

# CONSTITUTION FOR LOCAL MEDICAL COMMITTEE (BERKSHIRE)

## PREAMBLE

This document sets out the Constitution of the Berkshire Local Medical Committee. This new version follows the formation of Berkshire East and Berkshire West PCTs in October 2006.

## 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 Primary Care Trusts shall include references to individual Primary Care Trusts in the area for which the Local Medical Committee is formed.

## DEFINITIONS

The Act	The National Health Service Act 1977
Administrative expenses of the Committee	Include attendance 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 Area of the PCT
Committee	A Committee recognised by the PCT as formed for the combined area of the PCTs and representative of:- <ol style="list-style-type: none"><li>1. Medical practitioners providing general medical services or general ophthalmic services in the Area under a GMS Contract.</li><li>2. Sessional medical practitioners in the Area.</li><li>3. Medical practitioners providing general medical services or general ophthalmic services in the Area under a GMS Contract (otherwise known as Section 28C medical practitioners).</li></ol>
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
Sessional Medical Practitioner (previously known as Non-Principal Practitioner)	A medical practitioner who assists a medical practitioner providing general medical services in the Area whose name appears on a Medical Performers List and who has notified the PCT that he wishes to be represented by the Committee.
FHSAA	Family Health Services Appeal Authority
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
Performers List	The lists maintained by PCT of all medical practitioners eligible to provide general medical services or ophthalmic services in the Area
Medical Advisor	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 on the ophthalmic list of the PCT
Register of Members	<p>The combined Register of Represented members and Committee members which shall be maintained in several parts comprising:-</p> <p>Register A. A list of medical practitioners and their contact details who provide general medical services or general ophthalmic services in the Area under a GMS Contract.</p> <p>Register B. A list of Sessional medical practitioners (and their contact details) in the Area</p> <p>Register C. A list of medical practitioners (and their contact details) who provide general medical services or general ophthalmic services in the Area under a PMS Contract (otherwise known as</p>

	Section 28C medical practitioners).
	Register D. Elected Committee members
	Register E. Co-opted Committee members
Represented Member	Being one of:-
	<ol style="list-style-type: none"> <li>1. a medical practitioner providing general medical services or general ophthalmic services in the Area under a GMS Contract.</li> <li>2. a sessional medical practitioner in the Area.</li> <li>3. a medical practitioner providing general medical services or general ophthalmic services in the Area under a PMS Contract (otherwise known as a Section 28C medical practitioner).</li> </ol>
	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 28C	Section 28C of the Act
Section 28C Practitioner	A medical practitioner who provides or performs personal medical services (PMS) in accordance with arrangements made under Section 28C by the PCT (whether with himself or another) and who has notified the PCT that he wishes to be represented by the Committee and has not notified them that he wishes to cease to be so represented
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

## **RECOGNITION**

The Primary Care Trust recognises the Committee formed for its area in accordance with the provisions of section 44 of The Act. The Committee is or also expects to be recognised by the Strategic Health Authority of which the Primary Care Trust forms part.

## 1. THE COMMITTEE

### 1.1 Membership

The Committee shall consist of:-

#### 1.1.1 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 1.4

#### 1.1.2 Co-opted Members

Practitioners representing a particular class of experience not otherwise represented on the Committee

Practitioners nominated by the medical staffs of hospitals within the Area in such manner as such medical staffs may from time to time decide

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

### 1.2 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 4 years before retiring and offering himself for re-election

After each 4 yearly LMC election the new committee shall elect new officers of the committee.

### 1.3 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, 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 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

1.4 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

1.5 Disqualification

A Member of the Committee shall be disqualified if

1.6.1 he ceases to be a registered medical practitioner or a registered general ophthalmic practitioner or is suspended from the Medical Register

1.6.2 his name is removed or suspended from the Performers List of the area.

1.6.3 he has had his name removed, by a decision made by the FHSAA under section 49N of the Act by a decision under provisions in force in Scotland or Northern Ireland corresponding to Section 49N of the Act, a decision by the Tribunal which is treated as a national disqualification by the FHSAA by virtue of regulation 6(4)(b) of the Abolition of Tribunal Regulations, or a decision by the Tribunal which applies to the whole of Wales and which was made after 13 December 2001 and has not subsequently had his name included in such a list

1.6.4 he is suspended as respects the provision of general medical services or general ophthalmic services under the Act by a direction under Section 49I or 49J of the Act or under regulations made under Section 28DA or 43D of the Act or Sections 8ZA of the Act or in relation to Wales by the Tribunal or in relation to Scotland or Northern Ireland suspended under provisions in force corresponding to those in Sections 49I or 49J of the Act

- 1.6.5 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
- 1.6.7 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.
- 1.6.8 he (or his practice) 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 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 Functions

Save where the Committee shall otherwise determine the services of the Committee provided from the Voluntary Levy shall not be available to practitioners who do not contribute to the Voluntary Levy in accordance with the provisions of Clause 8.2.

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

2.3 Frequency

The election of the Committee shall take place in

the same month in every fourth year and Elected Members shall commence their term of office on the next following 1 April

## 2.4 Method

Voting shall be by ballot of those represented Members whose names appear in Registers A, B 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

Each notice shall state:

- the number of vacancies so as to ensure the representation respectively of practitioners on Registers A, B 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

Any eligible candidate may be self nominated

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 together with a total number of votes which may be cast by each elector 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 cast more votes than are allowed

Each elector shall be entitled to cast a number of votes equal to the number of vacancies to be filled but may not cast more than one vote for any one candidate

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 number of votes which each has received the person receiving the greatest number being placed highest in the return

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 (Chair) 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 may 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 if one is elected
- 3.7 Vice Chair  
The Committee may elect a Vice Chair from amongst its number. If for any part of any meeting neither the Chair or the Vice Chair 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 PCT Liaison Committee  
The Committee may appoint a Sub-Committee to deal with business relating to one of its PCT areas. 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 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

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 Delegation to other Sub-Committees 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

4.3 Disclosure of Interest The provisions of paragraph 10 of this Constitution (Disclosure of Interest) shall apply to Sub-Committees as it applies to the Committee

5. ANNUAL REPORT Each meeting of the Committee shall be minuted and 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 Registers A, B and C 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

## 6. GENERAL MEETINGS

6.1 Frequency Not less than once in every Year the Committee shall convene a meeting of the Represented Members (AGM)

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 following business may be transacted:-

- the receipt and consideration of the Annual Report, Accounts and Budget for the following year.
- 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

## 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 PCTs thereof. If an Appointed Secretary is not a Medical Practitioner the Committee shall invite such a practitioner to act 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 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 Registers B and C
- 8.2 The Voluntary Levy      The Committee may raise an additional Voluntary Levy from Represented Members whose names appear on Registers A, B 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 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 element paid by practitioners on Register A and the voluntary basis by

practitioners on Registers B and 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, B or 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 a proposal for the amendment made by not less than 20 Represented Members shall be sent to the Secretary who shall place the same before the Committee for consideration on a date not less than 90 days after the same was circulated to the Committee
- 12.2 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
- 12.3 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

12.4 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 proposer of the original amendment and a report of the amendment shall be included in the next following Annual Report

13. 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