

AGENDA ITEM 9

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

17th MARCH 2016

PART 3 SECTION 5 GENERAL SCHEME OF DELEGATION OF EXECUTIVE AND NON EXECUTIVE FUNCTIONS.

REPORT OF THE SECRETARY OF THE CABINET IN DISCUSSION WITH THE LEADER OF THE COUNCIL, CLLR A MORGAN AND CLLR M WEBBER.

Author: - Emma Wilkins, Cabinet Business Officer.

1. PURPOSE OF THE REPORT

- To advise Members of the amendments made to the current practices within the scheme of delegation, to allow for best practice, as determined by the Leader;
- To advise Members of the proposed amendments to the general scheme, to allow for further transparency in the Council's decision making process, as supported by the Leader.
- To commend to Full Council the adoption of the amendments through the Council's constitution, with implementation of the proposals following the Council's Annual General Meeting 2016.

2. RECOMMENDATIONS

It is recommended that the Cabinet

- 2.1 Note the improvements already taken forward by the Leader namely:-
 - a) Reporting to Members
 - b) Minutes of Cabinet Meetings
 - c) Cessation of the circulation of hard Copies of Cabinet Decision Notices
- 2.2 Agree the proposed improvements to the General Scheme of Delegation as outlined within Appendix B of the report;
- 2.3 Subject to 2.2, instruct the Secretary to the Cabinet and the Council's Monitoring Officer to compile a Joint report in respect of the General Scheme of Delegation to reflect the proposed amendments outlined within this report (appendix B) and commend its adoption to the Council Annual General Meeting in May 2016.

3 REASONS FOR RECOMMENDATIONS

- 3.1 Implementation of the proposed improvements in respect of the General Scheme of Delegation will allow greater transparency in respect of decision making and will seek to ensure a consistent and robust approach to Governance of Executive Functions across the Authority.
- 3.2 Any Changes to The Council's General Scheme of Delegation need to be agreed by Full Council, due to changes to both the Executive and non Executive Functions to the scheme.

4. BACKGROUND

- 4.1 The Council's General Scheme of Delegation, was agreed by full Council at the Annual General Meeting in 2002, and forms part of the Council Constitution.
- 4.2 In accordance with Section 13 of the Local Government Act, 2000, the responsibility for the functions of the Council are divided into 'Council' functions and 'Executive' functions (as outlined within Section 5 Part 3 of the General Scheme of Delegation.) Changes to each of the functions can only be approved through the respective decision making process – i.e. Executive = Leader / Cabinet; Non Executive = Council / Committees. A chart highlighting the Executive and Non Executive Decision Making Framework is attached as Appendix A
- 4.3 Since 2002, the Council has witnessed a range of changes in staffing and with the recent changes to the Chief Officer structure, it is deemed timely that the operation of the Scheme is reviewed and improvements on the Scheme are made where appropriate. Areas for improvement have already been identified in respect of the current processes in place with Executive Arrangements and responsibility for Executive functions, as outlined in section 6 of the report.
- 4.4 In light of this, it is therefore suggested that further proposed improvements across the General Scheme of Delegation, highlighted within Appendix B, be taken forward for consideration to ensure a consistent and robust approach to governance within the Authority.

5 EXECUTIVE FUNCTIONS

- 5.1 It is at the discretion and decision of the Leader of the Council as to how Executive functions are discharged. At the Annual Meeting of the Council, the Leader will present a document (commonly known as the 3A) for inclusion in the Scheme of Delegation containing the following information about Executive functions for the ensuing municipal year:
 - the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
 - the terms of reference and constitution of such Cabinet Committees as the

Leader appoints and the names of Cabinet Members appointed to them;

- the nature and extent of any delegation to Officers, with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

5.4 Currently, Executive functions within the Council are taken forward via the following frameworks:-

- **Cabinet** - A Decision taken by the Cabinet Committee or a Cabinet Sub Committee constituted under the Leader's scheme of Delegation
- **Cabinet Members** – Part 3 (paragraph 3) of the Leader's Scheme of Delegation currently allows Cabinet Members to make decisions falling under their portfolio if deemed 'urgent' to protect the interest of the Council. Cabinet Member decisions will need to be made in consultation with the relevant Chief Officer, and where necessary the Leader may take a Cabinet Member decision in the absence of the relevant portfolio member.
- **Chief Officer Delegation** – Executive Functions are delegated to Chief Offices under s15 of the Local Government Act, 2000. These functions are predominantly those functions which fall under their responsibility and in the terms set out in Section 5 of Part 3 of the Constitution. The Council or Cabinet Committee can also delegate matters to officers for decisions. Chief Officer Delegated Decisions can only be made in consultation with the relevant Cabinet Member. If deemed appropriate the Chief Officer may also consult with other Senior officers on the relevant subject matter.

6 IMPROVEMENTS TAKEN FORWARD.

6.1. REPORTING TO MEMBERS.

- 6.1.1 Members will be aware that from November, 2015 a new report template has been piloted at Cabinet meetings. It is envisaged that this template will ensure that authors of reports acknowledge and report on a range of important issues, highlighting to Members potential impacts and implications of a Cabinet Committees decision. The report format with universal sections such as Consultation, Equality & Diversity Implications, Statutory and Financial implications will assist with the production of full and timely information when considering the introduction of new policies / service changes.
- 6.1.2 New pro-forma's / Checklists / Guidance Notes and practical guidance have been produced to assist Officers in reporting information to Members and further explanatory guidance in respect of the exemption pro-forma is being developed to assist officers. A package of this guidance will shortly be circulated to SLT for dissemination to report authors.
- 6.1.3 For consistency, and general good practice, it is suggested that the template is utilised for all Committee reports / Delegated Decision reports going forward in the future.

6.2 MINUTES

- 6.2.1 Apart from Cabinet, all Committee meetings are recorded through the format of official Minutes, which are published in draft on the Council website within 10 working days of the meeting.
- 6.2.2 As part of best practice and in light of Part 3 of the Local Government (Wales) Bill proposal requiring the Executive to keep and maintain minutes of meetings, it is proposed that in addition to Decision Notices, minutes of the cabinet will also be published. This will take effect from April 2016.
- 6.2.3 These minutes will not be verbatim and will record the proceedings at the meeting.
- 6.2.4 Decision Notices will still be produced in respect of Cabinet meetings.

6.3 DECISION NOTICES

- 6.3.1 Currently, all Cabinet and Committee papers are published on the Council website and links to the documents are emailed to all Councillors. This is the same in respect of Cabinet Decision Notices.
- 6.3.2 It is proposed that with the increased use of the internet, the practice of sending hard copies of the Decision Notices to all Councillors will cease with immediate effect, which will allow for efficiency savings in this area.

7 EQUALITY AND DIVERSITY IMPLICATIONS

- 7.1 An Equality Impact Assessment is not needed because the contents of the report are for information purposes only.

8 CONSULTATION

- 8.1 Consultation with the relevant Cabinet Members and the Senior Leadership Team have taken place in respect of the proposed improvements. If Cabinet take forward the recommendations within the report then the matter will be consulted upon with the Corporate Governance & Constitution Committee, Scrutiny and Council.

9 FINANCIAL IMPLICATION(S)

There are no financial implications aligned to this report. The proposed improvements seek to streamline decision making and strengthen the current decision making process.

10 LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

- s15 of the Local Government Act, 2000

- Section 5 of Part 3 of the Council Constitution
- Local Government White Paper 'Devolution, Democracy & Delivery'

11 LINKS TO THE COUNCILS CORPORATE PLAN / OTHER CORPORATE PRIORITIES/ SIP.

- 11.1 Medium Term Service Planning – working to ensure a consistent and efficient process in respect of decision making as well as strengthening the Council's Governance arrangements.

12 CONCLUSION.

- 12.1 Adoption of the processes highlighted within the report and appendices combined with the new ways of working will help to illustrate the Councils robust approach to decision making and will strengthen the Councils Governance arrangements.

- 12.2 The proposed changes will require an amendment to the Council's General Scheme of Delegation and it is proposed that these amendments be sought through a Joint Report of the Secretary to the Cabinet and the Council's Monitoring Officer, to be considered at the Council's AGM in May 2016. The Joint report will allow for consideration of the changes to both the Executive and non Executive Functions to the scheme.

- 12.3 It is proposed that subject to agreement at the Council's Annual General Meeting, the proposals be implemented with immediate effect.

Other Information:-

Relevant Scrutiny Committee

- Overview & Scrutiny

Contact Officer

- C Hanagan –Secretary to the Cabinet.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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Item:

Background Papers

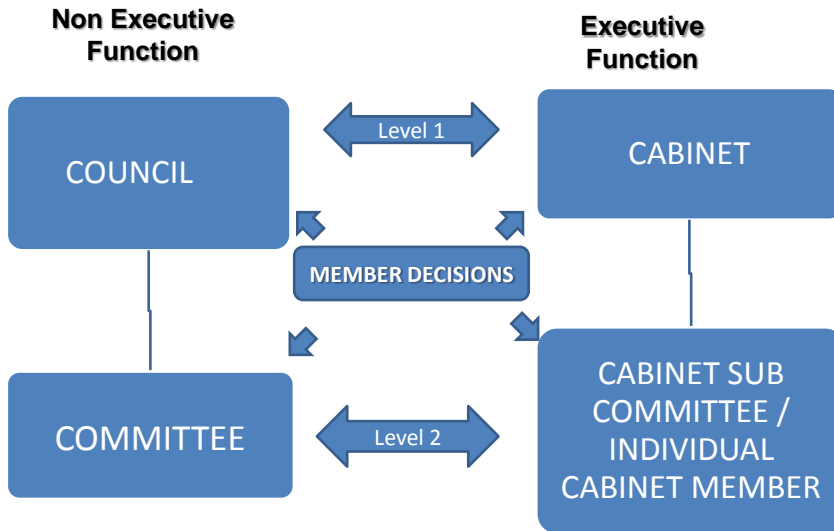
- Council Constitution.

Officer to contact:

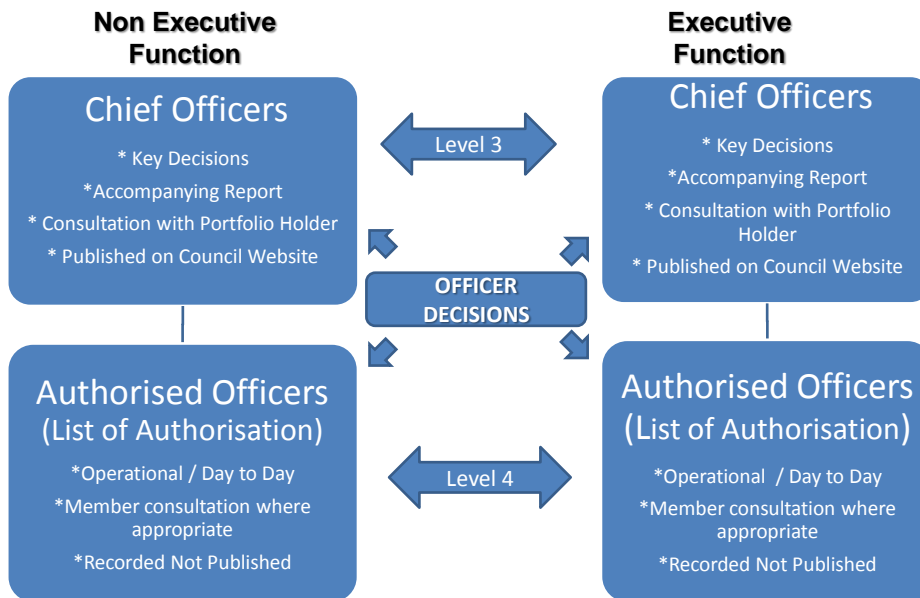
- C Hanagan –Secretary to the Cabinet.
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APPENDIX A

**Part 3 – Section 5 of the Constitution
Executive and Non Executive Decision Making Frameworks**



**Part 3 – Section 5 of the Constitution
Executive and Non Executive Decision Making Frameworks**



APPENDIX B

PROPOSED IMPROVEMENTS TO BE TAKEN FORWARD.

1 KEY DECISIONS.

- 1.1 It is proposed that going forward Executive functions will either be
- A 'significant Key Decision'.
 - An operational Decision
- 1.2 Utilising the Local Government White Paper 'Devolution, Democracy & Delivery' (White Paper Reforming Local Government: Power to Local People), their definition of 'Key Decisions' is:-

“an Executive decision, which is likely:

- a) to result in the relevant Local Authority incurring expenditure which is, or the making of savings which are, significant [...] or*
- b) to be significant in terms of its effects on Communities living or working in an area comprising two or more wards or electoral divisions.”*

2 CABINET WORK PROGRAMME.

- 2.1 Part 4, Section 12 of the Council's rules of Procedure require the production of a Cabinet forward work programme, over a three month period.
- 2.2 It is proposed that further improvements in respect of the forward work programme be taken forward
- 2.3 It is intended that in future the Cabinet work programme should list all of the 'Key Decisions' which the Cabinet proposes to consider over a 6 month period (although the timescales may not be stipulated), allowing sufficient notice and opportunity for consultation and / or pre-scrutiny. The work programme will be subject to change to take into account any urgent items or additional items as and when arising.
- 2.4 It is proposed that along with the proposed titles of the Key Decisions a brief 'purpose of the report' will also be available. It is anticipated that reporting of the programme in this manner will make the programme more accessible to members of the public and improve transparency as well as further facilitating the opportunities for pre-scrutiny.
- 2.5 Publication of an accurate work programme outlining consideration of Key Decisions will strengthen the robust Governance arrangements intended to be taken forward.
- 2.6 Section 12(2) advises of the publication of the work programme and with the growth and accessibility of the internet it is proposed that publication of the work programme be taken forward through the Council's website, with the programme

being updated and reflected on the main Cabinet page of the website. It is proposed that the Constitution be amended to reflect this change.

3. CHIEF OFFICER DELEGATED DECISIONS.

- 3.1 As outlined within section 5.4 of the report, Executive Functions are delegated to Chief Offices under s15 of the Local Government Act, 2000. These functions are predominantly those functions which fall under their responsibility and in the terms set out in Section 5 of Part 3 of the Constitution.
- 3.2 Officer Delegated Decisions are open decisions, although depending on the subject matter, the accompanying report may be exempt from publication. Delegated Decisions taken since 2010-2011 Municipal Year are listed on the Councils website. ([Delegated Decision](#))
- 3.3 Currently, day to day Management / Operational decisions or Exempt reports are not published on the Councils website.
- 3.4 To ensure accountability and to allow the opportunity for scrutiny of the decisions taken, it is proposed that Chief Officer Delegated Decisions in respect of 'Key Decision' will now be open to scrutiny.
- 3.5 The aim of the new process is to improve transparency and accountability and to ensure a consistent and robust approach in respect of implementing decisions, yet we must be mindful that any new process still maintains an efficient decision making process, which does not become detrimental to the Council or the Communities that it serves.
- 3.6 All 'Key Decisions' of an Officer, made by Delegated Decisions must be published in the same manner as decisions of the Cabinet. Delegated Decisions will need to be published with immediate effect and no later than 2 clear working days following the decisions being taken.
- 3.7 Once published, the Decision(s) will be subject to the same process in respect of 'Call In' as any Cabinet Committee Decision, i.e. the decision will come into force and may be implemented on the expiry of five clear working days after the publication of the decision, unless the decision is called for review by Scrutiny.
- 3.8 An email will be sent to all Councillors following publication of a Delegated Decision with the link to the decision(s), to ensure transparency.

OPERATIONAL / DAY TO DAY DECISIONS.

- 3.9 In respect of Operational or day to day management decisions taken forward through Officer Delegated Decisions, these will be recorded by the service and a record of the decisions maintained.

- 3.10 To allow for these proposed changes to the Chief Officer Delegated Decisions to be implemented, amendments will need to be made to the Call In arrangements outlined within Rule 17 of the Overview and Procedure Rules, and agreement will need to be sought by the Council.

4 SENIOR MANAGEMENT STRUCTURE – LIST OF AUTHORISATIONS.

- 4.1 Due to the recent changes in the Senior Management Structure it is suggested that to ensure a manageable and efficient process is in place in respect of Chief Officer Delegation, amendments are made to the Chief Officer authorisation list to allow members of the Senior Leadership Team to authorise Officer Delegated Decisions.
- 4.2 Work is currently being undertaken on the officer scheme of delegation to ensure that this process reflects the appropriate management of responsibility and a review of current practices is also being undertaken to ensure a consistent practice across the Authority. The Council’s Functional Chart, attached as Appendix C illustrates these proposed changes.

5 CABINET DECISION NOTICES.

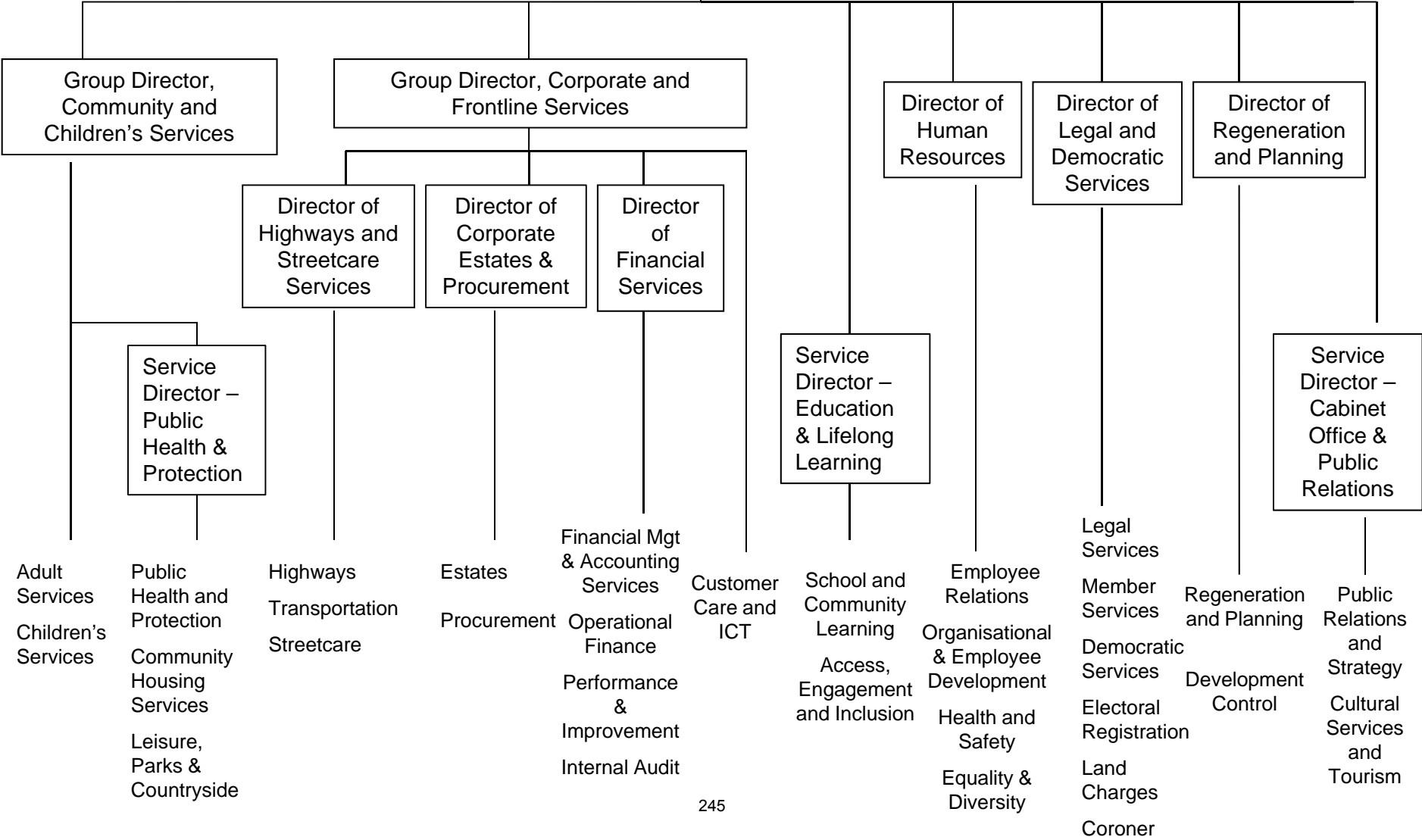
- 5.1 It is often the case that reports presented to Cabinet require presentation to full Council for a decision. For Example, the Council’s Annual Revenue Budget - A budget strategy is agreed by Cabinet which it then recommends to Council. Proposed Budget amendments can also be put forward for consideration at the Council meeting. It is the role of the Council to formally approve the Revenue Budget.
- 5.2 In such circumstances it is proposed that the Cabinet Decision Notice should reflect that Call In is ‘not applicable’ in these areas as the item will be discussed and voted upon in Council.
- 5.3 The same is proposed for items which are presented to Cabinet and then presented to Scrutiny – For example, the Council’s Performance & Resources reports are presented to Cabinet and then to the Finance & Performance Scrutiny Committee.
- 5.4 These proposed amendments are not intended to limit Members opportunity to Call In Cabinet decisions, but reflect a more common sense approach to the overall decision making process of the Cabinet and Council.

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FUNCTIONAL AREAS

APPENDIX C

Chief Executive and Head of Paid Service
 Director, Education & Lifelong Learning



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