



# Governance Committee

**Wednesday, 26th July, 2017 at 5.30 pm**  
**Conference Room, Parkside, Chart Way, Horsham**

Councillors:	Michael Willett (Chairman)
	David Coldwell (Vice-Chairman)
	Toni Bradnum
	Karen Burgess
	Peter Burgess
	Philip Circus
	Roger Clarke
	Leonard Crosbie
	Matthew French

You are summoned to the meeting to transact the following business

Tom Crowley  
Chief Executive

## Agenda

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	Page No.
1. <b>Apologies for absence</b>	
2. <b>Minutes</b>	5 - 8
To approve as correct the minutes of the meeting held on 14 <sup>th</sup> June 2017 <i>(Note: If any Member wishes to propose an amendment to the minutes they should submit this in writing to <a href="mailto:committeeservices@horsham.gov.uk">committeeservices@horsham.gov.uk</a> at least 24 hours before the meeting. Where applicable, the audio recording of the meeting will be checked to ensure the accuracy of the proposed amendment.)</i>	
3. <b>Declaration of Members' Interests</b>	
To receive any declarations of interest from Members of the Committee	
4. <b>Announcements</b>	
To receive any announcements from the Chairman of the Committee or the Chief Executive	
5. <b>Review of the changes to governance arrangements introduced in 2016</b>	9 - 14
To consider the responses to the Members' questionnaire on the revised governance arrangements	
6. <b>Changes to the Constitution of Horsham District Council</b>	15 - 22
To receive the report of the Interim Monitoring Officer	

**7. Urgent Business**

Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as urgent because of the special circumstances

## **Extract from Part 3 of the Constitution: Scheme of delegation of responsibilities to Committees of the Council**

### **3.2.4 Functions of the Governance Committee**

- a) Receive reports of the Monitoring Officer to amend the Constitution of the Council and make any consequent recommendation to the Council.
- b) Consider reports of the Monitoring Officer about governance, the Council's structure and procedures consequent to Article 13, clause 13.2 of this constitution.
- d) Community Governance Reviews.
- e) Electoral Reviews.

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# Agenda Item 2

## Governance Committee 14 JUNE 2017

Present: Councillors: Toni Bradnum, Peter Burgess, Roger Clarke, David Coldwell, Leonard Crosbie and Michael Willett

Apologies: Councillors: Philip Circus, Matthew French and Tricia Youtan

Also Present: Councillor: Nigel Jupp

### GO/1 ELECTION OF CHAIRMAN

RESOLVED

That Councillor Michael Willett be elected Chairman of the Committee for the ensuing Council year.

### GO/2 APPOINTMENT OF VICE-CHAIRMAN

RESOLVED

That Councillor David Coldwell be appointed Vice-Chairman of the Committee for the ensuing Council year.

### GO/3 MINUTES

RESOLVED

That the minutes of the meeting held on 1<sup>st</sup> March 2017 be approved as a correct record.

### GO/4 DECLARATION OF MEMBERS' INTERESTS

There were no declarations of interest.

### GO/5 ANNOUNCEMENTS

The Monitoring Officer advised the Committee that the final recommendations of the Local Government Boundary Commission for England (LGBCE) on the electoral review of Horsham had now been published. In respect of Council size the LGBCE had retained their draft recommendation that the Council should be increased from 44 to 48 Councillors. The only changes made from the draft recommendations as regards ward boundaries were to modify the boundary between Broadbridge Heath and Denne wards, in line with this Council's submission, and to change the name of the ward originally proposed as Shipley & Southwater South to Southwater South & Shipley, also part of this Council's submission. However, the LGBCE had retained its proposed boundary between the two Southwater wards, rejecting this Council's proposal.

The final recommendations would now be implemented by order subject to Parliamentary scrutiny to come into force at the local elections in 2019.

GO/6

### **REVIEW OF THE CHANGES TO GOVERNANCE ARRANGEMENTS INTRODUCED IN 2016**

Mr Paul Kornycky addressed the Committee referring to the proposal that the review would seek the views of Members but that no public consultation was proposed. His statement also referred to the provisions within the Council's Constitution regarding questions by members of the public at meetings of the Council, which was not part of the current review.

The Committee was reminded that, in April 2016, the Council had agreed revised governance arrangements including the appointment of a Policy Development Advisory Group (PDAG) for each Cabinet portfolio holder with a defined membership and timetable of meetings. The agreed changes were intended to achieve:

- Member involvement
- efficiency, with clearer key-decision making responsibilities
- accountability, with a strong scrutiny function and a clear line of Cabinet Member accountability
- timely decision making
- openness, with published PDAG agendas and minutes whilst allowing the PDAGs to benefit from 'thinking space' meetings.

It was noted that, in future, all Council, Cabinet, Committee and Sub-Committee meetings held in public would be recorded using the Audiominutes facility.

Council had agreed that these revised governance arrangements would be reviewed after one year of operation. It was therefore proposed that all Members be invited to complete an electronic questionnaire, as submitted, over a four week period from 19<sup>th</sup> June to 14<sup>th</sup> July 2017 and that the Committee should then review the findings.

#### **RESOLVED**

- (i) That the review method described in the report be approved and the questionnaire circulated to all Members on 19<sup>th</sup> June 2017.
- (ii) That a further meeting of the Committee be held on a date to be agreed to receive a report on the results of the questionnaire.

GO/7

### **WORK PROGRAMME**

The work programme was noted.

GO/8    **URGENT BUSINESS**

There were no matters of special urgency to be considered.

*The meeting closed at 6.03 pm having commenced at 5.30 pm*

CHAIRMAN

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## Report to Governance Committee

26 July 2017

By the Governance Project Manager

### DECISION REQUIRED

Not Exempt



Horsham  
District  
Council

### Findings of the one-year review of the changes to governance arrangements introduced in 2016

#### Executive Summary

Full Council in April 2016 unanimously resolved a range of formal and informal changes to the governance arrangements operating at the Council in 2015/16. Council further resolved that a review of the effectiveness of those changes to the Council's governance arrangements be undertaken in 2017, after one year of operation. The Governance Committee at its meeting in June 2017 resolved to undertake the review using an all-member questionnaire. This report provides the findings of that review and satisfies the resolution of Council.

#### Recommendations

The Committee is recommended:

- i) To endorse and support the findings of the governance review
- ii) In future, each Policy Development Advisory Group (PDAG) agenda item will be:
  - a) Described, in sufficient detail to make clear its purpose, on the agenda front sheet;
  - b) where appropriate a slide presentation will be given by officers, and the slides will be circulated to members of the PDAG thereafter; OR
  - c) where appropriate a paper explaining the topic and covering relevant issues will be circulated to PDAG members in advance of the meeting.

The decision on whether option b) or c) is appropriate will be for the Cabinet Member following discussion with the relevant senior officer(s).

- iii) A forward plan extract, listing all forthcoming key and non-key decisions within that cabinet members' portfolio of responsibilities, will be re-introduced as an agenda item to note at PDAG meetings
- iv) The frequency of meetings of the Community and Wellbeing, and Housing and Public Protection PDAGs be reduced from six to four per annum.

#### Reasons for Recommendations

- i) To satisfy council resolution CO/96 that the changes to the governance arrangements introduced in 2016, be reviewed.

## **Background Papers**

None.

**Wards affected:** All Wards.

**Contact:** Ben Bix, Governance Project Manager

## **Background Information**

### **1 Introduction and Background**

- 1.1 The Governance Committee at its meeting in June 2017 resolved to conduct the one-year review of the governance changes made in 2016 using an all-member questionnaire.
- 1.2 A questionnaire approach was agreed to be broad enough to allow all members to participate and document their views. The Governance Committee would then receive and consider the findings.
- 1.3 The Council report of 27 April 2016 (CO/96 refers) described five desired effects of the changes to governance as follows:
  - **Member involvement:** Clear member advisory pathway at the earliest possible stage
  - **Efficiency:** Clearer key-decision making responsibilities
  - **Accountability:** Strong Scrutiny function. Clear line of cabinet member accountability
  - **Timely decision making:** Decisions, subject to advisory stage may be taken quickly
  - **Openness:** Published agendas, member attendance, and policy development advisory group conclusions, benefitting from ‘thinking space’ meetings

- 1.4 The Governance Committee resolved that the achievement of the five effects described in 1.3 be tested by an all-member questionnaire from the Governance Committee.
- 1.5 The draft questionnaire was agreed by the Governance Committee at its June meeting and circulated to all members. The questionnaire was made available for completion from 19 June 2017 to 16 July 2017, and three reminders were sent.

### **2 Relevant Council policy**

- 2.1 The Corporate Plan 2016/19 has a Council priority of ‘Efficiency - Great value services’ which has been better enabled by clear, well understood and supported governance arrangements over the past year.

### **3 Details**

- 3.1 Almost two-thirds (64%) of members responded to the questionnaire. The responses therefore demonstrate a very good representation of the views of members. The *quantitative* findings that tested the five desired effects described in 1.3 are tabulated overleaf.

Desired effect	Findings
<b>Member involvement</b>	<b>Eight out of ten</b> (80%) of members feel better informed than in 2015
	<b>Seven out of ten</b> (73%) members said the advisory function is better now than in 2015, none said it was worse
	<b>Over half</b> (54%) of members said they participate more than in 2015
<b>Efficiency</b>	<b>Almost all</b> (96%) of members said that the visibility of key decision making is better (72%) than or as good as in 2015
<b>Accountability</b>	<p><b>Eight out of ten</b> (81%) of members said that the overview and scrutiny function was at least as good as in 2015, and almost half (46%) said it was better</p> <p><b>65%</b> of members said that the accountability of decision makers is better than in 2015</p> <p><b>Almost all</b> (96%) members said that the accountability of cabinet members to the overview and scrutiny committee was either better (57%) or the same as in 2015</p>
<b>Timely decision making</b>	<p><b>Three quarters</b> (78%) of members feel that timely notification of decisions has improved from 2015</p> <p><b>Three quarters</b> (75%) of members said the visibility of the forward plan, and of decision making is now better than in 2015</p> <p><b>60%</b> of members said they understand 'key decisions' better than in 2015</p>
<b>Openness</b>	<p><b>Three quarters</b> (75%) of members said the governance pages on the website were better than in 2015</p> <p><b>Nine out of ten</b> (89%) of members said that having Audiominutes of meetings was either better or the same as in 2015 (when meetings were recorded but not published on the website). Three members felt that having Audiominutes was worse than in 2015</p> <p><b>Eight out of ten</b> (85%) of members said that having the modern.gov app to access papers was better now than how they accessed papers in 2015. Four members said it was worse</p>

3.2 Qualitative findings were summarised from 22 member comments (some of which were duplicated), and categorised as follows.

### Categorisation of member comments received

Category	Summary	Consideration
Endorsement	<ul style="list-style-type: none"><li>• Overall the running of the council has consistently improved in all areas'</li><li>• 'Comments made at PDAGs are minuted'</li><li>• 'More open and better structured'</li><li>• 'Advisory groups are constructive'</li><li>• 'Involved in policy decisions at a much earlier stage'</li><li>• 'No member can claim not to know what is going on at HDC'</li><li>• 'process and procedure much improved'</li></ul>	<ul style="list-style-type: none"><li>• Addressed by recommendation 1</li></ul>
Information	<ul style="list-style-type: none"><li>• 'Not enough information in advance'</li><li>• 'Take a view based on better information in advance'</li><li>• 'Cabinet members need to prepare better and provide more information'</li></ul>	<ul style="list-style-type: none"><li>• Addressed by recommendation 2</li></ul>
Attendance	<ul style="list-style-type: none"><li>• 'All PDAGs are available for members to attend'</li><li>• 'Still poor attendance from some members'</li><li>• 'Consider later start times for meetings'</li></ul>	<ul style="list-style-type: none"><li>• Members are responsible for their own attendance.</li><li>• 18:30 start times were trialled but did not lead to better attendance</li></ul>
General	<ul style="list-style-type: none"><li>• 'Too many PDAG meetings now'</li><li>• 'Not all key decisions are taken to PDAGs'</li><li>• 'Not easy to find information on website'</li><li>• 'Use Audiominutes at all public meetings'</li><li>• 'PDAGs are advisory, not decision making meetings'</li><li>• 'Overview and scrutiny will review the effectiveness of its own changes'</li><li>• 'Modern.gov app does not enable saving of documents to a desktop machine'</li></ul>	<ul style="list-style-type: none"><li>• Addressed by recommendations 3 and 4</li><li>• All public meetings will use Audiominutes (subject to room and technology parameters)</li><li>• Overview and scrutiny will review its own effectiveness</li><li>• Members can work with officers on technology matters</li></ul>

## **4 Next Steps**

- 4.1 Officers will discharge recommendations ii) to iv) for the next cycle of policy development advisory group meetings.

## **5 Views of the Policy Development Advisory Group and Outcome of Consultations**

- 5.1 The Chairman of the Governance Committee was consulted on 17 July 2017, and noted the headline findings. The Senior Leadership Team was consulted on 17 July 2017 and consequently endorsed the recommendations in this report.

## **6 Other Courses of Action Considered but Rejected**

- 6.1 A review was required to satisfy the resolution of council.

## **7 Resource Consequences**

- 7.1 The review was undertaken within existing resources.

## **8 Legal Consequences**

- 8.1 Full Council resolution CO/96 required this review to be undertaken. The improved constitution agreed by Council in 2016 created the Governance Committee, consequentially aligning the responsibility for this review to the committee. There are no legal consequences flowing from the recommendations set out in this report.

## **9 Risk Assessment**

- 9.1 This review of the changes to governance introduced in 2016 mitigates risk. The risk of the review taking too long, not being focussed or not concluding was mitigated by the Chairman of the Committee with officer support.

## **10 Other Considerations**

- 10.1 Due consideration has been given to Crime & Disorder; Human Rights; Equality & Diversity and Sustainability matters.

## Report to Governance Committee

26 July 2017

By the Interim Monitoring Officer

### **DECISION REQUIRED**



**Horsham  
District  
Council**

Not Exempt

## **Changes to the Constitution of Horsham District Council**

### **Executive Summary**

The Governance Committee was created by Council on 7 December 2016. One of the functions of the Governance Committee is to receive reports from the Monitoring Officer on amendments to the Constitution and make any consequent recommendation to Full Council.

The report sets out a number of proposed variations to the Constitution in respect of the discharge of planning functions delegated to the Planning Committee. The Committee are to decide whether to recommend the amendments to Full Council for approval.

### **Recommendations**

That the Committee is recommended to consider the proposed amendments to the Constitution as set out in Appendix 2 and if agreed to recommend approval of changes to the Constitution to the Full Council.

### **Reasons for Recommendations**

To comply with Article 13, Review and Revision of the Constitution.

### **Background Papers**

The Council's Constitution.

### **Wards affected:** All

**Contact:** Ann-Maria Brown, Interim Monitoring Officer.

## **Background Information**

### **1 Introduction and Background**

- 1.1 It is a legal requirement for the Council to have a Constitution under Section 9P of the Local Government Act 2000 (as amended by the Localism Act 2011).
- 1.2 The Council undertook a major review of the Constitution in 2016 resulting in the adoption of a revised Constitution by Full Council on 7 December 2016. At the same time as the adoption of a revised Constitution, Full Council created a Governance Committee.
- 1.3 One of the functions of the Governance Committee is to ensure that the Council's Constitution is kept up to date and fit for purpose. This includes receiving reports from the Monitoring Officer to amend the Constitution and to make recommendations to Full Council on any changes that are not covered by the Monitoring Officer's delegated powers.
- 1.4 The discharge of planning functions are delegated to the Planning Committees of the Council (Planning Committee North and South). These are currently set out in Part Three of the Constitution (Responsibility for and delegation of functions), Delegation of Functions 3:2:2 a) – c). The determination of Applications to the Committee are set out in 3.2.2 c) i. – vii. These delegations are set out in Appendix 1 to the report. Further under the Council's Scheme of Delegation to Officers, the Director of Planning, Economic Development and Property under Part Three of the Constitution at paragraph 3:6:2 has delegated authority for all operational and administrative matters relating to the discharge of functions of the Council relating to Town and Country Planning matters including development management **except for** those matters reserved to Planning Committee.
- 1.5 It is considered that there are a number of ambiguities currently set out in the Scheme of Delegation to the Planning Committee regarding the determination of applications under the Town and Country Planning Act 1990 and related Regulations. Under the Council's former Scheme of Delegation to the Planning Committee in the Council's old Constitution, there was a clear explanation of what applications would be considered by the Planning Committee and those that would be delegated. The previous scheme of delegation differentiated between planning applications and "minor applications" for example the discharge of conditions, non-material amendments, reserved matters applications, prior approval matters. If the application was a Council application, a member's or an Officer's application, these minor applications were excluded from the Director's delegated authority to determine and had to be determined by the planning committee, in all other instances those applications as described above would be delegated to the Director. The ambiguity that has arisen is that the term "Applications" which is referred in the delegation of planning functions to the Planning Committee in paragraph 3.2.2 of the Constitution is not qualified in any way. This means that all "minor" applications will have to be determined by Planning Committee.
- 1.6 To enable the efficient discharge of planning functions, changes have been made to the Delegation of Planning functions to the Planning Committee in order to address

the ambiguities that have arisen. These draft changes to Part Three paragraph 3:2:2 are set out as track changes in Appendix 2 to the report.

## **2 Relevant Council policy**

- 2.1 The Corporate Plan 2016-19 heading Efficiency – Great value services will be better enabled by a modern, agile constitution which is flexible, permissive, well-understood, and realigned to a model constitution in an accessible single-document format.

## **3 Details of the Proposed Variations and Amendments**

- 3.1 The draft changes to the delegation of planning functions to the Planning Committee under Part Three paragraph 3:2:2 of the Constitution are set out as track changes in Appendix 2 attached to this Report.

## **4 Next Steps**

- 4.1 These changes are not considered to fall within the delegations of the Monitoring Officer to make minor changes to the Constitution, if approved the Governance Committee will make a Recommendation to Full Council to make the changes to the Constitution. Following approval by Full Council the Monitoring Officer will publish the amendments on the Council's website.

## **5 Outcome of Consultations**

- 5.1 Consultation has taken place with the Director of Planning, Economic Development and Property and Service Managers.

## **6 Other Courses of Action Considered but Rejected**

- 6.1 The Constitution requires to be updated for effective governance it needs to be treated as a 'living' document with the need for frequent amendments to ensure it remains up to date and reflects the operation of the Council.

## **7 Resource Consequences**

- 7.1 There are no cost implications arising from these changes.

## **8 Legal Consequences**

- 8.1 Under Section 9P of the Local Government Act 2000 (as amended by the Localism Act 2011), it is a legal requirement for the Council to have a Constitution. It is the responsibility of the Monitoring Officer to monitor and review the operation of the Council's Constitution to ensure that the aims and principles of it are given full effect and to make recommendations for ways in which the Constitution could be amended in order to enable decisions to be taken efficiently and effectively.

## **9 Risk Assessment**

- 9.1 The recommendations within this report are part of mitigating corporate risk CRR08 described in the Corporate Risk Register. The risk source: The Council's decision-making processes are based on Constitution that is overly bureaucratic and unnecessarily complicated. Event: Non-compliance with the Constitution and delays in decision-making. The potential consequences described are: opportunities lost, complaints/claims/litigation/financial losses and lack of openness and transparency.

## **10 Other Considerations**

- 10.1 The Constitution and its Procedures, Rules and Codes act as an enabling tool in helping the Council meet its obligations under the Human Rights Act 1998 and the Equality Act 2010.
- 10.2 Consideration of how projects and proposals can secure environmental, social and economic benefits and reduce negative consequences should be an integral part of decision-making and the Constitution will facilitate such considerations.

Draft changes to the delegation of planning functions to the Planning Committees under Part Three Paragraph 3.2.2 of the Constitution: Functions of the Planning Committees (changes shown in red)

a) To discharge those functions falling within The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, regulations 2 and 3 and Schedule 1 Part A paragraphs 5-31, Part I paragraphs 46-47A and Schedule 2 paragraphs 16-18 and as may be amended.

b) Those matters referred to in an agreement between South Downs National Park and Horsham District Council, having effect from 1 April 2011, shall be discharged by the Planning Committee (South) only.

c) Determination of applications as follows:

i. Planning Applications, Outline Planning Applications and Applications for Approval of Reserved Matters or Listed Building Consent made by, or on behalf of, the Council or on land owned by the Council or in which the Council has a legal interest; with the exception of:-

- a) Applications to vary or remove a condition
- b) Applications for a Certificate of lawfulness (proposed or existing)
- c) Applications for Prior Approval (submitted pursuant to the General permitted Development Order 2015 (as amended)
- d) Applications for Prior Notification (submitted pursuant to the General permitted Development Order 2015 (as amended)
- e) Applications for the submission of details of conditions pursuant to planning permission
- f) Applications for works to trees in a Conservation Area
- g) Applications for works to trees covered by a Tree Preservation Order
- h) Applications to modify an obligation contained within a Unilateral Undertaking or a S106 Agreement
- i) Applications for a non-material amendment
- j) Applications seeking advertisement consent

ii. where the application has been made by a Member or an officer or a member of their immediate family; with the exception of:-

- a) Applications to vary or remove a condition
- b) Applications for a Certificate of lawfulness (proposed or existing)
- c) Applications for Prior Approval (submitted pursuant to the General permitted Development Order 2015 (as amended)
- d) Applications for Prior Notification (submitted pursuant to the General permitted Development Order 2015 (as amended)
- e) Applications for the submission of details of conditions pursuant to planning permission

- f) Applications for works to trees in a Conservation Area
- g) Applications for works to trees covered by a Tree Preservation Order
- h) Applications to modify an obligation contained within a Unilateral Undertaking or a S106 Agreement
- i) Applications for a non-material amendment

iii. where a Member of the relevant Planning Committee requests; such request to be in writing (to include e-mail) and received by the Head of Development within 35 days of the date of validation for all applications **with the exception of:-**

- a) Applications for a Certificate of Lawfulness (proposed or existing)
- b) Applications for Prior Approval (submitted pursuant to the General permitted Development Order 2015 (as amended)
- c) Applications for Prior Notification (submitted pursuant to the General permitted Development Order 2015 (as amended)
- d) Applications for the submission of details of conditions pursuant to planning permission
- f) Applications for works to trees in a Conservation Area
- g) Applications for works to trees covered by a Tree Preservation Order
- h) Applications to modify an obligation contained within a Unilateral Undertaking or a S106 Agreement
- i) Applications for a non-material amendment

iv. where eight or more persons in different households or bodies make a written representation (to include email), which discloses a material planning consideration within the consultation period and is inconsistent with the Head of Development's recommendation; **with the exception of:-**

- a) Applications for a Certificate of lawfulness (proposed or existing)
- b) Applications for Prior Approval (submitted pursuant to the General permitted Development Order 2015 (as amended)
- c) Applications for Prior Notification (submitted pursuant to the General permitted Development Order 2015 (as amended)
- d) Applications for the submission of details of conditions pursuant to planning permission
- f) Applications for works to trees in a Conservation Area
- g) Applications for works to trees covered by a Tree Preservation Order
- h) Applications to modify an obligation contained within a Unilateral Undertaking or a S106 Agreement
- i) Applications for a non-material amendment

v. any planning application that is defined as a departure application under the Town & Country Planning (Development Management Procedure)(England) Order 2015,

where the recommendation of the Head of Development would represent an initial departure from the development plan; with the exception of:-

- a) Where the initial departure has already been agreed by virtue of a previous grant of planning permission(extant and not extant) and the application represents a subsequent application for either the same , similar or alternative development on the same or an adjacent site which would not alter the previous material planning considerations.

vi. where the Parish or Neighbourhood Council makes a written representation (to include email) which discloses a material planning consideration and is inconsistent with the Head of Development's recommendation, within the consultation period, and wishes to address the Planning Committee with the exception of:-

- a) Applications for a Certificate of lawfulness (proposed or existing)
- b) Applications for Prior Approval (submitted pursuant to the General permitted Development Order 2015 (as amended)
- c) Applications for Prior Notification (submitted pursuant to the General permitted Development Order 2015 (as amended)
- d) Applications for the submission of details of conditions pursuant to planning permission
- e) Applications for works to trees in a Conservation Area
- f) Applications for works to trees covered by a Tree Preservation Order
- g) Applications to modify an obligation contained within a Unilateral Undertaking or a S106 Agreement
- i) Applications for a non-material amendment

vii. where the Head of Development considers the application should be presented to the Planning Committee for a decision.

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