

THE CONSTITUTION OF SOUTH ESSEX LOCAL MEDICAL COMMITTEE

INTRODUCTION

This document sets out the Constitution of the South Essex Local Medical Committee.

INTERPRETATION

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

- the male gender shall be deemed to include the female gender
- the singular number shall include the plural number
- references to statutes or parts or sections of statutes shall include any statutory modifications or re-enactments thereof or any regulations orders or directions made thereunder for the time being in force
- references to Primary Care Trusts shall include references to individual Primary Care Trusts in the area for which the Local Medical Committee is formed.

DEFINITIONS

Administrative expenses of the Committee	Includes travelling and subsistence allowances payable to members of the Committee.
Agreement	An agreement for work between South Essex Local Medical Committee and the Company
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 South East Essex and South West Essex PCTs.
Committee	A Committee recognised by the PCTs as formed for the area and representative of:- <ol style="list-style-type: none">1. Medical practitioners providing general medical services, personal medical services, Primary Medical Services or general ophthalmic services within the NHS in the area.2. Salaried or sessional medical practitioners, providing general medical or personal 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 Secretary who,

if an appointed Secretary, shall be a non-voting member.

Company	North and South Essex Local Medical Committees Limited
FHSAA	Family Health Services Appeal Authority
Officers of the Committee	The Chairman, the Vice-Chairman and the Secretary/Chief Executive.
Ophthalmic Medical Practitioner	A medical practitioner on the ophthalmic list of a PCT.
Performers List	The list maintained by a NHS contracting body/ies or the PCTs of medical practitioners providing general medical services, personal medical services, Primary Medical Services or ophthalmic services in the Area
Presiding Officer	The Presiding Officer is the Chairman
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 register of represented members which shall be maintained in three parts comprising:-</p> <p>Register A A list of medical practitioners and their addresses who provide general medical services, personal medical services, Primary Medical Services or general ophthalmic services in the area.</p> <p>Register B Elected Committee members</p> <p>Register C Co-opted Committee members</p>
Represented Member	Being either a medical practitioner providing general medical services, personal medical services, Primary Medical Services or general ophthalmic services in the area
Returning Officer	The Secretary or his/her nominee.
Secretary	A person appointed under clause 7.1 by the Committee to act as its Secretary

1. **TITLE**

The Committee shall be known as the South Essex Local Medical Committee.

2. **THE COMMITTEE**

The Committee shall consist of:-

2.1 **Elected Members**

Represented members elected in accordance with the provisions of this Constitution, one of whom shall if possible be a practitioner on the general ophthalmic list and the expression "elected members" shall, where the context so requires, include those persons co-opted to fill a vacancy in accordance with clause 2.3.

2.2 **Co-opted members**

2.2.1. A consultant representative, or his/her nominee, from a local hospital trust.

2.2.2 A maximum of two practitioners, to be appointed annually representing a particular class of experience not otherwise represented on the Committee.

2.2.3 One practitioner undergoing training for general practice within the area of the Committee.

2.2.4 If there is no elected practitioner from the general ophthalmic list such a practitioner, provided always that the number of co-opted members does not exceed one quarter of the number of the elected members.

2.3 **Vacancies**

2.3.1 Where the number of persons elected under paragraph 2.1 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 co-opt duly qualified persons to fill the vacancies.

2.3.2 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.

2.3.3 Where a casual vacancy in the membership of the Committee occurs, the Committee may fill the vacancy by the appointment of a practitioner on the list or a practitioner of the general ophthalmic list according to the classification of the member of the Committee whose resignation, death or disqualification has caused the vacancy.

2.3.4 The person appointed to the Committee to fill a casual vacancy shall be a person entitled to vote in the same constituency as the member of the Committee whom he/she replaces.

2.3.5 Pending any such appointment, the proceedings of the Committee shall not be invalid by reason of a vacancy.

2.3.6 A person so appointed shall hold office for the remainder of the period for which the member in whose place he/she is appointed would have been entitled to hold office.

2.4 **Disqualification**

A member of the Committee shall be disqualified if:

- 2.4.1 he ceases to be a registered medical practitioner or a registered general ophthalmic practitioner;
- 2.4.2 he has had his name removed by a decision by the FHSAA under section 154 of the Act by a decision under provisions in force in Scotland or Northern Ireland corresponding to section 154 of the Act, a decision by the Tribunal which is treated as a national disqualification by the FHSAA by virtue of regulation 6 (4) 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,
- 2.4.3 he is suspended as respects the provision of general medical services, personal medical services, Primary Medical Services or general ophthalmic services under the Act by a direction under section 154 of the Act or in relation to Wales or in relation to Scotland or Northern Ireland suspended under provisions in force corresponding to section 154 of the Act. Any decision in respect of this paragraph shall be at the discretion of the Committee;
- 2.4.4 he ceases to be recognised by the PCT as providing or performing personal medical services.
- 2.4.5 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.
- 2.4.6 he fails to attend a meeting of the Committee for a period of six meetings unless the members 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.
- 2.4.7 he ceases to pay the Administrative Levy and/or the Voluntary Levy from time to time collected and/or imposed pursuant to the provisions of Clauses 9.1 and 9.2.
- 2.4.8 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.
- 2.4.9 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 election if the suspension has ended prior to the date when the Returning Officer sends a written Notice of Election to each elector
- 2.4.10 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. **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 Clause 9.2

4. **ELECTIONS**

4.1 **Constituencies**

4.1.1. For the purpose of electing members of the Committee under paragraph 2.1 of this Constitution the area of the NHS contracting body/ies shall be divided into five geographical constituencies plus one constituency covering the whole of South Essex specifically for salaried and sessional GPs. The area of each constituency and the number of persons to be elected under paragraph 2.1 by each constituency (subject to the next succeeding sub-paragraph) shall be as set out in the columns (1) and (3) of the Schedule to this Constitution.

4.1.2 In the month of January in each year in which an election is to be held under paragraph 4.1.1 hereof, the Committee shall consider the number of members to be elected in each constituency under the last preceding sub-paragraph in relation to the number of practitioners on the list entitled to vote in such constituency on the 1st January of such year, and they shall have power to modify the figures in column (3) of the said Schedule so as to ensure that the number of persons elected by each constituency is (as nearly as may be) related to the number of practitioners on the list entitled to vote in such constituency. [1 per 15 constituents 06/07]

4.2 **Term of Office - Elected Members**

Elected members shall hold office for a term of four years save and except that there shall be an election of one half of the Committee which shall take place in the same month in every second year..

4.3 **Term of Office – Chair and Vice Chair**

The Chair and Vice Chair shall hold office for three years save and except that there shall be an annual re-election. However, in any event, no Chair or Vice Chair may be re-elected after a period of 3 years without a break of three years.

4.4 **Method**

4.4.1 Voting shall be by postal ballot of those represented members whose names appear in Register of Members on 1st 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”.

4.4.2 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 38 clear days before the date of the election.

4.4.3 Each notice shall:

- state the date of the election
- the number of vacancies
- 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

4.4.4 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. A candidate nominated for election shall be a person entitled to vote in the constituency for which he/she is nominated.

- 4.4.5. 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.
- 4.4.6 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.
- 4.4.7 The returning officer shall prepare voting papers which shall contain a list of 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.
- 4.4.8 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.
- 4.4.9 Voting papers received by the returning officer after the election date are invalid.
- 4.4.10 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.
- 4.4.11 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.
- 4.4.12 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.
- 4.4.13 At the conclusion of the election, the returning officer shall immediately give notice in writing of the result to all candidates.

4.5 **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 despatched by post if the returning officer is satisfied that the election was conducted substantially in accordance with the provisions of this constitution.

5. **MEETINGS**

5.1 **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.

5.2 **Quorum**

A quorum shall be one third of the voting members, but if one third is not a whole number the next whole number above one third.

5.3 **Voting**

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

5.4 **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.

5.5 **In camera/closed session**

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.

5.6 **Chairman**

The Committee shall elect a Chairman from amongst its number. For such part of any meeting that the Chairman be not present, the Chair shall be taken by the Vice-Chairman.

5.7 **Vice-Chairman**

The Committee shall elect a Vice-Chairman from amongst its number.

5.8 **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.

6. **SUB-COMMITTEES**

6.1 **Delegation**

The Committee shall have power to delegate any of their functions, with or without restrictions or conditions, to other sub-committees composed of members of the Committee.

6.2 **Suspension**

The Chair, Vice-Chair and Secretary, acting together, may suspend any LMC member from service on a sub-committee on grounds of a potential conflict of interest, or where it is felt that the appropriate standards of behaviour are not being met.

In order to maintain confidentiality, no reason for such a suspension will be given to the Committee.

The member concerned will have the right to appeal against such actions to the full Committee. Any appeal would be heard during an in camera/closed session of the next appropriate Committee meeting.

7. **ANNUAL REPORT**

The Committee shall prepare in each year a report of their proceedings since the publication of the last report, together with a statement of accounts, and this report and statement of accounts shall be circulated to those on the list of electors not later than three months after the Committee shall have approved the same. Copies shall also be sent to the Authority.

8. **APPOINTMENT OF SECRETARY**

The Committee shall appoint the Chief Executive of the Secretariat of North Essex and South Essex Local Medical Committees as Secretary to the Committee; and in the event of the death, resignation or removal from office of the Secretary so appointed, the Committee shall appoint a person to act as Secretary in his/her place; and any person appointed Secretary shall forthwith notify his appointment to the Authority.

If the person appointed as Secretary is not a registered medical practitioner, the Committee shall nominate one of its members who is in general practice, and who is willing so to act, to be available to offer help and advice on matters on which any elector may particularly wish for the guidance of a professional colleague and the name of the person so nominated shall be notified to the electors.

9. **FUNDING**

9.1 **The Administrative Levy**

The Administrative Expenses of the Committee may be collected on a statutory basis from all represented members who provide general medical services, Primary Medical Services or general ophthalmic services, and on a voluntary basis from all represented members who provide personal medical services

9.2 **GPDF Defence Subscription**

The Committee may raise an additional GPDF Defence Subscription from represented members which provide for contributions to The General Practitioners Defence Fund (BMA) and to defray the costs which cannot be covered by the statutory levy.

9.3 **Collection**

The method of collection of the contribution to the Administrative Expenses of the Committee and the voluntary levy shall be determined by the Committee in conjunction with the PCTs.

9.4 **Amount**

The amounts of contribution to the Administrative expenses and the voluntary levy shall respectively be determined by the Committee having regard to the requirements of openness, transparency and equity.

9.5 **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.

10. **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 the Register of Members.

11. **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 shall be sent to the Secretary who shall place the same before the Committee for consideration on a date not less than seven clear days after the same was circulated to the Committee.
- 12.2 After the proposals have been considered, the Secretary shall, if requested to do so by the Committee, or if required to do so by no less than two thirds of the members of the Committee or twenty of the electors, 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 Authority 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. **THE COMPANY**

- 13.1 The Committee shall by way of a written agreement have the power to transfer to the Company all or part of its activities and powers as set out in this Constitution and any other present or future activity as agreed, provided always that the collection of statutory levy and GPDF Defence subscriptions shall remain the responsibility of the Committee.
- 13.2 Subject to clause 13.1, members of the Committee elected under clause 2.1 or appointed under clause 2.3.1 together with its Secretary (elected or appointed) shall automatically become members of the Company.

14. **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.

SCHEDULE

(referred to in paragraph 4.1.1)

Constituency	Number of practitioners on the list at 30.06.2006	Number of persons to be elected
(1)	(2)	(3)
Basildon	49	4
Brentwood, Billericay & Wickford	71	5
Castle Point and Rochford	76	5
Southend-on-Sea	73	5
Thurrock	59	4
South Essex Salaried & Sessional GPs	148	2 (1 for each sub-economy South East and South West)