

Public Document Pack

Council

21 July 2020

**MINUTES OF THE MEETING OF THE COUNCIL,
HELD ON TUESDAY, 21ST JULY, 2020 AT 4.00 PM
THE MEETING WAS HELD REMOTELY IN ACCORDANCE WITH THE PROVISIONS
OF STATUTORY INSTRUMENT 2020/392**

Present:	Councillors Land (Chairman), Bray (Vice-Chairman), Alexander, Allen, Barry, Calver, Cawthron, Chapman, Chittock, Codling, Coley, Davidson, Davis, Fairley, C Guglielmi, V Guglielmi, I Henderson, P Honeywood, S Honeywood, Knowles, McWilliams, Miles, Newton, Porter, Scott, Steady, M Stephenson, Stock OBE, Talbot, Turner, White, Wiggins and Winfield
Also Present:	Councillor Fowler
In Attendance:	Ian Davidson (Chief Executive)(except item 9), Paul Price (Deputy Chief Executive & Corporate Director (Place and Economy))(except item 9), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer)(except item 9), Richard Barrett (Assistant Director (Finance and IT) & Section 151 Officer)(except item 9), Keith Simmons (Head of Democratic Services and Elections), Carol Magnus (Acting Head of People, Performance & Projects), Ian Ford (Committee Services Manager), Keith Durran (Democratic Services Officer), Karen Harges (IT Training Officer), Matt Cattermole (Communications Assistant) and Luke Rosier (IT Officer)

1. **CHAIRMAN'S OPENING REMARKS**

The Chairman of the Council began the meeting with the following remarks:

“Welcome everyone to this meeting, I’m Councillor Dan Land, I am the Chairman of Tendring District Council. I will start by inviting my fellow Councillors to confirm using an instant chat facility we have that they can hear the meeting and preferably see it too. I will then ask the appropriate Committee Officer to confirm that the live stream of this meeting is active. The purpose of both of these actions is to ensure that we meet the legal requirements for remote meetings of Councils.

Following this, I will move through the agenda for the meeting. This agenda is available on line at the Council’s website following the links to ‘Council and Democracy’, ‘Committees’ and then the Full Council. A link to the live stream of the meeting is also available from there and in the next few days there will be a copy of the recording of the meeting. As this is an extraordinary meeting of the Council many of the usual items on the agenda do not appear. If the proposals in our agenda around a schedule of meetings up to the end of April next year are approved today it will mean those items automatically appear on the agendas for Council meetings going forward.

During the meeting Councillors are asked to keep their video feed on; unless they are having connection problems. Officers of the Council are respectfully asked to keep their video feed off while they are not contributing to the meeting. Everyone is asked to mute their microphone unless they are contributing. When contributing everyone is asked to say their name so that those listening in can follow who has said what. For most items I will ask a specific Councillor to move the proposals as set out in the agenda for the meeting.

If a Councillor needs to contribute, for instance to declare an interest not already declared, then they should alert me as Chairman; again using our instant chat facility. If they cannot use that facility they can interrupt me briefly and then allow me to invite them to make their point. Something like 'Chairman, it's Councillor XXX, I wish to make a point' will be sufficient.

During the discussion on each item, if there are no alternative motions moved or opposition statements to the recommendations proposed I will ask if anyone is opposed to the recommendations. If there is no opposition, I will declare the recommendations approved. If there is opposition, I will ask each Councillor in turn to identify how they vote on that item so that we are clear whether there is a majority for or against the recommendations. The Minutes will only record the overall decision unless a recorded vote is requested in accordance with the normal rules.

I will seek to accommodate all Councillors who want to contribute to the discussion on each item as we move through the agenda. While the world around us changes rapidly it is noteworthy to me that all Councillors on Tendring District Council have continued to work collaboratively to deliver for the communities we serve. I'm glad to be able to say how proud I am that we have met the challenges we have faced without falling out or dividing along political lines. So colleagues if you have things to say on any of the items we have on our agenda just let me know.

So, in thanking you for your patience as I went through these arrangements for the meeting, can the Committee Officer please now confirm that the live stream of this meeting is active?"

2. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Councillors Amos, Broderick, Bush, King, Morrison, Placey, Skeels and G Stephenson.

3. DECLARATIONS OF INTEREST

There were no declarations of interest made by Members at this time.

The Chief Executive informed the meeting that he and other relevant Officers would each be declaring an interest in Agenda Item 8 – Report of the Assistant Director (Partnerships) – A.6 – Pay Policy Statement 2020/21 and that they would all withdraw from the meeting at the appropriate juncture.

4. REPORT OF THE CHIEF EXECUTIVE - A.1 - CHANGE IN MEMBERSHIP OF POLITICAL GROUPS

The Council had before it a report of the Chief Executive (A.1) which informed it of a change in the membership of the UKIP and Conservatives political group on Tendring District Council.

The Chief Executive formally advised Council that, on 21 February 2020 and pursuant to Regulation 10(b) of the Local Government (Committees and Political Groups) Regulations 1990, Councillor Alex Porter had served formal notice on the Council that he no longer wished to be treated as a member of the UKIP political group.

He further advised Council that Councillor Porter, also on that date and pursuant to Regulation 9(b) of the Local Government (Committees and Political Groups) Regulations 1990, had served formal notice on the Council that he wished to be treated as a member of the Conservatives political group. That notice had been duly counter-signed by the Leader of the Conservative Group (Councillor Neil Stock OBE).

It was further reported that Councillor Stock had informed Officers that he did not wish to exercise his right under Section 15(1)(e) of the Local Government and Housing Act 1989 and Regulation 17(c) of the Local Government (Committees and Political Groups) Regulations 1990 to have a review of the allocation of seats to political groups carried out at that time.

Council noted the foregoing.

5. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) & MONITORING OFFICER - A.2 - APPROVAL OF MEMBERS' NON-ATTENDANCE AT MEETINGS

The Council had before it a report of the Assistant Director (Governance) & Monitoring Officer (A.2) which would enable it to decide whether to approve the reason(s) for Members' non-attendance at meetings of the Council et cetera.

Council was aware that, if a Councillor did not attend any meeting of the Council (or any of its Committees or Sub-Committees) for a consecutive period of six months, Section 85 of Part V of the Local Government Act 1972 would disqualify them from office unless the Full Council had approved the reason(s) for that non-attendance before the end of that period.

Members were further aware that sub-section (2A) referred to Councils operating executive arrangements and mandated that, if a member of the executive of that local authority, failed throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the executive, they would, unless the failure was due to some reason approved by the local authority before the expiry of that period, cease to be a member of the local authority.

It was reported that, due to the ongoing public health emergency caused by the Covid-19 coronavirus, there had been a significant disruption to the ordinary conduct of the Council's democratic business and that several of the Council's Committees had not been able to meet and were unlikely to do so before September 2020 at the earliest.

As a result there were Members who had not been able to attend a meeting for some time and were in danger of being disqualified from office under Section 85 of the Local Government Act 1972 through no fault of their own.

Council was advised that there was therefore a very real danger that seats on the Council would fall vacant and Members were aware that, under the provisions of Regulation 5 of The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020, no by-elections could currently be held to fill vacant local authority seats until, at the earliest, 6 May 2021. This would leave a significant number of the District's residents with no Ward Member representation on the Council.

Members noted that a later report on this agenda sought approval for a programme of meetings for the period August 2020 to April 2021. Included within that programme of meetings was a proposed meeting of the Full Council to be held on Tuesday 15 September 2020.

It was therefore proposed that Council approved the reasons (namely illness and/or cancellations of meetings due to the Covid-19 public health emergency) for non-attendance for the Members who would otherwise be disqualified from office in the period 22 July 2020 up to and including 15 September 2020 due to a failure to attend meetings for a six month period.

Members had had circulated to them, subsequent to the publication of the Council Book and prior to the commencement of the meeting, an amended Appendix to the Officer report which had been updated to reflect Members' attendance at recent Committee meetings. That amended Appendix contained the names of two Members referred to above (namely Councillors Broderick and Knowles). In addition, Council was aware that Councillor Knowles was in attendance at this meeting and that therefore she was no longer at risk of being disqualified. This left just Councillor Broderick to whom Section 85 now applied.

Members were reminded that, in the event that Council approved that Councillor Broderick's reasons for non-attendance (namely long-term illness), that Councillor would gain a further six months' period of grace, from 21 July 2020, in which they would need to attend a meeting of Council, or a Council Committee etc., before its' expiry in order to remain a Councillor (or otherwise be subject to a fresh approval of absence by Council prior to that date).

Council was informed that the Council's Portfolio Holder Constitution Review Working Party was considering how to record the attendance of an elected member at a formal meeting by remote access if they were not participating and this would be included within a future report to Full Council.

Council noted that the Officer report did not cover Councillor Overton's period of absence which had already been extended until 7 October 2020 under a previous decision by the Chief Executive, in accordance with urgency provisions, following consultation with all Members prior to the new remote meeting regulations being in force.

It was moved by Councillor Stock OBE, seconded by Councillor G V Guglielmi and:-

RESOLVED that the Council approves the reasons (namely long-term illness) for non-attendance for Councillor Broderick who would otherwise be disqualified from office in the period 22 July 2020 up to and including 15 September 2020 due to a failure to attend meetings for a six month period.

6. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) & MONITORING OFFICER - A.3 - ANNUAL REVIEW OF THE COUNCIL'S CONSTITUTION

The Council had before it a report of the Assistant Director (Governance) & Monitoring Officer (A.3) which sought its approval of the recommended changes to the Constitution put forward by the Leader of the Council (on behalf of the Cabinet) following a review

undertaken by the Corporate Finance and Governance Portfolio Holder through a Working Party constituted for this purpose.

Council was aware that the Cabinet was due to have considered, at its scheduled meeting on 20 March 2020, a report of the Corporate Finance and Governance Portfolio Holder which would have requested it to approve the recommended changes to the Constitution for referral onto Full Council.

That report had been published with the agenda for that meeting in March 2020 which unfortunately had then had to be cancelled in response to the COVID-19 public health emergency. However, the recommendations contained therein had been subsequently approved by the Leader of the Council (acting on behalf of the Cabinet) who had exercised urgent powers granted to him under the Council's Constitution.

Members were reminded that the main proposals covered a number of miscellaneous amendments to the Council and Overview and Scrutiny Procedure Rules, changes required to comply with legislation, revised statutory guidance and to ensure the Constitution was effective, efficient and consistent at an operational level.

The Portfolio Holder's Report and accompanying Appendices which had been due to have been considered by Cabinet at its cancelled meeting on 20 March 2020 were attached as Appendices to the Officer report.

The Council was informed that the Leader of the Council's decision, on behalf of the Cabinet which had been taken on 24 April 2020, was as follows:-

"1. That Cabinet *RECOMMENDS TO COUNCIL*:

(a) that the Council's Constitution be amended to reflect the proposed changes as set out in this report and the appendices attached hereto (with the exception of Appendix S which relates to executive functions);

(b) that all changes come into effect from the date on which they are approved by Full Council;

(c) that Group Leaders be commended to strongly urge that all Members attend planning and licensing training events which would both increase the number of named substitutes that Group Leaders would have at their disposal as well as providing Members with greater knowledge of the workings of the Council that will prove useful to them in their Ward and wider representational roles; and

(d) that the Monitoring Officer be requested to undertake a review of the public speaking scheme for the Planning Committee in accordance with Council Procedure Rule 40, as amended.

2. That Cabinet *resolves*:

(a) that the proposed changes to the Scheme of Delegation (Schedule 3 – Responsibility for Executive Functions), as set out in Appendix S, be approved;

(b) that the Head of Democratic Services & Elections and the Head of Legal and Governance Services & Monitoring Officer, in consultation with the Deputy Leader of the

Council, the Chairmen of the overview and scrutiny committees, the Chairman of the Audit Committee and one other Portfolio Holder (to be decided by the Deputy Leader), be authorised to draft a formal Executive-Scrutiny Protocol for this Council and to submit this to the Overview and Scrutiny Committees and Cabinet for adoption;

(c) that the Head of Legal and Governance Services & Monitoring Officer, in conjunction with the Head of People, Performance and Projects, be requested to review the Council's Whistleblowing Policy in order to make sure that it is robust and report any necessary amendments to the Human Resources and Council Tax Committee; and

(e) that the Head of Democratic Services & Elections be requested to incorporate within the Member Development Scheme regular training on overview and scrutiny matters (including, for example, on the clear division of responsibilities between the Council's scrutiny function and its audit function)."

Council further recalled that Cabinet, at its meeting held on 29 May 2020, had subsequently considered a report and appendices of the Corporate Finance and Governance Portfolio Holder in relation to recommended changes to the Constitution in consequence of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. Contained within that report, inter alia, were further recommended changes to one of the Appendices attached to the previous Constitution Review Report that had been published for the agenda of Cabinet for its cancelled meeting in March 2020.

The proposed changes to the Constitution highlighted in Appendix E to the March Constitution Review report drew the distinction between the functions of the Executive, which still had responsibility for strategic planning outside of the Local Plan process and other matters in accordance with the Functions and Responsibilities Regulations. Unfortunately, a minor correction had been required to that Appendix because express reference to Supplementary Planning Documents (SPDs) in paragraph 8, 15 and 16 had not been amended. In accordance with the Functions and Responsibilities Regulations the Planning Policy and Local Plan Committee could only recommend SPDs onto Cabinet for approval.

Cabinet, at its meeting held on 29 May 2020, had therefore decided, inter alia:-

"that Appendix G, as attached to this report, be submitted to Full Council as a replacement to Appendix E to the March 2020 Constitution review report, which was then subsequently approved by the Leader of the Council (on behalf of the Cabinet) for submission to Full Council."

Council was made aware that the other changes to the Constitution, as approved by Cabinet at its meeting held on 29 May 2020, would be considered by Council at a later date.

It was moved by Councillor G V Guglielmi, seconded by Councillor Newton and:-

RESOLVED that –

(a) the Council's Constitution be amended to reflect the proposed changes, as set out in the appendices attached hereto this report;

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- (b) all changes come into effect from the date on which they are approved by Full Council (i.e. 21 July 2020);
 - (c) Group Leaders be commended to strongly urge that all Members attend planning and licensing training events which would both increase the number of named substitutes that Group Leaders would have at their disposal as well as providing Members with greater knowledge of the workings of the Council that will prove useful to them in their Ward and wider representational roles; and
 - (d) the Monitoring Officer be requested to undertake a review of the public speaking scheme for the Planning Committee, in accordance with Council Procedure Rule 40, as now amended.

7. REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) & MONITORING OFFICER - A.4 - PROGRAMME OF MEETINGS FOR THE PERIOD AUGUST 2020 TO APRIL 2021

The Council had before it a report of the Assistant Director (Governance) & Monitoring Officer (A.4) which sought its approval of a proposed programme of meetings for the period August 2020 to April 2021.

Members were aware that the Cabinet was required by the Constitution, to submit for formal approval to the Annual Meeting of the Council a programme of meetings for the forthcoming Municipal Year. However, due to the outbreak of Covid-19 and the ensuing global public health emergency, meetings of the Council (including the Annual Meeting), its Committees and the Cabinet had been unable to take place during March, April and early May 2020. Legislation had then been passed that permitted Councils not to hold an Annual Meeting in 2020.

In addition, Parliament had enacted The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (the "Regulations") which enabled local authorities to hold meetings by 'virtual means' such as video conferencing and to 'live stream' those meetings in order to enable the public to watch, and/or listen to, the proceedings.

Council was informed that, with the approval of the relevant Chairmen, two Cabinet meetings, three Planning Committee meetings, two Planning Policy & Local Plan Committee meetings, two Resources and Services Overview and Scrutiny Committee meetings and one Standards Committee meeting had been arranged and successfully held under the new Regulations.

It had therefore been considered timely that a full programme of meetings for the remainder of what would have been the 2020/21 municipal year be submitted for Cabinet's endorsement at its meeting held on 26 June 2020 in order that it could then be submitted for approval to this meeting of the Full Council.

Further to minute 22 of the meeting of the Cabinet held on 26 June 2020 a draft programme of meetings for the period August 2020 to April 2021 was set out as an Appendix to the Officer report. (The dates of meetings from September 2020 onwards were the same dates as had been included within the published agenda for the March 2020 Cabinet meeting though Members were aware, of course, that that meeting had

had to be cancelled due to the country going into 'lockdown' for the Covid-19 emergency.)

At that meeting Cabinet had decided that:-

“(a) the programme of meetings for the Council and Committees, as set out in the Appendix to item A.2 of the Report of the Corporate Finance and Governance Portfolio Holder, be approved, in principle, and be submitted to the Full Council for formal approval; and

(b) the proposed dates for All Member Briefings be noted.”

Council was advised that the meetings of the Full Council, the Community Leadership Overview and Scrutiny Committee, the Human Resources and Council Tax Committee, the Licensing and Registration Committee and the Resources and Services Overview and Scrutiny Committee would normally commence at 7.30 p.m.

Meetings of the Planning Committee and the Planning Policy and Local Plan Committee would normally commence at 6.00 p.m. Meetings of the Planning Policy and Local Plan Committee would be arranged as and when required.

Meetings of the Standards Committee would normally commence at 10.00 a.m. and meetings of the Audit Committee would normally commence at 10.30 a.m.

Council was aware that it was expected that all meetings would continue to be held by virtual means in accordance with the Regulations for the foreseeable future.

However, if it did prove possible to hold 'physical' meetings either in whole, or in part, then meetings of the Full Council would usually be held in the Princes Theatre, at the Town Hall, Clacton-on-Sea. Meetings of the above-mentioned Committees would usually be held in the Council Chamber at the Council Offices, Thorpe Road, Weeley (subject to the provisos on the Council Offices, Weeley set out below) with the exception of the Audit Committee which normally met in the Connaught Room, at the Town Hall, Clacton-on-Sea.

Members were aware that Cabinet meetings were fixed by the Leader of the Council in accordance with Article 7.08 Cabinet Procedure Rules sub-section 1.1 of the Council's Constitution and that therefore the scheduling et cetera may change. If able to be held in a physical location then the public meetings of the Cabinet would normally commence at 10.30 a.m. in the Essex Hall, at the Town Hall, Station Road, Clacton-on-Sea.

The programme did not show meetings of the Sub-Committees, which were arranged either at meetings of the relevant Sub-Committee, or from time to time when required.

Dates for All Member Briefings had been included in order to assist Members in keeping their diaries up-to-date.

Closure of the Council Offices at Thorpe Road, Weeley

Council was aware that, as part of the "Transforming Tendring" project, the Council Offices at Weeley would be closed and the site disposed of, with the departments currently based at Weeley being moved to Clacton-on-Sea. This would obviously mean

that the current Council Chamber at Weeley would then no longer be available for Committee etc. meetings.

It was moved by Councillor G V Guglielmi, seconded by Councillor Bray and:-

RESOLVED that –

- (a) the programme of meetings for the Council and Committees, as set out in the Appendix to item A.4 of the Report of the Assistant Director (Governance) & Monitoring Officer, be approved; and
- (b) the proposed dates for All Member Briefings be noted.

8. REPORT OF THE ASSISTANT DIRECTOR (FINANCE & IT) & SECTION 151 OFFICER - A.5 - ANNUAL CAPITAL AND TREASURY STRATEGY FOR 2020/21 (INCLUDING THE PRUDENTIAL AND TREASURY INDICATORS)

The Council had before it a report of the Assistant Director (Finance and IT) & Section 151 Officer (A.5) which sought approval of the Annual Capital and Treasury Strategy for 2020/21 (including the Prudential and Treasury indicators).

It was reported that, on 7 February 2020, the Corporate Finance and Governance Portfolio Holder had agreed the Annual Capital and Treasury Strategy for 2020/21 (including the Prudential and Treasury Indicators) for consultation with the Resources and Services Overview and Scrutiny Committee.

The Resources and Services Overview and Scrutiny Committee had considered the Strategy at its meeting on 17 February 2020 and had had no comments to make to Cabinet.

Members were aware that the Strategy had been included within the published agenda for the meeting of the Cabinet due to have been held on 20 March 2020. However, due to the outbreak of Covid-19 and the ensuing global public health emergency, that meeting of the Cabinet had been unable to take place.

Subsequently, on 24 April 2020, and in accordance with the procedures contained in the Note on Decision Making Business Continuity Arrangements issued by the Monitoring Officer (Lisa Hastings) on Friday 20 March 2020, the Leader of the Council had exercised his delegated power as set out in the Council's Constitution in Part 3, Schedule 3 (Responsibility for Executive Functions) - Section 3 (General Principles Regarding Decision Making by the Cabinet) – Principle 4b [Part 3.28] and had made the following decision on behalf of the Cabinet:

- (a) *That the outcome from the meeting of the Resources and Services Overview & Scrutiny Committee held on 17 February 2020 be noted; and*
- (b) *That the Annual Capital and Treasury Strategy for 2020/21 (including Prudential and Treasury Indicators) be submitted to Council for approval in accordance with the procedures contained the Note on Decision Making Business Continuity Arrangements issued by the Monitoring Officer (Lisa Hastings) on Friday 20 March 2020.*

A copy of the published Corporate Finance and Governance Portfolio Holder's report, together with the Annual Capital and Treasury Strategy 2020/21, were attached as appendices to the Officer report.

It was moved by Councillor G V Guglielmi, seconded by Councillor Alexander and:-

RESOLVED that Council approves the Annual Capital and Treasury Strategy for 2020/21 (including Prudential and Treasury Indicators).

9. REPORT OF THE ASSISTANT DIRECTOR (PARTNERSHIPS) - A.6 - PAY POLICY STATEMENT 2020/21

The Chief Executive, Deputy Chief Executive, the Assistant Director (Governance) & Monitoring Officer and the Assistant Director (Finance and IT) & Section 151 Officer each declared an interest in this item and withdrew from the meeting during the consideration thereof and the voting thereon.

The Council had before it a report of the Assistant Director (Partnerships) which sought its approval of the Pay Policy Statement for 2020/21.

Members were reminded that the Localism Act 2011 Section 38(1) required the District Council to prepare a pay policy statement each year. The pay policy statement must articulate the Council's approach to a range of issues relating to the pay of its work force, particularly its senior staff (or 'chief officers') and its lowest paid employees.

The matters that must be included in the statutory Pay Policy Statement were as follows:

- A local authority's policy on the level and elements of remuneration for each Chief Officer.
- A local authority's policy on the remuneration of its lowest-paid employees (together with its definition of "lowest-paid employees" and its reasons for adopting that definition).
- A local authority's policy on the relationship between the remuneration of its Chief Officers and other Officers.
- A local authority's policy on other aspects of Chief Officers' remuneration: remuneration on recruitment increases and additions to remuneration, use of performance related pay and bonuses, termination payments and transparency.

It was reported that this statement would be published on the Council's website following each review and its approval by Full Council.

Council was made aware that the Human Resources and Council Tax Committee had reviewed the Pay Policy Statement and report at its meeting held on 24 February 2020. The Committee had recommended that Full Council adopted the Pay Policy Statement set out in Appendix A to the Officer report.

Members were informed that the Pay Policy Statement 2020/21 had been designed to give an overview of the Council's framework regarding pay and rewards for staff within the Council. This framework was based on the principle of fairness and that rewards should be proportional to the weight of each role and each individual's performance.

The framework aimed to ensure the ability of the Council to recruit talented individuals whilst reassuring the citizens of Tendring that their money was being used efficiently.

Council recalled that a major pay assimilation exercise had been carried out by the Council in 2018/19, in order to move across to the new nationally agreed pay bands for 2019/20. This had resulted in multiple inflationary variations across the pay scale. This exercise had been successfully completed following negotiations between the Council and Regional union officials.

It was moved by Councillor Chapman, seconded by Councillor Knowles and:-

RESOLVED that the Pay Policy Statement 2020/21, as set out at Appendix A to item A.6 of the Report of the Assistant Director (Partnerships), be approved and adopted.

The Meeting was declared closed at 4.38 pm

Chairman

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