

# AGENDA

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**Meeting:** Standards Assessment Sub-Committee

**Place:** Council Chamber, County Hall, Trowbridge, BA14 8JN

**Date:** Wednesday 23 June 2021

**Time:** 1.00 pm

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Please direct any enquiries on this Agenda to Kieran Elliott, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718504 or email [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

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## Membership:

Cllr Richard Britton  
Cllr Ernie Clark  
Cllr Ruth Hopkinson

Cllr Gordon King  
Cllr Sam Pearce-Kearney

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## Substitutes:

Cllr Allison Bucknell  
Cllr Trevor Carbin  
Cllr Andrew Davis  
Cllr Matthew Dean  
Cllr Howard Greenman  
Cllr Jon Hubbard  
Cllr Mel Jacob  
Cllr Kathryn Macdermid

Cllr Dr Nick Murry  
Cllr Paul Oatway QPM  
Cllr Bill Parks  
Cllr Pip Ridout  
Cllr Mike Sankey  
Cllr Iain Wallis  
Cllr Derek Walters  
Cllr Graham Wright

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# AGENDA

## Part I

*Items to be considered when the meeting is open to the public*

1 **Election of Chairman 2021/22**

To elect a Chairman for the forthcoming year.

2 **Election of Vice-Chairman 2021/22**

To elect a Vice-Chairman for the forthcoming year.

3 **Apologies**

To receive any apologies or substitutions for the meeting.

4 **Minutes of the Previous Meeting** (*Pages 5 - 8*)

To approve the minutes of the meeting held on 22 April 2021.

5 **Declarations of Interest**

To receive any declarations of disclosable interests, or dispensations granted by the Standards Committee.

6 **Meeting Procedure and Assessment Criteria** (*Pages 9 - 18*)

To note the procedure and assessment criteria for the meeting.

7 **Exclusion of the Public**

To consider passing the following resolution:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Agenda Item Number 8, because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in Paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

*Paragraph 1 - information relating to an individual*

## Part II

*Items during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed.*

8 **Assessment of Complaint: COC133950** (*Pages 19 - 52*)

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## Standards Assessment Sub-Committee

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### MINUTES OF THE STANDARDS ASSESSMENT SUB-COMMITTEE MEETING HELD ON 22 APRIL 2021 AT ONLINE MEETING.

**Present:**

Cllr Ruth Hopkinson (Chairman), Cllr Ernie Clark (Vice-Chairman),  
Cllr Richard Britton, Cllr Fred Westmoreland, Cllr Stuart Wheeler and  
Mr Michael Lockhart (non-voting)

**Also Present:**

Paul Barnett (Public Law and Compliance), Kieran Elliott (Democratic Services)

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27 **Apologies**

There were no apologies.

28 **Minutes of the Previous Meeting**

The minutes of the meeting held on 25 March 2021 were presented for  
consideration, and it was,

**Resolved:**

**To approve and sign the minutes as a true and correct record.**

29 **Declarations of Interest**

There were no declarations.

30 **Meeting Procedure and Assessment Criteria**

The meeting procedure and assessment criteria was noted.

31 **Exclusion of the Public**

It was,

**Resolved:**

**To agree that in accordance with Section 100A(4) of the Local Government  
Act 1972 to exclude the public from the meeting for the business specified  
in Agenda Item Number 6 onwards, because it is likely that if members of  
the public were present there would be disclosure to them of exempt  
information as defined in Paragraph 1 of Part I of Schedule 12A to the Act  
and the public interest in withholding the information outweighs the  
public interest in disclosing the information to the public.**

32 **Assessment of Complaint: COC133045**

The complaint had been considered at a meeting of the Sub-Committee on 25 March 2021, where it had been resolved to refer the matter for investigation. Following a material change in circumstances, the Sub-Committee met to consider if that change affected their decision.

Preamble

A complaint was received from Steve Perry (The Complainant) regarding the conduct of Councillor Sandie Webb (the Subject Member), a Member of Chippenham Town Council.

The complaint related to the response of the Subject Member, who is the Leader of the Town Council, to a question raised at a public meeting by the Complainant, who had not been present at the meeting during the period of the response but was subsequently provided a transcript of the response.

The response reportedly contained the lines *“I actually find it very disappointing that Mr Perry has fashioned the question this way aiming it at me, 68 year old female Councillor rather than addressing our male CEO but then I suppose that is the nature of someone who doesn’t come along with his convictions and actually put out comments themselves. I’m afraid it really is something of a red herring to harp back to 2018 though we’re actually in the here and now with enormous issues to address. I’m sure that .....most people are not stuck in a time warp and realise that as circumstances change so must we.”*

The Complainant considered the alleged response amounted to a breach of the principles of conduct in public life, a failure to promote and support high standards of conduct, and of paragraphs 4 and 5 of the Town Council Code, in respect of accountability and openness. He maintained that his question was not, as represented by the Subject Member, a misogynistic attack on the Subject Member as an individual.

The Subject Member contended that her response was an honest response to put into context a growing movement by the Complainant and a few more vocal individuals seeking to discredit certain individuals as a result of various matters relating to the town which have had strong political responses. She was responding to what she believed was a provocative personal attack fashioned at her, which she believed was in part misogynistic in nature as it was address to her rather than the male Chief Executive.

Assessment

At its 25 March 2021 the Sub-Committee were satisfied that the initial tests of the assessment criteria had been met, including that the Subject Member was and remains a member of Chippenham Town Council, that a copy of the relevant Code of Conduct was provided for the assessment, and that they were acting in their capacity as a Member during the various alleged actions.

They had therefore had to decide whether the alleged behaviour, if proven, would amount to a breach of the Code of Conduct, and if so, what action would be required. Further, if it would amount to a breach, whether it was appropriate under the assessment criteria.

At the meeting the Sub-Committee determined that the alleged remarks, if proven, could amount to a breach of the Code and it was appropriate to refer the complaint for investigation. It considered in particular the context of the remarks, from a Member in a position of significant authority to a member of the public, even if the challenge or series of challenges by the member of the public was felt by the Subject Member to be unreasonable.

Following the decision, the Sub-Committee became aware from the Statement of Persons Nominated published on 9 April 2021 that the Subject Member was not standing to be a Member of Chippenham Town Council, and would therefore cease to be a Member from 10 May 2021. As this was a material change of circumstances, a further meeting was arranged to consider whether that change of circumstances affected its earlier decision.

In reaching its decision at the meeting the Sub-Committee took into account the original complaint and supporting information, the response of the Subject Member, the report of the Monitoring Officer to the meeting on 25 March 2021, the Decision Notice from that meeting relating to the complaint, the written statement from the Subject Member and verbal statement of the Complainant to the meeting on 25 March, and the written comments from both the Subject Member and the Complainant provided for this meeting. Neither party was in attendance.

### Conclusion

When assessing any complaint, the third test of the Assessment Criteria was as follows:

*That the member remains a member of the relevant council, or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint*

Paragraph 5.3 of the criteria further states:

*Bearing in mind the public interest in the efficient use of resources, referral for investigation is generally reserved for serious complaints where alternative options for resolution are not considered by the Monitoring Officer or Assessment Sub-Committee to be appropriate, particularly in cases where a subject member is no longer a member of a relevant council*

In this case whilst the Subject Member remained a Member of the Town Council, this would no longer be the case within a matter of weeks. Although the Complainant had argued the matter should still be investigated, the Sub-Committee did not feel that there were exceptional circumstances to justify a decision that it was in the public interest to continue to consider the complaint.

In addition to the cost and resource of any investigation of someone no longer a Member, even if an investigation and Hearing were to confirm a breach had occurred the Town Council would then be required to approve sanctions toward a person no longer on their Council.

However, Sub-Committee noted its initial decision that the comments made by the Subject Member, if proven, would be capable of breaching the Code. They further reiterated that the comments would have been unacceptable from a Member in any position, particularly from a Member in such a senior position addressing a member of the public raising a query and that her perception of the Complainant would not, in their view, justify such a personal attack from a serving councillor.

Therefore, a decision that it was not in the public interest to investigate the complaint further due to the circumstances did not mean it was felt there the complaint had not raised serious issues which in most cases would have been investigated.

It was therefore,

**Resolved:**

**In accordance with the approved arrangements for resolving standards complaints adopted by Council on 9 July 2019, which came into effect on 1 January 2020 and after hearing from the Independent Person, the Assessment Sub-Committee determined to take no further action in respect of the complaint.**

(Duration of meeting: 10.30 - 10.45 am)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115



## STANDARDS COMMITTEE

### PROCEDURAL RULES FOR THE ASSESSMENT SUB-COMMITTEE

#### 1 Purpose

- 1.1. These rules have been prepared to facilitate proper consideration by the Standards Committee's Assessment Sub-Committee, when making assessment decisions in respect of Code of Conduct complaints ('the Assessment') and receiving details of completed investigations.
- 1.2. The rules set out a framework for how Assessments are to be conducted and explain the role of the participants at the Assessment.

#### 2. Definitions

- 2.1 The following definitions describe the participants at and the subject matter of a Review:
  - **'Subject Member/Member'** means a member of Wiltshire Council, or of a parish, town or city council within the Wiltshire Local Authority area, against whom a complaint has been made under the Code of Conduct.
  - **'Complainant'** means the person(s) who have lodged a complaint against the conduct of a Member
  - **'Council'** means Wiltshire Council.
  - **'The Monitoring Officer'** is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the arrangements for dealing with complaints of member misconduct. It includes any officer nominated by the Monitoring Officer to act on his or her behalf in that capacity.
  - **'Democratic Services Officer'** means the Council's Officer who is present at an Assessment Sub-Committee meeting to take minutes and advise on procedure.
  - **'Independent Person'** means a person appointed under Section 28(7) of the Localism Act:
    - a) whose views must be sought and taken into account before a decision is made on an allegation of member misconduct under these arrangements;
    - b) who may be consulted by the Member about the complaint.
  - **Assessment** means a review of the complaint and any written response by the subject member to consider whether on the papers the complaint merits a formal investigation as set out in paragraph 4.1 and the following provisions of Protocol 12 of the Wiltshire Council Constitution (Arrangements for dealing with Code of Conduct Complaints).
  - **'Code of Conduct'** means the code of conduct for members which the Council and Parish Councils are required to adopt under Section 27 of the Localism Act 2011.
  - **'Local Assessment Criteria'** are the arrangements made under Section 28 of the Localism Act 2011. They set out the process for dealing with a

complaint that an elected or co-opted member of Wiltshire Council or of a parish, town or city council within its area has failed to comply with their Code of Conduct.

- **'Party'** means the Subject Member and the Complainant
- The **'Hearing Sub-Committee'** is a sub-committee of the Council's Standards Committee appointed to determine complaints of member misconduct under the arrangements in Protocol 12 of the Constitution..
- The **'Assessment Sub-Committee'** is a sub-committee of the Council's Standards Committee appointed to make determinations under sections 4 and 6 of the arrangements in Protocol 12 of the Constitution. This can include voting and co-opted non-voting members of the Standards Committee.
- The **'Constitution'** means the Constitution of Wiltshire Council, which includes rules on public participation at committees and the code of conduct complaints procedure.

### 3. The Assessment

- 3.1. The Assessment is dealt with on the papers and is not to be treated as a hearing of the complaint itself, which can only be convened after an investigation has been concluded and a decision has been made under paragraph 6.1 of the arrangements for dealing with Code of Conduct Complaints referring the matter for hearing.

### 4. Attendance at Meetings

- 4.1. The Assessment Sub-Committee is a committee of the Council and as such the meeting shall take place in public, However, the Sub-Committee may exclude the public from all or part of the Assessment, by passing a resolution in accordance with Section 100A(4) of the Local Government Act 1972, where it considers that there is likely to be disclosure of exempt information and that it is in the public interest to do so . Given the nature of the issues to be considered by the Sub-Committee it is very likely that such a resolution would normally be appropriate at this stage in the process.
- 4.2. The Complainant and the Subject Member, as parties to the Review, would not be covered by such a resolution to exclude the public and press and may attend the Assessment Sub-Committee. However, the Sub-Committee will normally retire to consider their decision and return to inform the parties of their decision.
- 4.3. If a party has informed the Council that they do not intend to attend the Sub-Committee meeting, or have not given any indication as to whether or not they intend to attend, the Assessment will proceed in their absence. As it is an assessment on the papers, no adverse inference will be drawn from any parties' non-attendance at a meeting.
- 4.4. If a party has indicated an intention to attend the meeting, but is not present at the start of the meeting, the Assessment will proceed in the absence of that party, unless the Sub-Committee considers it necessary to adjourn the meeting to enable the party to attend and make their representations.

- 4.5. If a party does not intend to attend and speak to the meeting, they may submit a short written representation that will be taken into account by the Sub-Committee in reaching their decision.
- 4.6. In addition to the Sub-Committee members and any co-opted member, the meeting may be attended by one or more Independent Persons, Democratic Services Officer(s) and the Monitoring Officer.

## **5. Procedure**

- 5.1. The Complainant and the Subject Member (or their representative) will be permitted up to three minutes to make any statement. If there is more than one complainant or subject member present, then, subject to the discretion of the Chairman, the maximum total time for statements by all complainants shall be three minutes. Any statements made should relate to the specific issues being considered by the Assessment Sub-Committee and should not raise any new issues or allegations.
- 5.2. Complainants and subject members for each complaint will be brought before the sub-committee to make a statement separate from any other complaint, except in the case of the same complaint submitted against multiple members
- 5.3. The Monitoring Officer will provide reports on any complaint that is to be assessed.
- 5.4. The report shall contain a summary of the complaint, supporting evidence, and response of the subject member, which aspects of a relevant code are alleged to have been breached, and options on whether to refer the complaint for investigation, dismiss the complaint, refer for alternative resolution, with reasoning for any recommended outcome.
- 5.5. The reports will also include in full any relevant material and supporting evidence provided by the complainant or subject member
- 5.6. No new documentation is to be introduced at the Sub-Committee meeting without the agreement of the Sub-Committee. New documentation should only be admitted if is considered by the Sub-Committee to be essential to its consideration of the issues in the Assessment
- 5.7. The Sub-Committee may take into account written representations made by, or correspondence from, a party that have been received since the publication of the agenda, where it is considered that this will assist the Assessment.
- 5.8. No questioning of the parties will be permitted, other than by the Sub-Committee with the agreement of the Chairman, to seek clarification of any point that has been made
- 5.9. Following any statements by the parties, the Assessment Sub-Committee will normally withdraw, with the Independent Person(s) if in attendance, and relevant officers, to consider the case.
- 5.10. Taking into consideration the documents provided, namely the original complaint, response of the Subject Member and any relevant additional material, the Sub-Committee will apply the tests required under paragraph 3 of the local assessment criteria, namely whether:
  - a) the complaint is about the conduct of a member of a council within the area of Wiltshire Council;

- b) the member was a member at the time of the incident giving rise to the complaint;
- c) the member remains a member of the relevant council; or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint;
- d) a Code of Conduct is in force for the relevant council and provided;
- e) the matters giving rise to the complaint would, if proven, be capable of breaching that Code.

5.11. If the Sub-Committee are not satisfied that the criteria in a-e above are met, the complaint will be assessed as requiring no further action.

5.12. If the Sub -Committee are satisfied that a-e in para 5.7 above are met, they shall consider whether, under the rest of the local assessment criteria, the complaint should proceed to investigation. The Sub-Committee may also recommend any other suitable action, including mediation.

5.13. Before making any decision, the sub-committee will have regard to the views of an Independent Person. The Independent Person, if in attendance, may contribute to the discussion of the Sub-Committee at any time

## **6. Decision**

6.1. The parties will be informed of the Sub-Committee's decision once it has been made and a full decision with written reasons shall be sent to the Complainant and Subject Member as soon as practicable thereafter.

## **7. Post-Investigation**

7.1. If , following an investigation, the outcome of that investigation is a finding of no breach, the Monitoring Officer will prepare a report and recommendation to the Assessment Sub-Committee. This will be considered using the same procedure as detailed above.

## Assessment Sub-Committee Meeting Procedure Summary

1. If appropriate, the Chairman invites those present to introduce themselves.
2. The Chairman outlines the Assessment Procedure as set out in the Agenda, makes any relevant announcements and asks for any declarations of interest.
3. The Sub-Committee determines whether to pass a resolution to exclude the press and the public from the rest of the meeting.
4. Each complainant and subject member will be given the opportunity to make a statement to the Sub-Committee of up to three minutes for each party. In the interests of confidentiality the subject members and complainants for separate complaints will be brought before the assessment sub-committee separately. A complaint made multiple members may be considered together.
5. The Monitoring Officer presents a report for each complaint requiring assessment.
6. Taking into consideration the evidence, namely the original complaint, response of the Subject Member and any relevant additional material submitted in the request for a review of the initial assessment, the Sub-Committee will then apply the tests required under paragraph 3 of the local assessment criteria, namely whether:
  - a) The complaint is about the conduct of a member of a council within the area of Wiltshire Council;
  - b) That the member was a member at the time of the incident giving rise to the complaint;
  - c) That the member remains a member of the relevant council, or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint;
  - d) That a Code of Conduct for the relevant council is in force and has been provided;
  - e) That the matters giving rise to the complaint would, if proven, be capable of breaching that Code.
7. If the criteria in 6 a) to e) are met, the Sub-committee will consider whether, under the local assessment criteria, they feel the complaint should be referred for investigation or other suitable action, including mediation, or whether the complaint should be dismissed or no further action should be taken.
8. The Sub-Committee will request and receive the views of an Independent person in person or in writing at the beginning of their discussion.

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## **STANDARDS COMPLAINTS ASSESSMENT CRITERIA**

The Monitoring Officer and Assessment Sub-Committee will adopt the approach and apply the criteria set out below in the assessment of complaints under locally adopted Codes of Conduct for Members.

### **1. Relevance**

1.1 The criteria and procedures set out in this document only apply to complaints made against individual members that fall within the relevant code of conduct. It is likely that complaints will be received by the Monitoring Officer which do not relate to local codes of conduct for members. These might include complaints relating to the provision of services by councils; matters relating to the council as a corporate body (including decisions made by the council); or matters which should be dealt with under a council's complaints procedure. They may be complaints relating to council employees, other authorities or matters relating to a member's private life which do not fall within the remit of the Standards Committee.

1.2 Where complaints are received that are outside the scope of these procedures, the Monitoring Officer will advise the complainant that they cannot proceed under local codes of conduct, but that the complainant should contact the relevant council in order to bring a complaint under the appropriate alternative complaints procedure, where available.

### **2. Alternative resolution**

2.1 The Monitoring Officer or Assessment Sub-Committee will always consider whether an alternative means of resolving the complaint would be appropriate.

### **3. Initial Tests**

3.1 Before the assessment of a complaint begins, the Assessment Sub-Committee should be satisfied that:

- a) The complaint is about the conduct of a member of a council within the area of Wiltshire Council;
- b) That the member was a member at the time of the incident giving rise to the complaint;
- c) That the member remains a member of the relevant council, or, if not, that there are exceptional circumstances to justify a decision that it is in the public interest to continue to consider the complaint;

- d) That a Code of Conduct for the relevant council is in force and has been provided;
- e) That the matters giving rise to the complaint would, if proven, be capable of breaching that Code.

3.2 If the complaint fails one or more of these tests it cannot be investigated and no further action will be taken.

#### **4. Sufficiency of information**

4.1 As any assessment will be conducted solely on the papers provided, it is essential that the complainant provide sufficient information to enable the subject member and those responsible for assessing the complaint to understand the substance of the complaint. If insufficient information is provided, the Monitoring Officer will not normally proceed with consideration of the complaint. It is the responsibility of the complainant to provide any supporting evidence for their complaint to justify a full investigation.

4.2 If the complaint meets the criteria set out in 3. a-e above, and the complainant has provided sufficient information to enable the issues complained of to be understood, the Monitoring Officer will send a copy of the complaint to the subject member and ask for the subject member's comments. When these have been received, the Monitoring Officer will consider the complaint and provide a report and recommendation on it to the Assessment Sub-Committee, together with copies of the original complaint ( and any supporting documentation) and the Subject Member's response.

4.3 At this assessment stage, the Assessment Sub-Committee will not normally consider any further representations or correspondence from either the complainant or subject member.

#### **5. Seriousness of the Complaint**

5.1 A complaint will not be referred for investigation if, on the available information, it appears to the Assessment Sub-Committee to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.

5.2 A complaint will not normally be referred for investigation if the subject member has offered an apology, a reasonable explanation of the issues, or if the Assessment Sub-Committee takes the view that the complaint can reasonably be addressed by other means.

5.3 Bearing in mind the public interest in the efficient use of resources, referral for investigation is generally reserved for serious complaints where alternative options for resolution are not considered by the Monitoring Officer or Assessment Sub-Committee to be appropriate, particularly in



cases where a subject member is no longer a member of a relevant council.

## **6. Length of Time Elapsed**

6.1 A complaint will not be referred for assessment when it is made more than 20 working days from the date upon which the complainant became, or ought reasonably to have become, aware of the matter giving rise to the complaint. Any such complaint will be dismissed by the Monitoring Officer, and will not be referred to the Assessment Sub-Committee, although the Monitoring Officer retains the discretion to refer a complaint for assessment that would otherwise be out of time, in exceptional circumstances.

6.2 In any event, the Assessment Sub-Committee may decide not to refer a complaint for investigation where, in their opinion, the length of time that has elapsed since the matter giving rise to the complaint means that it would not be in the interests of justice to proceed.

## **7. Anonymous Complaints**

7.1 Anonymous complaints will not be accepted for consideration unless the Monitoring Officer is satisfied that there would otherwise be a serious risk to the complainant's personal safety, in which case the Monitoring Officer will decide how the complaint should be taken forward.

## **8. Multiple Complaints**

8.1 A single event may give rise to similar complaints from a number of complainants. Where possible these complaints will be considered by the Assessment Sub-Committee at the same time. Each complaint will, however, be considered separately. If an investigation is deemed to be appropriate the Monitoring Officer may determine that, in the interests of efficiency, only one complaint should go forward for investigation, with the other complainants being treated as potential witnesses in that investigation.

## **9. Confidentiality**

9.1 All information regarding the complaint will remain confidential to the parties until determined otherwise by the Monitoring Officer, Assessment Sub-Committee or Hearing Sub-Committee.

## **10. Withdrawing Complaints**

10.1 A complainant may ask to withdraw their complaint before it has been assessed.

10.2 In deciding whether to agree the request the Monitoring Officer will consider:

- a) the complainant's reasons for withdrawal;
- b) whether the public interest in taking some action on the complaint outweighs the complainant's wish to withdraw it;
- c) whether action, such as an investigation, may be taken without the complainant's participation.

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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