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NHS Chief Executives

#### Eliminating Mixed-Sex Accommodation – Declaration Exercise

The NHS Operating Framework for 2011/12 requires all providers of NHS funded care to confirm whether they are compliant with the national definition '*to eliminate mixed sex accommodation except where it is in the overall best interests of the patient, or reflects their patient choice*'. Those organisations that either do not make a declaration or declare they are not compliant will face penalties.

Trust Boards must make declarations no later than 1 April 2011 and must ensure that they are clearly visible on their website. All relevant providers should follow a similar process to last year to determine their compliance status, using a self-assessment of the provision of same-sex accommodation within their organisation. Declarations should reflect all areas of the same-sex accommodation policy, not just sleeping accommodation. Where possible, organisations should complete this process early to ensure a positive outcome, rather than waiting until 1 April which may increase the risk of financial penalties.

The self-assessment exercise should generate a plan to ensure continued delivery and improvement of same sex accommodation during 2011/12. The plan should indicate areas of weakness and describe clear activities and timescales for corrective action. The plan should be agreed as part of the contract requirements and will form the basis of regular monitoring discussions between providers and commissioners.

The attached templates at Annex A have been provided as examples of the wording in compliance statements. If compliance with the definition cannot be achieved in one or more of the areas in the self-assessment then a statement

of non-compliance should be declared. This will also need to include confirmation of when compliance will be achieved.

The Professional Letter issued in November last year (PL/CNO/2010/3), provides further information on the breaches policy and reporting mechanisms underpinning the same-sex accommodation policy. It is important to note that the definitions outlined in the annexes to the preceding Professional Letter issued in May 2009 (PL/CNO/2009/2) still apply and should be considered during the self-assessment.

The Performance Delivery Team within the Department will work with SHAs to ensure the declaration exercise is undertaken. Failure to provide a declaration or where non-compliance is declared will result in penalties being enforced through the standard contract. The penalties are set out in the standard contract for 2011/12. The DH standard contracts team will continue to provide relevant support and advice if required.

The NHS Operating Framework for 2011/12 also requires PCTs to report to SHAs, those organisations whose compliance status has changed.

The compliance declaration should be accompanied by a commitment to audit data quality and to publish the results. The purpose of the audit is to ensure that all episodes of unjustified mixing are captured and reported, and that mixing is only classified as "justified" if it is genuinely in the patient's overall best interests.

The exact form of the audit is to be decided locally, but might include:

- Inclusion in local Audit Committee programme
- Involvement of OSC and/or local HealthWatch
- Discussions with commissioners
- Involvement of patient groups

It is and always has been acknowledged that there will be clinically based exceptional circumstances where patient of the opposite sex will share facilities, (e.g. where patients require critical or highly specialised care and on occasions where patients actually want to share). The priority will always be to admit patients and treat them promptly – they will not be turned away simply because the 'right bed' is not available immediately.

If you have any queries in relation to this letter please contact;

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## Annex A

### Declaration of compliance

[Name of Provider] is pleased to confirm that we are compliant with the Government's requirement to eliminate mixed-sex accommodation, except when it is in the patient's overall best interest, or reflects their personal choice. We have the necessary facilities, resources and culture to ensure that patients who are admitted to our hospitals 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. Sharing with members of the opposite sex will only happen when clinically necessary (for example where patients need specialist equipment such as in [Provider to insert suitable local example, eg ICU]), or when patients actively choose to share (for instance [Provider to insert suitable local example, eg renal unit]).

If our care should fall short of the required standard, we will report it. We will also set up an audit mechanism to make sure that we do not misclassify any of our reports. We will publish the results of that audit at [Provider to insert details of audit publication]

### Declaration of non-compliance

[Name of Provider] is currently unable to confirm compliance with the Government's requirement to eliminate mixed-sex accommodation, except when it is in the patient's overall best interest, or reflects their personal choice. We are working hard to correct this and will be able to confirm compliance by [Provider to insert date when trust will be compliant].

Our aim is to have the necessary facilities, resources and culture to ensure that patients who are admitted to our hospitals 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. Sharing with members of the opposite sex will only happen when clinically necessary (for example where patients need specialist equipment such as in [Provider to insert suitable local example, eg ICU]), or when patients actively choose to share (for instance [Provider to insert suitable local example, eg renal unit]).

If our care should fall short of the required standard, we will report it. We will also set up an audit mechanism to make sure that we do not misclassify any of our reports. We will publish the results of that audit at [Provider to insert details of audit publication]

