

AUDIT AND STANDARDS COMMITTEE

5 December 2022

Minutes of the Audit and Standards Committee meeting held at the Town Hall, Bexhill-on-Sea on Monday 5 December 2022 at 6:30pm.

Committee Members present: Councillors B.J. Drayson (Chair), R.B. Thomas (Vice Chair), J. Barnes, Mrs M.L. Barnes, P.C. Courtel, K.M. Harmer (ex-officio), Mrs E.M. Kirby-Green, L.M. Langlands and C.A. Madeley.

Other Members present: Councillors C.A. Bayliss, H.L. Timpe and J. Vine-Hall.

Audit Independent Person: Mr Patrick Farmer (remote).

Parish/Town Council Representatives: Councillor Keith Robertson (Part A Only) and Wendy Miers (Part A Only).

Independent Persons: Robert Brown (Part A Only) and Mrs Rose Durban (Part A Only).

Advisory Officers present: Chief Executive, Deputy Chief Executive, Chief Finance Officer, Director – Place and Climate Change (in part), Audit Manager, Head of Housing and Communities (in part), Customer Services Manager (in part), Democratic Services Manager (in part) and Democratic Services Officer.

Also present: 16 members of the public via the live webcast.

AS22/33. **MINUTES**

The Chair was authorised to sign the Minutes of the meeting of the Audit and Standards Committee held on 26 September 2022 as a correct record of the proceedings.

AS22/34. **APOLOGIES FOR ABSENCE**

There were no apologies for absence.

AS22/35. **DISCLOSURE OF INTERESTS**

Declarations of interest were made by Councillors in the Minutes as indicated below:

Barnes, J Agenda Item 6 – Personal interest as Chair of Etchingam Parish Council.

Drayson Agenda Item 6 – Personal Interest as a Member of Bexhill Town Council.

Langlands Agenda Item 10 – Personal Interest as Director of Rother DC Housing Company Ltd.

Thomas Agenda Item 6 – Personal Interest as a Member of Bexhill Town Council.

Agenda Item 10 – Personal interest as Chair and Company Executive Director for Rother DC Housing Company Ltd.

PART A – STANDARDS REPORTS

PART I – RECOMMENDATIONS TO COUNCIL

AS22/36. CODE OF CONDUCT

At their meeting in June 2022, the Audit and Standards Committee (ASC) had considered the Government's response to the Committee on Standards in Public Life's (CSPL) recommendations resulting from their review of local government ethical standards. At that time it was noted that, whilst the Government had agreed to look at a number of issues as a result of the recommendations, overall, it seemed that there would be no fundamental changes to the current decentralised approach and available sanctions for Members who had been found to have breached the Code of Conduct (CoC) for the foreseeable future.

The Committee resolved at that time that a working group be established to consider an amendment to the Council's existing CoC to incorporate the use of social media, as well as Member training in the use of social media and when the code may be engaged. A working group was not established at the meeting and an informal meeting of the whole Committee was held on 17 November 2022 to consider the options for formal discussion and ratification at this meeting.

Whilst a complaint against a Councillor for inappropriate use of social media could currently be brought under the Council's existing CoC, it was not explicitly mentioned, as in the Local Government Association's (LGA) model CoC. It was therefore proposed that in the short term, a simple amendment was made by replicating the text from the LGA's CoC into the Council's existing CoC, under Part 2, Scope, as detailed in the report.

It was also recommended that the Committee consider again whether the Council should adopt the LGA's model CoC. To this end, it was recommended that the Committee established an informal working group to consider and review again the LGA's model CoC with a view to recommending formal adoption in the new civic year (May 2023).

RECOMMENDED: That the Council's existing Code of Conduct be amended by the inclusion of a new paragraph 2 (4) as follows:

Scope

2. (4) **The Code applies to all forms of communication and interaction, including:**

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

AND

RESOLVED: That the Audit and Standards Committee establish an informal working group, comprising of Councillors Mrs M.L. Barnes, P.C. Courtel and R.B. Thomas, to consider the Local Government Association's model Code of Conduct with a view to recommending formal adoption in the new civic year (May 2023).

AS22/37.

REVIEW OF THE ARRANGEMENTS FOR DEALING WITH MEMBER COMPLAINTS, INVESTIGATIONS PROCEDURE AND HEARINGS PROCEDURE

Members received the report of the Monitoring Officer which set out several proposed amendments to the Council's Arrangement for Dealing with Member Complaints, and consequential amendments to the Investigations and Hearings Procedures. The main proposed amendments were in order to clarify the role of the Independent Persons (IPs) in complaint handling in light of recent experience and advice obtained. Several other amendments to improve the documents were also detailed in the report and should all be supported, a minor amendment to Part 2 of the Constitution was also required, as detailed in the report, which would require full Council approval.

Following feedback from the IPs and advice received from leading consultants in the field of ethics and standards and knowledge gained at recent training events, it was considered that the role of the IPs required further clarity within the Council's procedural documents. It needed to be clear that a discussion with an IP would only be offered to a Subject Member (SM) (the Councillor against whom a complaint has been made) if a complaint made against them had been referred for an investigation and not at the initial assessment stage. Indeed, the initial assessment stage could result in the complaint being dismissed, in which case there would be no need for a SM to speak to an IP.

It also needed to be made clear that IPs were not there to provide legal advice or to represent the SMs; SMs should obtain their own legal advice, as appropriate. It was further recommended that only one IP was used throughout each case, to ensure IPs were not 'played off' against one another and would provide a consistent approach for the management of each individual case. Should a complaint that had been investigated proceed to a Hearing Panel, again, the same IP would be invited to attend that Hearing Panel.

It was also considered good practice to offer the IP as a "broker" between the two parties to a complaint, if there was dissatisfaction on

either side with a proposed local resolution option. It was noted that the IP's role description allowed for this additional role, which they were both happy to undertake.

It was noted that requests for confidentiality by complainants or requests for suppression of complaint details would not automatically be granted and the Monitoring Officer would consider the request alongside the substance of the complaint. The arrangements document would be amended accordingly to confirm the procedure as currently set out in the Member Complaint Form.

It was noted that should Members require support after a complaint had been made against them, they were able to access the Employee Assistant Programme that was available to Members for services such as counselling.

Members were happy to support the amendments proposed in the appendices attached to the report, therefore Part 2, Article 9, – Ethical Standards function of the Audit and Standards Committee paragraph 9.1 (c) iii) would require amendment to reflect the same.

RECOMMENDED: That the consequential amendments to Part 2, Article 9, – Ethical Standards function of the Audit and Standards Committee paragraph 9.1 (c) iii) be approved and adopted;

AND

RESOLVED: That the proposed amendments to the Arrangements for Dealing with Member Complaints, Investigations and Hearing Procedures be approved, as amended to include reference to the confidentiality request process.

PART II – DECISIONS TAKEN UNDER DELEGATED POWERS

AS22/38. LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN COMPLAINTS MONITORING

Members considered the report of the Customer Services Manager that set out details of the six complaints made to the Local Government and Social Care Ombudsman (LGSCO) which had been determined since the Committee's last meeting. One was upheld (Council's actions were at fault), none were not upheld (no fault found in the Council's actions) and five could not be investigated.

For the same period (28 May 2022 to 10 November 2022), Rother had received 73 non-ombudsman complaints. Of these, 38 were non-complaints, one was treated as vexatious, 10 were resolved at the initial stage, nine were a stage one complaint, six were a stage two complaint and nine were awaiting determination/under investigation.

There had been a total of 19 Stage 1 complaints, of which 10 were resolved at the initial stage (over telephone), five were not upheld and

four were partially upheld. There were currently eight Stage 1 complaints pending investigation/response.

A total of six complaints were Stage 2 complaints (responded to formally by Head of Service), of which five were not upheld and one was partially upheld. There was one Stage 2 complaint pending a response.

RESOLVED: That the report be noted.

AS22/39.

CODE OF CONDUCT COMPLAINTS MONITORING AND OTHER STANDARDS MATTERS

The Committee received the routine report of the Monitoring Officer (MO) which set out brief details of the complaints received since the Committee's last meeting held in June where complaints were considered and advised the Committee of other standards related matters arising since the Committee's last meeting.

Since the last meeting, 12 valid Code of Conduct (CoC) complaints had been made against six district Councillors and eight parish or town Councillors. Three were dismissed (C22-06, C22-07, C22-09), two were referred for investigation, one of which was found to have breached the local authority's code (C22-04(1)), the other had not breached (C22-04(2), one unsuccessful attempted resolution which ended up being dismissed (C22-01) and other local resolutions involved apologies, training and consultancy (C22-03, C22-05, C22-08, C22-11(a)(b)(c), C22-12, C22-13). The Council's Independent Persons (IPs) were consulted on each case and either or both concurred with the proposed action. Details of each case were identified at Appendix 1 to the report.

It was noted that with regard to C22-04(1), the cost of the external investigation had been £3,000 and any request to see the Investigating Officer's final report should be made to Bexhill Town Council who had been provided with a copy. In accordance with the Council's policy, the name of the Member who had been found to have breached the Town Council's Code of Conduct had been made public.

During this time two non-valid complaints had been received, as well as a complaint against a Parish Clerk; the Complainant was advised to contact the Parish Council. The last five complaints originated from a dysfunctional Parish Council and a consultancy had been commissioned to work with the Parish Council to resolve issues, rather than complaints being dealt with individually. The consultancy's approach had worked well elsewhere and would be more cost effective in the circumstances. It was hoped that the cost could be shared with the Parish Council.

The MO advised that both IP's had attended a remote conference for IPs on 29 June 2022; both had met with the MO and Deputy MO to consider feedback and any proposed practice changes. As a result, it was proposed to make some minor amendments to the "Arrangements

for dealing with Member Complaints” document (Minute AS22/37 refers).

The MO and Deputy MO also attended two remote training sessions on the CoC; disrespect; declarations; sanctions; and working with parish and town councils (P&TCs). Two on-line training sessions based on the Local Government Association’s (LGA) Model Code of Conduct had also taken place with the P&TCs. Despite only 8% attendance, feedback indicated that attendees found the session to be useful and informative. One Parish Council was considering adopting the LGA Model. After the elections in May 2023, sessions would be delivered on declarations of interest and the complaints process.

The Parish Council Representatives requested clarification about Members’ duties at meetings once a Disclosable Pecuniary Interest (DPI) had been declared, with specific reference to complaint C22-09. The complaint had been dismissed due to the nature of the interest being misunderstood by officers and incorrect advice being issued. There had been learning from this complaint and this would not be permitted to occur again. The rules around DPIs were clear in P&TC’s constitutions (standing orders) and Codes of Conduct, but the Monitoring Officer would send out further guidance to clarify.

RESOLVED: That the report be noted.

(Councillor J. Barnes declared a Personal Interest in this matter as Chair of Etchingam Parish Council and in accordance with the Members’ Code of Conduct remained in the meeting during the consideration thereof).

(Councillor Drayson declared a Personal Interest in this matter as a Member of Bexhill Town Council and in accordance with the Members’ Code of Conduct remained in the meeting during the consideration thereof).

(Councillor Thomas declared a Personal Interest in this matter as a Member of Bexhill Town Council and in accordance with the Members’ Code of Conduct remained in the meeting during the consideration thereof).

PART B – AUDIT REPORTS

PART I – RECOMMENDATIONS TO COUNCIL

AS22/40. PROPOSED AMENDMENTS TO THE CONSTITUTION

Members received the report of the Chief Executive which presented several proposed amendments to the Constitution for approval and adoption.

At the Audit and Standards Committee’s (A&SC) meeting in July 2022, consideration was given to the proposed amendments to Part 3, Responsibility for Functions which had been the last part of the Constitution to be looked at by the Constitution Review Steering

Group. The A&SC recommended the proposed amendments as printed to full Council in September (2022), which were approved and adopted without amendment.

At the same time, several potential amendments were picked up in respect of the regulatory committees' functions and procedures. These amendments were not proposed at the full Council meeting in September but were instead brought forward in the report to the A&SC to enable detailed consideration and onward recommendation to Council. The report also gave details of proposed amendments to Council Procedure Rule 16 in respect of previous decisions and motions and the public speaking scheme at Planning Committee meetings.

Members were guided through the proposed amendments in turn and were given the opportunity to ask questions. The following points were noted during the discussions:

- the proposed amendments to both Part 3, Responsibility for Functions at paragraphs 5.3 (c) and 9.3 (a) and Council Procedure Rule 16 together removed the rights of Members and placed the final decision to officers;
- the proposed amendments to Council Procedure Rule 16.1 changed the power to rescind a decision, as it could only be made if there had been a material change in circumstance;
- an officer would determine whether there had been a material change in circumstance, and in the case of a planning application, this would likely be the development manager;
- if the changes to Council Procedure Rule 16.1 were supported, the following wording could be added for clarification - 'Should the Motion to rescind a decision be supported, the matter will be referred back to the original decision making body, Cabinet or a regulatory committee. If the decision was made by full Council, the decision stands as rescinded with immediate effect';
- regulatory committee Members undergo extensive training to be able to make decisions, other Members of the Council are not qualified to do so and therefore such decisions should not be referred to full Council; and
- Members were not happy to support both recommendation 1) and 2), wishing to retain just one. Therefore, Members agreed that recommendation 2) should not be approved.

RECOMMENDED: That:

- 1) the following paragraphs be removed from the Constitution at Part 3, Responsibility for Functions at:

Licensing and General Purposes Committee

Paragraph 5.3 (c) - Three Members of the Committee may, at a meeting of the Committee when a resolution is under consideration and before it is passed, veto any item being dealt with in such manner and require submission to the Council for confirmation.

Planning Committee

Paragraph 9.3 (a) - in relation to the determination of all applications for planning permission (including applications for development made by the Council) a reference to full Council may be made by any three Members of the Committee indicating that it is their wish that an application be referred to full Council.

A reference to full Council must include, at the time of reference, a proposed motion of either refusal or approval with, in the case of refusal, the reasons for refusal and in the case of approval, any condition to be attached thereto; the item printed in the Council agenda will contain the Committee recommendation with the counter motion which may be moved.

- 2) the proposed amendment to Council Procedure Rule 16, as follows not be approved:

16.1 Motion to Rescind a Previous Decision

A motion or amendment to rescind or reverse, or which has the effect of rescinding or reversing a decision of the Council made within the preceding six months cannot be moved **unless there has been a material change in circumstances and** the notice of motion is signed by at least one third of **all** Members or unless it is a recommendation of a Committee or the Cabinet which appears on the agenda;

and

- 3) the following proposed amendment to public speaking rights at Planning Committee be approved:

9.6

(3) Planning Applications that have already been subject to the public speaking scheme and deferred and reconsidered by the Planning Committee will not usually be subject to public speaking at the subsequent meeting unless any new material planning information has been presented. Each case will be decided on its merits by agreement between the Development Manager in consultation with and the Chair of Planning Committee as set out in the report.

AS22/41. **REVISED ANTI-FRAUD AND CORRUPTION FRAMEWORK**

The Council was firmly opposed to fraud and corruption of any kind and had a suite of policies and procedures used to promote a culture of openness, honesty and opposition to fraud. The documents formed part of the Council's Anti-Fraud and Corruption Framework and were last approved at full Council in December 2019.

The Framework had recently been reviewed and a copy of the amended document was detailed at the Appendix to the report. All proposed changes were cosmetic in nature which included post holder

and job title changes, as well as the inclusion of the External Auditors within the Whistleblowing Policy. Members were asked to consider the proposed changes and recommend them for approval by full Council.

RECOMMENDED: That the revised Anti-Fraud and Corruption Framework be approved and adopted.

PART II – DECISIONS TAKEN UNDER DELEGATED POWERS

AS22/42. ROTHER DC HOUSING COMPANY GOVERNANCE MONITORING

Members received the report of the Chief Executive and the Chief Operating Officer of Rother DC Housing Company Ltd (RDCHC) which provided a progress update on the governance arrangements of RDCHC, as well as the Council's arrangements for the governance of RDCHC. The update followed a commissioned review of RDCHC's governance, resourcing and operating structures completed by Counties and Capital Consulting (C&CC).

A summary of C&CC's report and recommendations were attached at Appendix A to the report. The scope of the review focused primarily on measures RDCHC could take to improve its governance arrangements and ensure it continued to achieve its objectives effectively. The report also highlighted the type of governance arrangements it should expect from its Shareholders, to demonstrate openness and transparency to the Council as sole Shareholder. The report was split into two sections, as follows:

Section 1: RDCHC Recommendations and Updates – a summary of the recommendations were detailed in Appendix B to the report. In July 2022, the Audit and Standards Committee (A&SC) received a report on the key issues and risks associated with governance that needed to be tackled to fulfil the ambitions of RDCHC's Board. The report highlighted progress made and measures required which included improvement of skills and resource within the company; company business plan including periodical performance review; a robust Service Level Agreement (SLA) to define the scope of roles undertaken by Council officers on behalf of RDCHC; and dialogue with the Shareholder's Internal Audit service.

Section 2: Shareholder Representative's View – the RDCHC Board must demonstrate independence in its decision making and discharging responsibilities under the Company Act 2006. Without robust governance arrangements, the RDCHC Board could be subject to informal influence from Council officers. A flow-chart of the governance arrangements was detailed within the report. The A&SC would continue to receive periodic updates from the Shareholder Representative on the governance arrangements and any significant associated changes. Performance reports would be presented to the Overview and Scrutiny Committee (OSC). A Shareholder Representative Oversight Group (SROG) had been established, with membership of Chief Executive, Director – Place and Climate Change, Senior Housing Manager, Chief Finance Officer and Corporate

Programme and Projects Officer; a draft copy of the Terms of Reference was attached at Appendix C to the report.

RDCHC would be completing several next steps with the aim of refining existing governance arrangements to complement actions being taken by the Shareholder Representative. These were: appointment of Council officers to the RDCHC Board; establish monthly SROG meetings with Council officers; consider draft SLA; engage with Shareholder's internal audit service; finalise recruitment packs and advertise for non-executive directors; review and complete business plan by early 2023 for Shareholder approval.

As a shareholder, it was a priority for the Council to ensure that it monitored the financial performance of RDCHC and ensured its investments were protected and the risks of financial losses minimised. It was noted that external legal advice had been obtained by both RDCHC and the Council regarding terms of their respective roles and functions.

During the discussion, the following was noted:

- RDCHC must have independence and would be appointing its own staff to the Board in the future;
- the Blackfriars project consisted of two projects: the Spine Road which was Rother District Council's (RDC) and the Housing project which was RDCHC's;
- the only funding received by RDCHC was from RDC. RDC would not lend until it was satisfied that its funding was not at risk and that the project would be delivered;
- it was the Shareholder's responsibility to decide on the strategy, but the Board's responsibility to decide on how that strategy should be delivered;
- the risks were enormous to RDC and meetings between officers of RDC and RDCHC took place monthly. The frequency of meetings had been agreed with the Board and would be reviewed when necessary;
- the OSC would monitor performance by way of an annual report from RDCHC, but the Committee could add updates more frequently to their Work Programme if desired; and
- the role of the A&SC was to monitor governance and assurance with a limited involvement of the Council's Internal Audit, in terms of reassurance of RDCHC's governance relationship with RDC.

RESOLVED: That the proposal to refine the governance arrangements of Rother DC Housing Company Ltd and the arrangements of the local authority's governance of its wholly owned company be noted.

(Councillor Langland declared a Personal Interest in this matter as Company Executive Director for Rother DC Housing Company Ltd and in accordance with the Members' Code of Conduct remained in the meeting during the consideration thereof).

(Councillor Thomas declared a Personal Interest in this matter as Chair and Company Executive Director for Rother DC Housing Company Ltd

and in accordance with the Members' Code of Conduct remained in the meeting during the consideration thereof).

AS22/43. **INTERNAL AUDIT REPORT TO 30 SEPTEMBER 2022**

The Audit Manager led Members through the internal audit report to 30 September 2022 that gave details of audit matters and any emerging issues, not only in relation to audit but risk management and corporate governance. Progress on the 2022/23 Audit Plan was currently behind schedule which was attributed to resourcing issues within the Internal Audit Team. The ICT Asset Management audit has been postponed and coverage might have to be reduced on other audits to ensure they were still deliverable.

Three audit reports were issued in the quarter and an overview of the findings arising from each was given in the Executive Summaries in Appendix A to the report. Both Building Maintenance and Reprographics Sales Income audits provided substantial assurance, but Property Investment only received a limited assurance rating. This was attributed to the adequacy of the controls for monitoring the ongoing financial viability of development sites purchased under the Property Investment Strategy. Detailed reasons were outlined in the report.

Appendix B to the report updated Members on progress made on implementing the audit recommendations reported at previous meetings. Eight long outstanding recommendations remained; most of these were in hand. Progress on the current year recommendations was encouraging with most implemented and the rest in the process of being resolved.

Six audits were scheduled to take place from January to March 2023, these included Benefits; ICT Governance, Main Accounting; Payroll; Debtors; and Licencing.

The Audit Manager advised that risk management issues raised at the last meeting had been reported to the Corporate Management Team. The Corporate Risk Register would be updated and reported at the meeting scheduled to be held on 20 March 2023.

The Council's Internal Audit Charter which defined the purpose, authority and principal responsibilities of the Internal Audit Service required revision and approval. A few minor amendments had been made to reflect the new senior management structure. A copy of the revised document was at Appendix C to the report.

Progress on outstanding audit recommendation continued to be monitored.

Members were given the opportunity to ask questions and the following points were noted during the discussions:

- a report to Cabinet on the viability of the Barnhorn Green site was currently in draft form, as viability could not be established until rent

on the doctor's practice had been finalised. The Council was currently waiting on information from the Valuation Office;

- Members were advised that quarterly reappraisals of the Barnhorn Green project could lead to poor decisions being made on poor quality information, as the designs had changed since the original in 2019;
- Members were advised that the Barnhorn Green project was being continuously monitored, but no documentary evidence had been provided to Internal Audit;
- Management could choose to accept the risks highlighted by Internal Audit and not follow recommendations. The Audit Manager had a duty to highlight these to the Committee; and
- all Capital Projects would be reviewed in light of recent increases in interest rates and Members recommended and agreed that this be undertaken urgently.

RESOLVED: That:

- 1) the Internal Audit report to 30 September 2022 be noted;
- 2) the revised Internal Audit Charter shown in Appendix C be approved; and
- 3) the Council carries out an urgent review of Capital Projects in light of the current financial situation.

AS22/44.

PROCUREMENT AND CAPITAL PROGRAMME AUDITS - MANAGEMENT RESPONSES UPDATE

On 26 September 2022, the Audit and Standards Committee considered a report which raised limited assurance on overall governance arrangements issues regarding the Procurement and Capital Programme audits. The report provided an update, as follows:

- Procurement: specific training had taken place within the Corporate Programme and Projects team and further discussion was being held with the East Sussex Procurement Hub to roll-out training across the authority.
- Capital Programme: quality of reporting had been significantly enhanced which included slippage and total project costs and additional recommendations would be incorporated within future reports. The Capital Programme would be reviewed and a revised programme reported to Cabinet in February 2023.

The majority of the recommendations had already been implemented and work was progressing well which was scheduled to be completed during the current financial year. Monitoring would be ongoing.

RESOLVED: That the report be noted.

AS22/45. **WORK PROGRAMME**

Consideration was given to the Work Programme which contained details of the reports to be considered by the Audit and Standards Committee for the 2022/23 municipal year.

RESOLVED: That the Work Programme attached at Appendix A be approved.

AS22/46. **VOTE OF THANKS**

Before closing the meeting, the Chair thanked Councillor J. Barnes, who had recently resigned as Vice-Chair and Company Executive Director for Rother DC Housing Company Ltd, for his work on the Board. The Chair also thanked Tony Baden, Chief Finance Officer, for his service as he was leaving the Council in the new year and this was his last meeting of the Audit and Standards Committee.

CHAIR

The meeting closed at 9:19pm

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AUDIT AND STANDARDS COMMITTEE

WORK PROGRAMME 2022 – 2023	
DATE OF COMMITTEE	SUBJECT
Monday 20 March 2023	<p>Part A – Standards Reports (none scheduled)</p> <p>Part B – Audit Reports</p> <ul style="list-style-type: none"> • Grant Thornton – Audit Progress Report and Sector Update • Grant Thornton – External Audit Plan 2022/23 • Internal Audit Report to 31 December 2022 • Procurement and Capital Programme Audits Update and Management Responses • Internal Audit Plan 2023/24 • Review of Internal Audit 2022/23 • Annual Property Investment Update • Treasury Management Update • Accounting Policies 2022/23 • Risk Management Update

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