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Subject: Single-Sex Provision in Belfast Trust

The Department of Health, in response to the following FOI, have said they do not hold the information and these questions should be directed to each of the individual Trusts:

1. **Is there guidance in place to ensure that the HSC provides single-sex (i.e. biological, natal sex) wards, changing rooms, and toilets throughout the HSC estate?**
 - i) **without a Gender Recognition Certificate (GRC)**
 - ii) **or with a GRC.**

Please share any such guidance including consultations and Section 75 assessments, including any specific reference to provision for a patient or staff member claiming a ‘trans identity’,

Response

Belfast Trust follows regional HSC guidance in this regard.

The **Guidance issued by the Chief Nursing Officer, Department of Health (Northern Ireland)** in September 2016 which outlined the following Policy Position: **The overriding principle is that all patients in adult inpatient areas should be cared for in same gender accommodation except where it is in the overall best interests of the patient or reflects their personal choice.**

This guidance is included as an appendix in the thematic review of **Mixed Gender Accommodation in Inpatient Wards Final Report** undertaken by the Public Health Agency in 2019. (Please find attached).

The following extracts address the matter of accommodation for transgender people and indicates that person-centred care should be at the heart of all accommodation and care:

Peate (2012) helpfully outlines important considerations in relation to hospital accommodation for transgender people, highlighting that the unique individual needs of each person should place the person at the centre of care provision. Transgender people expect and should be offered the same high-quality, safe and effective care as the rest of the population is entitled to. All patients should be treated with respect and dignity in an environment that maintains personal privacy and protects their modesty.

Peate further states that transgender people should be accommodated according to their presentation: the way they dress, and the name and pronouns that they wish to use. This may not always accord with the physical sex appearance of the chest or

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genitalia and this does not depend upon their having a Gender Recognition Certificate (GRC) or legal name change. It is also important to consider special circumstances, for example if treatment is sex specific, the person may need to be placed in an opposite gender ward e.g. hysterectomy or prostate surgery.

Staff will not ask for a Gender Recognition Certificate as it is illegal to do so. Therefore the same answer is applicable for i) and ii) of this question.

2. Where a patient requests care provision by a staff member of the same (biological) sex,

i) What guidance is in place for responding to such a request?

Response

Belfast Trust is committed to providing safe, effective and compassionated care to all patients and recognises that person-centred care is core to providing this. The Trust will always try to accommodate personal preference but this would be dependent on availability of staff and may not always be possible.

The **Intimate Care, Examination & Chaperoning policy** ensures that the highest importance is given to ensuring a culture that values patient privacy, dignity and human rights exists within Belfast Health and Social Care Trust.

This policy specifically applies to the care of patients who require any clinical intervention that involves an intimate examination or procedure. Staff have a professional duty to care for patients and responsibilities under their professional bodies to act in the patient's best interests and are accountable for their actions.

The policy reminds staff that they should be sensitive to differing expectations associated with sexual orientation, disability, gender identity, race, ethnicity, religion and culture. Attitude and approach by the individual professional is of paramount importance. Staff have a duty to try and understand the needs of a particular patient when performing an intimate examination and should always offer the patient the option of having a chaperone present wherever possible even in circumstances where the patient hasn't specifically requested it. This applies whether or not the Health Care Professional (HCP) is the same gender as the patient.

The **Consent Policy** has also been appended for your information which may also be applicable and is based on the General Medical Council guidance in regard to Consent. This policy recognises that:

- All our patients have a fundamental legal and ethical right to determine what happens to them
- Valid consent to treatment is therefore central in all forms of health care, from providing personal care to undertaking major surgery.
- Seeking consent is also a matter of common courtesy between healthcare professionals and their patients.

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ii) **What guidance covers a situation where a staff member of the opposite (biological) sex claims to be of the same sex (ie claims to be a woman but is biologically male, or vice versa), but does not hold a GRC?**

iii) **What guidance covers a situation where a staff member of the opposite (biological) sex claims to be of the same sex (ie claims to be a woman but is biologically male, or vice versa), and does hold a GRC?**

Response

Health and Social Care organisations consulted on and developed a **regional Gender Identity and Expression Policy** and have all implemented this policy. The policy and equality screening are attached for your ease of reference.

This policy is aimed at creating a workplace where:

- the dignity of and respect for transgender and non-binary people is protected and promoted
- transgender and non-binary people feel safe
- transgender and non-binary people feel comfortable to express their gender identity
- transgender and non-binary people can fulfil their full potential and fully contribute to the workplace
- all staff (including line managers and managers more generally) are empowered to support transgender and non-binary staff and thereby to strive to meet their needs
- discrimination and harassment against transgender and non-binary people (whether by staff or third parties [name of organisation] interact with) is not tolerated and any allegations thereof are dealt with in an effective manner

The Regional HSC Gender Identify and Expression policy comprises guidelines for all staff to support a person who is transgender without consideration of medical transitioning and explicitly states that **staff may not ask for a Gender Recognition Certificate (GRC) as this would be illegal to do so.**

Please share any such guidance including consultations and Section 75 assessments, including any specific reference to provision for a patient or staff member claiming a 'trans identity',

3. If a person requests accommodation in a ward that does not match their biological, natal sex, is this facilitated:

- **If they do not hold a GRC?**

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- **If they do hold a GRC?**

Response

Please see response in Question 1, which covers this situation and highlights that a GRC is not required for these principles and policies to be relevant.

Please share anonymised copies of any policies, guidance documents, or correspondence relating to this matter, including Section 75 assessments.

4. How are staff advised to respond if a patient complains about a person of the opposite (biological) sex in their ward?

Response

When a complaint is received on any matter, staff always attempt to resolve the issue locally and swiftly. If a resolution is not achieved a formal process is followed. In line with the BHSCT Management of Complaints Policy, (attached for ease of reference) staff are advised to:

- work to put things right and help resolve issues or concerns raised by complainants in an open, compassionate, constructive, non-judgemental and timely manner.
- refer as soon as possible to their line manager if unable to deal with complaints raised directly with them or seek advice from complaints staff on how to proceed
- keep their line manager updated on complaints and enquiries they are currently dealing with, and complaint outcomes (including resultant service improvements)

5. Please share any (anonymised) correspondence / documents relating to the toilet provision in the recent refurbishment of the Belfast Cancer Centre foyer, which replaced single-sex toilets with unisex toilets, including any consultation documents or S 75 assessment.

Response

We believe that this question is actually incorrect in suggesting that single sex toilets have been replaced with unisex toilets at this location.

It is our understanding that previous toilet provision was also unisex and that we have simply increased the number of toilets available from that which was there previously.

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