

Trans patients and NHS England's new hospital accommodation guidance: what it means if you are admitted

Eden Openly · Patient guide · Version 1.1

Eden (she/her)

Published 17 October 2026; corrected 18 October 2026 (UK time). A companion to Evidence Note EN-026. Based on the guidance as published on 15 October 2026 and checked unchanged on 17 October 2026.

In short

From 15 October 2026, NHS England says trans patients admitted to hospital in England should be placed on wards and bays by biological sex. A trans woman will normally be placed with men, and a trans man with women.

There are two routes away from that default:

- **A single room.** The guidance says trans patients “should be offered” one, after an assessment of the circumstances. It also says no patient has a legal right to a single room.
- **Clinical need.** If being placed by biological sex would not be clinically appropriate for you, the hospital should find another arrangement. Clinical need comes first.

The rule applies to NHS-funded patients who have been admitted, in acute, mental health and community hospitals, including NHS-funded patients cared for by independent providers. It does not apply in A&E, adult critical care, several day-treatment areas or children's units.

Your hospital may not have updated its own policy yet. NHS England has asked trust boards to review the guidance “at pace”, but has set no deadline.

What the guidance says

The document is *Privacy, dignity and safety in hospital accommodation* (publication reference PRN02528i), published by NHS England on 15 October 2026. It replaces *Delivering same-sex accommodation* (2019).

The rule for trans patients is in section 4:

“to maintain hospital accommodation as single sex under the Equality Act 2010, trans people and others with the protected characteristic of gender reassignment should be accommodated in line with their biological sex, while also ensuring that: (i) clinical needs are met, and (ii) privacy, dignity and safety are maintained for all, including other patients sharing that accommodation.”

The guidance bases this on the Supreme Court's judgment in *For Women Scotland Ltd v The Scottish Ministers*, which held that “sex” in the Equality Act 2010 means biological sex, and on the Equality and Human Rights Commission's statutory code of practice for services, in force since 5 August 2026. The default is NHS England's policy, built on its reading of the law. The guidance cites no studies or data for it, and it does not claim the default has been shown to make wards safer.

The rule reverses the previous guidance. From 2019 until 15 October 2026, NHS England guidance said trans people “should be accommodated according to their presentation: the way they dress, and the name and pronouns they currently use”.

The exception, also in section 4:

“In instances where it would not be clinically appropriate to deliver care to a trans patient on a ward or bay that aligns with their biological sex, providers should identify alternative arrangements.”

The guidance relies on the EHRC code’s principle that it is “very unlikely to be proportionate” to leave a trans person with no service they are allowed to use. On that basis it says that “where clinical needs and same-sex accommodation requirements cannot both be met, clinical needs are the priority.” It expects these situations to be rare, and says the reasons for these placement decisions should be recorded and reported nationally as breaches of the guidance. That is a reporting category, not a finding that anyone acted wrongly.

On single rooms, FAQ 7 says:

“Trans patients should be offered single-bed rooms on the basis of maintaining privacy, dignity and safety for all patients. These offers should be based on an assessment of the specific circumstances in each instance, taking into account wider clinical requirements for single rooms. No patients have a legal right to be accommodated in single rooms.”

The guidance does not mention a Gender Recognition Certificate, surgery, or how long someone has lived in their gender. In *For Women Scotland* the Supreme Court held that a Gender Recognition Certificate does not change a person’s sex for the purposes of the Equality Act.

Where it applies

The rule applies only once you have been admitted. Where you are in the hospital decides whether it applies (section 3 of the guidance).

Setting	Does placement by sex apply?
Inpatient wards in acute and community hospitals	Always
Mental health inpatient units	Always (mixing is permitted in psychiatric intensive care units, but should be avoided whenever possible and reported locally)
Day surgery, endoscopy, theatre recovery, procedure rooms	Always, where you need a period of recovery
Assessment units (for example acute medical and surgical assessment units); enhanced care (level 1)	Only if you are still there 4 hours after a decision to discharge or transfer you
A&E and urgent treatment centres	No
Adult critical care (levels 2 and 3)	No
Chemotherapy, radiotherapy, renal dialysis, ambulatory day care, same-day emergency care	No
Children’s wards and units	No, unless a child or parent makes a reasonable request for a single-sex environment and it would be clinically and operationally appropriate to do so
End-of-life care, where the only reason for a move would be to make the area single-sex	No

Patients of different sexes may also be cared for together to manage an infectious disease outbreak, but only where moving them would harm their recovery or raise the infection risk to

others. Where the rule does not apply, the guidance still says “all reasonable steps should continue to be taken to maintain the privacy, dignity and safety of all patients”.

If you are admitted

The guidance does not give you rights you can enforce. It does tell staff what to do, and you can ask them to do it.

1. **Say what you need, early.** Staff are told to “ask patients what matters to them” and to make decisions in partnership with you “wherever possible”. Tell the admitting nurse or ward manager that you are trans and what would help you feel safe.
2. **Ask for a single room.** The guidance says trans patients “should be offered” single rooms. Ask even if one is not offered. The decision depends on what is available and on other patients’ clinical needs, such as infection control and end-of-life care.
3. **Raise clinical and safety needs directly.** If a placement by biological sex would not be clinically appropriate for you, say so and ask staff to consider “alternative arrangements”. Staff are also told to “identify any safeguarding issues”. Tell them about anything that bears on your safety.
4. **Ask what has been decided and recorded.** Staff should document placement decisions in your record. Wherever patients of different sexes are accommodated together, you, your relatives and carers should be told why, what is being done about it and the expected timeline, and kept updated.
5. **Ask how concerns are escalated.** NHS England has asked hospital boards to make sure “arrangements are in place to support consistent decision-making and escalate difficult issues when needed”. If you disagree with a decision, ask the nurse in charge who it can be escalated to.
6. **Use the feedback routes.** Every trust is expected to have a feedback mechanism for patients affected by same-sex accommodation issues, and an executive board lead responsible for same-sex accommodation. You can also contact the hospital’s Patient Advice and Liaison Service (PALS), or bring someone you trust to speak with staff. NHS England’s statistics page says patients who want to discuss their own mixed-sex accommodation experience should contact their local integrated care board (ICB).

If you are placed somewhere you feel unsafe, tell the nurse in charge straight away.

What the guidance does not say

Several questions that matter to trans patients are left to hospitals and staff.

- **How your sex is established.** The 2019 guidance decided placement by presentation, and told staff, where unsure, to “ask discreetly where the person would be most comfortably accommodated”. The new guidance does not reproduce that, and does not give a comparably specific process for establishing the sex category its rule uses. The EHRC’s code of practice says a provider must be able to justify asking about someone’s sex, that any question should be asked “sensitively and discreetly”, and that staff cannot always be sure of a person’s sex from their appearance.
- **If you are unconscious or unable to say.** The 2019 guidance said staff should go by your presentation, and should not investigate your genital sex unless treatment required it. The new guidance does not address patients who are unconscious or lack capacity.
- **Your own safety in a placement by biological sex.** Safeguarding is part of the guidance’s general framework, and its safety requirement covers every patient. It does not set out how staff should assess and reduce risks to a trans patient in a placement by

biological sex, beyond its general principles, the single-room offer and the clinical exception.

- **Non-binary patients and variations of sex development.** Non-binary patients are not mentioned, although some are protected under the Equality Act in the same way as trans patients. The 2019 guidance said non-binary patients should be asked discreetly and placed according to their choice. Patients with variations of sex development (sometimes called intersex) are not mentioned either.
- **A deadline.** NHS England has asked trusts to review their policies “at pace”, without a date.

The guidance does require that staff have “the equality, diversity and inclusion competence needed to protect every patient’s privacy, dignity and safety”. You can expect that standard wherever you are placed.

About this guide

This guide explains what NHS England’s guidance says and how it may affect you. It is not legal advice, and it is not a substitute for talking to the clinical team caring for you. It does not take a position on whether the policy is right. The guidance applies to NHS services in England only; Scotland, Wales and Northern Ireland have their own arrangements.

For how the guidance uses its legal sources, what changed from 2019, and what it leaves unspecified, see Evidence Note EN-026, *How NHS England’s revised hospital accommodation guidance uses its sources*. A companion guide for clinicians is also available.

Competing interests. The author is a transgender woman with a declared prior in favour of access to gender-affirming care, and is founder and sole funder of a non-profit transgender healthcare and education organisation. She also has a commercial interest in skincare and a planned aesthetic hospital. Each interest is listed, with the date it began, in our register of declared interests (edenopenly.com/about/declared-interests).

Preparation. Prepared with the assistance of a large language model (Claude, Anthropic). Every quotation was checked against the retained copies of the sources used for EN-026. The author is responsible for every statement.

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Sources

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Revision history

Version 1.1 — corrected 18 October 2026. Correction: the table under “Where it applies” said the rule does not apply in children’s wards and units unless “a child or parent makes a reasonable request for a single-sex environment”. The guidance sets a second condition: that it “would be clinically and operationally appropriate to do so”. The row now gives both. The error was found by an independent check of text prepared for social media. Nothing else changed.

Version 1.0 — first published 17 October 2026. Revised to match EN-026 version 1.0: reporting described as a reporting category; the 2019 placement procedure distinguished from establishing sex; escalation and safeguarding provisions added; an unsourced statement about NHS records removed. Earlier drafts (v0.1, v0.2) were not published.