

**Derby &
Derbyshire
LMC**



Derby and Derbyshire Local Medical Committee

Constitution and Governance Framework

Updated and Approved
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1.0 Preface

This document sets out the Constitution and Governance Framework of the Derby and Derbyshire Local Medical Committee (the Committee) for the area of the county of Derbyshire.

For as long as the Committee is recognised by NHS England, or any successor organisation, 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.

2.0 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 an area as representing the General Medical Practitioners (GPs) in that area.

3.0 Functions

The statutory functions of the LMC are contained in section 97 of the National Health Service Act 2006 ('NHS Act') and section 86 of the National Health Service (General Medical Services Contracts) Regulations 2015 ('GMS Regulations'). These include, but are not restricted to, representation and consultation about general medical services regulations, terms of service, pharmaceutical regulations, statement of fees and allowances, the complaints procedure and professional conduct. The LMC has such other functions as may be prescribed and may delegate any of its functions, with or without restrictions or conditions, to sub-committees composed of members of that committee.

Save where the Committee shall determine otherwise, 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 those 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 CCG.

4.0 Interpretation

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

- The male gender shall be deemed to include the female gender and vice versa;
- The singular number shall include the plural number and vice versa;
- References to statutes or parts or sections of statutes shall include any statutory modifications or re-enactments thereof or any regulations orders or directions made there under for the time being in force.

5.0 Definitions

Act	The National Health Service Act 2006.
Area	The county of Derbyshire.
BMA	The British Medical Association.
Clinical Commissioning Group	The body corporate known as a Clinical Commissioning Group established in accordance with chapter 142 of Part 2 of the Health and Social Care Act 2012.
Chief Executive	A person engaged by the Committee to act as its Chief Executive or where applicable its Company Secretary and where the context so requires the words 'appointed' and 'appointment' shall be construed accordingly.
Chair	A person elected by the Committee to chair the LMC and Executive meetings, represent the LMC at external meetings and act as a company chair and director of Derby and Derbyshire LMC Ltd and General Practice Task Force (GPTF) Ltd.
Committee	Derby and Derbyshire Local Medical Committee (DDLMC) recognised by NHS England (or any successor organisation) as formed within the area and representative of all GPs, as defined in section 91 of the Act, performing primary medical services in the area for which the Committee was formed.
Committee 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 be for one year or more) the said term shall conclude on the relevant 31 March.
Executive Officer	A person elected by the Committee to act as an Executive for the LMC and act as a director of Derby and Derbyshire LMC Ltd and General Practice Task Force (GPTF) Ltd.
GPC	The General Practitioners Committee of the BMA.
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.
Medical register	The list of registered medical practitioners compiled and held by the General Medical Council.

Member	A person elected or co-opted onto the Committee in accordance with the provisions of this Constitution, together with the Chief Executive.
NHS England	The commissioning organisation, recognised by the Health and Social Care Act 2012, on behalf of the NHS, and responsible for commissioning primary care services from, and holding contracts with, GP practices or organisations providing primary medical services (including single handed GPs) or any successor organisation.
Officers of the Committee	The Officers are the Chair, Chief Executive, Treasurer and Executive Officers.
National Performers Lists	The lists maintained by NHS England of medical practitioners providing primary medical services (as defined in section 91(3) of the Act).
Register	The combined register of represented GPs and committee members which shall be maintained in several parts as necessary for administrative purposes.
Represented GPs	All GPs including those GPs sitting on a governing body of a clinical commissioning group or a GP sitting in his capacity as a clinical commissioning group member, as defined in section 91 of the Act, performing primary medical services in the area for which the Committee was formed.
Returning Officer	A person whose name is not included on any part of the register of Members invited by the Committee to act, in person or through a deputy, at elections.
Treasurer	A person elected by the Committee to act as a Treasurer with responsibility for LMC finances (including DDLMC Ltd and GPTF Ltd) and act as a director of Derby and Derbyshire LMC Ltd and General Practice Task Force (GPTF) Ltd.

6.0 Committee Membership

The Committee shall consist of:

6.1 *Elected Members*

6.1.1 Representative practitioners on the National Performers List who practice in Derbyshire subject to variation as mentioned in paragraph 6.4, thereof.

6.1.2 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 reasonable endeavours to ensure suitable representation across each constituency.

And if the Committee so wish:

6.2 *Co-opted/Invited Members*

6.2.1 The composition of the Committee allows for members to be elected, nominated, appointed, **co-opted or invited** in order to fill specific vacancies pending the next election at the request of the committee and with the approval of the Chief Executive and the Treasurer. GPs that hold a Board position on a CCG may also be members of the LMC.

Those positions that fall within the co-option/invited remit are, but not limited to include the following: -

- Chief Executive of DDLMC (co-optee)
- GP Registrar. One practitioner undergoing training for general practice within the area of the LMC (co-optee)
- GPC Representative (invitee)
- Sessional GP (co-optee)
- One representative of GPs who work Out of Hours (co-optee)
- Practice Manager Representative (invitee)
- Practice Nurse Representative (invitee)
- CCG Representative (invitee)
- Others as the Committee deem necessary

6.2.2 The Committee is permitted to co-opt up to 5 GPs who are under-represented or who would provide particular expertise that would be of use to the Committee or who balance the membership in some way. This could include a GP in the first five years post qualification as a GP.

6.2.3 Co-opted Members are considered full members of the Committee, with full speaking and voting rights. For the avoidance of doubt, co-opted Members are not eligible to be considered for the position of Chair.

6.2.4 The Committee is further permitted to appoint up to 5 invitees on to the Committee who hold particular expertise that would be of use to the Committee.

6.2.5 Invited Members have full speaking rights but are not eligible to vote. For the avoidance of doubt, invited Members are not eligible to be considered for the

position of Chair. Invited attendees may be excluded from any part of Committee business on determination of the Chair.

6.2.6 Appointment of co-optees/invitees will be reviewed periodically by the Committee, and in any event subject to renewal following an election (i.e. every four years), whereby the co-optees/invitees shall be appointed in accordance with election process.

6.2.7 The co-option of the Chief Executive of DDLMC shall be an automatic process on appointment, unless otherwise disputed by the Committee.

6.3 Other Persons in Attendance

6.3.1 The Committee may invite other persons as it considers necessary to be in attendance at its meetings. Although such persons will be invited to take full part in discussions, they may not vote. Provided that:

6.3.2 The number of co-opted Members does not exceed one half of the total number of elected Members of the Committee.

6.3.3 That provision shall be made for the co-option, if possible, of a practitioner on the General Ophthalmic List together with a deputy for the elected or co-opted Member.

6.4 Election of Members

In the month of November or December in each year before an election is to be held, the Committee shall consider the number of Members and Executive Officers to be elected and whether it wishes to divide the area into constituencies for electoral purposes. There will be a constituency of one seat for an Ophthalmic Medical Practitioner.

6.5 Method of Election

6.5.1 The Returning Officer shall be based at the office of DDLMC. In the event of the absence or inability to act of the Returning Officer the Committee shall appoint some person other than an elector, to act in their place.

6.5.2 If a contest is required, then voting shall be via electronic ballot. The Returning Officer shall prepare a list of all practitioners on the NHS England National Performers List who are practising in Derbyshire on 1 January of the year in which the election takes place and are principals of levy paying practices (partners and sole practitioners), salaried doctors who contractually employed by a levy paying provider practice in Derbyshire and all other sessional doctors who have paid an appropriate levy on their earnings.

6.5.3 The Returning Officer shall send electronic notices of the election to each elector, and such notice shall be sent so as to be delivered to the elector not less than 21 clear days before the date of the election. Such notice shall:

- state the date of the election;
- state the number of vacancies;
- state the date by which nominations must be submitted to the Returning Officer;

- set out the provisions with regard to nomination to the Committee;
- set out the provision with regard to nomination of Chair, Treasurer and Executive Officers;
- enclose a nomination form.

6.5.4 Each candidate shall be nominated by at least two electors and each nomination must be accompanied by a signed statement that he is prepared to accept office.

6.5.5 If the number of nominated candidates qualified for election where there are vacancies does not exceed the number of vacancies the Returning Officer shall declare those candidates to be elected. In other cases an electronic vote shall be taken.

7.0 Voting process

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.

7.1 The Returning Officer shall prepare an electronic list of the duly nominated candidates.

7.2 Each voting list shall contain:

- a statement of the number and identity of candidates for whom the elector may validly vote, and
- a statement that the same must be returned to the Returning Officer, so as to reach her by the date of the election.

7.3 The Returning Officer shall send to each elector a voting list containing the names of those candidates for whom he is entitled to vote.

7.4 The Returning Officer shall examine the voting list received on or before the date of the election and, after rejecting any that are invalid, shall count the votes recorded on the remaining list and prepare a return of the candidates according to the number of votes each has received, the person receiving the greatest number being placed highest in the return.

7.5 Voting papers received by the Returning Officer after the election date are invalid.

7.6 If the votes received by any two or more candidates are equal and the addition of one vote to any one 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.

7.7 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 her absolute discretion.

7.8 At the conclusion of the election the Returning Officer shall immediately give notice in writing of the result to all candidates.

7.9 No election shall be invalid by reason of any mis-description or non-compliance with the provisions of this scheme or by reasons of any miscount or of the non-delivery, loss or miscarriage in the course of post or email 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 in accordance with the provisions of this Constitution.

8.0 Election of Chair, Treasurer and Executive Officers

8.1 Members wishing to be elected to Chair, Treasurer or Executive officer must be proposed and seconded.

8.2 Following the election of the Committee, the Returning Officer shall contact all those Committee Members who have been nominated to confirm that they still wish to stand for the positions of Chair, Treasurer or Executive Officer and request a written summary of no more than 150 words on their suitability for office. For the avoidance of doubt, co-opted/invited members and GPs who hold a Board position on a CCG are not eligible to stand for any of these positions.

8.3 Members may be proposed for one or all positions.

8.3.1 In the event of more nominations than seats being received, the details of the candidates and their election summary will be distributed to the electing members of the Committee electronically, to arrive no later than 14 days prior to the day of the first meeting.

8.4 Prior to the meeting an election will be held electronically and will be determined by simple majority.

8.5 Each elector shall be entitled to cast a number of votes equal to the number of number of vacancies to be filled but he may not cast more than one vote for any one candidate unless a candidate has been nominated for more than one position. The number of votes for each candidate will not be disclosed. The Returning Officer will act as scrutiner.

8.5 If the votes received by any two or more candidates are equal and the addition of one vote to any one 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.

8.6 In the event that the number of nominations for Chair, Treasurer and Executive Officers does not exceed the number of vacancies, the Returning Officer shall declare those candidates to be automatically elected.

9.0 First meeting of the Committee

The first meeting of the newly re-formed committee shall take place within the first two months following appointment of the new committee in April of the election year.

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.

It shall be the duty of the Committee to inform the electors of the identity of its members and the Committee shall, at its first meeting, decide by what means that shall be done.

10.0 Term of office

The elected members of the Committee shall hold office for no more than four years and shall be eligible for re-election.

11.0 Casual vacancies

Where by reason of the resignation, death or disqualification of a member of the Committee elected under paragraph 6.4, a casual vacancy in the membership of the Committee occurs; the Committee may co-opt persons who are not disqualified to fill the vacancy. 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 Chief Executive.

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.

12.0 Disqualification or retirement of Members

A member of the Committee shall cease to be a Member, thereby creating a casual vacancy, if: -

- 12.1 They cease to be a registered medical practitioner [or a registered general ophthalmic practitioner] or are removed from the Medical Register.
- 12.2 They cease to perform general medical services under any primary medical services contract [or general ophthalmic services] under the Act, or being a performer of such services whose name appears in the Register, either advises NHS England that they no longer wishes to be represented by the Committee.
- 12.3 He has had his name removed from a performers list and has not subsequently had his name included in such a list.
- 12.4 They cease to be a practitioner on the National Performers List entitled to vote in the constituency for which he was elected.
- 12.5 They fail to attend a meeting of the Committee for a period of three consecutive meetings unless the officers of the Committee excluding the absent member are satisfied that the absence was due to a reasonable cause and that the

absent member will be able to resume attending meetings of the Committee within such period as it considers reasonable.

- 12.6 They fail 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 Conflict of Interest Policy adopted from time to time by the Committee.
- 12.7 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.
- 12.8 They cease to pay the statutory levy and/or the voluntary levy.
- 12.9 A member of the Committee whether elected or co-opted may retire on giving written notice delivered to the Chief Executive and Chairman 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 and Chairman.

13.0 Information to be sent to the authorities

The Chief Executive 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.

14.0 Committee meetings structure and proceedings

- 14.1 The Committee will meet from time to time as the need dictates but usually six times in any twelve-month period. The chief executive of the LMC shall give not less than 7 clear days' notice to the Members of the Committee of the time and place of each meeting.
- 14.2 **Chair**
The Chair shall normally chair meetings of the Committee. An Executive Officer of the Committee shall chair meetings in the absence of the Chair or if it is deemed necessary.
- 14.3 **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.
- 14.4 **Voting**
Only **elected Members** of the Committee may vote at Committee meetings.
- 14.5 **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.

14.6 **Chief Executive**

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 Chief Executive

14.7 **Minutes**

The Chief Executive 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.**

15.0 Annual reporting

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 (DDLMC and associated limited companies) 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.

16.0 General and Extraordinary meetings

16.1 **Frequency**

Annually.

16.2 **Attendance**

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

- Any committee member;
- The chief executive; and
- Such other persons as the Committee may in their absolute discretion determine.]

16.3 **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.

16.4 **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.

16.5 **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.

17.0 Funding

17.1 Amount

The amounts of the statutory and/or 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.

17.2 Expenses

17.2.1 Elected and co-opted members sign the attendance register and are deemed to be making a claim for expenses for both attendance and mileage allowance Invitees may claim for travelling expenses if deemed appropriate by the Treasurer.

17.2.2 Elected and co-opted members should be prepared to attend for an entire meeting unless prior notification has been received by the Chair.

17.2.3 Elected and co-opted Members arriving after the start of a meeting or leaving before the end of the meeting and who have not previously notified the office, may be paid a reduced attendance fee.

17.2.4 Members and co-optees have personal responsibility to ensure that information relating to their expenses is accurate and up to date.

17.2.5 Members and co-optees honorarium will be determined by the Chair, Treasurer, Chief Executive and Executive Officers on an annual basis as will mileage and other expenses.

18.0 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 sent via email or delivered or posted to the address of the represented GP shown in the register or posted onto the agreed method of shared electronic communication.

19.0 Disclosure of interests

If an Officer of the Committee or 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.

If an Officer of the Committee or 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

The Committee shall publish and maintain a Conflict of Interest Policy, a document which shall be available for inspection to members and represented GP's.

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

20.0 Amendments to Constitution

This Constitution may be amended in the following manner, but not otherwise. Proposals for such amendment shall be sent to the Chief Executive to the Committee who shall place them before the Committee for consideration at the earliest opportunity.

After such proposals have been considered by the Chief Executive, if requested to do so by the Committee, or if required to do so by no less than two thirds of the electors, shall circulate any proposed amendment together with its view thereon to all the Represented Members inviting the same to submit to the Chief Executive their comments within fourteen days.

At a further meeting the Committee shall consider all replies that have been received and shall determine whether the proposed amendment shall be adopted and if so NHS England be notified of such amendment by the Chief Executive and confirmation sought of the continued recognition of the Committee as representative under Para 44 of the NHS Act 2006.

Any amendment duly carried under of this section 20.0, shall be notified by the Chief Executive to the Committee at the next meeting of the Committee and thereupon such amendment shall forthwith take effect.

21.0 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.

22.0 Signed declaration of acceptance on behalf of the Committee

I hereby confirm that I have read and accepted the Constitution and Governance Framework.

Signed

Dr Kath Markus, Chief Executive

Date

Signed

Dr Peter Williams, Chairman

Date