

**MODEL CONSTITUTION**  
**LOCAL OPTICAL COMMITTEES**

**Developed by the LOC Central Support Unit (LOCSU) for NHS England  
and the Optical Confederation**

**1 November 2016**

**(Please note: Updates to the previous Model Constitution published in 2013 are highlighted in yellow in this latest version)**

**DEFINITIONS**

1. In this Constitution unless the context otherwise requires:
  - 1.1 “the Committee” means the Local Optical Committee (LOC) recognised by NHS England under the National Health Service Act 2006 section 125(1).
  - 1.2 “local contractor” means each person (including a body corporate) who, under a General Ophthalmic Services contract entered into by him, is providing Primary Ophthalmic Services in the area for which the committee is formed, as described in the National Health Service Act 2006 section 125(2); or their nominated representative.
  - 1.3 “local performer” means each optometrist who:
    - 1.3.1 is performing primary ophthalmic services in the area for which the committee is formed and
    - 1.3.2 has notified NHS England that he wishes to be represented by the committee, and has not notified it that he wishes to cease to be so representedas described in section 125(3) of the National Health Service Act 2006.
  - 1.4 “NHS England” means the NHS Commissioning Board established under section 9 of the Health and Social Care Act 2012.
  - 1.5 “LOC Central Support Unit” (LOCSU) means the national support organisation for LOCs.
  - 1.6 “Clinical Commissioning Group” (CCG) means NHS organisation established by the Health and Social Care Act 2012 to organise the delivery of NHS services in England.

**TITLE**

2. The Committee is to be known as the *[insert name of area]* Local Optical Committee.

## FUNCTIONS

3. The functions of the Committee are those prescribed in the National Health Service Act 2006. The Committee may undertake such activities as are necessary to support the prescribed functions and to respond to requests from NHS England, CCGs and other relevant commissioning bodies.

## MEMBERSHIP

- 4.1 The Committee shall consist of at least six elected members. Where practical half the elected members shall be local contractors (or their appointed representative) elected by local contractors; and half shall be local performers elected by local performers.
- 4.2 All the local contractors shall be entitled to vote in the election of the members of the Committee who shall be local contractors. All the local performers who have elected to be represented by the LOC under Clause 1.3.2 shall be entitled to vote in the election of the members of the Committee who shall be local performers.
- 4.3 The term of office of the members of the Committee is three years. On the expiry of his term of office, a member is eligible for re-election.
- 4.4 A Chairman, Treasurer and Secretary (where a lay secretary has not been appointed) shall be elected by the committee at the first meeting following the Annual General Meeting.<sup>1</sup> They shall serve for one year and be eligible for re-election. A Vice-Chairman may also be elected on the same terms.
- 4.5 The Committee may co-opt up to three members who may or may not be local contractors or local performers<sup>2</sup>. This should include at least one dispensing optician practicing locally who is not eligible to stand for election as a contractor or contractor's representative.

## DISQUALIFICATION OR RESIGNATION OF MEMBERS

- 5.1 An elected member of the Committee, who ceases to be a local contractor, local performer or an appointed representative of a local contractor, shall vacate his place on the Committee with immediate effect. In such circumstances a casual vacancy shall be declared.
- 5.2 If a member of the Committee has been absent from three consecutive meetings of the Committee, the Committee shall declare that his seat on the Committee has been vacated, unless the Committee is satisfied that his absence was due to illness or other reasonable cause.
- 5.3 A member of the Committee may at any time resign his place on the Committee or post as an officer in writing to the Secretary or lay secretary.

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<sup>1</sup> See also Clause 14.3

<sup>2</sup> e.g. to make the LOC more representative of the local optical community or to fill skills gaps

## METHOD OF FILLING CASUAL VACANCIES

6. If, by reason of the resignation, death or disqualification of a member of the Committee, a casual vacancy is declared, the Committee may elect a person to fill the vacancy. Where the outgoing member is an elected member, the person elected to fill the vacancy must be a local contractor or local performer, as the case may be. The member so elected shall hold office for the remainder of the term of office of the member of the Committee who has been replaced.

## VALIDITY OF PROCEEDINGS

7. The proceedings of the Committee shall not be invalidated by a vacancy in its membership or by any defect in the appointment of any member of the Committee.

## PROCEEDINGS OF COMMITTEE

- 8.1 The Committee shall meet at least **three times** a year, at such time and place as is generally agreed.
- 8.2 The officers shall give at least 21 days' notice of each meeting of the Committee to **all local contractors and performers**. In cases of urgency, this period of notice may be reduced to 5 days.
- 8.3 One third of the number of the members of the Committee, shall form a quorum of the Committee. Where one third is not a whole number, the quorum shall be the next whole number above one third. **Where one third is only two members, the quorum shall be three members.**

## OBSERVERS

- 9.1 Subject to rule 9.4, any local contractor or local performer may observe the meetings of the Committee.
- 9.2 The Committee may also invite other persons to attend its meetings (in part or in whole) as observers. **Such observers may include the Chair of the Local Eye Health Network, clinical advisors and other representatives of NHS England and CCGs and other stakeholders as appropriate.**
- 9.3 Observers shall normally be given meeting papers and invited to participate in the discussions; but they shall not be entitled to vote.
- 9.4 The Committee may, at its discretion, go into private session and ask observers to leave.

## METHODS OF COMMUNICATION

- 10.1 Communications within the Committee and between the Committee and the local contractors and local performers should be in writing by email fax or post, as appropriate. It is the duty of local contractors and performers to inform the secretary of their contact details.
- 10.2 The LOC should have a website that contractors and performers can refer to for information.

## FINANCE

- 11.1 A majority of the elected members of the Committee shall, in respect of each year, determine the administrative expenses to be incurred in the performance of its functions and request NHS England to allot such sums as NHS England may determine for defraying such expenses by means of deductions from the remuneration of local contractors, pursuant to sections 125(9) to (11) of the National Health Service Act 2006.
- 11.2 The administrative expenses in 11.1 may include membership of LOCSU.
- 11.3 The Committee is also empowered to raise funds by voluntary levy for such other purposes as the Committee may approve.
- 11.4 The Committee shall arrange for its annual accounts of income and expenditure to be independently inspected by suitable person or persons and reported to the Annual General Meeting and to NHS England.

## RECORDS

12. Written minutes shall be kept of each meeting of the Committee and be made available for inspection to all local contractors and local performers.

## GENERAL MEETINGS

- 13.1 The Committee shall arrange an Annual General Meeting of all local contractors and local performers within three months of the end of the Committee's financial year.
- 13.2 An Extraordinary General Meeting may be held at any time, if called either by the Committee or by at least twenty local contractors and/or local performers.
- 13.3 The Secretary of the Committee shall give notice of the Annual General Meeting or an Extraordinary General Meeting at least 21 days in advance to all the local contractors and local performers, in writing or electronically. In the case of an Extraordinary General Meeting, the Secretary of the Committee shall notify the date, time, place and purpose of the meeting to all the local contractors and local performers, in writing or electronically.

13.4 The business of the Annual General Meeting shall include:

- the report of the Committee's activities of the past year;
- the presentation of the **inspected accounts** of the past year;
- the appointment of **accounts inspectors** for the following year;
- the election of one third of Committee members<sup>3</sup>.

#### ELECTION OF THE COMMITTEE

- 14.1 For the election of the Committee, the Committee shall appoint a Returning Officer to supervise the election. In the event of the person appointed as Returning Officer being unable to act, he must appoint a person, other than an elector, to act as deputy in his or her place. The Returning Officer shall not be a candidate for election to the Committee.
- 14.2 The Committee may reimburse to the Returning Officer all expenses properly incurred by him in the conduct of the election.
- 14.3 All local contractors and local performers shall be entitled to be present and to vote at the Annual General Meeting; or to appoint a proxy to cast their votes for them who shall be a local contractor or local performer; or to vote in advance in writing on the published resolutions and **the election of the Committee**.
- 14.4 In an election, no individual shall vote twice, although he or she may also act as a proxy for one or more local contractors or local performers.
- 14.5 The local contractors and local performers present at the Annual General Meeting may appoint a Chairman to preside over the meeting and appoint two scrutineers to assist the Returning Officer in the counting of votes.

#### GOVERNANCE

- 15.1 Members of the Committee shall declare any interests when standing for election and on appointment to the Committee, as well as at the start of each Committee meeting and relevant item on the agenda.
- 15.2 Members of the Committee, having an actual or potential conflict of interest in relation to an issue, shall not engage in discussion, or vote, on that issue.
- 15.3 Members of the Committee as elected representatives of registered healthcare professions shall at all times behave in a professional manner and within the normal rules and expectations of commercial and professional confidentiality relating to the work of the Committee. They shall not divulge, act inappropriately upon, or use inappropriately any information obtained by virtue of their membership of the Committee or its work. They shall be demonstrably scrupulous in this regard at all times and, particularly, when they might have an actual or potential personal interest. They shall be reminded of this requirement at each meeting as appropriate. Any infringement of this requirement shall be dealt with, as the Committee judges fit **and recorded in the**

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<sup>3</sup> Committee elections to be staggered for continuity and succession planning

minutes.

- 15.4 In connection with their membership of the Committee and its work, members of the Committee shall ensure transparency and equal provision of information and opportunity for all local contractors in matters relating to the commissioning and provision of local optical services.

#### AMENDMENT OF THE CONSTITUTION

- 16.1 The Committee may make amendments to the Constitution with the approval of no less than three quarters of the members of the Committee.
- 16.2 The Committee shall notify and provide details of any amendments to the constitution to NHS England. Such amendment(s) shall not come into force until NHS England indicates that it is content to continue to recognise the Committee after such amendment(s) come(s) into force, including by silence within a reasonable period<sup>4</sup>.

#### LOC PROVIDER COMPANY [delete if not relevant]

- 17.1 A Company Limited by Guarantee has been incorporated by the LOC to act on behalf of all local contractors in the LOC area who wish to participate when local Commissioners of community optical services wish to contract with a sole provider rather than directly with individual local contractors.

- 17.2 The following Memorandum of Understanding between the LOC and LOC Provider Company is in place

[Memorandum of Understanding]

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<sup>4</sup> 'Reasonable' in this context is considered to be six weeks or, exceptionally in the case of August, two calendar months

**MEMORANDUM OF UNDERSTANDING** dated .....2017

Between..... LOC (“the LOC”)

of..... and Primary Eyecare

(.....) Limited (“the LOC Company”), Company Registered

Number....., Registered Office Address 2 Woodbridge Street,

London EC1R 0DG

Whereby the LOC Company acknowledges and agrees that:

- 1) It has been incorporated by the LOC to act on behalf of all Local Contractors in the LOC area when Local Commissioners of community optical services will only contract with a sole provider rather than directly with Local Contractors;
- 2) It will act at all times in the best interests of all the Local Contractors in the LOC area;
- 3) It is the vehicle for the single provider commissioning of community eye care services and will ensure that all Local Contractors who wish to participate in providing those services and have the appropriate equipment and accreditation will be able to do so if they so wish either at the start of such services being contracted for or at any time in the future;
- 4) It will appoint a Clinical Lead for local eye care services contracted for and will ensure that the Clinical Lead works with the Directors and with the Local Contractors to ensure that the Local Contractors meet the requirements of the Commissioners in providing the services;
- 5) It will ensure that the Local Contractors providing the services enter into a contract with the LOC Company that replicates the terms of the contract that the LOC Company has entered into with the Commissioner of the services;
- 6) It will budget for an annual surplus sufficient only to ensure it has adequate working capital to operate and any surplus in excess of such requirement will be utilised for the benefit of all Local Contractors for example providing approved CET courses;
- 7) At all times, it will act with openness and transparency and will not bring the LOC or its Members into disrepute;

8) It will provide such management accounts and explanations of its activities to the LOC Officers that they may reasonably require together with copies of all minutes of Board meetings;

9) If agreed by members of the LOC at an Annual General Meeting or at an Extraordinary General meeting or retrospectively at such meetings to provide an interest free loan to the LOC Company to provide initial working capital, the Directors of the LOC Company will use their best endeavours to ensure that the loan is repaid as soon as is possible;

10) Its Directors will only conduct such activities in the best interests of all Local Contractors at the behest of the LOC that the LOC cannot conduct itself and the Directors will ensure that its costs of operation are kept to the absolute minimum to trade both legally and appropriately in the best interests of all Local Contractors.

11) This memorandum of Understanding will be available at all Board Meetings and will be a standard agenda point at all Board Meetings for the Chair of the meeting to refer all Directors attending to note the terms.

Signed this .... Day of .....2017

For and on Behalf of ..... LOC by:

.....Chair.....

.....Secretary.....

For and on Behalf of Primary Eyecare (.....) Limited by:

..... Director .....

..... Director .....