binary gender identity, then this should be permitted. There is no expectation that non-binary people should or would use accessible spaces provided for those with a disability unless they have a disability.

All staff shower and toilet facilities at the Dudley Group are set in private cubicles, meaning staff need not be in a state of undress in the presence of others. We have a selection of unisex toilets located on all main corridors of the main hospital buildings.

Uniform and Dress

The Trust has a Uniform Policy in place. Non-binary and gender fluid colleagues can be issued with sets of uniforms that relate to both genders.

Support Mechanisms

The list below shows just some of the options available to individuals who wish to seek support within the organisation during a gender transition period. This encompasses identifying individual needs including additional diversity issues such as age, culture, disability, ethnicity, religion or sexual orientation.

- **Human Resources:** The relevant Human Resources Business Partner will be able to provide support, guidance at an early stage, including supporting the

employee and their line manager to put in place practical changes that need to be made to an individual's post or personal file; to encourage positive working relationships between the individual and wider team members if relevant.

- **Equality and Inclusion Team:** The Trust's Head of Equality, Diversity and Inclusion and the Inclusion and Culture Lead will be able to provide specialist guidance and support to employees and their managers. The Trust's Equality and Inclusion Team have undertaken training and have specialist knowledge of issues in relation to equality and human rights.
- **LGBTQ+ Staff Network:** The LGBTQ+ Staff Network has been developed to provide a safe place to support the Trust's LGBTQ+ workforce community in all aspects of their working lives within the Trust. The Network brings together LGBTQ+ people from the Trust along with Allies to improve the experience of LGBTQ+ people, through advising the Trust Board and leadership on key issues, such as policy, development, investment, engagement and culture.
- **Staff Health and Wellbeing:** The Staff Health and Wellbeing Team can provide advice, support and guidance to staff and managers, in particular for considering adjustments to job roles, redeployment, counselling needs or advice regarding the medical process of the transition, including referral to specialist advice/services. Managers may also need advice regarding the needs of the individual and on how to put in place changes that may need to be made within the team or work environment.

RISE: Through BHSF RISE you have 24/7 access to personalised, on demand advice and support from our team of mental health, financial and legal experts, plus much more.

Here is what you can access:

- 24/7 personal and highly confidential advice and support
- Access to a GP 24/7 online or by phone
- Brain and Spine Foundation Advisory Service
- Unlimited call length, no time constraints
- Face to face consultations
- Dedicated case managers to guide you through the service until a resolution is reached
- Quick access to specialist support thanks to fast-track referrals
- Access to on-line resources

Wide breath of service and advice delivered by fully qualified experts including:

- Telephone access to personal financial and debt information and support
- 24/7 telephone access to personal legal information and support
- Your Care Support, support for carers

No matter what level of support or advice you require, BHSF RISE will be with you every step of the way. With helpful advice, that makes a real difference.

24 hours a day. 365 days a year. For our full, confidential support call 0800 285 1538 or visit www.myrisehub.co.uk Your login code can be found on your BHSF RISE card

Bullying and Harassment of Staff

The Dudley Group is committed to creating a working environment where every employee is treated with dignity and respect and where each person's individuality and sense of self-worth is maintained. The Trust has a Behaviour Framework, which sets out the expectations that all employees, at all levels should demonstrate courteous & respectful behaviour at all times. Any breach of the Behavioural Framework may result in formal disciplinary action being taken. Any harassment or bullying behaviour on the basis of gender identity or expression at work, whether by staff or service users, is not acceptable and will not be permitted or condoned by the Trust.

The Trust is committed to providing training to all staff on equality and human rights in order to provide positive assistance in the implementation of the Equal Opportunity and Diversity Policy. As a minimum, all staff are expected to complete Statutory and Mandatory training, Equality, Diversity and Autism Awareness and repeat it every 3 years. Managers and Leaders will also be required to participate in Cultural Intelligence training and development and to role model inclusive and compassionate leadership behaviours, as part of building an inclusive culture which values and champions difference and seeks to eradicate all forms of harassment, bullying and/or victimisation.

Personal Data and Information

Retention

Employees at all levels who could learn about an individual's trans history or trans status in the course of their work need to be very clear about the handling of this information. This could apply to: -

- The information that can be entered into Workforce files where other staff might have access.
- Discussion about an applicant's job interview.
- The contents of Occupational Health Reports.
- Information that can be passed from one medical professional to another in the course of referral or when discussing a case.
- Information stored in medical records where others could access that data.

Any such information must be treated with the utmost confidentiality and included only as "sensitive data" (GDPR) in any records which must not be available to or accessible by anyone not specifically authorised or agreed with the specific employee to have access.

Proof of right to work in UK

A passport, national identity card or Home Office issued residence document are the relevant primary identification documents that the HR Department

should request in order to prove a person has the right to work in the UK. A birth certificate should only be requested if none of those documents are available. It is possible for a Transgender person who is a UK national to obtain a UK passport with their correct gender identity at the start of their transition.

If a Transgender person does not have a UK passport in their correct gender identity, then their original name and gender may be present on a document shown. In such cases a member of the HR/recruitment team will explain that retaining a copy of the document on the employee's record is a legal requirement imposed by the UK Government. They should also explain that if the employee later gains a new document, then they can replace the document kept on file. Confidentiality must be maintained.

Record Keeping

On receipt of a written request from a trans employee, all records should be updated to reflect the new name, title, and gender. The Data Protection Act 2018 addresses

the fairness and accuracy of processing and of ensuring records are kept up to date. Under the Data Protection Act, where an individual informs us of a change to their personal data (including their chosen name) it is appropriate that the processing of that data is updated accordingly. This must be done as soon as possible.

After two years living in their acquired gender with all their records updated (except their birth certificate), transgender people have the option of applying to the Gender Recognition Panel for a gender recognition certificate which updates the gender on the person's UK birth certificate and provides enhanced gender history privacy protections.

A trans member of staff is under no obligation to provide a gender recognition certificate, nor should they be asked if they hold one under any circumstances.

The system used to keep NHS records is called the Electronic Staff Record (ESR) there are various options available which are detailed below:

Option 1 – preferred name – a member of staff can change their preferred name on the system without providing any supporting information, so someone whose name is John Smith could indicate that they wish to be known as Joanna Smith. If someone's preferred name is changed on the system, any official information linked to ESR records will still record the person's name as Joanna Smith such as a payslip. A Gender Recognition Certificate is not Required for this change.

To action this request the colleague will need to write a letter to instruct the change and send it to Payroll Services.

Option 2 - Initiating a full change of name - Any member of staff can change their name, but the Trust policy is that this must be supported by some formal proof of name change (for example a marriage certificate). For people undergoing gender reassignment the requested name change should be supported by a 'statutory declaration' of name change, deed poll certificate or a gender recognition certificate.

A name change can be facilitated by the colleague writing to Payroll Services and providing a copy of the 'statutory declaration' or legal document confirming this legal change.

Wherever possible, all records that disclose previous gender history should be withdrawn and destroyed as soon as the person makes a written request for their name and gender to be updated on their employment records. This will ensure compliance with the 5th data protection principle outlined in DPA 2018 which requires that personal data is not kept for any longer than is necessary for the purpose for which it was collected or processed. Any copies needing to be kept for legal reasons (for example, proof of right to work in the UK) in the person's Central HR file have to be treated as sensitive data under the GDPR and not disclosed to anyone not specifically authorised to see them.

When documents have been seen and copies taken at the point of starting employment (such as birth certificate) then every effort will be made to replace those with equivalent documents in the new name and gender. GDPR limits the purposes for which information may be kept. When the information is no longer useful, it must be destroyed. In some instances, it is necessary to retain records relating to an individual's identity at birth, for example, for pension or insurance purposes prior to obtaining gender recognition. However, once a person has obtained a gender recognition certificate, these must be replaced with new details.

Access to records showing the change of name and any other details associated with the individual's trans status (such as records of absence for medical treatment) must be restricted to staff who need the information to do their work. Such people could include those directly involved in the administration of a process, for example, Occupational Health Professional, or the person who authorises payments into a pension scheme. They do not include colleagues, line managers or third parties.

Breaches of confidentiality about a person's gender history and trans status will be treated in the same serious manner as disclosure of sensitive personal information (for example, medical details) of any other member of staff. In addition to being data protection violations, breaches of confidentiality can be treated as a form of discrimination or harassment under the Equality Act 2010.

It must also be recognised that such disclosure after the receipt of a gender recognition certificate is a strict liability of a criminal offence and may be subject to internal investigation in line with the Trust's Disciplinary Policy. Information about exceptional circumstances where it is lawful to disclose someone's gender history can be found in Appendix 1.

Trans staff may choose voluntarily to disclose information at a secondary level, e.g., answering a staff survey or asking for support from a line manager. Again, strict confidentiality must be observed as further disclosure must not be made without the express written permission of the individual. This means that such questionnaires must be assessed for impact beforehand to determine how such circumstances are going to be handled in confidence.

It is not an offence to disclose protected information if the person cannot be identified or if they give their consent. Such consent must be freely given,

specific, informed, and unambiguous. In order to obtain freely given consent, it must be given on a voluntary basis and in no way forced.

Recruitment and Selection

Trans people are actively encouraged to apply for employment within The Dudley Group. All those involved in the recruitment and selection process have been trained and are aware of their responsibilities to select fairly and without prejudice. Furthermore, the Trusts leadership teams are working with the LGBTQ+ Staff Network to improve the experience of LGBTQ+ people engaging in the recruitment process.

Applicants do not have to disclose their transgender status during the recruitment and selection process including at interview, or as any condition of employment.

If applicants choose to disclose their status this must not be used as a reason for not offering the person employment with the trust and also non-disclosure or subsequent disclosure are not grounds for dismissal.

Disclosure & Barring Service (DBS) (formerly Criminal Records Bureau)

Most staff who work in the NHS are required to have a DBS check. Part of this process involves a strict requirement for applicants to state all previous names and aliases. DBS checks however should not be a problem for Trans people. The DBS has a confidential checking process for trans applicants who do not wish to reveal details of their previous identity to the person who asked them to complete an application form for DBS disclosure. Should this be the case the applicant must follow the process below:

The applicant may wish to contact DBS customer services to discuss this matter in confidence.

- Trans applicants should contact DBS confidential checking service on 0151 676 1452 or email sensitive@dbs.gsi.gov.uk prior to completing the disclosure. They can clarify anything they are not sure about, ensure that the DBS know they will be using the confidential checking process and confirm the current process.
- The trans applicant should complete the electronic form presented by their employer in the normal way, except that they need not complete details (or supply forms of evidence) that would expose their gender history to their employer.
- If they wish to leave out details that could “out” them then they should make a note of the application serial number.
- The applicant should then immediately contact the DBS in Liverpool on the number above and notify them of the application serial number.
- The special security section of the DBS in Liverpool then has the means to intercept the application that was forwarded by the employer. They will ask the applicant to supply the information needed to replace that which was omitted.
- This is then married up so that a rigorous criminal records check can be carried out in the same way as for any other applicant.
- Disclosures sent to the employee and employer will not reveal the applicant’s former identity **unless** they have an offence or caution that has been recorded in that name in police records. In this case there is no way of avoiding the disclosure of that former identity to the employer.

- If the offence itself is not serious enough to preclude employment, reassurances should be given to the applicant /member of staff in this event.

2. DEFINITIONS/ABBREVIATIONS

Trans

An umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth.

Trans people may describe themselves using one or more of a wide variety of terms, including (but not limited to) transgender, transsexual, gender-queer (GQ), gender-fluid, non-binary, gender-variant, crossdresser, genderless, agender, nongender, third gender, bi-gender, trans man, trans woman, trans masculine, trans feminine and neutrois.

Transgender man

A term used to describe someone who is assigned female at birth but identifies and lives as a man. This may be shortened to trans man, or FTM, an abbreviation for female-to-male.

Transgender woman

A term used to describe someone who is assigned male at birth but identifies and lives as a woman. This may be shortened to trans woman, or MTF, an abbreviation for male-to-female.

Transitioning

The steps a trans person may take to live in the gender with which they identify. Each person's transition will involve different things. For some this involves medical intervention, such as hormone therapy and surgeries, but not all trans people want or are able to have this.

Transitioning also might involve things such as telling friends and family, dressing differently, and changing official documents.

Transsexual

This was used in the past as a more medical term (similarly to homosexual) to refer to someone whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth.

This term is still used by some although many people prefer the term trans or transgender.

Gender expression

How a person chooses to outwardly express their gender, within the context of societal expectations of gender. A person who does not conform to societal expectations of gender may not, however, identify as trans.

Gender Dysphoria

The distress a person feels due to a mismatch between their gender identity and their sex assigned at birth. People with gender dysphoria are typically transgender and are at increased risk for stress, isolation, anxiety, depression, poor self-esteem, and suicide.

Gender identity

A person's innate sense of their own gender, whether male, female or something else (see non-binary below), which may or may not correspond to the sex assigned at birth.

Gender reassignment

Another way of describing a person's transition. To undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender.

Gender reassignment is a characteristic that is protected by the Equality Act 2010, and it is further interpreted in the Equality Act 2010 approved code of practice. It is a term of much contention and is one that Stonewall's Trans Advisory Group feels should be reviewed.

Gender Recognition Certificate (GRC)

This enables Trans people to be legally recognised in their affirmed gender and to be issued with a new birth certificate. Not all Trans people will apply for a GRC, and you currently have to be over 18 to apply.

You do not need a GRC to change your gender markers at work or to legally change your gender on other documents such as your passport. The lack of a GRC must not be used to disadvantage a Trans person, asking to see their GRC is nearly always inappropriate, it may be regarded as harassment and negates one of its central purposes, which is to provide privacy.

Non-binary

An umbrella term for people whose gender identity doesn't sit comfortably with 'man' or 'woman'. Non-binary identities are varied and can include people who identify with some aspects of binary identities, while others reject them entirely.

Legal Sex

In the past in the UK, the legal sex of someone was defined by their birth certificate and could not be changed. The Gender Recognition Act 2004 means people can now apply to gain recognition of their change of gender for all legal purposes.

Transphobia

A fear and dislike of trans people, which can lead to hatred resulting in verbal or physical attacks and abuse.

Sexual Orientation

Sexual orientation is a separate issue from gender identity. Trans people may be gay, lesbian, bisexual, heterosexual or asexual. Their sexual relationships may remain the same through the transition process, or they may change.

3. TRAINING/SUPPORT

The following can provide further information on the issues raised:

<http://www.gires.org.uk/terminology>

www.transgenderzone.com

www.acas.co.uk/index.aspx?articleid=2064

www.gender-matters.org.ukwww.equalityhumanrights.com

www.stonewall.org

Unison Document: 'Bargaining for Transgender Workers' Rights' April 2007

The Trust runs Equality, Diversity and Autism awareness training twice monthly face to face, or you can complete the e-learning module via our Intranet. Managers can attend the Managers Essential Programme which covers unconscious bias and micro-aggressions training.

Please contact the Trust's Equality Team for advice or further information:

██████████ or contact our LGBTQ+ network Gender lead via the network inbox: ██████████

Appendix 1 – Understanding the what the Law states

What the Law says

Equality Act 2010

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. It replaced previous anti-discrimination laws with a single Act, making the law easier to understand and strengthening protection in some situations. It sets out the different ways in which it's unlawful to treat someone.

Under this act it is unlawful for employers to discriminate on grounds of sex, marriage, pregnancy, and maternity leave or because someone intends to undergo, is undergoing or has undergone, gender reassignment.

To find out more please click the below link:

<https://www.gov.uk/guidance/equality-act-2010-guidance>

The Sex Discrimination (Gender Reassignment) Regulations 1999

Extended the Sex Discrimination Act 1975 to prohibit discrimination on the grounds of gender reassignment in both employment and vocational training. The Regulations 1999 were revoked in October 2010. However, the regulations can still be relied on where the discriminatory act complained of (such as a case of discrimination on the basis of gender identity) occurred wholly before 1 October 2010.

The Gender Recognition Act 2004

This Act of Parliament gave legal recognition to transgender people following a permanent change of gender. It sets out the process for individuals to apply for a Gender Recognition Certificate (GRC) after living full-time in their acquired gender for at least 2 years. It is not necessary for someone to have undergone gender affirming medical treatment or any other medical intervention other than a diagnosis of gender dysphoria to receive a full GRC.

Once a full GRC is issued to a person, their legal sex/gender henceforth becomes for all purposes their acquired gender – including for marriage and civil partnership purposes and for employment in posts where a Genuine Occupational Qualification to be a particular sex/gender applies. People with a GRC can apply for a corrected birth certificate if their birth was registered in the UK. A person who has received a GRC is not required to show their GRC to others such as employers or service providers. It is not an identity document and will not be carried on the person.

It is very important to note that employers and service providers must change on first request by an individual, their name and gendered title (i.e., Mr, Miss, Ms) on all their employment, medical and other records, identity badges and future correspondence. All that the individual needs to state in their request is that they are starting their transition to live permanently in their acquired gender.

They do not need to show a Gender Recognition Certificate in order to change over their day-to-day documentation or to use the toilet facilities of their acquired gender. Indeed, as it is necessary to live fully in the acquired gender for at least two years before applying for a Gender Recognition Certificate, a refusal by an employer or service provider to allow these changes at the start of an individual's transition process would unfairly prevent that individual from later being able to apply for a Gender Recognition Certificate and consequently would be discriminatory.

Section 22 of the Gender Recognition Act 2004 makes it a criminal offence, with a fine of up to £5000 on conviction, for any person to disclose information which they have acquired in an official capacity about an individual's application for a Gender Recognition Certificate, or about the gender history of a successful applicant. If a person has a Gender Recognition Certificate or it could be assumed they might have a Gender Recognition Certificate (for example they are living permanently in their acquired gender), then this cannot normally be disclosed further in a way which identifies the person involved without that person's express consent or, more exceptionally, a specific order by a court or tribunal.

Section 22(4) of the Gender Recognition Act 2004 states specific exempt circumstances where it is not an offence to disclose protected information about a person's application for a Gender Recognition Certificate, or about that person's gender history. The exempt situations of relevance to NHS Trusts are where:

- The information does not enable that person to be identified.
- That person has agreed to the disclosure of the information.
- The disclosure is in accordance with an order of a court or tribunal.
- The disclosure is for the purposes of preventing or investigating crime.

Appendix 2 - Brief for Public Facing Staff / Reception Staff

(This guidance can only be used with the transitioning employee’s permission)

Where patients have not previously met face-to-face with the transitioning employee, there should not be any need to link the two names or provide any explanation.

Patient
Can I have an appointment with John Smith?

Response
You may not as yet be aware of a recent change within the Department/Directorate/Clinic, but **John Smith** will now be known as **Mary Smith**. The first available appointment with **Mary Smith** will be.....

Patient
No, I want to see someone else

Response
OK, I can offer you an appointment with someone else on.....

Patient
Are you telling me that **John Smith** is now a woman?

Response
Yes, John Smith will now be known as **Mary Smith**. The department/Directorate/organisation/Clinic is very supportive of this change, and we can reassure you that this change will not have an impact at all on the care that we deliver.

Would you like me to make you an appointment with **Mary Smith**? I can give you the first available appointment which will be.....or I can offer you an appointment with someone else on.....

Patient
So, has John Smith left?

Response?
No, **John Smith** will now be known as **Mary Smith** The Department/Directorate/Organisation/clinic is very supportive of this change, and we can reassure you that this change will not have an impact at all on the care that we deliver.

Would you like me to make you an appointment with **Mary Smith**, I can give you the first available appointment which will be.....or I can offer you an appointment with someone else on.....

If the caller persists in making any requests/comments beyond those included above the following statement may also prove helpful.

“I am very sorry; I am sure you will understand I am not at liberty to discuss any details beyond what I have already shared as you will understand the organisation very much want to respect **Mary Smith’s** confidentiality.”

If the patient raises concerns the caller should be referred to someone else more senior for further discussion. If the patient becomes abusive staff are advised they can inform the caller that they are about to end the conversation, and why, and can opt to put the phone down. Likewise, in a face-to-face conversation, they can opt to walk away. In both cases, abuse can lead to police being informed.

Appendix 3 - Transitioning discrimination: top ten myths (taken from ACAS)



Myth: Transitioning has to involve medical procedures or supervision.

Fact: That has not been the case since the Equality Act 2010. A person who chooses to reassign their gender and live permanently within the gender which they identify without having any hormonal or surgical treatment is protected.

Myth: Employees with non-binary gender identities (identifying neither as man nor woman) are not explicitly protected against discrimination.

Fact: All Colleagues are protected from Discrimination and harassment based on gender identity or gender expression.

Myth: One case of gender transitioning can be very similar to another.

Fact: No two gender transition situations are likely to be exactly the same, so as much as possible follow the employee's lead and agree steps.

Myth: If someone is transitioning it indicates their sexual orientation.

Fact: A person's transition may have nothing to do with their sexual orientation, nor should it imply any particular sexual orientation.

Myth: If I unintentionally refer to someone who has transitioned as 'he' instead of 'she', then that will always be regarded as discrimination.

Fact: As a rule, colleagues should be given a little time to adjust to an employee presenting in the acquired gender. However consistent or deliberate use of the wrong pronouns will be considered harassment.

Myth: As an employer, I'm entitled to ask a job applicant anything.

Fact: Absolutely not. Avoid asking them questions of a personal nature unrelated to the job and their application. Do not ask or comment about their gender or ask whether they hold a gender recognition certificate.

Myth: If an employee or job applicant tells the employer about their Trans history, then that information is 'out there' and can be shared.

Fact: No, treat it as sensitive, personal, and confidential information unless the employee clearly agrees other specific arrangements.

Myth: 'Transvestite' is another way to describe a Trans person.

Fact: Use the term 'cross-dresser' - transvestite tends to be regarded as an offensive term by Trans communities. 'Cross-dressers' wear clothes usually worn by people typically associated with another gender. As they are unlikely to do this permanently, you should not presume they are Trans.

Myth: People want to change gender because they have mental health problems.

Fact: A person can be distressed because they feel they are the opposite gender -the NHS says this is not mental illness. However, a person questioning their gender may worry and/or be stressed if they experience a negative reaction from others - this can lead to mental health problems.

Myth: An employer can simply decide not to employ a trans person.

Fact: In very limited circumstances it may be lawful as what is known as an 'occupational requirement'. However, this has to meet strict criteria and can be difficult to prove.

Want to learn more about this area of workplace law?

Download the free Acas guide

Gender reassignment discrimination: key points for the workplace from:
www.acas.org.uk/genderreassignment

Appendix 4 - Points to discuss or consider for Supporting Staff Transitioning.

A Person-Centred approach should be taken, and all discussions/actions should be discussed and agreed on a 1:1 basis with the colleague who is transitioning.

Details	Date
Main contact	
<p>Identify which manager is best placed to support, agree a plan with clear actions and support the transition of the colleague. This would normally be the colleague's manager. You can also reach out the following people for support and guidance:</p> <ul style="list-style-type: none"> • Equality lead [REDACTED] ext. [REDACTED] • HR or senior member of the department, who would liaise with Human Resources - [REDACTED] ext [REDACTED] • Staff Health and Wellbeing - [REDACTED] ext. [REDACTED] • It can also be someone from a similar professional body i.e., RCN, RCGP etc <p>Consider if the role has any occupational requirements</p>	
Timetable	
<p>What is likely timetable for transition? e.g.</p> <ul style="list-style-type: none"> • Dates for name change (Individual to identify preferred name) • Use of facilities (toilets, changing rooms) • Change of presentation e.g., from suit to a dress or change of uniform attire? • Change of records 	
<p>What identification needs to be changed?</p> <ul style="list-style-type: none"> • e-mail address - Complete User form on the IT hub page • web link – Contact page owner • Hub Page – Contact Page owner • ID - Name badge – Complete security access control change 	
<p>What documents and records need to be changed?</p> <ul style="list-style-type: none"> • ESR Records – (see page 9 Record keeping) • Department records – Change with Dept Manager • Professional bodies • Trade Union membership • Payroll (and banking details) – (As above ESR records) • Pension scheme • Committees and groups (at agreed time with Chairs of groups) • Does the employee have multiple posts within NHS? 	
Transition Process	
<ul style="list-style-type: none"> • Is the individual taking any extended time off? Is this additional paid/unpaid leave? • Is time off needed for medical appointments (which may require to be taken during normal working hours) • How can ongoing medical procedures be accommodated i.e., a trans women may need facial hair removal. Consider whether this can be accommodated by working flexi hours/or home working • Is the individual having planned surgery? 	

<ul style="list-style-type: none"> • Recovery may take between one to twelve weeks. Staff will receive standard sickness leave but may wish to negotiate an alternative • What arrangements have been put in place to support an individual's return to work? Occ Health may support phased return? 	
Support for Individuals/communication	
<ul style="list-style-type: none"> • How will colleagues be informed? Can statement be agreed and who delivers it? • How and when will external contacts be informed? • Is there training needed? • Impact change may have on their work and adjustments that could be made. 	
Discrimination	
<ul style="list-style-type: none"> • Are there clear guidelines and processes to deal with direct or indirect discrimination or harassment of a transitioning person – seek advice from Equality lead if required. • How do you plan to address any adverse publicity or reactions from patients etc and ensure the employee is supported – seek advice from Equality and or / Comms lead. 	

Appendix 5 – Questions and Answers for Transitioning Colleagues

Q-“I identify as trans and wish to transition who do I need to contact first for support?”

A- You can speak to your Manager, a member of the HR team, a member of Staff, Health and Wellbeing, LGBTQ+ Network or the Inclusion and Culture Lead for the Trust. Please see our useful contact list on the hub: [Click here](#)

Q- “Where can I get confidential advice around transitioning?”

A- The Trust has a dedicated Equality Team who will be happy to talk to you confidentially and can give you advice on next steps and others to talk to. Just email dgft.edi@nhs.net for more information.

Q- “Will all my colleagues be informed of my transition?”

A- We will let you guide us on how you want this process to work, every transition is different, and we will be by your side every step of the way.

Q- “Can I assume a different role within the organisation while I’m transitioning?”

A- Again we will work with you and let you guide us, if this will make your transition easier then we will do all we can to allow this happen.

Q- “Can I use the facilities, for example changing rooms and toilets, which match my gender identity?”

A- Yes, we will devise an action plan to ensure all elements such as this are discussed. The Trust has some gender-neutral facilities across all sites. Trans colleagues will use the facilities they feel most comfortable with.

Q- “Who do I go to if I’m being bullied or harassed about my transition or gender identity?”

A- Please ensure you make your Manager aware as soon as you can, if for any reason you want to talk to someone else, please call a member of the HR team, the Speak Up Guardians / Champions, or the LGBTQ+ Network Chair.

Q- “What support will the organisation offer me if I’m transitioning?”

A-Your Manager will work with you to develop an action plan to cover all key elements of your transition in the workplace. You will be provided with details of support networks within and outside of the organisation and we will support you to transition exactly how you would like to. We have a confidential support service in the form of an employee assistance programme called RISE, to access this service call 0800 285 1538 or visit www.myrisehub.co.uk. We are signed up to Stonewall and they can also support with trans aware counsellors, and they can signpost to specialist advisors.

Appendix 6 – Questions and Answers for colleagues of transitioning member of staff.

Q- “What does it mean if someone is transitioning and what does it involve?”

A- The steps a trans person may take to live in the gender with which they identify. Each person’s transition will involve different things. For some this involves medical intervention, such as hormone therapy and surgeries, but not all trans people want or are able to have this. Transitioning also might involve things such as telling friends and family, dressing differently, and changing official documents.

Q- “What happens after a person has transitioned?”

A - Transitioning is a process, not an event, that can take anywhere between several months and several years. Some people may spend their whole life transitioning and may redefine and re-interpret their gender as time passes. Transitioning generally begins where the person feels comfortable: for some, this begins with their family with whom they are intimate and reaches out to friends later or may begin with friends first and family later. Sometimes transitioning is at different levels between different spheres of life. For example, someone may fully transition with family and friends before even coming out at work.

Q- “Someone has told me they want to transition, what do I do?”

A-Transitioning is one of the most private things that a person can go through, if someone confides in you, they clearly trust you and value your support. Listening is the first most important part of the process; ask whether and how they want you to support them. You must never betray their confidence by telling others unless they ask you to.

Q- “Is there training about transitioning and trans equality/issues?”

A-There is no specific transitioning training offered by the Trust currently, the transgender guidelines will help you understand more. You can contact the Inclusion and Culture Lead in the Trust, contact Stonewall <https://www.stonewall.org.uk/contact-us> or Gendered Intelligence have a range of resources you can look at <http://genderedintelligence.co.uk/trans-community/resources>

Q- “What is a pronoun and how do I know which one to use?”

A- A pronoun is a word used to replace a noun. Examples of pronouns are: he, she, it, they, Zir, Ze. Most trans people will use the most common pronouns, 'he' and 'she', to refer to themselves. However, some people may use the gender-neutral pronouns 'they' and 'their' in the singular sense.

Q- “How do I respond if a patient or visitor is using inappropriate language in relation to a colleague who is transitioning?”

A-You must call it out and ask the patient or visitor to not use offensive language and or behaviour, if you do not feel confident to do this, make the manager, shift lead or security aware of the situation straight away.

Q- “When do people who are transitioning start to use the facilities, like changing rooms and toilets, which match their affirmed gender?”

A-Everyone is different, and this will happen as and when they feel comfortable to do so.