

**CONSTITUTION**

**of**

**CLEVELAND LOCAL**

**MEDICAL**

**COMMITTEE**

## PREAMBLE

This document sets out the Constitution of the Local Medical Committee for the geographical area of the unitary authorities of Redcar & Cleveland, Middlesbrough, Stockton on Tees and Hartlepool (hereafter referred to the Area of the Committee).

## INTERPRETATION

The paragraph headings shall be taken into account in the interpretation of this Constitution and where the context so requires

- the male gender shall be deemed to include the female gender
- 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
- references to written or postal shall include electronic communication and email.

## DEFINITIONS

Administrative expenses of the Committee	Include travelling and subsistence allowances payable to members of the Committee but do not include administrative expenses attributable to deputy medical practitioners or to Section 92 practitioners.
Appointed Secretary	A person employed by the Committee to act as its Secretary and where the context so requires the words “appointed” and “appointment” shall be construed accordingly.
Area	The Area of the unitary authorities of Redcar & Cleveland, Middlesbrough, Stockton on Tees and Hartlepool.
Committee	A Committee recognised by the NHS Commissioning Board as formed for the area of the unitary authorities of Redcar & Cleveland, Middlesbrough, Stockton on Tees and Hartlepool and representative of:-  1) each medical practitioner who under a general medical services contract entered into by him is providing primary medical services in the area, and

- 2) Each medical practitioner who under a general ophthalmic services contract entered into by him is providing primary ophthalmic services in the area.
- 3) Each other medical practitioner who is performing primary medical services or primary ophthalmic services in the area:-
  - i) in accordance with section 92 arrangements, or
  - ii) under a general medical services contract or a general ophthalmic services contract,

and who has notified the Board that he wishes to be represented by the Committee (and has not notified it that he 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 who if an Appointed Secretary shall be a non-voting member.
Committee year	Shall conclude on 31 March in each year and where an Officer of the Committee or a member of the Committee 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 31 March.
FHSAA	Family Health Services Appeal Authority (now First Tier Tribunal).
First Tier Tribunal	the First-tier Tribunal constituted under section 3(1) of the Tribunal, Courts and Enforcement Act 2007.
GPC Voting Register	A list of Represented Members (including medically qualified LMC Officers) who are eligible to stand, vote or nominate another as a GPC regional representative according to the most recent advice from the GPC.

Medical Adviser/Director	A medical practitioner invited by the Committee to provide professional advice or assistance to the Committee and to Represented Members
Officers of the Committee	The Chairman the Vice Chairman the Treasurer and the Secretary if such persons be elected and/or appointed
Ophthalmic Medical Practitioner	A medical practitioner providing or performing primary ophthalmic services in the area of the committee
Register of Members	<p>The combined Register of Represented members and Committee members which shall be maintained in several parts comprising:-</p> <p style="padding-left: 40px;">Register A. A list of medical practitioners and their addresses who provide general medical services or general ophthalmic services in the Area</p> <p style="padding-left: 40px;">Register C. A list of Section 92 medical practitioners and their addresses in the Area</p> <p style="padding-left: 40px;">Register D. Elected Committee members</p> <p style="padding-left: 40px;">Register E. Co-opted Committee members</p>
Represented Member	<p>Being one of:-</p> <ol style="list-style-type: none"> <li>1) a medical practitioner providing general medical services or general ophthalmic services in the area</li> <li>2) a medical practitioner who is performing primary medical services or primary ophthalmic services in the area <ol style="list-style-type: none"> <li>i) in accordance with section 92 arrangements, or</li> <li>ii) under a general medical services contract or a general ophthalmic services contract,</li> </ol> </li> </ol>

and who has notified the Board that he wishes to be represented by the Committee (and has not notified it that he wishes to cease to be so represented).

Who in each case currently contributes to such Administrative Levy and/or Voluntary Levy as the Committee from time to time collect and/or impose pursuant to the provisions of Clauses 8.1 and 8.2.

Returning Officer	A person whose name is not included 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 elected under Clause 3.9 or appointed under Clause 7.1 by the Committee to act as its Secretary.
Section 92	Section 92 of the Act.
Section 92 Practitioner	A medical practitioner who provides or performs personal medical services in accordance with arrangements made under Section 92 by the NHS Commissioning Board (whether with himself or another) and who has notified the NHS Commissioning Board that he wishes to be represented by the Committee and has not notified them that he wishes to cease to be so represented.
The Act	The National Health Service Act 2006 as amended.
Tribunal	The Tribunal constituted under Section 46 of the Act for England and Wales and which had effect in relation to England only until 14 December 2001.
Classes of Represented Members	GMS Contractors S92 Contractors Salaried GPs GP Trainees Locum GPs Such other group or groups as the Committee may from time to time, in the interest of representativeness determine.

## RECOGNITION

The NHS Commissioning Board recognises the Committee formed for the areas of the unitary authorities of Redcar & Cleveland, Middlesbrough, Stockton on Tees and Hartlepool in accordance with the provisions of section 97 of The Act. The Committee is or also expects to be recognised by the Local Authorities, Clinical Commissioning Groups and other bodies providing services in the Area of the Committee and to which the NHS Commissioning Board or other bodies delegate duties.

### 1. THE COMMITTEE

1.1 Membership The Committee shall consist of:-

1.1.1 Elected Members 29 Represented Members elected in accordance with the provisions of this Constitution, 1 of whom shall if possible be a practitioner on the general ophthalmic list and the expression "Elected Members" shall where the context so requires include those persons co-opted to fill a vacancy in accordance with clause 1.4.

1.1.2 Co-opted Members 3 practitioners nominated by the medical staffs of hospitals within the Area in such manner as such medical staffs may from time to time decide.

No more than 7 practitioners representing a particular class or classes of experience not otherwise represented on the Committee.

If there is no elected practitioner from the general ophthalmic list such a practitioner.

provided always that the number of co-opted Members does not exceed one quarter of the number of the elected members.

1.3 Term of Office The period during which an Officer of the Committee or a Committee Member holds office and which concludes at the end of a Committee's Year. An Officer of the Committee, other than an Appointed Secretary, shall not hold office for a period of more than three years before retiring and offering himself for re-election.

#### 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 persons to fill the vacancies.

A casual vacancy will occur on the resignation, death or disqualification of an Elected Member of the Committee.

Within three months of such a vacancy occurring the Committee shall fill the same by the co-option of a practitioner who as far as possible represents the same class of practitioners or interest as the person in post prior to the vacancy arising.

If the casual vacancy arises in the case of a practitioner nominated by the medical 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 proceedings 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 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 ceases to be a registered medical practitioner or is suspended from the Medical Register other than under an Interim Order

- 1.6.2 he ceases to provide general medical or ophthalmic services under the Act
- 1.6.3 being a Section 92 practitioner in the Area, he either advises the NHS Commissioning Board that he no longer wishes to be represented by the Committee or ceases to act as such a practitioner for a period in excess of 12 months
- 1.6.4 being a performer of general medical services he either advises the NHS Commissioning Board that he no longer wishes to be represented by the Committee or ceases act as such a practitioner for a period in excess of 12 months
- 1.6.3 he has had his name removed from the Performers List, and has not subsequently had his name included in such a list
- 1.6.4 he 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
- 1.6.6 he fails to attend a meeting of the Committee for a period of three 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 is considered reasonable
- 1.6.7 he ceases to pay the Administrative Levy and/or the Voluntary Levy from time to time collected and/or imposed pursuant to the provisions of Clauses 8.1 and 8.2.

A co-opted Member of the Committee shall be disqualified if he ceases to hold the office or qualification which entitled him to be a member of the class of co-opted Members

If any Committee Member's registration with the General Medical Council is suspended, other than under an Interim Order, he shall not be entitled to resume his membership of the Committee for the remainder of the period for which he was originally appointed but he 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.

#### Suspension

A member suspended from the Performers List or by the General Medical Council under an Interim Order shall have his membership of the Committee suspended for the duration of that suspension, but shall be entitled to support and assistance in the same way as any other medical practitioner represented by the committee.

## 2. ELECTIONS

### 2.1 Constituencies

The Committee may if it wishes divide the area into a number of Constituencies for administrative and electoral purposes. If it does so it shall use its best endeavours to ensure across each Constituency the fair and equitable representation of each class of Represented Member.

### 2.2 Term of Office

Elected Members shall hold office for a term of three years.

### 2.3 Frequency

The election of the Committee shall take place in the same month in every Third year and Elected Members shall commence their term of office on the next following 1 April.

### 2.4 Method

Voting shall be by postal ballot of those represented Members whose names appear in Registers A and C on 1 January 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".

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 28 clear days before the date of the election. Each notice shall

- state the date of the election
- the number of vacancies so as to ensure the fair and equitable representation respectively of practitioners on Registers A and C
- 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 and each nomination form must be accompanied by a statement in writing that he 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.

Any voting shall be conducted by single transferable vote.

The Returning Officer shall prepare voting papers which shall contain a list of the candidates for whom the elector may vote together with an indication that voting shall be by single transferable vote. The voting paper shall also specify the date of the election by which the voting paper must be returned to him. A voting paper shall be invalid if it is not signed and/or if the elector has marked preferences incompatible with single transferable voting.

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 vote, save that the Returning Officer may in his 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 according to the single transferable voting system.

If the votes received by any two or more candidates are equal and the addition of one vote to any one such candidate would enable that candidate to be declared elected the Returning Officer shall decide by lot which of the said candidate shall take the highest place.

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.

## 2.5 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 authorised by this Constitution to be despatched by post if the Returning Officer is satisfied that the election was conducted substantially in accordance with the provisions of this Constitution.

## 3. 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 whole 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 Chairman The Committee may elect a Chairman from amongst its number. For such part of any meeting that the Chairman be not present the Chair shall be taken by the Vice Chairman if one is elected.
- 3.7 Vice Chairman The Committee may elect a Vice Chairman from amongst its number. If for any part of any meeting neither the Chairman or the Vice Chairman be 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 may elect a Treasurer from amongst its number.
- 3.9 Secretary In the absence of there being an Appointed Secretary the Committee may from time to time and for such period and upon such terms as they determine elect from amongst their member a 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

#### 4. SUB-COMMITTEES

##### 4.1 Executive

The Committee may appoint an Executive Subcommittee which shall comprise if elected the Chairman Vice Chairman and Secretary.

The Subcommittee shall have power to co-opt such other Committee members as may be necessary to assist with the Subcommittee's duties.

The Subcommittee shall consider matters referred to it by the Committee and by the Officers of the Committee together with matters requiring consideration before the next scheduled meeting of the Committee.

The Subcommittee 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.

A quorum for the Subcommittee shall be two third of its membership (excluding co-opted members) in but if one third is not a whole number the whole number immediately above one third.

##### 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 Subcommittees composed of members of the Committee.

##### 4.5 Disclosure of Interest

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

#### 6. 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
- such other persons as the Committee may in their absolute discretion determine

6.3 Business The business to be transacted includes but is not limited to such 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.

## 7. THE SECRETARY

7.1 Appointment The Committee shall either elect a Secretary from amongst its number in accordance with Clause 3.9 or shall from time to time and for such period and upon such terms as they may determine employ a person to act as an Appointed Secretary. On assuming office such Secretary shall notify the NHS Commissioning Board thereof. If an Appointed Secretary is not a Medical Practitioner the Committee shall invite such a practitioner to act as Medical Adviser and his name shall be notified to the Represented Members.

7.2 Functions The Secretary, whether elected or appointed, 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.

## 8. FUNDING

8.1 The Administrative Levy The administrative expenses of the Committee may be collected on a statutory basis from all Represented Members whose names appear on Register A and on a voluntary basis from those Represented Members whose names appear on Register C.

8.2 The Voluntary Levy The Committee may raise a Voluntary Levy from Represented Members whose names appear on Registers A and C to cover its other expenses.

8.3 Collection The method of collection of the voluntary contribution to the administrative expenses of the Committee and the Voluntary Levy shall be determined by the Committee in conjunction with the NHS Commissioning Board.

- 8.4 Amount The amounts of the voluntary contribution to administrative expenses and the Voluntary Levy 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 will maintain separate accounts for the Administrative Levy (if any) and the Voluntary Levy. The accounts for the Administrative Levy may be subject to audit by the NHS Commissioning Board and must clearly identify the statutory element paid by practitioners on Register A and the voluntary basis by practitioners on Register C.
9. 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 Registers A and C.
10. 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 proposed contract or other matter is the subject for consideration he shall at the meeting and as soon as practicable after its commencement disclose that fact and shall not take any part in the consideration of the contract proposed contract or other matter or vote on any question with respect to it.
- If any Officer of the Committee or a Committee Member has any doubts about whether or not he has such an interest he shall report the matter to the Chairman who shall advise as to whether or not the matter should be declared.
12. AMENDMENTS TO CONSTITUTION This Constitution may be amended in the following manner:-
- 12.1 by the Executive Committee proposing to the Committee that changes be made or

- 12.2 on a proposal for the amendment made by not less than 20 Represented Members sent to the Secretary
- 12.3 the Secretary shall place the proposal before the Committee for consideration on a date not less than 14 days after the same was circulated to the Committee
- 12.4 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 its view thereon to all the Represented Members inviting the same to submit to the Secretary their comments within fourteen days
- 12.5 at a further meeting the Committee shall consider all replies that have been received and shall determine whether the proposed amendment (either as circulated or as varied as the result of the consideration of such replies) shall be adopted and if so that the approval of the NHS Commissioning Board be sought
- 12.6 if such approval is granted the Secretary shall notify the Committee at its next following meeting and thereupon the amendment shall take effect immediately. At the same time the Secretary shall notify the proposer of the original amendment (if any) and a report of the amendment shall be reported to the NHS CB, Represented Members and others whom the Secretary at his reasonable discretion believes should be informed.

### 13. WINDING UP

If upon any amalgamation splitting or reorganisation 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 reorganisation so as equitably to reflect the proportions in which Represented Members are transferred to other Committees.