

NHS Greater Glasgow and Clyde	Paper No. 26/141
Meeting:	NHSGGC Board Meeting
Meeting Date:	29 October 2026
Title:	NHS Greater Glasgow and Clyde – Same Sex Accommodation Policy and NHSGGC Staff Changing, Washing and Toilet Facilities Interim Policy
Sponsoring Directorate	Nursing Directorate Human Resources & OD Public Health

1. Purpose

The purpose of the attached paper is to:

- Present for noting the NHSGGC Same Sex Accommodation Policy and the NHSGGC Staff Changing, Washing and Toilet Facilities Interim Policy.
- Provide a clear and consistent organisational approach to patient accommodation and staff facilities that protects privacy, dignity, safety and wellbeing.
- Support lawful and equitable implementation, with appropriate governance, escalation, monitoring and review arrangements.

2. Executive Summary

The paper can be summarised as follows:

- The Same Sex Accommodation Policy sets out standards for the provision and management of same sex accommodation for patients, including permitted exceptions and arrangements for reporting and investigating breaches.
- The Staff Changing, Washing and Toilet Facilities Interim Policy and accompanying manager guidance set out NHSGGC's position for staff facilities pending publication of revised EHRC employment guidance.
- Together, the policies provide organisational clarity following the UK Supreme Court judgment in *For Women Scotland Ltd v The Scottish Ministers* and subsequent EHRC guidance.

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- Both policies support lawful, consistent and respectful practice while protecting privacy, dignity, safety and wellbeing and recognising the protections associated with sex, gender reassignment and other protected characteristics.

The Equality and Human Rights Commission (EHRC) revised Code of Practice for Services, Public Functions and Associations came into force on 5 August 2026. On that basis, NHSGGC has developed the Same Sex Accommodation policy, which was scrutinised at the Clinical Care and Governance Committee in September 2026.

The EHRC has not yet published its revised Code of Practice on Employment, however we consider it preferable to formalise arrangements for patients and employees at the same time to provide organisational clarity and consistency. On that basis, NHS Greater Glasgow and Clyde has developed an interim local policy position on staff changing, washing and toilet facilities, alongside accompanying manager guidance.

Both policies were agreed by the CMT in October 2026, including full consideration of the Policy Assurance Statements and EQIAs.

The interim NHSGGC Staff Changing, Washing and Toilet Facilities policy will be subject to further review when the EHRC publishes its workforce specific Code of Practice.

3. Recommendations

The NHSGGC Board is asked to consider the following recommendations:

- Note the Same Sex Accommodation Policy.
 - Note the associated legal, equality and governance requirements.
- Note the NHSGGC Staff Changing, Washing and Toilet Facilities Interim Policy and accompanying manager guidance.
 - Note that the staff policy is an interim position and will be reviewed following publication of revised EHRC employment guidance and any associated NHS Scotland guidance.

4. Response Required

This paper is presented for **Assurance**.

5. Impact Assessment

The impact of this paper on NHSGGC's corporate aims, approach to equality and diversity and environmental impact are assessed as follows:

- | | |
|------------------------------------|-------------------------------|
| • Improve Outcomes for People | <u>Positive</u> impact |
| • Health Quality Care & Experience | <u>Positive</u> impact |
| • Digital First Approach | <u>Neutral</u> impact |
| • Sustainability and Value | <u>Neutral</u> impact |
| • Supported Workforce | <u>Positive</u> impact |

6. Engagement & Communications

The issues addressed in this paper were subject to the following engagement and communications activity:

- The Same Sex Accommodation Policy was circulated by Chief Nurses to senior clinical teams, with consultation involving the Equalities Team, Communications Team and Non-Executive Directors.
- The Staff Changing, Washing and Toilet Facilities Interim Policy and manager guidance were developed through the standing partnership group overseeing this issue, with input from Human Resources, Equality and Human Rights, Estates and Facilities and trade union colleagues. Through engagement at our Workforce Equality Group, we have discussed with the chairs of the equality forums.
- Feedback from the respective consultation and governance routes was considered and incorporated, where appropriate, into the policies and supporting guidance.

7. Governance Route

This paper has been previously considered by the following groups as part of its development:

- Same Sex Accommodation Policy: Deputy Nurse Directors and Chief Nurse meetings; Clinical and Care Governance Committee on 10 September 2026.
- Staff Changing, Washing and Toilet Facilities Interim Policy: Supreme Court judgment partnership group on 2 September 2026; Workforce Equality Group on 10 September 2026; Area Partnership Forum on 16 September 2026; People and Staff Governance Committee on 24 September 2026.
- Both policies were approved by the CMT on 12 October 2026.

8. Date Prepared & Issued

Paper prepared on: 12 October 2026

Paper issued on: 21 October 2026

9. Attachments

- Same Sex Accommodation Policy
- NHSGGC Staff Changing, Washing and Facilities Interim Policy
 - Managers' Guidance



Dignity and Privacy Same Sex Accommodation Policy

This policy describes the standards and reporting processes for maintaining same sex
In-patient accommodation

Lead Manager:	Lead Nurse, Professional Regulation and Policy
Responsible Director:	Executive Nurse Director
Approved by:	
Date Approved:	
Date for Review:	
Coming into Effect:	
Replaces previous version: [if applicable]	Mixed Sex Accommodation Policy Version: 9 Issue date: August 2011

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NHSGGC Same Sex Accommodation Policy

Version number	Date	Comments (description of change and amendments)
v12	06/08/26	This policy reflects the Supreme Court's ruling on the distinction between sex and gender reassignment as defined by the Equality Act 2010
v12	23/08/26	Policy refers to Same Sex rather than Single Sex Accommodation
v12	23/08/26	Scope updated to include volunteers
v12	23/08/26	Section 3 Definitions updated to reflect patient centred focus
v12	23/08/26	Section 7 updated for clarity
v12	23/08/26	Section 8 updated to highlight all protected characteristics
v12	23/08/26	Section 9 updated to reflect the safety of individuals and other ensuring principles of trauma informed practice.
v12	23/08/26	Section 10 feedback from patient experience broadened to include senior operational and clinical management team
v12	23/08/26	Appendix 1 updated for clarity
v12	23/08/26	Appendix 2 initial letter to patient updated
v12	23/08/26	Appendix 3 redesigned as a risk and assurance assessment document
v12	23/08/26	Appendix 4 updated investigation template
v12	23/08/26	Appendix 5 Flow chart and guidance updated with detail

1. Introduction

NHS Greater Glasgow and Clyde is committed to providing care that is person-centred, safe, respectful and responsive to what matters most to the people who use our services. Every in-patient has the right to be treated with care, compassion, dignity and respect and to receive care in an environment that protects their privacy, modesty, wellbeing and sense of safety. The provision of same sex accommodation is an important part of delivering these rights and supporting positive care experiences.

This policy sets out the standards, responsibilities and processes required to ensure that within inpatient services NHS Greater Glasgow and Clyde meet the Scottish Government's expectation that Health Boards work towards the elimination of mixed sex accommodation, as well as relevant legislation including the Equality Act 2010. It provides guidance for all staff on how to uphold patients' privacy, dignity and respect through accommodation arrangements, care delivery and day-to-day interactions.

NHS Greater Glasgow and Clyde recognises that people have different needs, preferences, beliefs and protected characteristics that may influence how they experience healthcare environments. Care and accommodation decisions should therefore be made in a person-centred way, taking account of individual circumstances while ensuring compliance with legal requirements, including equality and human rights duties and the principles set out within this policy.

The policy reflects current legal requirements relating to the provision of separate sex accommodation and the distinction between the protected characteristics of sex and gender reassignment under the Equality Act 2010. It also recognises the continued protection afforded to people who share the protected characteristic of gender reassignment and the need to treat all patients with dignity, compassion, fairness and respect.

While every effort must be made to provide appropriate same sex accommodation, there may be limited exceptional circumstances where this is not immediately possible. In such situations, staff must take all reasonable steps to protect privacy, dignity and safety, ensure that any deviation is managed appropriately, and facilitate transfer to suitable accommodation as soon as practicable.

This policy also outlines the arrangements for monitoring compliance, reporting and reviewing breaches, and supporting learning and improvement to ensure that the rights, experiences and wellbeing of patients remain at the centre of care delivery.

2. Scope

All staff in NHS Greater Glasgow and Clyde including bank or agency and staff on temporary or honorary contracts and volunteers must comply with this policy. All staff will reinforce high standards of dignity and respect at all times.

This policy has been developed in accordance with the Equality Act 2010, as clarified by the UK Supreme Court judgment in *For Women Scotland Ltd v The Scottish Ministers* (2025), and the Equality and Human Rights Commission Code of Practice for Services, Public Functions and Associations, which came into force on 5 August 2026.

Accordingly, NHS Greater Glasgow and Clyde will ensure decisions regarding placement in same sex accommodation are made with due consideration to both sex and gender reassignment, in accordance with the Equality Act 2010.

3. Definitions that apply to this policy

There are no exceptions to delivering high standards of safety, privacy and dignity, all staff should take the utmost care to respect this.

Sex	For the purposes of this policy, sex means biological sex/ sex at birth .
Same Sex Accommodation	For the purposes of this policy same sex accommodation is defined as a room or shared bay specifically for one sex with washing facilities also available solely for this one sex.
Same Sex Wards	An entire ward completely occupied by only men or only women
Single Rooms	Individual private rooms, preferably with adjacent same – sex en-suite washing and toilet facilities.
Same Sex Bays	Separate, designated bays or rooms within a larger ward that accommodates only one sex, containing nearby designated washing and toilet facilities that patients can access without walking through opposite-sex areas.
Mixed Sex Accommodation	Mixed sex accommodation refers to sleeping arrangements, but also to bathrooms or toilet facilities and the need for patients to pass through areas for the opposite sex to reach their own facilities.
Patient	For the purpose of this policy ‘patient’ includes a person receiving care in acute, paediatric, maternity and mental health wards.
Privacy	Privacy is the right to be protected from unnecessary intrusion, exposure or distress while receiving care, including access to same sex sleeping, toilet and washing facilities, while ensuring dignity, respect and consideration of individual needs and protected characteristics.
Dignity	Dignity is recognising the inherent worth of every person and treating them with respect, compassion and kindness. It means ensuring people feel safe, valued and involved in decisions about their care, free from humiliation, discrimination or unnecessary distress. In this policy, dignity includes respecting

	privacy, modesty and the principles of same sex accommodation.
Respect	Respect is recognising and valuing each person as a person with their own identity, experiences, beliefs, preferences, rights and needs. Respect is demonstrated through compassionate, non-judgemental and inclusive behaviour; effective communication; listening to and involving people in decisions about their care; and responding sensitively to their concerns, wishes and circumstances. In the context of this policy, respect includes acknowledging the importance of privacy, dignity, modesty and personal boundaries, and ensuring patients are cared for in a manner that is safe, considerate and lawful.
Modesty	Modesty refers to a person's need and expectation to maintain appropriate physical, personal and psychological privacy while receiving care. It involves providing treatment, personal care and accommodation in a way that avoids unnecessary exposure of the body, protects personal boundaries, and minimises embarrassment, anxiety or distress. Modesty may be influenced by an individual's sex, culture, religion, beliefs, life experiences or personal preferences and should be respected wherever reasonably possible. In the context of this policy, maintaining modesty includes the provision of appropriate same sex accommodation, access to same-sex toilet and washing facilities, the use of suitable clothing and screening, and ensuring personal and intimate care is delivered sensitively and respectfully. Modesty refers to treatment and care being given in such a way that avoids unnecessary exposure and therefore minimises anxiety and distress.
Protected characteristics	Protected characteristics are personal characteristics that are safeguarded by the Equality Act 2010. A person must not be treated less favourably, unlawfully discriminated against, harassed or victimised in relation to a protected characteristic. The nine protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In applying this policy, NHSGGC will give due regard to the rights, needs and protections associated with all relevant protected characteristics, while ensuring compliance with legal requirements relating to same sex accommodation, privacy, dignity and patient safety.
Safeguarding	The measures taken to protect patients' safety, dignity, privacy and wellbeing, particularly those who may be at risk of abuse, neglect, exploitation or harm. Within same sex accommodation, safeguarding includes ensuring that decisions about where patients are accommodated consider individual risk, vulnerability, privacy, dignity and safety, with appropriate risk assessment and safeguarding action where concerns or particular needs are identified.

Due Regard	Due regard means consciously considering the impact of decisions on people who share protected characteristics and taking reasonable, proportionate steps to advance equality, eliminate discrimination, harassment and victimisation, and foster good relations between different groups. In the context of this policy, due regard requires staff to consider the rights, privacy, dignity, safety, wellbeing and individual needs of all patients when making decisions about accommodation and care. Decisions should be made fairly, consistently, lawfully and based on individual circumstances, while complying with the requirements of same sex accommodation, the Equality Act 2010 and relevant legal guidance.
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NHS Greater Glasgow and Clyde recognise that a person may have needs and preferences relating to their protected characteristics, including their cultural background, beliefs, or other personal circumstances that may influence how they experience privacy, dignity and modesty in healthcare settings. Where same sex accommodation is not available, these needs should be explored with the patient and taken into account when planning care and accommodation arrangements.

A person may have specific requirements relating to personal privacy, intimate care, washing facilities or accommodation arrangements. Staff should undertake a person-centred assessment and take reasonable steps to meet these needs while ensuring safe and effective care. There may be exceptional circumstances where a patient’s cultural/religious differences need to be considered if same sex accommodation is not available. Particular consideration may be required in relation to patients and particularly women from different faith groups.

The Equality and Human Rights Team can be contacted for advice and support at Equality@ggc.scot.nhs.uk

4. Responsibilities

- All staff are accountable for their behaviours and have an individual responsibility for implementing the policy as part of their normal duties and responsibilities in their working environment
- All staff must report policy breaches by completing a DATIX Risk Incident Form.

5. Equality Statement

NHS Greater Glasgow and Clyde aim to design and implement policies and procedures that meet the diverse needs of our service, population and workforce, ensuring that no person is placed at a disadvantage over another.

This policy takes into account the relevant provisions of the Equality Act 2010 and the Public Sector Equality Duty. In applying this policy, due regard will be given to all relevant protected

characteristics under the Equality Act 2010, namely age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation (noting that the protection from discrimination in relation to marriage or civil partnership only applies in employment and work-related contexts and does not cover the provision of services of public functions).

The potential impact of this policy on equality for relevant protected groups has been assessed in accordance with NHS Greater Glasgow and Clyde's Equality Impact Assessment arrangements. The organisation recognises that decisions relating to inpatient accommodation may have different impacts across protected characteristic groups. As any differential impacts are further understood these will be included in the EQIA report and taken into account through the relevant NHS Greater Glasgow and Clyde governance arrangements.

6. Human rights statement

This policy will be implemented in a manner that protects, respects and fulfil patients' human rights protected by the Human Rights Act 1998. In particular, due regard will be given to:

- Article 2 of the European Convention on Human Rights (ECHR): the right to life
- Article 3 ECHR: the right to freedom from inhuman and degrading treatment
- Article 8 ECHR: the right to respect for private and family life.
- Article 9 ECHR: the right to freedom of thought, conscience and religion, including consideration of religious and belief-based needs relating to privacy, dignity and modesty.
- Article 14 ECHR: the right to enjoy human rights without discrimination.

NHS Greater Glasgow and Clyde will seek to balance these rights fairly and proportionately when making decisions about inpatient accommodation and care arrangements.

7. Exceptions

It is recognised that, in exceptional circumstances, the need for urgent, specialist or life-saving treatment may take precedence over same sex accommodation requirements.

Exceptions may apply in areas providing high dependency or intensive observation, where care delivery requires the concentration of highly specialised equipment, limited nationally available capacity, or continuous multi-person care. In these circumstances, clinical need may take precedence over standard same sex accommodation arrangements.

Patients' privacy, dignity and safety must be maintained at all times, and transfer to appropriate same sex accommodation should occur as soon as the exceptional circumstances no longer apply.

The following situations do not constitute a breach of this policy:

- Safety: A life-threatening emergency, on admission or following sudden deterioration, where segregation would place the patient at risk of harm.
- Acuity: Where a critically ill patient requires continuous one-to-one nursing care or constant staff presence within the room or bay.
- Specialist Care or Observation: Where a patient requires a short period of enhanced observation, supervision or specialist monitoring.
- Major Incidents: During a declared major incident, where accommodation arrangements are impacted. Such instances must be recorded in DATIX and escalated in line with adverse event procedures.

Exceptions to the provision of same sex accommodation will apply to the following areas:

- Intensive Care (ITUs)
- High Dependency Areas (HDUs)
- Coronary Care (CCUs)
- Endoscopy Units
- Theatres and Recovery suites
- Emergency Departments (ED)
- Day Surgery Units
- Children's Services
- Spinal Injury Units

In these areas, staff must ensure that patients will be cared for in a manner that is supportive of their individual privacy and dignity requirements and that patients are transferred to same sex accommodation as soon as their clinical condition allows.

In the case of Day Surgery Units, every effort must be made to ensure that patients are recovered and cared for in same sex rooms/bays.

All wards must include separate toilet and washing facilities for women and men. Facilities must provide an appropriate level of privacy and dignity for patients and be fitted with lockable doors that can be secured by the patient during use. Locks must also allow authorised staff access in an emergency to protect patient safety.

Appendix 1 provides detailed guidance for managing same sex accommodation.

8. Gender Reassignment and Same Sex Accommodation

Gender reassignment is a protected characteristic under the Equality Act 2010 and NHS Greater Glasgow and Clyde is committed to ensuring that everyone who accesses our services is treated with dignity, respect and without discrimination. A person who has the protected characteristic of gender reassignment is someone who is proposing to undergo, is undergoing or has undergone a process to reassign their sex. To be protected from gender reassignment discrimination or harassment, a person does not need to have undergone any medical treatment or surgery. A person with the protected characteristic of gender reassignment is a trans, or transgender, person.

In line with the Supreme Court judgment in *For Women Scotland Ltd v Scottish Ministers* and the updated EHRC Services, Public Functions and Associations Code of Practice, the provision of same sex accommodation will be based on biological sex where this is necessary to protect privacy, dignity, safety or wellbeing. Decisions regarding accommodation will be made in a lawful, proportionate and person-centred manner, taking account of individual needs, clinical circumstances and available facilities, while ensuring compliance with both equality and human rights obligations.

When implementing this policy, NHS Greater Glasgow and Clyde will carefully consider the guidance in the EHRC Services Code of Practice and give equal consideration to all protected characteristics under the Equality Act 2010.

9. Process if a Breach Occurs

A breach occurs when a patient is placed in mixed sex in-patient accommodation.

A breach of this policy occurs where in-patient accommodation arrangements fail to protect the privacy, dignity, safety or wellbeing of patients (out with the exempted areas and exceptional situations). This must be reported on the Datix Risk Incident Form. Reporting must include the numbers of patients affected and reference to this policy in Section 2: Incident/Near miss Details

Section 2: Incident/Near Miss Details
Enter details of where the incident/near miss occurred or originated.

★ Situation/Brief summary of incident

PLEASE DO
Record facts
Give a concise summary of the incident. Briefly state the problem, when it happened or started and the severity.
PLEASE DO NOT
Enter the names of individuals involved in this field box.
Details of people involved in the incident can be entered in Section 1 of the form.

Unable to provide Same Sex Accommodation as set out in NHSGGC Same Sex Accommodation Policy (2026)

Reporting in Datix.

- Patient subtype – In-patient
- Category – Other incidents
- Sub-Category – Non-compliance with policy/guideline/protocol

* Incident Time Known?	Yes
* Who was or could have been affected by the incident?	Patient
* Patient Subtype	In-patient
* Category ?	Other Incidents
* Sub-Category	Non-Compliance with policy/ guideline/ protocol

This includes circumstances where women are not provided with a safe same sex environment, or where in-patient accommodation decisions result in actual or perceived risks to a woman or trans person’s safety, dignity, privacy or psychological wellbeing. Breaches may also occur where in-patient accommodation arrangements fail to take account of trauma-informed principles, particularly for patients who have experienced sexual violence, abuse, harassment or other forms of gender-based trauma, and whose care, recovery or sense of safety may be adversely affected by being accommodated with people of the opposite sex.

In assessing in-patient accommodation arrangements, consideration must be given not only to the needs of the person requiring placement, but also to the impact on other patients sharing the environment. Where an in-patient accommodation decision compromises the safety, dignity, privacy, wellbeing or experience of other patients, or creates foreseeable distress, fear, anxiety or re-traumatisation, this will be regarded as a breach of the principles of same sex accommodation unless it falls within a clearly defined and justified exception set out in this policy.

If the breach cannot be avoided, the patient(s) involved should be visited by a member of the service senior management team and provided with an explanation and apology. The patient(s) should receive a written apology within 24 hours of the breach (Appendix 2).

All other patients whose same sex accommodation is affected by the breach must be informed promptly, in a manner that protects the disclosure of any confidential or sensitive personal patient information and provided with the written notification at Appendix 2A. This should be provided as soon as practicable and normally within 24 hours of the breach.

The same sex in-patient accommodation breach review will be managed by local governance processes, with the outcome shared with the Deputy Director Public Engagement and Deputy Nurse Directors/Executive Nurse Director.

The breach and rationale must be clearly documented in the patient’s record.

Staff will provide extra personal support to the patient for example, use a separate quiet room for personal conversations and avoid giving personal care in the mixed bay/area.

Patient screens must be available around all individual bed areas. Moveable screens are not considered adequate for screening on a permanent basis.

10. Escalation when Breach Occurs

If it is not possible to provide same sex accommodation, and a breach has occurred, this must be escalated as follows:

- Discuss with the Lead Nurse/Chief Nurse and Clinical Leads, or their nominated deputy
- All breaches (or potential breaches) must be discussed at daily bed capacity and patient flow meetings/safety huddles
- Highlighted to the Bed Manager/ Patient Flow Team
- Discussed with the Clinical Nurse Co-Ordinator (out of hours)

It is recognised that cohort nursing may be required to control infection, this does not justify non-compliance with this policy. (Cohort nursing is a dedicated team of healthcare professionals who care for a group of patients, and do not care for any other patients. This happens on the advice from the Infection Prevention and Control Team. A cohort area is a bay or ward in which two or more patients with the same confirmed infection are placed).

11. Process for Monitoring Implementation/Effectiveness

The purpose of monitoring implementation is to provide assurance that the agreed approach is being followed.

NHS Greater Glasgow and Clyde will monitor, review and report compliance through the following mechanisms:

- Feedback from patient experience gathered locally to inform any actions required by individual teams, led by the senior operational and clinical management team.
- Local clinical governance meetings will report policy breaches as required and ensure appropriate actions/escalation are made.
- Completing the Same Sex Accommodation Risk Assessment and Assurance Record (appendix 3)
- DATIX and complete Same Sex Accommodation Breach Investigation Template (Appendix 4) Completed only where:
 - the placement falls outside a permitted exception;
 - the placement exceeds agreed time limits;
 - there is patient harm, distress or complaint;
 - there is a significant impact on other patients;

- there is a recurring service issue.
- Annual summary report of compliance will be reported through NHS Greater Glasgow and Clyde Clinical Governance function.

12. Arrangements for Review of the Policy

This policy will be subject to review every 3 years or as required by developments in relevant case law and legal advice.

Appendix 1 Guidance on Managing Same Sex Accommodation.

Care Setting/ Category	Acceptability Rating	Policy Position	Notes
Critical Care, levels 2&3 e.g. - ICU/ Coronary care units - High dependency Units - Hyper acute stroke and trauma units - Recovery units attached to theatres/ procedure rooms Non extended stays Day Surgery Units Endoscopy Units	Almost Always Acceptable	Clinical need takes precedence where patients require Level 2 or Level 3 care, specialist monitoring or life-saving interventions.	Not acceptable when patients no longer needs level 2 or 3 care, but cannot be placed in an appropriate ward Patients should be transferred to appropriate same sex accommodation as soon as clinically safe.
Care Around Dying	Almost Always Acceptable	Compassionate care and patient comfort take precedence	Patients receiving care around dying should not be moved solely to achieve segregation. Such placements do not constitute a breach of the policy. No prescribed time limit applies.
Patients with Long- Term Conditions admitted frequently as part of a cohesive group in areas where treatment is delivered e.g. - Chemotherapy Units - Ambulatory Units - Renal Dialysis Units	Almost Always Acceptable	Cohort care may be appropriate where patients receive regular treatment together.	Patients may choose to receive care together provided all individuals agree. Mixing should not be recorded as a breach where it is integral to treatment delivery. A high standard of privacy and dignity must be maintained during examinations, procedures and personal care.
Assessment/Observation Units e.g. - Medical/ Surgical Admissions - Observation wards - Clinical Decision Units	Sometimes Acceptable	Permitted only for short-term assessment and flow purposes.	Patients should be transferred within 4 hours of the decision to admit. Mixing beyond 4 hours should normally be recorded as an unjustified breach. Must not be used routinely or for organisational convenience. Patients must not be "parked" in these areas while awaiting ward transfer
Children and Young People's Services - Paediatric Wards - Adolescent Units - Neonatal Services	Sometimes Acceptable	Decisions should reflect the age, needs and preferences of the child or young person.	Children and young people (or parents/carers where appropriate) should be involved in decisions regarding accommodation arrangements. High standards of privacy, dignity and safeguarding must always be maintained.
Acute Wards, e.g. Medical	Never Acceptable	Same sex accommodation	Any episode of mixed-sex accommodation must be

• Surgical (general and specialist) • Older People Care • Orthopaedic		must be provided.	reported, investigated and escalated. Each case should be reviewed individually by senior management
Intermediate and Continuing Care Wards	Never Acceptable	Same sex accommodation must be maintained at all times.	Any mixing constitutes a policy breach unless an approved exception applies. All breaches require escalation and review.
Procedure and Recovery Areas with Extended Stay • Recovery Areas where patients remain post-procedure for longer than 12 hours/ overnight	Never Acceptable	Privacy and modesty requirements require segregation by sex.	Segregation must be provided where patients are wearing gowns, nightwear or where bodily exposure is likely.
Mental Health and Learning Disabilities	Never Acceptable	Same sex accommodation is required to protect privacy, dignity, safety and therapeutic care.	There is no routine justification for mixed-sex accommodation. Particular consideration must be given to trauma-informed care and the safety of all patients. In exceptional clinical emergencies, a patient may be temporarily accommodated in a single en-suite room within the opposite-sex area pending transfer to appropriate accommodation.

Key

- **Almost Always Acceptable** = generally not regarded as a breach where the stated conditions are met.
- **Sometimes Acceptable** = Temporary or time-limited exceptions only.
- **Never Acceptable** = any occurrence should be treated as a policy breach unless a specific documented exception applies.

Appendix 2: Sample Letter (Initial letter to Patient)

PRIVATE & CONFIDENTIAL

Contact:
Address:

Telephone:
Email:

Address
Date

Dear

Re: Same Sex Accommodation

On behalf of NHS Greater Glasgow and Clyde, I would like to offer our sincere apologies that we have been unable to provide you with sleeping and/or washing and toilet facilities designated exclusively for men or women in accordance with our Same Sex Accommodation Policy for in-patients.

We recognise access to appropriate same sex accommodation is important in maintaining privacy, dignity, safety and wellbeing. We also recognise some patients may have personal, cultural, religious or trauma-related reasons why same sex accommodation is particularly important to them. We regret that, on this occasion, we have not been able to meet this standard.

This situation has arisen due to exceptional pressures on hospital capacity and patient flow. However, we acknowledge this does not lessen the impact upon you, and we are committed to resolving the situation as quickly as possible.

Please be assured staff are actively working with bed management and site teams to identify suitable same sex accommodation. Our aim is to transfer you at the earliest opportunity and, wherever possible, within 24 hours. Until this can be achieved, staff will take all reasonable steps to protect your privacy, dignity, safety and comfort, including the provision of appropriate screening, access to same sex bathroom facilities where available, and any additional support you may require.

Should the situation remain unresolved after 24 hours, a senior manager will review your circumstances and meet with you to discuss the actions being taken and any concerns you may have.

If you would like to discuss this matter further or require additional support, please speak to the Senior Charge Nurse or nurse in charge of the ward at any time.

Thank you for your patience and understanding.

Yours sincerely

(Name)
(Title)

Appendix 2A: Sample Letter (Initial letter to other patients)

PRIVATE & CONFIDENTIAL

Contact:

Address:

Telephone:

Email:

Address

Date:

Dear [Patient Name],

Re: Same Sex Accommodation

On behalf of NHS Greater Glasgow and Clyde, I would like to apologise that, for a period during your stay, the ward, bay or accommodation in which you are being cared for has not met our standard for same sex accommodation.

This means that, during this period, you are not being cared for in accommodation occupied exclusively by patients of the same sex.

We recognise that same sex accommodation is important in protecting privacy, dignity, modesty, safety and wellbeing, and that individual personal, cultural, religious or trauma-related circumstances may make this particularly important. We are sorry that we have been unable to maintain this standard.

Staff are actively working to restore appropriate same sex accommodation as soon as reasonably practicable. While the breach continues, we will take reasonable steps to protect your privacy, dignity, safety and comfort, including appropriate screening, access to designated same sex toilet and washing facilities where available, and sensitive arrangements for personal care.

If this situation causes you concern, anxiety or distress, or you have individual needs you would like us to consider, please speak to the Senior Charge Nurse or nurse in charge. Appropriate support will be offered.

We will keep the situation under review and inform you when appropriate same sex accommodation has been restored.

We cannot discuss another patient's personal or clinical circumstances. However, staff can answer questions about your own care and the measures being taken to protect your privacy, dignity and safety.

Once again, please accept our sincere apologies for this breach of same sex accommodation.

[Name]

[Title]

Appendix 3: Same Sex Accommodation Risk Assessment and Assurance Record

Section	Assessment Requirement	Response
Date of Assessment		
Directorate/HSCP		
Hospital/Site		
Ward/Clinical Area		
Assessor Name & Designation		
Patient Sex	Male / Female	
Reason Same Sex Accommodation Cannot Be Provided	Capacity / Clinical Need / Emergency / Specialist Care / Other	
Does this fall within an approved policy exception?	Yes / No	
If Yes, identify exception	Critical Care / End of Life Care / Specialist Treatment / Major Incident / Other	

Risk Assessment

Risk Domain	Assessment	Risk Identified (Y/N)	Mitigation Measures
Safety	Could the placement create actual or perceived safety concerns?		
Safeguarding Concerns	Are there any safeguarding risks requiring additional controls?		
Privacy	Could the placement compromise privacy during sleep, washing, toileting, examinations or personal care?		
Dignity	Could the placement compromise the patient's dignity, modesty or wellbeing?		
Trauma-Informed Care	Has consideration been given to previous trauma, abuse, sexual violence or safeguarding concerns?		
Impact on Other Patients	Could the placement adversely affect the safety, privacy, dignity or wellbeing of other patients in the area?		
Religious/Cultural Needs	Are there any cultural or religious considerations that may be impacted?		
Protected Characteristics	Have all relevant protected characteristics been considered and balanced?		

Controls Implemented

Control Measure	Implemented (Y/N)	Comments
Senior Charge Nurse informed		
Safeguarding review completed		
Patient informed of circumstances		
All patients informed/ all families and carers informed (where appropriate)		
Enhanced screening/curtains provided		
Same sex toilet facilities available		
Same sex washing facilities available		
Additional support offered		
Apology letter issued		

Breach and Escalation

Requirement	Response
Does this constitute a breach of the Same Sex Accommodation Policy?	Yes / No
Recorded in clinical notes?	Yes / No
Recorded in Datix?	Yes / No
Escalated to Senior Manager?	Yes / No
Name and Designation of Manager	
Date Escalated	
Review Date	
Expected Resolution Date	

Overall Risk Rating

Risk Level	Criteria
Low (Green)	Privacy and dignity maintained. Minimal impact on patient or others.
Moderate (Amber)	Some impact identified but mitigated through additional controls.
High (Red)	Significant risk to privacy, dignity, safety, trauma recovery or other patients. Immediate escalation required.

Assurance Statement

I confirm that all reasonable steps have been taken to provide appropriate same sex accommodation that the risks to the patient and other patients have been assessed, and that appropriate mitigation and escalation actions have been implemented in accordance with NHSGGC Same Sex Accommodation Policy.

Assessor Signature: _____

Date: _____

Manager Review: _____

Appendix 4: Same Sex Accommodation Breach Investigation Template

Section 1: Incident Overview

	Details
Datix Reference Number	
Date and Time of Breach	
Duration of Breach	
Ward/Department	
Directorate/HSCP	
Report Author	
Review Manager	
Date Review Completed	
Final Outcome	Justified Exception / Unjustified Breach / Service Improvement Identified

Section 2: Breach Summary

Provide a brief factual description of the circumstances that resulted in mixed-sex accommodation.

Section 3: Impact Assessment

Assessment Area	Impact Identified? (Y/N)	Details
Patient Safety		

Privacy		
Dignity		
Trauma-Informed Considerations		
Impact on Other Patients		
Religious/Cultural Needs		
Complaint Received		

Section 4: Policy Assessment

Question	Response
Did the placement meet a permitted policy exception?	Yes / No
If Yes, identify exception	Critical Care / End of Life Care / Specialist Observation / Major Incident / Other
Was the breach avoidable?	Yes / No
If Yes, why was it avoidable?	
Were escalation procedures followed?	Yes / No
Were patients informed and offered an apology?	Yes / No

Section 5: Contributory Factors

Tick all that apply and provide details:

☐ Capacity pressures
☐ Delayed discharge
☐ Insufficient same-sex beds
☐ Emergency admission
☐ Clinical deterioration
☐ Staffing constraints

☐ Escalation process failure
☐ Bed management process failure
☐ Other

Narrative Summary:

Section 6: Findings and Learning

What went well?
•
•
•
What could have been done differently?
•
•
Key Learning Identified
•
•
•

Section 7: Improvement Actions

Action Required	Lead Officer	Target Date	Status

Section 8: Assurance Statement

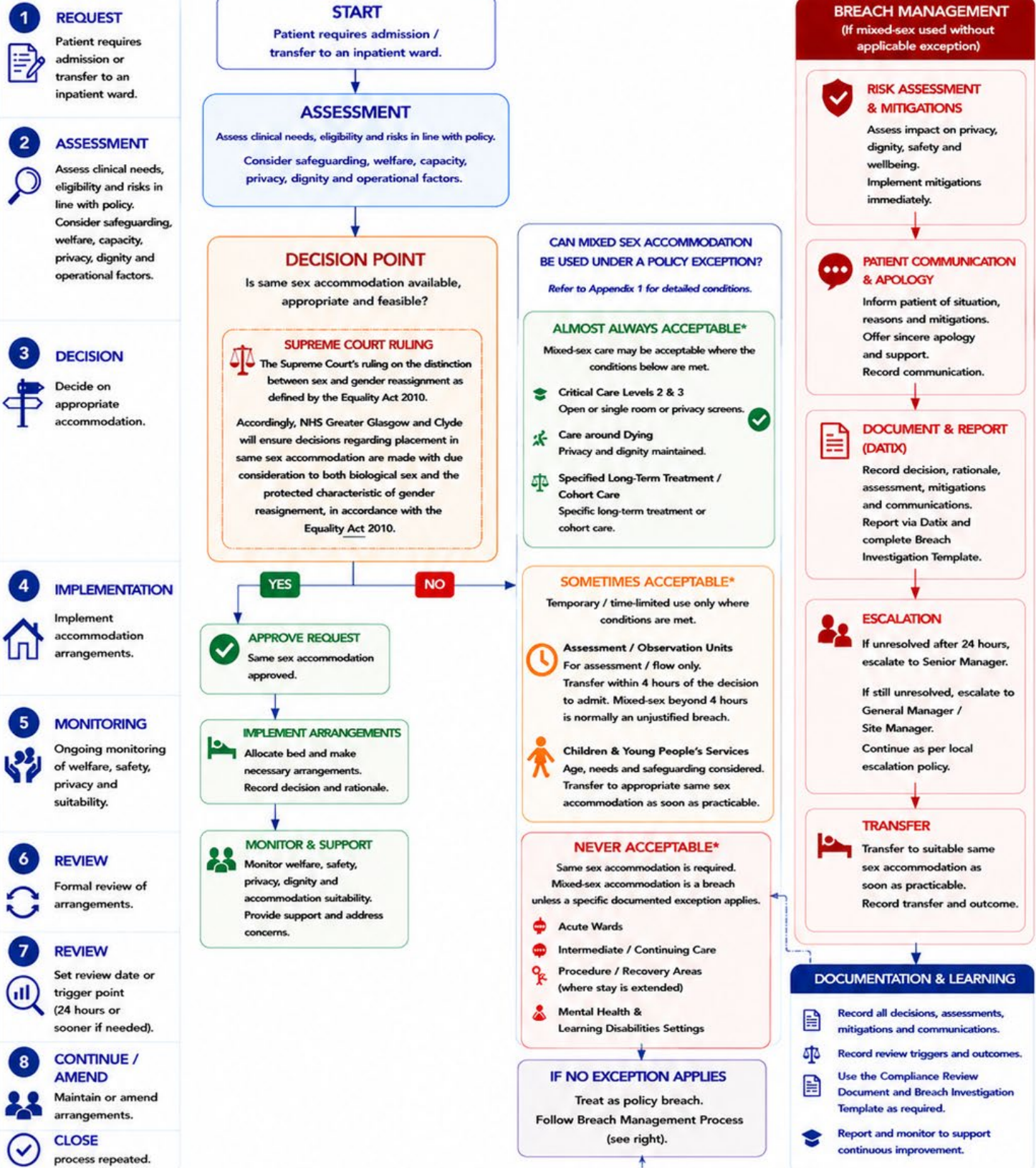
The circumstances surrounding this breach have been reviewed. The causes, contributory factors and impact on patients have been assessed. Lessons learned have been identified, appropriate actions agreed and mechanisms for monitoring completion established to reduce the risk of recurrence.

Sign-Off	Name	Date
Investigation Lead		
Senior Charge Nurse		
Lead Nurse/Head of Service		
Deputy Nurse Director (where required)		

SAME SEX ACCOMMODATION FLOW CHART

NHS GREATER GLASGOW AND CLYDE – DIGNITY AND PRIVACY POLICY

i This flow chart sets out the standards and reporting processes for maintaining same sex in-patient accommodation in accordance with the Same Sex Accommodation Policy.



* KEY TO EXCEPTIONS (from Appendix 1)

ALMOST ALWAYS ACCEPTABLE:
Generally not a breach when conditions are met and documented.

SOMETIMES ACCEPTABLE:
Temporary / time-limited exceptions with specific conditions and timeframes.

NEVER ACCEPTABLE:
Breach unless a specific documented exception applies.



POLICY CONTEXT

This flow chart is to be read in conjunction with the Dignity and Privacy – Same Sex Accommodation Policy. It reflects compliance with the Equality Act 2010 and the UK Supreme Court judgment in *For Women Scotland Ltd v The Scottish Ministers* (2025) on the distinction between sex and gender reassignment.



NHSGGC Staff Changing, Washing and Toilet Facilities - Interim Policy

Responsible Directorate:	Human Resources & Organisational Development
Approved by:	To be approved by the Corporate Management Team
Date Approved:	To be approved in October 2026
Date for Review:	TBC
Coming into Effect:	TBC
Replaces previous version: [if applicable]	N/A

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NHSGGC Staff Changing, Washing and Toilet Facilities - Interim Policy

Version number	Date	Comments (description of change and amendments)
V1.0	7 Sept 2026	
V1.1	10 Sept 2026	Updated following comments from the Workforce Equality Group
V1.2	24 Sept 2026	Updating following comments from the People & Staff Governance Committee and Central Legal Office

1. Introduction

NHS Greater Glasgow and Clyde is committed to providing a working environment in which all staff are treated with dignity, respect and fairness.

Access to suitable and sufficient toilets, washing facilities and changing facilities is an important part of supporting the health, wellbeing, safety, privacy and dignity of the workforce. The organisation recognises that staff may have different needs and perspectives relating to the use of these facilities and is committed to managing any concerns in a lawful, proportionate and respectful manner.

This policy sets out the arrangements for the provision and use of staff changing, washing and toilet facilities and establishes the principles that will guide decision-making in this area.

This policy has been developed in advance of the publication of the updated Equality and Human Rights Commission (EHRC) Employment Code of Practice. It therefore represents NHS Greater Glasgow and Clyde's interim position based on current legislation, available EHRC guidance, and relevant case law. The policy will be reviewed following publication of the revised EHRC Employment Code of Practice and any associated NHS Scotland guidance.

2. Purpose

The purpose of this policy is to:

- Provide clarity regarding the provision and use of staff changing, washing and toilet facilities.
- Protect the privacy, dignity, safety and wellbeing for all staff.
- Support fair, consistent and lawful decision-making.
- Ensure compliance with relevant legislation, case law and national guidance.
- Provide a framework for addressing concerns relating to the use of staff facilities.
- Support managers and staff in balancing competing rights and interests appropriately.

3. Scope

All staff in NHS Greater Glasgow and Clyde including bank or agency and staff on temporary or honorary contracts and volunteers must act in accordance with this policy. All staff will reinforce high standards of dignity and respect at all times.

The policy applies to:

- Toilets.
- Showers and washing facilities.
- Changing rooms.
- Locker and changing areas associated with workplace facilities.

This policy relates only to staff facilities. Arrangements for facilities used by patients, service users and visitors are governed by separate organisational policies and guidance.

Definitions that apply to this policy include:

Term	Definition
Sex	Refers to the protected characteristic of sex in the Equality Act 2010. A person who shares the protected characteristic of sex is a woman or girl, and a man or boy. The meaning of sex, woman/girl and man/boy in the Equality Act 2010 is biological, which means the sex of a person at birth.
Gender Reassignment	Refers to the protected characteristic of gender reassignment in the Equality Act 2010. A person who shares the protected characteristic of gender reassignment is a trans or transgender person. A trans or transgender person is a person who is proposing to undergo, is undergoing or has undergone a process (or part of a process) of reassigning their sex by changing their physiological or other attributes of sex.
Single occupancy facilities	Are facilities where each toilet and hand basin, shower, or changing facility is located within a self-contained space with a door that can be secured from within for privacy, and for use by only one person at a time.
Gender Neutral/ Universal single occupancy facilities	Gender Neutral/ Universal single occupancy facilities are ones that are located within a self-contained space with a door that can be secured from within for privacy, for use by only one person at a time of any sex.

Separate sex single occupancy facilities	Separate sex single occupancy facilities are ones that are located within a self-contained space with a door that can be secured from within for privacy, for use by only one person at a time and by people of one sex (i.e. either only men or only women).
Separate sex shared facilities	Separate sex shared facilities are separate facilities for women and men that are located in a shared space.
Protected characteristics	Protected characteristics are a set of nine characteristics which are protected from unlawful discrimination and harassment under the Equality Act 2010. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
Staff	For the purpose of this policy, staff includes all NHS Greater Glasgow and Clyde employees, bank workers, agency workers, volunteers, students on placement and contractors working on NHS Greater Glasgow and Clyde premises.
Privacy	Privacy is the right to be protected from unnecessary intrusion, exposure or distress when using workplace toilets, washing facilities and changing facilities.
Dignity	Dignity is recognising the inherent worth of every person and treating them with respect, compassion and kindness. It means ensuring people feel safe, valued and free from humiliation, discrimination or unnecessary distress. In this policy, dignity includes respecting privacy, modesty and personal boundaries when accessing workplace facilities.
Respect	Respect is recognising and valuing each person as an individual with their own identity, experiences, beliefs, preferences, rights and needs. Respect is demonstrated through professional, non-judgemental and inclusive behaviour; effective communication; listening to concerns; and responding sensitively to individual circumstances.
Safety	Safety refers to the protection of staff from physical or psychological harm. In the context of this policy, safety includes ensuring that workplace facilities support wellbeing, privacy, dignity and a working environment free from harassment, victimisation or intimidation.
Safeguarding	The measures taken to protect the safety, dignity, privacy and wellbeing of staff, particularly where there is a risk of

	unlawful interference with human rights, discrimination, harassment, victimisation, abuse, intimidation or other harm.
Due regard	Means consciously considering the impact of decisions on equality for people who share protected characteristics and taking steps to eliminate discrimination, harassment and victimisation, and advance equality of opportunity and foster good relations between different protected groups. In the context of this policy, due regard requires managers to consider the rights, privacy, dignity, safety, wellbeing and individual needs of staff when making decisions relating to workplace facilities.

4. Principles

NHS Greater Glasgow and Clyde will apply the following principles:

Dignity and Respect

All staff will be treated with dignity, courtesy and respect.

Privacy

The organisation recognises the importance of privacy and personal dignity within toilets, washing and changing facilities.

Safety and Wellbeing

Staff facilities should respect, protect and promote the safety, welfare and wellbeing of all staff.

Equality

The organisation will comply with its obligations under the Equality Act 2010, including the Public Sector Equality Duty.

Fairness

Decisions regarding staff facilities will be made fairly, consistently and based upon relevant facts and circumstances.

Balancing Rights

NHS Greater Glasgow and Clyde aim to design and implement policy documents that meet the diverse needs of our service, population and workforce, ensuring

that no person is placed at a disadvantage. This applies to all the activities for which NHS Greater Glasgow and Clyde is responsible.

Individual Circumstances

Managers should avoid assumptions and consider individual circumstances when seeking to resolve concerns.

5. Legal and Policy Context

This policy has been developed with reference to:

- The Equality Act 2010.
- The Public Sector Equality Duty.
- The Health and Safety at Work etc. Act 1974.
- The Workplace (Health, Safety and Welfare) Regulations 1992.
- The UK Supreme Court judgment in *For Women Scotland Ltd v The Scottish Ministers* [2025] UKSC 16.
- The Equality and Human Rights Commission Code of Practice for Services, Public Functions and Associations (2026).

This policy uses the expression "biological sex" as used by the Supreme Court to describe the sex of a person at birth.

NHS Greater Glasgow and Clyde recognises that:

- The Equality Act 2010 protections in relation to work apply to the provision and use of workplace toilet, changing and washing facilities.
- Sex is a protected characteristic under the Equality Act 2010.
- Gender reassignment is a protected characteristic under the Equality Act 2010.
- A person with the protected characteristic of gender reassignment is protected from unlawful discrimination, harassment and victimisation.
- A person with the protected characteristic of sex is protected from unlawful discrimination, harassment and victimisation
- NHS Greater Glasgow and Clyde will continue to comply with its wider obligations under the Equality Act 2010 in respect of all relevant protected characteristics.

NHS Greater Glasgow and Clyde aims to implement policies and procedures that meet the diverse needs of its workforce and ensure that no person is placed at a disadvantage over another. In applying this policy, due regard will be given to all protected characteristics under the Equality Act 2010, namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Decisions made under this

policy will be lawful, proportionate and evidence-based, taking account of the rights, needs and protections associated with all protected characteristics.

6. Responsibilities

Staff Members

Staff are expected to:

- Use workplace facilities appropriately.
- Treat colleagues with dignity and respect.
- Raise concerns appropriately through management channels.
- Support an inclusive and respectful working environment.

Line Managers

Managers are responsible for:

- Implementing this policy.
- Responding appropriately to concerns.
- Seeking advice where required.
- Balancing competing rights and interests fairly and consistently.

Human Resources

Human Resources will provide advice and support on the application of this policy and any associated employment matters.

Facilities Management

Facilities Management will support the provision, maintenance and development of facilities in accordance with organisational requirements and available resources.

Equality and Human Rights Team

The Equality and Human Rights Team will provide advice relating to NHSGGC's equality and human rights responsibilities.

7. Provision of Staff Changing, Washing and Toilet Facilities

NHS Greater Glasgow and Clyde will provide suitable and sufficient staff changing, washing and toilet facilities that protect the privacy, dignity and safety of all staff.

Where reasonably practicable, NHS Greater Glasgow and Clyde will seek to provide:

- Universal/ gender neutral, female and male individual self-contained single occupancy facilities.
- Shared female facilities
- Shared male facilities

- Accessible facilities.

Where facilities are designated separately for, or for separate use by, men and women, staff should use the facilities that correspond with their biological sex.

Although the updated EHRC Code of Practice for Services does not directly apply to employment situations, it explains that in relation to the provision of separate or single sex services to the public, individual circumstances may, exceptionally, require a different approach to that set out in a policy. The EHRC guidance in the Services Code is that “the law in this area is complex, and it is not certain that it is permissible to make exceptions to allow people of the opposite sex to use a separate or single-sex service. It is likely that individual exceptions may be allowed, but only if doing so adds a necessary flexibility without undermining the aim of the service and/ or contributes to the legitimate reason behind providing the service only or separately for men and women.”

When making decisions about suitable toilet and changing facilities for staff to use, it is essential that we are guided at all times by our organisational values so that everyone is treated with dignity and respect. We must consider how we can accommodate the needs of all staff in a way which achieves a fair balance.

The organisation recognises that facilities across the estate vary considerably in age, design and configuration. The availability of different facility types may therefore differ between locations.

Future refurbishment and development programmes will, where reasonably practicable, seek to maximise privacy and increase the availability of individual self-contained and universal/ gender-neutral facilities.

8. Raising Concerns and Seeking Support

Any staff member who has questions or concerns relating to staff changing, washing or toilet facilities should raise these with their line manager in the first instance. Where staff do not feel able to speak to their line manager, staff can also raise concerns via Human Resources, a trade union representative or with another appropriate manager.

Managers are expected to seek advice from:

- - [HR Support and Advice Unit - NHSGGC](#)
- Trade union representatives.
- [Occupational Health.](#)
- The Equality and Human Rights Team.

- Facilities Management.

Questions or concerns will be handled sensitively and with due regard to confidentiality.

Staff raising concerns or seeking support under this policy must not be subjected to detriment, harassment or victimisation.

9. Resolution of Concerns

Managers should seek to resolve concerns informally wherever possible.

Where concerns cannot be resolved informally, managers should:

- Establish the relevant facts.
- Consider the rights and interests of all affected parties.
- Seek appropriate advice from Human Resources and other specialist services as required.
- Explore practical options to reduce conflict and minimise adverse impact.

In considering any concern, managers should have regard to:

- Privacy
- Dignity
- Safety
- Equality Act 2010 obligations
- Operational requirements
- The availability of alternative suitable facilities.

Detailed guidance for managers is provided separately.

10. Equality Impact Assessment

The potential impact of this policy on equality for relevant protected groups has been assessed in accordance with NHS Greater Glasgow and Clyde's Equality Impact Assessment arrangements.

The organisation recognises that decisions relating to workplace facilities may have different impacts across protected characteristic groups. As any differential impacts are further understood these will be included in the EQIA report and taken into account through the relevant NHS GGC governance arrangements.

11. Monitoring and Review

The implementation and effectiveness of this policy will be monitored through:

- Workforce feedback.
- Employee relations processes.
- NHSGGC board equality governance arrangements.
- Relevant organisational reporting mechanisms.

This policy will be reviewed in light of any significant changes to legislation, case law, national guidance or organisational requirements.

In particular, as the EHRC has not yet published a revised Employment Code of Practice, this policy should be regarded as an interim policy position. NHS Greater Glasgow and Clyde will review the policy following publication of the EHRC's Code and other relevant guidance and any associated NHS Scotland guidance, to ensure continued legal compliance and alignment with national advice.

Interim Guidance for NHSGGC Managers: Access to Staff Changing, Washing and Toilet Facilities

This guidance is for NHSGGC people managers. It provides a practical framework for handling questions about access to staff changing, washing and toilet facilities for all staff, including those with the protected characteristic of gender reassignment under the Equality Act 2010. It aims to support lawful, fair, proportionate and respectful decision-making in the workplace.

This document is guidance only. It should be read alongside NHS Scotland workforce policies, local dignity at work policies, health and safety requirements, and advice from HR and legal services in complex or contentious cases.

1. Legal framework

Managers should be aware of the following legal points:

- **Sex is a protected characteristic** under the Equality Act 2010. Individuals are protected from unlawful discrimination, harassment and victimisation because of their sex. The Equality Act 2010, as interpreted following the Supreme Court decision in *For Women Scotland Ltd v The Scottish Ministers* [2025] UKSC 16, defines sex on the basis of biological sex for the purposes of the Act.
- **Gender reassignment is a protected characteristic** under the Equality Act 2010. Protection applies to a person who is proposing to undergo, is undergoing, or has undergone a process (or part of a process) to reassign their sex. Medical treatment or a Gender Recognition Certificate is not required for this protection to apply.
- **Trans staff have the protected characteristic of gender reassignment and are protected from discrimination, harassment and victimisation because of gender reassignment.**
- **The Supreme Court decision in *For Women Scotland Ltd v The Scottish Ministers* [2025] UKSC 16**, determined that the Equality Act 2010 is interpreted on the basis that “sex” means biological sex for the purposes of the Act. A Gender Recognition Certificate does not change a person’s sex for Equality Act purposes.
- **Workplaces must provide sufficient single-sex toilets**, and where needed, sufficient single-sex washing and changing facilities, subject to the applicable workplace regulations and any permitted exceptions.

- **No member of staff should be put in the position that there is no appropriate facility for their use.**
- **Managers must also comply with wider employment obligations**, including duties to prevent harassment, protect dignity at work, maintain confidentiality, and avoid decisions that create unnecessary disadvantage or risk for any staff member.
- **Managers must give due regard to all protected characteristics** under the Equality Act 2010 and consider the potential impact of workplace decisions on staff with differing rights, needs and circumstances.

2. What this means in practice

There is no one-size-fits-all answer for every workplace. Managers should apply a careful, evidence-based and proportionate approach.

In broad terms:

- Staff should use the workplace facilities that correspond with their biological sex or universal/ gender neutral facilities.
- No member of staff should be subjected to discrimination, harassment or victimisation because of gender reassignment.
- Managers should ensure that no staff member is left without any suitable facility to use.
- Where possible, managers should consider whether additional, universal/ gender neutral facilities can be identified to improve choice, flexibility and dignity for everyone.

3. Core principles for managers

When managing access to facilities, managers should apply the following principles:

- **Lawfulness:** decisions must comply with the Equality Act 2010, as interpreted by the UK Supreme Court in *For Women Scotland Ltd v The Scottish Ministers* [2025] UKSC 16, the Health and Safety at Work etc. Act 1974, the Workplace (Health, Safety and Welfare) Regulations 1992, and relevant national guidance, as summarised in section 1 of this guidance.
- **Necessity and proportionality:** any arrangement should be no more restrictive than needed to achieve a legitimate aim.
- **Dignity and respect:** staff should be treated respectfully and without humiliating or intrusive questioning.

- **Confidentiality:** information about a staff member's trans status or transition must be handled strictly confidentially and only shared where there is a clear lawful and necessary reason and with consent.
- **Individualised assessment:** managers should consider the actual workplace context rather than rely on assumptions, stereotypes or social media commentary.
- **Safety and wellbeing:** managers should consider the practical impact of arrangements on all affected staff, including privacy, dignity, safety and working relationships.

4. Step-by-step approach for managers

If a member of staff raises a question or concern about the use of workplace toilet, changing or washing facilities managers are expected to follow the following process.

Step 1: Establish the issue clearly

Clarify whether the issue concerns toilets, showers, changing rooms or another type of facility. Different facilities raise different practical and legal considerations.

Step 2: Involve the right support early

Seek advice from HR at an early stage. Managers should recognise that individual circumstances may occasionally require careful consideration of competing rights, interests and legal obligations. If the situation is untested, sensitive, high-risk or likely to be disputed, HR may seek to obtain advice from the Equality and Human Rights Team or legal advice from the Central Legal Office prior to making a final decision.

You can find the contact details for the HR Support and Advice Unit via this link - [HR Support and Advice Unit](#) – or use the google search term - NHSGGC HRSAU.

Situations that should normally be escalated

- Where there is a complaint or threat of legal action;
- Where there is disagreement between affected staff;
- Where the facility is a changing, washing, sleeping or intimate care space;
- Where the workplace estate offers no suitable alternative arrangements;
- Where there are safeguarding concerns; or
- Where the matter is likely to attract public or media attention.

Step 3: Identify the legitimate workplace aim

If any restriction or specific arrangement is being considered, identify the legitimate aim clearly. This may include the need to protect privacy, dignity, safety,

safeguarding, or compliance with workplace facility requirements. The aim must be genuine and evidence-based.

Step 4: Consider the available options

Managers should consider the most workable and proportionate option that is consistent with NHSGGC policy and minimises adverse impact on affected staff.

Options may include:

- access to suitable universal self-contained lockable toilet, changing or washing facilities;
- use of accessible facilities.
- use of single-sex toilets aligned to biological sex;
- additional provision or designation of gender neutral/ universal facilities where feasible ;
- temporary workplace adjustments while a longer-term solution is arranged.

No option should amount to isolating, humiliating or penalising a staff member. Managers will need to contact their local Facilities Manager to review available facilities and scope out possible alternatives/adaptations. It may be possible to redesignate or repurpose existing facilities on a temporary or permanent basis or to enhance privacy in existing spaces. If an appropriate gender-neutral space cannot be identified, then consider any other changes that could be made to the way in which existing facilities are used e.g. scheduling use of changing facilities.

Step 5: Assess impact on all affected staff

Consider the impact on the staff member in relation to relevant protected characteristics (e.g. gender reassignment, religion or belief, or sex), and on other staff who use the same facilities. Record the reasons for the decision and why alternatives were accepted or rejected. Remember that those staff will themselves have the protected characteristic of sex, and may have other protected characteristics. In addition, please consider that disabled staff may be impacted by any decision made that affects the spaces they use.

Step 6: Record the decision

Record the reasons for the decision and why alternatives were accepted or rejected.

Step 7: Communicate sensitively and on a need-to-know basis

Managers must not disclose a staff member's trans status or gender history without permission unless there is a lawful reason to do so. Discussions should be respectful, private and focused on finding a solution.

Step 8: Keep the decision under review

Where interim arrangements are put in place, review them regularly. A workplace solution may need to change if the environment, staffing, estate, or risks change.

5. What managers should avoid

- Do not reach immediate conclusions without having considered all aspects. Managers should assess the legal and workplace context. Seek advice from HR where there is any clarification is required.
- Do not ask intrusive questions about anatomy, medical treatment or personal history unless there is an exceptional, lawful and clearly necessary reason **and** advice has been taken.
- Do not disclose a staff member's trans status or gender history to colleagues without explicit consent or another clearly lawful basis.
- Do not allow gossip, misgendering, hostility or exclusion to develop unchecked.

6. Confidentiality and data protection

Information about gender reassignment is highly sensitive personal information. Managers must handle it in line with data protection requirements, NHS confidentiality standards and any applicable provisions of the Gender Recognition Act 2004 and Human Rights Act 1998 where relevant.

Only those who need the information to make or implement a workplace decision should have access to it. Notes and records should be factual, limited and stored securely.

7. Harassment, complaints and workplace conflict

Managers must act promptly if there are complaints, hostility or inappropriate behaviour connected to the issue. This includes:

- misgendering used in a hostile or degrading way;
- mockery, gossip or exclusion;
- refusal to work with a colleague because of a protected characteristic, such as they are trans or hold a protected belief;
- retaliation after a concern is raised.

Any such behaviour may amount to harassment, discrimination or victimisation and should be managed under the relevant dignity at work, grievance or disciplinary procedures.

8. Record-keeping

Managers should keep a short-written record of:

- the issue raised;
- the advice obtained from HR or CLO;
- the legitimate aim being pursued;
- the options considered;
- the reasons for the decision; and
- any review date.

9. Practical manager checklist

- Have I identified exactly which facilities are an issue?
- Do I understand the needs of the staff involved?
- Have I involved HR early enough?
- Have I engaged support from local Facilities management?
- What is the legitimate aim for any proposed arrangement?
- Have I considered less restrictive alternatives?
- Will the arrangement leave any staff member without a suitable facility?
- Do I need legal advice before deciding?
- Have I protected confidentiality?
- Have I recorded the reasons for the decision?
- Have I directed staff to relevant sources of support?
- Have I planned how to respond to inappropriate behaviour or conflict?
- Have I set a review point?

10. Key message

As many individual circumstances may involve complex or contentious issues, and as the legal position continues to evolve through emerging case law and national guidance, NHSGGC managers are not expected to resolve these matters in isolation. Where concerns involve balancing rights, protected characteristics, significant disagreement, potential legal challenge, safeguarding issues or wider organisational implications, managers should seek advice from Human Resources at an early stage and follow the escalation arrangements set out in the guidance.

Decisions should be evidence-based, proportionate, consistent with NHSGGC policy, and informed by appropriate professional and legal advice where required.

The aim is to make lawful workplace decisions that protect dignity, prevent discrimination and support the safety and wellbeing of all staff.

Communication of this policy and Guidance

Following approval, implementation will be supported through a communications plan including:

- Publication on StaffNet.
- Publication of the accompanying manager guidance.
- Targeted communication to senior managers, HR colleagues and Facilities teams.
- Partnership briefing through trade union structures.
- Communication through existing staff communication channels, including HR updates and relevant governance forums.
- Ongoing review of feedback, emerging case law and national guidance.