

CONSTITUTION OF THE GATESHEAD AND **SOUTH TYNESIDE LOCAL MEDICAL** **COMMITTEE JULY 2016** **ESTABLISHED 1996**

PREAMBLE

This document sets out the Constitution of the Gateshead and South Tyneside Local Medical Committee (the "Committee") for the areas Gateshead and South Tyneside.

For as long as the Committee is recognised by NHS England as being representative of the practitioners in an area, this Constitution shall not be rendered invalid by any changes to the structures and boundaries of the NHS.

RECOGNITION

In accordance with paragraph 97 of the Act (as amended by paragraph 41, Part 4 of Schedule 4 of the Health and Social Care Act 2012 and any subsequent amendments), NHS England formally recognises the Committee formed for its area as representing the general medical practitioners (GPs) in its area.

FUNCTIONS

1. Statutory Functions The LMC must be consulted on the following issues:

- Administration of GP Contracts under The NHS (GMS Contracts) Regulations 2004
- The Pharmaceutical Services Regulations (e.g. applications to dispense or provide pharmaceutical services)
- The Statement of Financial Entitlements
- Professional Conduct and Complaints

In addition the LMC has representative functions with a variety of other local organisations:

- a) CCGs
- b) Local Hospital Trusts
- c) Area Teams of NHS England
- d) Local Authorities
- e) North East Commissioning Support Unit
- f) other local craft committees e.g. Local Pharmaceutical Committee

It also has a representative role with the General Practitioners Committee (GPC) to allow local opinions to be heard at a national level through the LMC Conference.

2. Non-Statutory Functions

The LMC has a number of non-statutory roles relating to the Profession on both a collective and individual basis. The LMC upholds the core values of the Profession in terms of Equity and Fairness, Openness and Equal Opportunities.

It also offers a pastoral role to GPs for a range of professional issues: Dispute resolution, Remuneration, Terms of Service, Complaints, Premises, Partnerships, Employment and Health problems.

Save where the Committee shall otherwise determine the services provided by the Committee shall not be provided to practitioners who do not make a full contribution in accordance with this Constitution.

For the avoidance of doubt, the Committee shall represent all general practitioners (GPs) in any given relevant capacity in the area. This shall include GPs in their capacity as members of a clinical commissioning group (CCG) or members of a governing body of a clinical commissioning group.

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 and vice versa
- the singular number shall include the plural number and vice versa
- 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 there under for the time being in force

DEFINITIONS

The Act	The National Health Service Act 2006
Administrative expenses of the Committee	Include travelling and subsistence allowances payable to members of the Committee
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 Areas of Gateshead and South Tyneside
BMA	The British Medical Association

Clinical commissioning group	The body corporate known as a Clinical Commissioning Group established in accordance with chapter 142 of Part 2 of the Health and Social Care Act 2012
Chief Executive	A person engaged by the Committee to act as its Chief Executive or where applicable its Secretary and where the context so requires the words 'appointed' and 'appointment' shall be construed accordingly.
Committee	The Gateshead and South Tyneside Local Medical Committee recognised by NHS England (or any successor organisation) as formed within the Area and representative of all GPs, as defined in section 91 of the Act, performing primary medical services in the area for which the Committee was formed.
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 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
GPC Voting Register	A list of Represented GPs (including medically qualified LMC Officers) who are eligible to stand, vote or nominate another Represented Member as a GPC Regional representative
Medical register	The list of registered medical practitioners compiled and held by the General Medical Council.
NHS England	The commissioning organisation, recognised by the Health and Social Care Act 2012 on behalf of the NHS, and responsible for commissioning primary care services from, and holding contracts with, GP practices or

	organisations providing primary medical services (including single handed GPs) or any successor organisation.
Officers of the Committee	The Chairman, the Vice-Chairman, the Treasurer and the Secretary.
Performers Lists	The lists maintained by NHS England of medical practitioners providing primary medical services (as defined in section 91(3) of the Act).
Register of Members	The combined Register of Represented GPs and Committee members which shall be maintained in several parts as necessary for administrative purposes.
Represented GPs	All GPs, including those GPs sitting on a governing body of a clinical commissioning group or a GP sitting in his capacity as a clinical commissioning group member, as defined in section 91 of the Act, performing primary medical services in the area for which the Committee was formed.
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

1. THE COMMITTEE

1.1 Membership

The Committee shall consist of:-

1.1.1 Elected Members

20 Represented Members who subject to the next following paragraph and to the disqualification provisions in clauses 1.6.1 to 1.6.5 are elected in accordance with the provisions of this Constitution. Where the context so requires the expression "Elected Members" shall include those persons co-opted to fill a vacancy in accordance with

clause 1.4

An Elected Members eligibility to stand for election shall in addition to the disqualification provisions in clauses 1.6.1 to 1.6.5 be dependent on his having paid at the time of his nomination all current Statutory and Voluntary 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 Co-opted Members.

1.1.2 Co-opted Members The committee may co-opt additional members whom it may consider to provide additional expertise for its functioning. Those co-opted individuals may be either clinicians or other health service professionals,

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 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 persons who are not disqualified to fill the vacancies.

A "casual" vacancy will occur on the resignation, suspension from or removal from the Performers Lists or death of an Elected Member of the Committee.

Within three months of 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 as the person in post prior to the vacancy arising.

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, except if the remainder of the period is less than one year then the period of the office shall be the remainder plus two years.

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/
Suspension

1.6.1. Disqualification

A Member of the Committee shall be disqualified if:

1.6.1.1 he ceases to be a registered medical practitioner or is suspended from the Medical Register

1.6.1.2 he ceases to perform general medical services under any primary medical services contract under The Act, or being a performer of such services whose name appears in the Register either advises NHS England that he no longer wishes to be represented by the Committee.

1.6.1.3 he has had his name removed from a Performers List and has not subsequently had his name included in such a list

1.6.1.4 he is suspended from a Performers List

1.6.1.5 if within one month of receiving a due call he fails to pay to the Committee any current Statutory or Voluntary Levy due to the Committee together with any arrears that may be outstanding

1.6.1.6 he fails to disclose a pecuniary interest or other significant 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 or acts in any way contrary to the anti-conflict policy adopted from time to time by the Committee.

1.6.1.7 he fails to attend a meeting of the Committee for a period of 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 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 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.

1.6.2 Suspension

A Member of the Committee shall be suspended if:

1.6.2.1 he fails to notify the Secretary of any GMC referral

1.6.2.2 in the opinion of the Committee, the reason for referral to the GMC is of such a nature or seriousness that it prejudices his standing as a committee member

1.6.2.3 he commits any act that, in the opinion

of the Committee, is of such a nature or seriousness that it prejudices his standing as a Committee Member.

The suspended Member will have the right of appeal to the Regional Committee, within 28 days, whose opinion shall be acceptable by both parties. In addition, the suspended Member shall be paid any monies due to him as if he had not been suspended. The suspended Member will be re-instated when the Committee are of the opinion that the reason for suspension is no longer applicable.

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 four years save that after the first election of a new Committee one half (to be determined by lot) shall hold office for two years
- 2.3 Frequency Save as provided in the case of a new Committee the election of one half of the Committee shall take place in the same month in every second 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 qualified Represented Members whose names appear in the Registers on 1 January in each year that an election takes place and subject to the next following paragraph the persons who are so qualified and 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 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 14 clear days before the date of the election

Each notice shall

- state the date of the election
- state the number of vacancies so as to ensure the fair and equitable representation respectively of practitioners on the Registers
- 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

Method of Voting

(a) Each voter shall have one transferable vote.

(b) The voter in recording his/her vote on a printed voting paper:

i) must place on his/her voting paper the figure 1 opposite the name of the candidate for whom he/she votes;

ii) may indicate the order of his/her preference for as many other candidates as he/she pleases by placing against their respective names the figures 2,3,4 and so on

(c) A voter in recording his/her vote on a plain voting paper:

i) must write on his/her voting paper the name of the candidate for whom he/she votes;

ii) may indicate the order of his/her preference for as many other candidates as he/she pleases by writing their names in order of preference

Sorting the Papers

(a) The Returning Officer shall examine the papers and shall sort them into parcels according to the first preference recorded for each candidate, rejecting any that are invalid.

Counting the Papers

(a) The Returning Officer shall count the papers in each such parcel and shall credit each candidate with a number of votes equal to the number of valid papers on which a first preference has been recorded for that candidate

(b) If the vote for any one candidate equals or exceeds the votes of all the other candidates combined, that candidate shall be declared elected

(c) (i) If not, the Returning Officer shall exclude together the two or more candidates with the least votes if the total vote of such two or more candidates does not exceed the vote of the candidate next above; otherwise he/she shall exclude the candidate having the fewest votes

(ii) The papers of the excluded

candidates shall be transferred to whichever of the continuing candidates is marked by the voter as his/her next available preference, and the votes thus transferred shall be added to the first-preference votes of those candidates

(iii) Any paper on which no further preference is marked shall be set aside as non-transferable and the total of such papers shall be recorded

(iv) This process shall be continued until the vote for some one candidate exceeds or equals the votes for all other continuing candidates combined, and that candidate shall then be declared elected

Ties

(a) If, when a candidate has to be excluded, two or more, candidates have each the same number of votes and are lowest on the poll, the candidate with the lowest number of votes at the earliest stage in the count, at which the candidates in question had an unequal number of votes, shall be excluded

(b) If two or more candidates are still equal and lowest, the Returning Officer shall decide by lot which shall be excluded

A voting paper shall be invalid if:

(i) the elector has purported by it to cast more votes than is permitted,

(ii) it is not signed,

(iii) in any other respect it does not comply with this Scheme or is marked in such a manner as to cause uncertainty as to the candidates for whom the elector desires to record his vote - except that the Returning Officer may, if he/she thinks fit, treat a voting paper so marked as valid for the purpose of any vote other than in connection with which the uncertainty arises

(iv) it is received by the Returning Officer after the date of the election

Any question as to the validity of any nomination or voting paper or otherwise in connection with an election shall be determined by the Returning Officer

The Returning Officer shall immediately give notice in writing of the result of the elections to all candidates

Where any document is, under this Scheme, required to be sent to a practitioner, it shall be deemed to have been delivered 'or posted, direct to the address of the elector on the list of electors

No election shall be invalid for reason of any mis-description 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 Scheme to be dispatched by post, if the Returning Officer is satisfied that the election was conducted substantially in accordance with the provisions of this Scheme.

- 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 but if one third is not a whole number the next whole number above one third
- 3.3 Voting Only Members of the Committee may vote at Committee meetings. Members to include those duly elected or appointed under sections 1.1.1; 1.1.2; 1.4 and 3.9. If at any Committee meeting there is an equality of votes the presiding Officer of the Committee 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;

observers will not have voting rights.

- 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. Where confidential minutes are taken they, and all copies, will be retained by the Secretary.
- 3.6 Chairman The Committee shall elect a 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
- 3.7 Vice-Chairman The Committee shall 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 if it so wishes elect a Treasurer from amongst its number
- 3.9 Secretary The Committee shall, from time to time and for such period and upon such terms as they may determine, elect from amongst their member a person to act as Secretary. Alternatively the Committee may decide to appoint a 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 Sub-committee which shall comprise the Chairman, Vice-Chairman, Secretary and up to two other Members of the Committee (or their deputies) preferably appointed so as to reflect the distribution and classes of Represented Members in the Area

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

The Sub-committee shall consider matters referred to it by the Committee and by the Officers 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 and minutes of its own meetings held since the circulation of the last Committee agenda

A quorum for the Sub-committee shall be one third of its membership but if one third is not a whole number the whole number immediately above one third

4.2 Regulations

The Committee may appoint a Regulations Sub-committee which shall comprise the Chairman, Vice-Chairman and Secretary together with the immediate past Chairman of the Committee provided that such past Chairman is a Member of the Committee

The Sub-committee shall have power to co-opt a past Vice Chairman and/or a past Secretary as may be necessary to assist with the Sub-committee's duties, provided that the persons co-opted are at that time Committee Members

The Sub-committee shall in respect of matters 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

The Sub-committee shall submit an annual report on its proceedings on each year ending 31 March for consideration by a Committee meeting held prior to 30 June in each year

At least 2 members of the Sub-committee shall consider each case referred to it

4.3 Section 45A(9)

The Committee may appoint a Sub-committee to deal specifically with matters arising under Section 45A(9) 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 Area Team of NHS England with whom the contract is held 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 Area Team of NHS England 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 Area Team of NHS England with whom the contractor holds a contract

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 practising 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 Chairman, the Vice-Chairman and Secretary (or if he be an appointed lay Secretary) a Medical Advisor appointed by the Committee.

- 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

- 5. ANNUAL REPORT** In each year the Committee shall prepare a report of their proceedings since the publication of the proceeding report together with a statement of accounts and such report and statement shall be circulated to those whose names who are listed in the Registers not later than three months after the Committee shall have approved the same. A copy of the report and statement of accounts shall be sent to the relevant Area Team of NHS England.

6. GENERAL AND EXTRAORDINARY MEETINGS

- 6.1 Frequency Not less than once in every year the Committee shall consider convening 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 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 at General Meetings

The following business may be transacted at a General Meeting-

- the receipt and consideration of the Annual Report
- together with 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 30 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

7. THE SECRETARY

7.1 Appointment

The Committee shall, from time to time and for such period and upon such terms as they may determine, appoint a person to act as an Appointed Secretary or, in accordance with Clause 3.9, elect a Secretary from amongst its number. On assuming office such Secretary shall notify the Area Team of NHS England thereof. If an Appointed Secretary is not a Medical Practitioner the Committee shall invite such a practitioner to act as a Medical Advisor 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 requests

8. FUNDING

8.1 Amount The amounts of statutory and the voluntary 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 GP.

8.2 Accounting The Committee shall maintain separate accounts for the Statutory Levy and the Voluntary Levy if both are raised. The accounts for the Statutory Levy must clearly identify the statutory element paid by practitioners respectively on the Registers.

9. NOTICES Where a document is required to be sent to a represented GP it shall be deemed to have been duly sent if it was delivered or posted to the address of the represented GP shown in the Registers

10. DISCLOSURE OF INTEREST

10.1 If an Officer of the Committee or a Committee Member sits on or works for any stakeholder or relevant organisation or has a pecuniary or other significant interest, direct or indirect, in any contract, proposed contract, stakeholder or relevant organisation or other matter and is present at a meeting of the Committee (or subcommittee) 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.

10.2 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

10.3 The Committee shall publish and maintain a conflicts of interests policy, a document which shall be available for inspection to members and represented GPs.

- 10.4 Further the Committee shall maintain a register of Members' interests available for inspection on the Committee website.
- 11. AMENDMENTS TO CONSTITUTION** This Constitution may be amended in the following manner
- 11.1 a proposal for the amendment made by not less than 30 Represented Members or by a Committee Member shall be sent to the Secretary who shall place the same before the Committee for consideration at the next available meeting after the same was circulated to 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, the Secretary 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
- 11.3 Any amendment duly carried above of which NHS England shall signify their approval shall be notified by the Chairman to the Committee at the next meeting of the Committee and thereupon such amendment shall forthwith take effect.
- 11.4 The Chairman shall notify the proposer of any amendment duly carried of the decision of NHS England thereon forthwith upon the communication of such decision to the LMC.
- 12. WINDING UP** If upon any amalgamation or reorganisation of the Committee there remain any residual funds or liabilities the same shall be distributed between such other Committees as may be involved in the amalgamation or reorganisation so as equitably to reflect the proportions in which Represented Members are transferred to other Committees

Dated July 2016