



Licensing and General Purposes Committee

Date and Time - **Thursday 3 September 2020 - 6.30pm**

Venue - **Remote Meeting**

Councillors appointed to the Committee:

Councillor A.S. Mier (Chairman), S.J. Coleman (Vice-Chairman), R.K. Bird, G.S. Browne, T.J.C. Byrne, G.C. Curtis, B.J. Drayson (ex-officio), Mrs D.C. Earl-Williams, K.M. Field, Mrs S. Hart, K.M. Harmer, R.B. Thomas and H.L. Timpe

Substitute Members: Mrs C.A. Bayliss, P.J. Gray, Mrs E.M. Kirby-Green and C.A. Madeley.

AGENDA

1. MINUTES

To authorise the Chairman to sign the Minutes at a later date of the meeting of the Licensing and General Purposes Committee held on 13 July 2020 as a correct record of the proceedings.

2. APOLOGIES AND SUBSTITUTES

The Chairman to ask if any Member present is substituting for another Member and, if so, to declare his/her name as substitute Member and the name of the absent Member.

3. ADDITIONAL AGENDA ITEM

To consider such other items as the Chairman decides are urgent and due notice of which has been given to the Head of Paid Service by 12 Noon on the day of the meeting.

4. DISCLOSURES OF INTEREST

To receive any disclosure by Members of personal and disclosable pecuniary interests in matters on the agenda, the nature of any interest and whether the Member regards the personal interest as prejudicial under the terms of the Code of Conduct. Members are reminded of the need to repeat their declaration immediately prior to the commencement of the item in question.

5. SENIOR STAFF RESTRUCTURE (Pages 1 - 14)

This agenda can be made available in large print, Braille, audiotape/CD or in another language upon request. For all enquiries – please contact louise.hollingsworth@rother.gov.uk (Tel: 01424 787815)

**Rother District Council's aspiring to deliver
an Efficient, Flexible and Effective Council; Sustainable Economic Prosperity;
Stronger, Safer Communities; and a Quality Physical Environment.**

6. **EXCLUSION OF PRESS AND PUBLIC (EXEMPT INFORMATION)**

The following item includes material which is exempt from publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972, as amended, and it is recommended that the press and public be excluded. The relevant paragraph of Schedule 12A indicating the nature of the exempt information is stated after the item and is reproduced in full at the end of the agenda. In the circumstances of the case, it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

7. **CONFIDENTIAL APPENDIX D TO AGENDA ITEM 5 (PARAGRAPHS 1, 3, 5 AND 11) (Pages 15 - 16)**

Malcolm Johnston
Executive Director

Agenda Despatch Date: 25 August 2020

Extract from Schedule 12A of the Local Government Act 1972 (as amended)

1. Information relating to an individual.
3. Information relating to the financial or business affairs of any particular person (including the Authority holding that information).
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
11. "Labour relations matter" means:
 - (a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or
 - (b) any dispute about a matter falling within paragraph (a) above;and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the Authority as they apply in relation to employees of the authority;

"Office-holder", in relation to the Authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the Authority is represented or by any person who holds any such office or is an employee of the authority.

"Employee" means a person employed under a contract of service.

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**Rother District Council's aspiring to deliver
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Rother District Council

Report to:	Licensing and General Purposes Committee
Date:	3 September 2020
Title:	Senior Staff Restructure
Report of:	Councillor Kathryn Field on behalf of the Cabinet
Ward(s):	All
Purpose of Report:	To receive and consider Cabinet Minute CB20/31 and make appropriate recommendations to Full Council for its Meeting on 21 September.

Recommendation to COUNCIL: That subject to the results of consultation with the two Executive Directors and their representative body ALACE and more widely the observations by trade unions and employee representatives Council be recommended to:

- 1) delete both Executive Director posts;
 - 2) establish a new post of strategic Chief Executive as set in the Job Description attached (Appendix A);
 - 3) the appointment to this new post be ringfenced to the two existing Executive Directors;
 - 4) the appointment be made on a 1 year initial basis at a salary of £115,000;
 - 5) a severance package for the departing Executive Director as considered in Exempt Appendix D, be agreed;
 - 6) the costs of the redundancy be met from the Medium Term Financial Plan Earmarked Reserve;
 - 7) subject to the agreement of full Council to the above the new structure to take effect from 28 September 2020; and
 - 8) the Council's pay policy statement be amended accordingly.
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Background

1. Cabinet resolved on 8 March to support in principle the establishment of a single Chief Executive and the deletion of the two posts of Executive Director (ED). It further resolved on 17 August that, given the current fragility of Council finances following COVID-19, the uncertainties of a potential local government reorganisation and the heavy levels of change and transformation programmes underway, it may be prudent to ringfence recruitment to this new post to within the two Executive Directors, who currently undertake Head of Paid Service responsibilities.

2. The Cabinet believed that the successful candidate should be appointed on a one year contract in the first instance, and it is the Cabinet's intention that a report be brought before Full Council in a year's time to consider whether that appointment be made substantive, or whether, at that stage, the Chief Executive post should be opened up to external competition. In a year's time Council will review the position in the context of the needs of the authority, as well as being better able to judge the prospects for the future of Rother District Council.
3. All matters pertaining to restructure are delegated to the Licensing and General Purposes Committee (L&GP) in the Council's Constitution, for subsequent consideration by Full Council. Paragraphs 5-6 below presents arguments and options for this approach. In paragraphs 7-19, L&GP Committee are also invited to consider matters relating to salary for the first year, and the framework of potential severance terms for the other ED, both for recommendation to Full Council. L&GP Committee are recommended to report direct to Full Council but, subject to individual consultations, may consider it necessary to convene a further, short, meeting prior to Full Council if it transpires that this appears necessary.
4. The proposal brought before you today does not address the potential reorganisation of Heads of Service or below, nor does it present a detailed business case beyond this first stage. These are matters for resolution by the incoming Chief Executive. These are expected to include considerable consultation about alternative models with elected Members and staff.

A Strategic Chief Executive

5. The Cabinet are convinced of the need to review and transform our Council:
 - i. To become leaner, more flexible and fit for purpose;
 - ii. To become more strategic, in achieving Members' vision and meeting future community needs including new democratic governance and local accountability;
 - iii. To become more customer and community centred;
 - iv. To offer to all of its staff, scope for innovation and empowerment, and improved working conditions; and
 - v. to deliver this change against a background of financial pressures, increasing customer expectations and uncertainties in government policies for local government.
6. This will require determined strategic leadership over a sustained period, through a full time Chief Executive freed of specific service responsibilities but retaining the role of staff leadership as Head of Paid Service. Because this appointment is intended in the first instance to be ringfenced to the existing EDs, it is recommended that a one year contract be given. Over the coming year, the successful candidate will need to demonstrate high level strategic skills in advising Members and framing convincing programmes of change and development for the Council and its staff. He will be performance appraised by a small panel of Members headed by the Leader and advised by an external mentor. A draft Job Description and Person Specification is attached (Appendix A). The L&GP Committee is asked to consider these. In addition, a behavioural

framework and behavioural assessment should be developed with support from iESE (Appendix B).

Issues

Salary

7. In looking at comparative salaries for strategic Chief Executives of District Councils in the South East, there is a range of £110,000 to over £135,000 (not including car allowance or oncosts). For an external appointment iESE would recommend a range up to £135,000 maximum to attract a wider canvass of candidates.
8. For an internal appointment, it would be recommended that the first year be at the bottom of the range. Members should note that the top of the current ED range is £102,000. A lift of 10 – 15% to acknowledge the greater accountability would seem prudent and justified, and Members should consider recommending a salary around £115,000 for the first year. It should be recognised that an increase in the salary may lead to upward pressure on all current staff salary scales which would need to be considered as part of any future restructuring of the Council.

Business Case

9. In financial terms, the current salary of an ED is around £100,000, excluding September 2020 pay award (Basic Pay £96,585 plus car allowance £3,768) with on costs around £133,000. This is one spinal column point below the top of grade, a voluntary arrangement agreed by both EDs at the time the former Chief Executive post was made redundant. The salary of the new Chief Executive of £115,000 with on costs is in the order of £155,000. The gross saving generated by deleting the two ED posts and replacing it with one Chief Executive post, after costing the re-grade of the Chief Executive post, will be around £111,000 per annum.
10. The new Chief Executive will need to consider whether he requires additional short or long term support and this would significantly erode the ongoing saving. It is likely that, to achieve the wholesale review of the staff structure and implementation of change, there will be a need to appoint a temporary senior manager for two years, which over that time would take up all the savings from the deletion of an Executive Director post.
11. In the longer term this change at the top is intended to present an opportunity to review the wider Council, introduce new ways of working, to become more flexible, customer centric and community oriented.
12. Committee and Council will need to make provision for the severance costs (see below and Exempt Appendix D) from the Revenue Reserve.

Consultation

13. The deletion of the two ED posts will mean the two existing postholders will be at risk of redundancy. Copies of this report have been sent to ALACE, the two EDs and to Unison for comment. Unison response is attached (Appendix C).

A response from ALACE concerning one ED addresses issues of severance compensation. It indicates that one ED would be willing to be made redundant and accept severance with effect from 27 September, subject to the severance package being approved by full Council.. The other ED has indicated orally that he wishes to remain and compete, if necessary, for the new Chief Executive post.

14. Further responses and papers will be sent to Members or presented at the meeting.

Redundancy and severance issues

15. The Draft Restriction of Public Sector Exit Payments Regulations 2020, with an Explanatory Memorandum were laid before Parliament on 21 July 2020 proposing to restrict the total severance pay for any individual to £95,000, including any additional cost to the Pension Fund ("pension strain") for early take up of pension benefits. The new Regulations are likely to come into force towards the end of September. The proposal has raised considerable controversy because of the inclusion of pension strain. In Rother's case, this strain does get paid to the individual, however the Council pays this sum to the Pension Fund. The value of this payment may be contained within sums that the Council has already paid to the Fund as an overpayment of contributions, however, the Council is still responsible for the payment allowing early access to pension (see exempt Appendix D).
16. Full Council will need to approve whatever is offered, due to Government Guidance on settlements in excess of £100,000 and to make provision for the payment.
17. The cost of severance following redundancy of the ED who is not appointed to the new Chief Executive post will vary depending of which ED is appointed. Given that only one has indicated at this stage positively that he wishes to compete for the post, this report deals with costs and benefits for the other ED only. If matters change a further calculation will be brought forward.
18. In exempt Appendix D are the maximum benefits and costs of severance for this ED as at 18 August 2020 if he were to be made redundant in accordance with the Council's current policy. Committee is recommended to exclude press and public whilst it discusses these matters and agrees a briefing for negotiation, and a subsequent recommendation to Full Council. Negotiation is intended to be conducted by industrial lawyer Bevan Brittan, who will also advise on matters such as the signing of a Compromise Agreement.
19. A further meeting of this Committee may need to be held prior to Full Council if matters of negotiation are not resolved by then.

External Support

20. Cabinet has agreed that iESE assist in establishing a Behaviour Framework for this post and for implementation more widely throughout the Council, to progress Performance Management. The successful candidate will be asked to discuss with iESE, offers of personal mentoring and options to support Council transformation. Arrangements for the Chief Executive's Performance Reviews

are included in the establishment of the Behaviour Framework by iESE, will be supported by an external appraiser who can advise both the Member Panel and the Chief Executive on matters of setting and measuring performance milestones.

21. Negotiation on severance, following whatever the Committee resolves, will be led by Bevan Brittan LLP, a legal firm specialising in employment and local government matters.

Legal Implications

22. Government Guidance “Openness and Accountability in Local Pay: Guidance under section 40 of the Localism Act” published in February 2012 states in paragraph 14 that “full council, or a meeting of members should be offered the opportunity to vote before large salary packages are offered in respect of a new appointment. The Secretary of State considers that £100,000 is the right level for that threshold to be set. For this purpose, salary packages should include salary, any bonuses, fees or allowances routinely payable to the appointee and any benefits in kind to which the officer is entitled as a result of their employment.” The Council will also need to include the new post in its Pay Policy Statement, once approved, as it would be unlawful to appoint to a senior post that is not included in the approved Pay Policy Statement.

Risk Assessment

23. Changing and transforming an organisation always carries with it, potential risks. These may include loss of knowledge if staff leave and difficulties in recruitment. In moving from one way of working to another there is always the need to mitigate impact of staff morale and lowered productivity through the process, and cost. However, evidence in other authorities is that the end result increases morale, reduces costs and increases productivity.
24. The alternative of not making substantial change is not being able to meet the challenges the Council faces and to continue with an unsustainable revenue budget, depleting reserves and an increased likelihood that the Council may fail to meet customer expectations.

APPENDICES

- A (1) Draft Job Description and (2) Person Specification for a Chief Executive
- B Behavioural Framework
- C. Unison response
- D. EXEMPT severance costs and benefits

**ROTHER DISTRICT COUNCIL
CHIEF EXECUTIVE JOB DESCRIPTION (DRAFT)**

Job Title	CHIEF EXECUTIVE
Salary level	
Primary Purpose of the Job	<p>To act as principal adviser to The Leader and all elected members. To support Councillors in the leadership; development; and, establishment of a transformed Council.</p> <p>As the statutory Head of Paid Service, to provide leadership and direction throughout the organisation. To be accountable for the performance of the organisation and meet the Council's strategic objectives through efficient and effective deployment of resources. To ensure that residents receive services of the highest standard.</p>
Responsible to	The Leader of the Council and the Cabinet
Responsible for	<p>Those officers for whom there is, at any point in time, a direct or shared management responsibility. As Head of Paid Service - all employees of the Council.</p> <p>This document is written with reference to the National JNC for Local Authority Chief Executives National Salary Framework & Conditions of Service Handbook.</p>
Principal Responsibilities	<ol style="list-style-type: none"> 1) To advise and support the leader on any matter relevant to the Council's functions. 2) To lead the development and establishment of a transformed Council ensuring it is successful; viable; and excellent in service delivery to customers 3) To ensure elected members' vision for the Council is translated into operational reality. 4) To work with elected Members to provide leadership, vision and strategic direction to the council, ensuring a clear sense of ambition and purpose, particularly in the context of the operational and financial challenges the council faces. 5) To enable and ensure the efficient corporate management of the Council through developing heads of service units and a new Management Team ensuring the delivery of high quality services; drive improvements and coordinate strategies. 6) To exercise the duties and responsibilities as Head of Paid Service. 7) To drive forward regeneration activity across Rother and ensure the Council is a key lever to economic prosperity. 8) To identify new opportunities for improving democratic accountabilities in the changing landscape. 9) To lead strategically , promote and manage effective partnership and community relationships with stakeholders within and outside of the Council. 10) To act as principal policy adviser to Members and ensure that the Council's policies and priorities are understood, owned and implemented across the organisation.

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- 11) To represent and negotiate on behalf of the Council on external bodies and networks. This includes representing the Council at civic, local, regional and national events.
 - 12) To ensure the effective governance of the Council and the legality, probity, integrity, proper public accountability and scrutiny of its decision making processes.
 - 13) To promote a culture of excellence underpinned by performance management and continuous improvement, motivating and developing the Council's workforce to achieve its objectives.
 - 14) To participate in the recruitment of Chief Officers across the Council.
 - 15) To act as the Council's Returning Officer for local elections and Acting Returning Officer for the various Parliamentary Constituencies

Review and Change Arrangements

The details contained in the job description reflect the content of the job to date the document was prepared. It is inevitable that over time the nature of the job will change, existing duties may be lost and other duties may be gained without changing the general character of the duties or the level of responsibility. Consequently, the Council will expect to revise the job description from time to time and will consult with the post holder at the appropriate time.

**ROTHER DISTRICT COUNCIL
CHIEF EXECUTIVE PERSON SPECIFICATION (DRAFT)**

Job Title CHIEF EXECUTIVE

Stage One Disabled Candidates are guaranteed an interview if they meet the essential criteria

The Minimum Essential Requirements for the above post are as follows and will be assessed by application and/or interview
1. EXPERIENCE, SKILLS AND KNOWLEDGE.
Ability to develop positive working relationships with all elected members, ensuring their vision is translated into operational reality.
A proven track record in a number of organisations , of leading, managing, empowering and inspiring teams of senior staff to a high level of achievement and innovation.
Experience of successful change management and transformation within a major organisation, ideally of the introduction of Agile working and ideally within a politically sensitive environment
Ability to develop, manage and maintain community relationships.
An understanding of the Council’s financial context and budget strategy and a proven track record in the successful management of comparable complex budgets and resources within a Local Authority setting.
Successful experience of operating in a sensitive political context and providing clear, objective advice to senior officers, Elected Members and partner organisations.
A proven track record of formulating and implementing complex strategies and plans that cross service boundaries; drive the development of an organisation; and, deliver corporate objectives.
Extensive experience of successfully developing and managing high quality strategic partnerships and relationships across sectors with a wide range of stakeholders, to deliver inter-organisational objectives.
A detailed understanding of the sector and challenges it faces, including the regional and sub-regional context relating to Rother and East Sussex and the impact that Council eorganisation will have on staff and residents.
Knowledge and experience of driving and delivering regeneration, to maximise the opportunities a local authority has to shape the place and improve community outcomes within which it operates.

Demonstrable experience of working and exercising sound judgement in an environment which involves a high degree of interface with senior politicians and officers, local and regional government and partner organisations.

Highly developed analytical, problem solving and negotiating skills producing a record of innovative solutions to ensure achievement of corporate objectives

Successful involvement with the media and in promotion and management of an organisation's corporate reputation.

2. CHIEF OFFICER COMPETENCIES.

Candidates will be assessed against the following Chief Officer Competencies :

- **Leadership**
- **Transformation**
- **Strategic management**
- **Ability to work collaboratively with elected Councillors**
- **Values driven**
- **Creates vision**
- **Acting collaboratively**
- **Communicating powerfully**
- **Changing culture**
- **Handling complexity**
- **Continuously improving performance**

3. WORK RELATED CIRCUMSTANCES.

The Chief Executive is expected to:

- Work such hours as are necessary to ensure the job gets done. This routinely involves evening work and attendance at civic events, as well as the standard Monday to Friday business week. Occasional weekend working is required. The post holder, is "on call" at all other times, particularly to cover emergency planning requirements. No extra payments are made for such extended hours.
- In the first year to liaise with iESE on personal mentoring, and to consider support options for Council Transformation
- Be prepared to travel, both within and outside of the UK, as required by the demands of the job
- Remain politically neutral and ensure any personal interests are not in conflict with their position.

BEHAVIOURAL FRAMEWORK

Behaviour Framework Design

A Behaviour Framework sets out the behaviours that matter to the transformed council and the examples of effective and ineffective behaviour at the different levels of the organisation. The framework is the basis of performance managing the new organisation selection and management of staff. The framework is required for selection and performance management of the Chief Executive. The budget, already approved by Cabinet, for the design including expenses is £10,000.

Rother DC Senior Staff Restructuring Cabinet Report 17 August 20 Unison Response

Impact on staff:

- What about the overall impact on staff? Who you work for has a massive bearing on your working life. Why aren't staff (as a whole) mentioned within the report?
- What about the two PAs? Currently there are two, but there are two Executive Directors. Will one PA be made redundant as a result of this change? And what discussion has taken place with the PAs considering this report?
- Paragraph 3: *(Cabinet have used this time to discuss more widely and to reflect on the changes that have occurred within the Council - such as revised ways of working, changes to the way some services are delivered and how residents and businesses communicate with the Council. These dynamics have shown that future operation of the Council will look different to that of pre-COVID-19)* Presumably this means not much change to the current situation post-pandemic? Does this mean the Members see staff working from home as the rule rather than the exception? What does this mean for the office, and for working practices going forward? Has isolation, motivation and impact on mental health been considered?

Management structure:

- Heads of Service currently (directly) line-manage a large percentage of some service areas. Has the impact on this aspect of line management (and staff welfare) been considered, given that HoS may have to pick up workload from the outgoing ED?
- In the management hierarchy below there is one Assistant Director (Finance) and 4 HOS. What are the implications on the workload in these posts and then further down the management line? How much of this saving from the loss of the ED posts will be reinvested into the senior tier of management? – for example another Assistant Director and/or Head of Service?
- I think members have seriously underestimated the impact of losing these posts. If the Chief executive is undertaking the role outlined in the report, who is going to be doing the work that the directors currently undertake including:
- Managing the day to day operations for corporate affairs (you'll remember the most recent restructure gave these responsibilities to the EDs at the expense of a HoS position)
- Providing Directorial steer on policy and priorities
- The HoS are not 'Corporate Managers'. This leaves only the CE as the corporate-wide managerial position
- Who's in charge when the CE is on annual leave (Is it fair to expect HoS to do this at their level?)
- With HoS already line managing 9 people I have concerns on the impact resulting from the loss of ED support.
- This proposal will lead to a removal of Director level management time and responsibilities. When the two executive director roles were set up, the HoS under them were not paid as much and there were fewer HoS because they had a Director as part of the management. (Remember when we had 11 HoS under one Chief Exec, and then eight.) Consequently, the HoS are the management line under the Director level of management. Therefore, does this change not make the level of responsibility higher for the HOS in that effectively

they become director level under a CE? (No HoS is paying me for raising this point!) This certainly does not appear to have been raised in the Leader's report.

Pay:

- How does the CEO pay compare with pay ratios of other Local Authorities in East Sussex?
- Paragraph 23: The 'new' role will result in the top salary increasing by circa £15k pa. This increases the gap between the top tier and the next level of management. Will HoS tier be re-graded as a result? If not, the Chief Exec will be earning nearly twice as much as the next tier of management, who will presumably have additional workloads as a result of on ED going. And if HoS is re-graded, surely every tier below will also need re-grading?
- Staff Side are concerned there will be such a disparity between the top salary and the next level. We will have an organisational structure which is missing a tier. HoS will end up doing far more to pick up the work due to a slimline SMT and may end up making strategic decisions above their pay grade.
- In terms of pay grading, if the CEO is appointed on the salary as suggested this is almost double that of Heads of Service salary

Appointment process:

- Will one ED be slotted in if the other decides to go?
- Paragraph 22: *...the appointment is made for one year only in the first instance. The post will be subject to regular performance monitoring with respect to milestones and behaviours and performance monitored by a member panel. There will be a further report to Full Council in a year's time on whether, at that stage, it is preferable to open up competition for this post to external candidates or whether to continue with the internal candidate.* With the new post being provisional for one year pending the Leader and Cabinet seeing their behaviour as appropriate, surely there would need to be some protection for the post-holder in that there would have to be reasonable performance targets. Otherwise, we could be in a position where we could lose an effective CE due to personal differences.

Wider issues:

- The loss of both director posts will have a massive impact on the capacity to deal with strategic issues/workload of the Council, and in particular dealing with further lockdowns during Covid-19. If only one director ultimately leaves (the other moving into CEO position) then the loss will still be huge.
- The current international crisis is unprecedented and at Rother staff are struggling to maintain normal services – the new way of working essentially at home has created issues such as staff isolation and mental health wellbeing. It is also predicted we are likely to be hit a second winter wave, which will be more severe and prolonged. Therefore is it wise to create self-imposed uncertainty in our organisation at this time? What analysis has taken place to establish the impact of this and further changes (over the next year) on staff morale and jobs?
- I think all these changes are proposed too early because every local authority will have financial impacts from Covid-19 and we don't yet know the Government's response or what support might be made available.
- Paragraph 7: Members will also be aware of the prospect of organisational turbulence if Government moves ahead with widely mooted plans to expand unitary local government across England. Is this the direction of travel?
- My concern is the creation of a Town Council at this time especially as it appears that jobs are at risk and this will result in more expenditure. It seems

to me that the most important matter on the Corporate Agenda is the creation of the Bexhill Town Council even if that comes at the expense of staff losses.

Rother Unison Staff Side
14 August 2020

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of the Local Government Act 1972.

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