

# Barking and Havering Local Medical Committee

## CONSTITUTION

### PREAMBLE

This document sets out the constitution of the Local Medical Committee (LMC) for the areas of the Barking & Dagenham and Havering Primary Care Trusts (PCTs).

### INTERPRETATION:

- 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 PCTs shall include references to individual PCTs in the area for which the LMC is formed.

### DEFINITIONS:

Administrative expenses	Include travelling and subsistence allowances payable to members of the committee without prior consultation with the LMC.
Appointed Secretary	A person employed by the Committee to act as its Secretary and where to context so requires the words “appointed” and “appointment” shall be construed accordingly.
Area	The area of the two PCTs.
Committee	The Committee recognised by the PCTs as formed for the area of the PCTs and representative of medical practitioners providing general medical services, personal medical services, Primary Medical Services in the Area
Committee member	A person elected or co-opted onto the committee in accordance with the provisions of this constitution together with the appointed Secretary who shall be a non-voting member. To become a Committee Member, all GPs whose name appears on the List A must pay the Statutory and Voluntary Levies ( <i>as per paragraph 8.1</i> )
Committee year	Shall conclude in June 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 last day of June.
Company	Barking, Dagenham and Havering Local Medical Committee Limited

FHSAA	Family Health Services Appeal Authority.
Performers List	The list maintained by a Health Authority or the PCTs of medical practitioners providing general medical services, personal medical services, Primary Medical Services in the Area.
Primary Medical Services	Those medical services provided within the area which can only be provided by doctors holding a PMETB certificate or its equivalent or those undertaking a formal programme of training for such a certificate.
Register of members	<p>The combined register of represented members and committee members which shall be maintained in several parts comprising:-</p> <p><i>Register A</i> – A list of medical practitioners and their addresses who provide general medical services personal medical services, Primary Medical Services in the Area</p> <p><i>Register B</i> – Elected committee members.</p> <p><i>Register C</i> – Co-opted committee members.</p>
Represented member	Being either a medical practitioner providing general medical services, personal medical services, Primary Medical Services in the Area 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	Being the appointed Secretary of the committee.
The Act	The National Health Service Act 2006
Tribunal	The Tribunal constituted under Section 151 of the Act for England and Wales and which has effect in relation to England only until 14 December 2001.

## **1. The Company**

The Committee acknowledges that all activities previously conducted by the committee save and except the collection of statutory and voluntary levies and the performance of any statutory defined duties shall no longer be part of the remit of The Committee. The functions have now been taken over by an independent company.

Subject to the paragraph above the voting Members of the Committee elected under 2.1 or appointed under 2.4 together with its Secretary (elected, co-opted or appointed) shall automatically become members of the Company.

## **2. The Constitution of the Committee**

Membership	The committee shall consist of:
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- 2.1 Elected Members Represented members elected in accordance with the provisions of this constitution. The expression “elected members” shall, where the context so requires, include those persons co-opted to fill a vacancy in accordance with clause 2.4.
- 2.2 Co-opted Members Practitioners representing a particular class of experience not otherwise represented on the committee, including if possible a GP registrar.
- Provided always that the number of co-opted members does not exceed one quarter of the number of the elected members.
- 2.3 Term of office A period during which an officer of the committee or a committee member holds office:  
                   one term (2 years) for an officer  
                   two terms (4 years) for a member
- 2.4 Vacancies Where the number of persons elected under paragraph 2.1 is less than the number of persons due to be elected 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
- 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/she is co-opted would have been entitled to hold office.
- 2.5 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.
- 2.6 Disqualification A member of the committee shall be disqualified if
- 2.6.1 he ceases to be a registered medical practitioner or is suspended from the Medical Register.
- 2.6.2 he ceases to provide general medical services under Part 6 of the Act either advises the PCTs that he/she

- no longer wishes to be represented by the committee or ceases to act as such a practitioner for a period in excess of six months
- 2.6.3 he has had his name removed, by a decision made by the FHSAA under Section 154 of the Act and has not subsequently had his name included in such a list
  - 2.6.4 he is suspended as respects the provision of general medical services, personal medical services, Primary Medical Services under the Act by a direction under Section 154 of the Act
  - 2.6.5 he ceases to be recognised by the PCTs as providing or performing personal medical services as a practitioner
  - 2.6.6 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 of that matter
  - 2.6.7 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 is considered reasonable.
  - 2.6.8 A co-opted member of the committee shall be disqualified if he/she ceases to hold the office or qualification which entitled him to be a member of the class of co-opted members.
  - 2.6.9 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.
  - 2.6.10 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.
  - 2.6.11 The Committee Member is disqualified from the Company under the Company bye-laws, or by general company law in the event that the Committee

exercises its power under this Constitution to transfer its activities to the Company.

### **3 Elections**

3.1 Constituencies The area covered by the LMC may be divided into a number of constituencies for administrative and electoral purposes. If it does so it shall use its best endeavors to ensure, across each constituency, the fair and equitable representation of each class of represented member.

3.2 Term of office Elected members shall hold office for four years. Elected officers shall hold office for two years, but may be re-elected for a further term of two years, after which they shall stand down from that post.

3.3 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 in the July following the elections in May/June.

3.4 Method Voting shall be by postal ballot of those represented members whose names appear in register A in the month of May 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 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 register A.
- state the date by which nominations must be submitted to the Returning Officer
- set out the nomination provisions, as set out below
- 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/she is prepared to accept office together with a list of the candidate’s interests, especially those for which he/she receives remuneration.

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.

The Returning Officer shall prepare voting papers which shall contain a list of the candidates for whom the elector may vote and shall specify the method of voting. The voting paper shall also specify the date of the election by which the voting paper must be returned. Each candidate may prepare an election statement of not more than 50 words.

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 after the election date will be marked '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.

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 candidates 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.

### 3.5 Saving provisions

No election shall be invalid by 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 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.

## 4 Meetings

### 4.1 First meeting

The Secretary 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.

- 4.2 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.
- 4.3 Voting Both elected and co-opted 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.
- 4.4 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.
- 4.5 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.
- 4.6 Minutes The Secretary on behalf of the committee shall keep action 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.

## **5 Conduct of business**

- 5.1 At its first meeting and subsequently at the start of each committee year the committee shall adopt such standing orders as are necessary for the efficient discharge of its business.
- 5.2 The committee shall have the power from time to time to delegate any of its functions, with or without restrictions or conditions, to other sub-committees composed of members of the committee.
- 5.3 Disclosure of interest The provisions of paragraph 10 of this constitution shall apply to sub-committees as it applies to the committee. (see 9)

## **6 Annual Report**

In each year the committee shall prepare a report of its proceedings since the publication of the preceding report together with a statement of accounts and such report and statement shall be circulated to those whose names are listed in register A, 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 PCTs.

## **7 General Meetings**

- 7.1 Frequency Not less than once in every year the committee shall convene a meeting of the represented members.
- 7.2 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 its absolute discretion determine.
- 7.3 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 accepts as appropriate for discussion.

## **8 Funding**

- 8.1 The administrative levy The Administrative Expenses of the Committee will 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 Registers B and C.
- To become a Committee Member, all GPs whose name appears on the List A, B and C must pay the Statutory and Voluntary Levies.
- 8.2 The Voluntary levy The committee may also raise an additional voluntary levy from represented members whose names appear on registers A 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 undertaken by or on behalf of the relevant PCTs.
- 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 and the voluntary levy. The accounts for the administrative levy may be subject to audit by the PCTs

and must clearly identify the statutory and voluntary element paid by practitioners on register A.

**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 addresses of the elector shown in Registers A.

**10 Disclosure of interest**

If an officer of the committee or a committee member has a pecuniary or other 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/she 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/she has such an interest he/she shall report the matter to the chairman who shall advise as to whether or not the matter should be declared.

The LMC office shall keep a book which will show Members' interests. This book will be completed and presented at the Annual General Meeting and updated at six monthly intervals. It will be the Members' responsibility to report any changes.

**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 20% of the members shall be sent to the Secretary who shall place the same before the committee for consideration on a date not less than seven days 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

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 PCTs be sought.

11.4

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 proposers of the original amendment and a report of the amendment shall be included in the next following annual report.

## **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 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.