**CONSTITUTION OF**

**THE BARNSLEY LOCAL MEDICAL COMMITTEE**

**September 2013**

**1. PREAMBLE**

This document sets out the Constitution of the Barnsley Local Medical Committee (the ‘Committee’) for the area of Barnsley, South Yorkshire.

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.

**2. 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.

**3. FUNCTIONS**

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.

**4. 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; and
* 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.

**5. DEFINITIONS**

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| **Act** | The National Health Service Act 2006. |
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| **Area** | The area of Barnsley, South Yorkshire. |
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| **BMA** | The British Medical Association. |
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| **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. |
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| **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. |
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| **Committee** | The Barnsley Local Medical Committee (LMC) 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. |
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| **Committee year** | Shall conclude on 31 March in each year and where an Officer of the Committee or 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. |
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| **GPC** | The General Practitioners Committee of the BMA. |
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| **GPC voting register** | A list of represented GPs (including medically qualified LMC officers) who are eligible to stand, vote or nominate another Represented GP or another qualifying practitioner as a GPC regional representative. |
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| **Medical register** | The list of registered medical practitioners compiled and held by the General Medical Council. |
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| **Member** | A person elected or co-opted onto the Committee in accordance with the provisions of this Constitution. |
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| **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. |
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| **Officers of the Committee** | The Chairman, the Vice Chairman, the Treasurer and the Secretary. |
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| **Performers lists** | The lists maintained by NHS England of medical practitioners providing primary medical services (as defined in section 91(3) of the Act). |
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| **Register** | The combined register of represented GPs and committee members which shall be maintained in several parts as necessary for administrative purposes. |
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| **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. |
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| **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. |
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| **Secretary** | A person elected by the Committee to act as its Secretary. |
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**6. THE COMMITTEE**

* 1. **The committee shall consist of:**

Elected members

12 Represented Members who subject to the next following paragraph and to the disqualification provisions in clauses 6.5.1 to 6.5.8 are elected in accordance with the provisions of this Constitution, and the persons so elected shall be called ‘Elected Members’. Where the context so requires the expression ‘Elected Members’ shall include those persons co-opted to fill a vacancy in accordance with clause 6.3.

Co-opted members

1. Practitioners nominated by the medical staffs of hospitals within the Area in such a manner as such medical staffs may from time to time decide
2. The Director of Public Health or his nominee, if a registered medical practitioner, otherwise a registered medical practitioner nominated by the Director
3. Practitioners representing a particular class of experience not otherwise represented on the Committee

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

Observers

The Committee may in its absolute discretion invite such persons as it thinks fit to attend the whole or part of any Committee meeting; observers will not have voting rights.

* 1. **Term of office**

The elected members of the Committee shall hold office for 4 years.

* 1. **Vacancies**

Where the number of persons elected under paragraph 6.1(a) 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, or
* temporary absence (30 consecutive days or more) due to sickness or other similar circumstance (including maternity, adoption or paternity leave), 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 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.

**6.4 Retirement**

A member of the Committee whether elected or co-opted may retire on giving written notice delivered to the chief executive or 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 chief executive or secretary.

**6.5 Disqualification**

A member of the Committee shall be disqualified if:

* + 1. He ceases to be a registered medical practitioner or is removed from the Medical Register.
    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.
    3. He has had his name removed from a performers list and has not subsequently had his name included in such a list.
    4. 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.
    5. He fails to disclose a pecuniary or other significant interest in a matter which is the subject of consideration at a meeting of the Committee 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.
    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 it considers reasonable.
    7. 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.
    8. A committee member may hold office on a CCG Board and this would not disqualify him from committee membership. However, an Office holder of the committee should not be a CCG Board Member.

**7. ELECTIONS**

**7.1 Appointment of Returning Officer**

The Committee shall appoint a Returning Officer, not an elector, who, in the event of his/her absence or inability to act, shall appoint another person other than an elector, to act in his/her place.

**7.2 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.

**7.3 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.

**7.4 Frequency**

Save as provided in the case of a new Committee the election of one third of the Committee shall take place in the same month in ever third year and Elected Members shall commence their term of office on the next following 1 April.

**7.5 Method**

Voting shall be by postal ballot of those 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 6.5.1 to 6.5.8 and as to the provisions of paragraph 6.5.4 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 30 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 lease 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.

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 shall prepare voting papers which shall contain a list of the candidates for whom the lector 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 return 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.

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 desire 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 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 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 as soon as is reasonably practicable.

**8. INFORMATION TO BE SENT TO THE COMMISSIONING ORGANISATION**

The chief executive/secretary of the Committee shall inform NHS England of the names and addresses of all newly elected, appointed and/or co-opted members of the Committee, and, when casual vacancies arise in the membership of the Committee, of the names and addresses of the persons, if any, appointed to fill those vacancies.

**9. ROLE OF THE COMMITTEE IN RELATION TO CCGS**

Committee members may be invited to represent the CCG in Barnsley and Officers of the committee will meet with representatives of the CCGs as and when required.

A committee member may hold Office on a CCG Board and this would not disqualify him from committee membership. However, an Office holder of the committee should not be a CCG Board Member.

**10. MEETINGS**

* 1. The Committee will meet from time to time as the need dictates. This

will usually be on a monthly basis.

The chief executive/secretary of the LMC shall give not less than seven clear days notice to the Members of the Committee of the time and place of each meeting.

It shall be the duty of the Committee to inform the represented GPs of the identity of its members and the Committee shall at its first meeting decide by what means this shall be done and shall give the appropriate instruction for the decision to be implemented.

* 1. **Chairman and Vice Chairman**

The Chairman of the Committee shall chair meetings of the Committee. In the absence of the Chairman, the Vice Chairman of the Committee shall act as Chairman.

**10.3 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.

**10.4 Voting**

Only elected members of the Committee may vote at Committee meetings. An Appointed Secretary may not vote. If at any Committee meetings there is an equality of votes to presiding Officer shall have a second and casting vote.

* 1. **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.

**10.6 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.

**10.7 Secretary**

In the absence of there being a chief executive, 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.

**10.8 Minutes**

The chief executive/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 for agreement.

**11. ANNUAL REPORT**

In each year the Committee shall prepare a report of their 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 the Register 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 NHS England.

**12. GENERAL AND EXTRAORDINARY MEETINGS**

**12.1 Frequency**

Not less than once in every year the Committee shall convene a meeting of the Represented Members

**12.2 Attendance**

In addition to the represented GPs the following persons shall have the right to attend:

* any committee member;
* the chief executive or the secretary; and
* such other persons as the Committee may in their absolute discretion determine.

**12.3 Disqualification**

A represented GP 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 the disqualification section above as if those provisions applied to represented GPs as well as to members of the Committee.

**12.4 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.

**12.5 Extraordinary meetings**

Upon the written request of not less than 30 represented GPs 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.

**13. THE CHIEF EXECUTIVE AND/OR SECRETARY**

**13.1 Appointment**

The Committee 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 or, in accordance with Clause 10.7, elect a Secretary from amongst its number. On assuming office such Secretary shall notify the CCG and 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.

**14. FUNDING**

**14.1 Amount**

The amounts of statutory levy 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 GP.

**14.2 Accounting**

The Committee shall maintain separate accounts for the [statutory levy and the voluntary levy]. The accounts for the statutory levy must clearly identify the statutory element paid by practitioners respectively on the register.

**15. 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 register.

**16. DISCLOSURE OF INTEREST**

**16.1** If an officer of the Committee or 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.

**16.2** 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.

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

**16.4** Further the Committee shall maintain a register of members’ interests available for inspection on the Committee website.

**17. AMENDMENTS TO CONSTITUTION**

This Constitution may be amended in the following manner, but not otherwise:

**17.1** A proposal for the amendment made by not less than 5 Represented members shall be sent to the Secretary who shall place the same before the Committee for consideration on a date not less than 30 days after the same was circulated to the Committee.

**17.2** After the proposals have been considered by 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 14 days.

**17.3** At a further meeting the Committee shall consider all replies that have been received and shall determine whether the proposed amendment (either as a circulated or as a varied as the result of the consideration of such replies) shall be adopted.

**17.4** Any amendment duly carried above of which NHS England shall signify their approval shall be notified by the chief executive/secretary to the Committee at the next meeting of the Committee and thereupon such amendment shall forthwith take effect.

**17.5** The chief executive/secretary 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.

**18. 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 GPs are transferred to other committees.

Dated September 2013