

CONSTITUTION OF THE BIRMINGHAM LOCAL MEDICAL COMMITTEE

PREAMBLE

This document sets out the constitution of the Local Medical Committee for the area of the Birmingham City Council.

INTERPRETATION

The paragraph heading shall be taken into account in the interpretation of this constitution and where the context so requires:

- The singular number shall include the plural number
- References to statutes or parts or sections of statutes shall include any statutory modifications or re-enactments thereof or any regulations, orders or directions made thereunder for the time being in force.

DEFINITIONS

The Act	The National Health Service Act 2006, as amended.
Administrative expenses of the Committee	Include traveling and subsistence allowances payable to members of the Committee.
Appointed Secretary	A person or persons employed by the Committee to act as its secretary or secretaries where the context so requires the words "appointed" and "appointment" shall be construed accordingly.
Area	The areas for the time being and from time to time for which the Committee is recognised by the Board under section 97(1) of the Act.
Board	The National Health Service Commissioning Board or its successor under the Act.
Committee	<p>A Committee recognised by the National Health Service Commissioning Board as formed to represent medical practitioners in the geographic areas administered by the Birmingham City Council and representative of:-</p> <ol style="list-style-type: none"> 1. Medical practitioners providing primary medical services in the Area for which the Committee is formed under a general medical services contract or providing general ophthalmic services in the area. 2. Other medical practitioners performing primary medical services in the area for which the Committee is formed (i) in accordance with section 92 arrangements, or (ii) under a general medical services contract and who in each case has notified the Board that he/she wishes to be represented by the Committee (and has not notified it that he/she wishes to cease to be so represented).
Committee Member	A person elected or co-opted onto the Committee in accordance with the provisions of this Constitution together with the Secretary or Secretaries who shall be (a) non-voting member(s).
Committee Year	Shall conclude on 30 September in each year and where an officer of the Committee or a member is elected or co-opted for a term of office (whether

	the term shall be for one year or more) the said term shall conclude on the relevant 30 September.
GPC Voting Register	A list of represented members (including medically qualified LMC officers) who are eligible to stand, vote or nominate represented members as a GPC regional representative.
The Performers List	The lists maintained by the Board of medical practitioners providing primary medical services or ophthalmic services in the area.
Officers of the Committee	The Chair, the Vice-Chair, the Treasurer and the Secretary or Secretaries.
Ophthalmic Medical Practitioner	A medical practitioner on the Ophthalmic lists of the Board.
Registers of Members	The combined register of represented members and Committee members, which shall be maintained in several parts comprising: <p>Register A. A list of medical practitioners providing primary medical services in the area for which the Committee is formed under a general medical services contract or general ophthalmic services in the Area together with their addresses.</p> <p>Register B. A list of other medical practitioners performing primary medical services in the area for which the Committee is formed (i) in accordance with section 92 arrangements, or (ii) under a general medical services contract and who in each case has notified the Board that he/she wishes to be represented by the Committee (and has not notified it that he/she wishes to cease to be so represented) together with their addresses.</p> <p>Register C Elected Committee members.</p> <p>Register D Co-opted Committee members.</p>
Represented Member	Being one of:- <ol style="list-style-type: none"> 1. Medical practitioners providing GMS services in the area for which the Committee is formed under a GMS contract or providing general ophthalmic services in the Area. 2. Other medical practitioners performing primary medical services in the area of which the Committee is formed (i) in accordance with section 92 arrangements or (ii) under a general medical services contract and who in each case has notified the Board that he/she wishes to be represented by the Committee (and has not notified it that he/she wishes to cease to be so represented).
Returning Officer	A person whose name is not include on any part of the register of members invited by the Committee to act, in person or through a deputy, at elections for Committee members.
Secretary	A person or persons elected under Clause 3.9 or appointed under Committee to act as its Secretary or Secretaries.

THE COMMITTEE

1.1. Membership	The Committee shall comprise no more than 25 members consisting of:
1.1.1. Elected members	Representatives of the medical practitioners included in Register A and B in in the proportion of 1 for 30, or part of 30, of the practitioners in the Area of whom if possible: <ul style="list-style-type: none"> • at least 1 will be a partner of a practice which holds a general medical services contract; • at least 1 will be a partner of a practice which hold s a medical contract held in accordance with section 92 arrangements; • at least 1 will be a salaried medical practitioner; • at least 1 will be a medical practitioner who operates as a freelance locum;

- at least 1 will practice in each of the four geographical local authority ward areas of Birmingham City Council constituencies as detailed in Appendix A to this document

and the expression "elected member" shall, where the context so requires, include those persons co-opted to fill a vacancy in accordance with clause 1.4.

An elected member's eligibility to stand for election shall in addition to the disqualification provisions in clauses 1.6.1 to 1.6.5 be dependant on his having paid at the time of his nomination all current levies due to the Committee together with any arrears that may be outstanding and the returning officer shall verify the fact of such payment before circulating electors who are not disqualified with election nomination papers. The requirement to have paid the current levies together with any arrears shall not apply to the first two classes of co-opted members; and

1.1.2. Co-opted members

1 Practitioner nominated by the medical staffs of hospitals within the Area in such a manner as such medical staffs may from time to time decide.

One of the Director of Public Health for Birmingham City Council appointed under section 73A of the Act or his nominee.

Up to 2 practitioners representing a particular class of experience not otherwise represented on the Committee.

2 Representatives of practitioners undergoing training for general practice with the Area.

If there is no elected practitioner from the general ophthalmic list, such a practitioner may be co-opted to the Committee.

Provided that the total number of co-opted members does not exceed one quarter of the number of the elected members.

1.3. Term of Office

A period during which an officer of the Committee or a Committee member holds office concluding at the end of the Committee's year.

1.4. Vacancies

Where the number of persons elected under paragraph 1.1.1 is less than the number of persons mentioned in such paragraph by reason that no or insufficient qualified candidates have been nominated, the Committee may within three months after the election co-opt duly qualified person to fill the vacancies.

A casual vacancy will occur on:

- The resignation, death or disqualification of an elected member from the Committee or
- On the appointment of an elected member to the office of Secretary

Within three months of such a vacancy occurring, the Committee shall fill the same by the co-option of a practitioner who represents the same class of practitioners as detailed in paragraph 1.1.1 as the person in post prior to the vacancy arising .

If the casual vacancy arises in the case of a practitioner nominated by the hospital staffs of hospitals within the area, the casual vacancy shall be filled by a nomination made by such persons.

Pending the filling of any vacancy the proceeding of any Committee shall not be invalid by reason of such vacancy.

A person co-opted to a vacancy shall hold office for the remainder of the period for which the person in whose place he/she is co-opted would have been entitled to hold office.

1.5. Retirement

A member of the Committee whether elected or co-opted may retire on giving written notice delivered to the Secretary and the retirement shall take effect on the date specified in the notice if a date is given or if not on the date when the notice is received by the Secretary.

1.6. Disqualification

A member of the Committee shall be disqualified if

- 1.6.1. he/she ceases to be a registered medical practitioner or a registered general ophthalmic practitioner or is suspended from the medical register
- 1.6.2. he/she ceases to provide primary medical services under the NHS medical contract or general ophthalmic services under The Act, or being a performer of such services whose name appears in Register B either advises the Board that he/she no longer wishes to be represented by the Committee or ceases to act as such a practitioner for a period of excess of 6 months
- 1.6.3. he/she has had his/her name removed from a Performers List and has not subsequently had his/her name included in such a list
- 1.6.4. he/she is suspended from a Performers List
- 1.6.5. if within one month of receiving a due call he/she fails to pay to the Committee any current levy/levies due to the Committee together with any arrears that may be outstanding
- 1.6.6. he/she fails to disclose a pecuniary interest in a matter which is the subject of consideration at a meeting of the Committee or of one of its Sub-Committees and takes part in the consideration or discussion of that matter or votes on any question with respect to that matter
- 1.6.7. he/she fails to attend a meeting of the Committee or any sub-Committee for three consecutive meetings unless the officers of the Committee excluding the absent member are satisfied that the absence was due to a reasonable cause and that the absent member will be able to resume attending meetings of the Committee within such period as it considers reasonable

A co-opted member of the Committee shall be disqualified if he/she ceases to hold office or qualification, which entitled them to be a member of the class of co-opted members.

If any Committee member's registration with the General Medical Council is suspended he/she shall not be entitled to resume his membership of the Committee for the remainder of the period for which he/she was originally appointed but he/she shall be permitted to stand afresh in the next following election if the suspension has ended prior to the date when the returning officer sends a written notice of election to each elector.

ELECTIONS

2.1. Term of Office

Elected members shall hold office for a term of four years.

2.2. Method

Voting shall be by postal ballot of those represented members whose names appear in registers A and B on 1st April in each year that an election takes place and the persons whose names are so included on such registers are referred to as "the electors".

A represented member shall not be eligible to vote in or stand in an election if he/she is disqualified under the provisions of paragraphs 1.6.1 to 1.6.6 and as to the provisions of paragraph 1.6.5 the returning officer shall verify the fact of payment or otherwise before circulating qualified electors with election nomination papers.

The returning officer shall send written notice of the election to each elector and such notice shall be sent so as to be delivered to the elector not less than 6 weeks before the date of the election.

Each notice shall

- State the date of the election
- Set out the categories detailed in paragraph 1.1.1 and the minimum number of representatives sought for each category
- State the date by which nominations must be submitted to the returning officer
- Set out the nomination provisions, as set out below, and
- Enclose a nomination form.

Each candidate shall be nominated by at least two electors from the same register, and each nomination form must be accompanied by a statement, by the candidate, in writing that he/she is prepared to accept office.

If the number of nominated candidates qualified for election in each category where there are vacancies does not exceed the number of vacancies the returning officer shall declare those candidates to be elected. In other cases a vote shall be taken.

Voting shall be by single transferable vote system.

The returning officer shall prepare voting papers which shall contain a list of the candidates for whom the elector may vote together with instructions on the voting system. The voting paper shall also specify the date of the election by which the voting paper must be returned to them. A voting paper shall be invalid if it is not signed or completed in accordance with the instructions.

The returning officer may also disallow a voting paper if it does not comply with this Constitution or if it causes uncertainty as to the candidates for whom the elector desires to record his /her vote, save that the returning officer may in their absolute discretion treat a voting paper so marked as valid for the purpose of any vote other than that in connection with which the uncertainty arises.

Voting papers received by the returning officer after the election date are invalid.

The returning officer after examining the voting papers and determining the validity of the votes, shall count the votes properly recorded and shall prepare a return for the candidates and electors indicating the result of the ballot.

Any question as to the validity of nomination or voting paper or otherwise in connection with an election shall be determined by the returning officer in his absolute discretion.

At the conclusion of the election the returning officer shall immediately give notice in writing of the result to all candidates.

2.3. Saving Provisions

No election shall be invalid by reason of any misdescription or non-compliance with the provisions of this scheme or by reason of any miscount or of the non-delivery, loss or miscarriage in the course of post of any document required or authorized by this Constitution to be dispatched by post if the returning officer is satisfied that the election was conducted substantially in accordance with the provisions of this Constitution.

MEETINGS

- 3.1. First Meeting** The returning officer shall give not less than seven days clear notice to the members of the Committee of the time and place of the first meeting. The Secretary shall inform the electors of the identity of each of the Committee members.
- 3.2. Quorum** A quorum shall be one third of the Committee members who are entitled to vote but if one third is not a whole number the next number above one third.
- 3.3. Voting** Only elected members of the Committee may vote at Committee meetings. An appointed Secretary may not vote. If at any Committee meeting there is an equality of votes the presiding officer shall have a second and casting vote.
- 3.4. Observers** The Committee may in its absolute discretion invite such persons as it thinks fit to attend the whole or any part of any Committee meeting.
- 3.5. In Camera** The Committee may require all or any of the invited observers to withdraw from any meeting if it wishes to consider any business in camera.
- 3.6. Chair** The Committee shall elect a Chair from amongst its number. For such part of any meeting that the Chair be not present the Chair shall be taken by the Vice Chair.
- 3.7. Vice Chair** The Committee shall elect a Vice Chair from amongst its number. If for any part of any meeting neither the Chair nor the Vice Chair were present, the Committee shall elect another of their number to act as the presiding officer for the duration of that meeting.
- 3.8. Treasurer** The Committee shall elect a Treasurer from amongst its number.
- 3.9. Secretary** In the absence of an appointed Secretary, the Committee shall, from time to time and for such period and upon such terms as they may determine appoint another person to act as Secretary.
- 3.10. Minutes** The Secretary on behalf of the Committee shall keep minutes of each meeting, which shall be drawn up and submitted for agreement at the next meeting of the Committee where, if agreed, they shall be signed by the person presiding over it.

SUB-COMMITTEES

- 4.1. Executive** The Committee may appoint an executive sub-committee, which shall comprise the Chair, Vice Chair, Treasurer and Secretary or Secretaries and up to six members of the Committee appointed so as to ensure the subcommittee membership reflects the distribution and classes of represented members in the area.
- The sub-committee shall consider matters referred to it by the Committee and by officers of the Committee together with matters requiring consideration before the next scheduled meeting of the Committee.
- The sub-committee shall have power to act on behalf of the Committee between Committee meetings and shall circulate with the agenda for each Committee meeting minutes of its own meetings held since the circulation of the last Committee agenda.
- The sub-committee shall have power to co-opt such other Committee members as may be necessary to assist with the sub-committee's duties.
- A quorum for the sub-committee shall be one third of its membership but if one third is not a whole number immediately above one third.
- 4.2. Regulations** The Committee may appoint a regulations sub-committee, which shall comprise the Chair, Vice Chair, Treasurer and Secretary or Secretaries together with the immediate past Chair of the Committee provided that such past Chair is a member of the Committee.

The sub-committee shall have power to co-opt a past officer provided he/she is a Committee member as may be necessary to assist with the sub-committee's duties.

The sub-committee shall in respect of matter referred to it by the Committee by an officer of the Committee or by the Executive sub-committee act on behalf of the Committee in respect of matters arising in regulations and directions, which affect the contractual arrangements of represented members and which are of a particularly confidential nature.

At least two members of the sub-committee shall consider each case referred to it.

4.3. Section 45A (9)

The Committee will appoint a sub-committee to deal specifically with matters arising under Section 97(8) of The Act namely:

- (i) the consideration of any complaint made to it by any medical practitioner against a medical practitioner specified below providing services under a contract in the relevant area involving any question of the efficiency of those services;
- (ii) the reporting of the outcome of the consideration of any such complaint to the Board in cases where that consideration gives rise to any concerns relating to the efficiency of services provided under a contract;
- (iii) the making of arrangements for the medical examination of a medical practitioner specified below, where the contractor or the Board is concerned that the medical practitioner is incapable of adequately providing services under the contract and it so requests with the agreement of the medical practitioner concerned; and
- (iv) the consideration of the report of any medical examination arranged in accordance with sub-paragraph (iii) and the making of a written report as to the capability of the medical practitioner of adequately providing services under the contract to the medical practitioner concerned, the contractor and the Board

The medical practitioner referred to in paragraphs (i) and (iii) above is a medical practitioner who is –

- (a) a contractor
- (b) one of two or more individuals practicing in partnership who hold a general medical services contract or
- (c) a legal and beneficial shareholder in a company which holds a general medical services contract

which sub-committee shall comprise the Chair, Vice Chair and the Secretary or Secretaries.

4.4. Other

The Committee shall have power from time to time to delegate any of their functions, with or without restrictions or conditions, to other sub-committees composed of members of the Committee.

4.5. Disclosure of Interest

The provisions of paragraph 10 of this Constitution shall apply to sub-committees as it applies to the Committee.

ANNUAL REPORT

5

In each year the Committee shall prepare a report of its proceedings since the publication of the preceding report together with a statement of administrative/voluntary levy accounts and such report and statement shall be circulated to those whose names that are listed in registers A and B not later than three months after the Committee or it's Executive sub-committee shall have approved the same. A copy of the report and statement of administration/voluntary levy account shall be sent to the Board.

GENERAL MEETINGS

- 6.1. Frequency** Not less than once in every year the Committee shall convene a meeting of the represented members.
- 6.2. Attendance** In addition to the represented members the following persons shall have the right to attend:
- Any Committee member
 - The Secretary or Secretaries
 - Such other persons as the Committee may in their absolute discretion determine.
- 6.3. Disqualification** A represented member who otherwise would be entitled to attend any General Meeting of the Committee or any Extraordinary Meeting of the Committee shall be disqualified from doing so in the circumstances set out in clauses 1.6.1. to 1.6.6. as if those clauses applied to represented members as well as to members of the Committee.
- 6.4. Business** The following business may be transacted:-
- The receipt and consideration of the annual report
 - Such other business of which 14 days' notice has been given to the Committee and which the Committee in its absolute discretion, accept as appropriate for discussion.
- 6.5. Extraordinary Meetings** Upon the written request of no less than 50 represented members who are not disqualified the Committee shall convene an Extraordinary Meeting on not less than 21 and not more than 28 days' notice. The only business that may be transacted at such a meeting is that specified in the written request to the Committee a copy of which shall be circulated to all those who receive notice of the meeting.

THE SECRETARY

- 7.1. Appointment** The Committee shall from time to time and for such period and upon such terms as they may determine employ a person or persons to act as an appointed Secretary or Secretaries. On assuming office such Secretary or Secretaries shall notify the Board thereof. If no appointed Secretary is a medical practitioner the Committee shall invite such a practitioner to act as a medical adviser and his name shall be notified to the represented members.
- 7.2. Functions** The Secretary or Secretaries shall maintain the register of members and the GPC voting register and shall carry out such functions as the Committee from time to time request.

FUNDING

- 8.1. The Statutory Levy** The administrative expenses of the Committee may be collected on a statutory basis from all represented members whose names appear on Registers A.
- 8.1.1. The Administrative Levy** The administrative expenses of the Committee may be collected on a voluntary basis from all represented members whose names appear on Registers B.
- 8.2. The Voluntary Levy** The Committee may raise additional voluntary levies from represented members whose names appear on Registers A and B to cover its other expenses and agreed expenditures.
- 8.3. Collection** The method of collection of the levies expenses of the Committee and the additional levy/levies shall be determined by the Committee in conjunction where required with the Board.
- 8.4. Amount** The amounts of the levies expenses and the additional levy/levies shall respectively be determined by the Committee having regard to the requirements of openness, transparency and equity and upon an estimation of the proportion of administrative and other expenses attributable to each class of represented member.
- 8.5. Accounting** The Committee shall maintain separate accounts for the levies.

NOTICES

Where a document is required to be sent to an elector it shall be deemed to have been duly sent if it was delivered or posted to the address of the elector shown respectively in one of the Registers.

DISCLOSURE OF INTEREST

If an officer of the Committee or a Committee member has a pecuniary interest, direct or indirect, in any contract proposed contract or other matter and is present at a meeting of the Committee when the contract or other matter is the subject for consideration he/she shall at the meeting and as soon as practicable after its commencement disclose that fact.

If any officer of the Committee or a Committee member has any doubts about whether or not he/she has such an interest he/she shall report the matter to the Chair who shall advise as to whether or not the matter should be declared.

AMENDMENTS TO CONSTITUTION

This Constitution may be amended in the following manner

- 11.1. proposals for such amendment shall be sent to the Secretary of the Committee who shall place them before the Committee for consideration at the earliest opportunity but the Committee will not consider the same until at least 7 clear days' notice of such proposals shall have been received by the members of the Committee.
- 11.2. after the proposals have been considered, the Secretary if requested to do so by the Committee or if required to do so by no less than two thirds of the electors, shall circulate any proposed amendment together with the Committee's view thereon to all the represented members inviting the same to submit to the Secretary their comments within fourteen days.
- 11.3. at a further meeting not later than 4 months after the dispatch of such letter, the Committee shall consider all replies that have been received and shall determine whether the proposed amendment (either circulated or as varied as the result of the consideration of such replies) shall be adopted.

WINDING UP

If upon any amalgamation or reorganization of the Committee there remain any residual funds or liabilities the same shall be distributed between such other Committees that may be involved in the amalgamation or reorganization so as equitably to reflect the proportions in which represented members are transferred to other Committees.