

BOARD OF DIRECTORS MEETING (Open)

Date: 9th May 2018

Item Ref:

TITLE OF PAPER	Eliminating Mixed Sex Accommodation (EMSA) Declaration of Compliance.
TO BE PRESENTED BY	Clive Clarke, Deputy Chief Executive
ACTION REQUIRED	Confirmation and Ratification

OUTCOME	<ul style="list-style-type: none"> ▫ Members are assured of the Trust's Compliance against the Department of Health Guidance outlined in a letter dated November 2010 and the Mental Health Code of Practice 2015 ▫ Compliance statement to be up-dated on the Trust's public website ▫ EMSA breaches to be reported to EDG and the Board of Directors and onward to Sheffield CCG and Department of Health
TIMETABLE FOR DECISION	May 2018 Board Meeting
LINKS TO OTHER KEY REPORTS / DECISIONS	<p>Department of Health (DoH) Guidance outlined in the NHS Operating Framework 2010/11 and 2012/13</p> <p>Mental Health Act Code of Practice 2015 (CoP)</p>
STRATEGIC AIM STRATEGIC OBJECTIVE BAF RISK NUMBER & DESCRIPTION	1.2 Deliver Safe Care At All Times
LINKS TO NHS CONSTITUTION & OTHER RELEVANT FRAMEWORKS, RISK, OUTCOMES ETC	<p>To be included in Board Assurance Framework (BAF).</p> <p>HSE <input type="checkbox"/> MH Act <input type="checkbox"/> Equality <input checked="" type="checkbox"/> BME <input type="checkbox"/> Disability Legislation <input type="checkbox"/></p> <p>NHS Constitution: Staff Rights <input type="checkbox"/> Service users' Rights <input type="checkbox"/> Public's Rights <input type="checkbox"/> Principles <input checked="" type="checkbox"/> Values <input checked="" type="checkbox"/></p>
IMPLICATIONS FOR SERVICE DELIVERY AND FINANCIAL IMPACT	<p>Failure to comply may result in requirement of additional staffing resource to mitigate the associated risks.</p> <p>Failure to comply with the required standards may lead to compliance/enforcement action by the Care Quality Commission (CQC) and fines imposed by the CCG.</p>
CONSIDERATION OF LEGAL ISSUES	Failure to comply may lead to fines and compliance/enforcement action by the Care Quality Commission (CQC)

Author of Report	Lisa Johnson,
Designation	Deputy Associate Director / EMSA Lead
Date of Report	9 th May 2018

SUMMARY REPORT

Report to: BOARD OF DIRECTORS

Date: 9th May 2018

Subject: Eliminating Mixed Sex Accommodation (EMSA)

From: Clive Clarke, Deputy Chief Executive

Author: Lisa Johnson, Deputy Associate Director

1. Purpose

- i. Following receipt, discussion and approval of the annual EMSA declaration of compliance report at the Executive Directors Group (EDG), the Trust Board is asked to consider and support the declaration that the Trust is compliant with EMSA based on assessment against the Department of Health letter from the Chief Nursing Officer and Deputy NHS Chief Executive, November 2010 (PL/CNO/2010/3) and the Mental Health Act Code of Practice, 2015.
- ii. Provide an overview of the Trusts' compliance with the Department of Health (DoH) Guidance. (NHS Operating Framework 2011/2012/2013)
- iii. Approval to publish the annual declaration of compliance on the Trust's website in line with Department of Health .

<i>For Approval</i>	<i>For a collective decision</i>	<i>To report progress</i>	<i>To seek input from</i>	<i>For information</i>	<i>Other (please state below)</i>
✓					

2. Summary

Arrangements to assess, monitor and review EMSA compliance in each of the Trust's six mixed sex inpatient wards are in place to ensure the Trust is compliant with EMSA standards and requirements as outlined in the Department of Health letter dated November 2010 and the Mental Health Act Code of Practice, 2015.

Board colleagues will also be cited on the CQC's findings of the Trust's Adult Acute Inpatient Wards, where Stanage and Burbage were reported as non-compliant. The Trust has sought to understand this difference of view. The apparent contradictory findings of the CQC appear to be rooted in its use of an earlier document to define

same-sex accommodation. This is the NHS Confederation Briefing – Eliminating Mixed Sex Accommodation in Mental Health and Learning Disability Services, dated **January 2010**. This document is not referred to in the subsequent DoH letter. If both documents are read together, it may be assumed that the later one refers to the earlier one, but the November 2010 document provides no means by which to locate the January 2010 document.

In its 'Brief Guide for Inspectors' dated May 2015, the CQC refers to all the above. It requires inspectors to:

- Use the definition of same-sex accommodation in the **January 2010** document
- Identify any breaches of that definition using the **November 2010** document
- Link any breaches to the **Code of Practice 2015**

For the purposes of the Trust's reporting and declaration, this is required against the November 2010 letter and as such the Trust has assessed itself against the standards and requirements contained therein.

Summary of Provision

Single Sex Wards:

- Forensic: Forest Lodge x 2 Wards both male
- Rehabilitation: Forest Close x 3 wards, 1 male, 2 female

Mixed Sex Wards:

- Acute: Burbage, Stanage, Maple & Dovedale
- Psychiatric Intensive Care Unit (PICU): Endcliffe
- Dementia: G1
- Learning Disability: Firshill Rise

Currently the four acute admission wards are mixed sex. The physical layout and design of some of these wards and the lack of en-suite facilities does present significant operational challenges to maintaining EMSA compliance.

Maple Ward has female and male bedroom areas and females do have to walk along a corridor / mixed communal area to access the female only bedroom area.

Stanage has two dormitories, one female and one male and single bedrooms along a corridor.

Burbage has two dormitories, one female and one male and single bedrooms along a corridor and also accommodates five detoxification beds for substance misuse.

The Ward Managers and their teams continuously manage admissions to achieve EMSA compliance and relocate patients, as necessary, to alternative bedrooms to ensure access to single sex room 'areas', bathrooms, toilet facilities and female only lounges.

Whilst maintaining EMSA compliance is a significant operational / clinical challenge on the acute wards the standard of 'not having to pass through opposite sex areas to reach toilet or bathing facilities' is achieved in all areas, although patients do have to walk through mixed communal areas to reach their bedroom and bathing areas.

Dovedale ward now has designated areas for each gender (lounge and bedrooms), however access to some key facilities (clinic room, accessible bathroom) on the ward requires crossover of some gender specific areas. Work is currently underway to reconfigure the ward layout in order to address access to the clinic room and accessible bathroom so achieving full EMSA compliance. This work is due to be completed mid May 2018.

The PICU, Endcliffe Ward, opened in January 2016. The environment has completely separate sleeping, washing and toilet facilities, all en-suite bedrooms and a designated women's lounge and represents a major improvement in delivering EMSA standards/requirements.

All the bedrooms at Firshill Rise are ensuite and there is a separate female only lounge.

At G1 the ward is split into two halves, one half is used for male patients and the other half is mixed sex. All bedrooms are ensuite and there is one female only lounge.

There have been two incidents relating to EMSA in the last year both occurring on Dovedale Ward:

- November 2017, this incident involved 3 service users for a total of 6 nights, hence is recorded as 3 breaches
- February 2018, this involved 3 service users over 5 days, hence again reported as 3 breaches

These incidents occurred due to the layout of the ward where 3 bedrooms, were located in an area which resulted in the service user needing to walk through a shared area to access bathroom facilities.

Standard Operating Procedure was followed in order to mitigate the resulting risk. The work currently taking place on Dovedale ward will prevent a breach of this nature occurring in the future.

Key Arrangements to Monitor Compliance:

- i. Service users' views about their privacy, dignity and being in a mixed sex environment are sought and recorded:
 - On admission / during care planning.
 - Via the Quality and Dignity survey (a service user led assessment).
 - Via the Patient Led Assessments of the Care Environment (PLACE).
- ii. There is an electronic system linked to each service users risk management plan which identifies if service users' views on mixed sex accommodation are being sought and recorded in their care record. These records were checked in September 2017 and March 2018.
- iii. The Senior Manager with responsibility for EMSA works with the operational leads to ensure in-patient care records are audited twice a year and the outcome is reported to the Acute and In-Patient Forum and Quality Assurance Committee.
- iv. Twice yearly joint EMSA monitoring visits / assessments are undertaken with the CCG. The Sheffield CCG Quality Team shares our understanding of the Trust's reported position.

- v. Associate Service and Clinical Directors continue to review the current mixed sex ward arrangements and make proposals to address ongoing EMSA operational challenges.

Recommendation

The Trust declares compliance in relation to Eliminating Mixed Sex Accommodation (EMSA) requirements as assessment against the DoH letter from the Chief Nursing Officer and Deputy NHS Chief Executive, November 2010 and the Mental Health Act Code of Practice, 2015.

3 Next Steps

Bi annual joint monitoring & assessment visits continue with Sheffield Clinical Commissioning Group (CCG).

4 Required Actions

For the Trust Board to:

- i. Consider & support the declaration that the Trust is compliant with EMSA as required by the Department of Health.
- ii. Agree that EMSA breaches are reported to the Boards.
- iii. Agree to publish the Declaration of Compliance on the Trust's public website (Appendix 2).

5 Monitoring Arrangements

- i. A minimum reporting schedule to the Board of Directors will be on an annual basis.
- ii. Any breach will be managed at Directorate level and reported to the EDG and Quality Assurance Committee (QAC) and to Board of Directors via the QAC significant issues report.

6 Contact Details

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Overarching DSSA Principles for inpatient services v2 Revised March 2010	
1. There are no exemptions from the need to provide high standards of privacy and dignity.	✓
2. Men and women should not have to sleep in the same room, unless sharing can be justified* by the need for treatment (see 14) or by patient choice. Decisions should be based on the needs of each individual not the constraints of the environment, nor the convenience of staff.	See 14
3. Where mixing of sexes does occur, it must be acceptable and appropriate for <i>all</i> the patients affected.	✓
4. Men and women should not have to share toilet and washing facilities with the opposite sex, unless they need specialised equipment such as hoists or specialist baths.	✓
5. Men and women should not have to walk through the bedrooms/bed bays or bathroom/toilets of the opposite sex to reach their own sleeping, washing or toilet facilities.	✓
6. Staff should make clear to the patient that the trust considers mixing to be the exception, never the norm.	✓
7. Changes to the physical environment (estates) alone will not deliver same-sex accommodation; they need to be supported by organisational culture, systems and practice.	✓
8. On mixed-sex wards, bedroom and bay areas should be clearly designated as male or female.	✓
9. In all areas, toilets and bathrooms should be clearly designated as male or female.	✓

Overarching DSSA Principles for inpatient services v2 Revised March 2010	
10. When mixing of the sexes is unavoidable, the situation should be rectified as soon as possible. The patient, their relatives, carers and/or advocate (as appropriate), should be informed why the situation has occurred, what is being done to address it, who is dealing with it, and an indication provided about when the situation will be resolved.	✓
11. Patients/service users should be protected at all times from unwanted exposure, including being inadvertently overlooked or overheard.	✓
12. Patient preference re mixing should be sought, recorded and where possible respected. Ideally, this should be in conjunction with relatives or loved ones.	✓
13. There may be circumstances that require additional attention be given to help patients/service users retain their modesty, specifically where: <ul style="list-style-type: none"> • they are wearing gowns/nightwear, or where the body might become exposed • they are unable to preserve their own modesty, e.g. recovery from general anaesthetic or when sedated. • their illness means they cannot judge for themselves. 	✓
14. Any circumstance that constitutes clinical justification for mixing of the sexes is for local determination, Generally, for acute services, justification might relate to 'life or death' situations, or a patient needing highly technical or specialist care/one-to-one nursing (e.g. ICU, HDU). *There is no clinical justification for mixing in mental health and learning disability services.	✓
15. Where family members are admitted together for care, they may, if appropriate, share bedrooms, toilets and washing facilities.	✓
16. In mental health and learning disability services there should be provision of women-only day rooms on wards where men and women share day areas.	✓
17. For many children and young people, clinical need, age and stage of development may take precedence over gender considerations. In mental health and learning disability services, boys and girls should not share bedrooms or bed bays and toilets/washing facilities should be same-sex. An exception to this might be if a brother and sister were to be admitted onto a children's unit – here sharing of bedrooms, bathrooms or shower and toilet areas may be appropriate.	N/A in SHSC
18. Transgender people should be accommodated according to their presentation: the way they dress, and the name and pronouns that they currently use.	✓

Reviewed 7th February 2014

† http://www.dh.gov.uk/en/Publicationsandstatistics/Lettersandcirculars/Professionalletters/Chiefnursingofficerletters/DH_098894



Sheffield Health and Social Care NHS

Foundation Trust Website Publication

Declaration of Compliance 1st April 2018

Eliminating Mixed Sex Accommodation (EMSA) also known as Delivering Same Sex Accommodation (DSSA).

Sheffield Health and Social Care NHS Foundation Trust is pleased to confirm that it is compliant against the Department of Health EMSA standards and reporting requirements as outlined in its letter of November 2010 and is compliant against the Mental Health Act Code of Practice 2015. The only exception to this is except when it is in the patient's overall best interest, or reflects their personal choice. This would be subjected to risk assessment and multi-disciplinary team agreement.

The Trust has the necessary facilities, resources and culture to ensure that patients who are admitted to its wards will only share the room where they sleep with members of the same sex, and same sex toilets and bathrooms will be close to their bed area. The Trust is actively working to reduce the number of patients who have to share accommodation with the same sex, i.e. bed bays and is committed to eliminating shared sleeping space altogether. For people who sleep in shared spaces with people of the same sex, Trust staff will do everything possible to ensure dignity and privacy.

The Trust has a major service redesign programme in progress, as part of its Acute Care Reconfiguration. This will have a significant impact on improving the quality of the environment.

If the Trust's care should fall short of the required standard, this will be reported to the NHS Sheffield Clinical Commissioning Group (CCG).

For further information please contact:

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