



## **Durham Police and Crime Panel**

**5 November 2021**

### **Confirmation Hearing - Appointment of a Deputy Police and Crime Commissioner**

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#### **Report of Helen Lynch, Head of Legal and Democratic Services**

##### **Purpose of the Report**

1. To provide information to Panel Members on the process to be undertaken to hold a confirmation hearing for the position of Deputy Police and Crime Commissioner (Deputy PCC) and to consider a report from the Police and Crime Commissioner (the Commissioner) on the proposed appointment of the Deputy PCC.

##### **Executive summary**

2. The Police Reform and Social Responsibility Act 2011 ('the Act') provides, under Section 18(1), that the Commissioner for a police area may appoint a person as the Deputy PCC for that area.
3. Schedule 1, Paragraph 9, of the Act, the Commissioner must notify the Police and Crime Panel ("the Panel") of their proposed appointment to the post of 'Deputy PCC.
4. The Commissioner must also notify the Panel of the following information:
  - a. The name of the person whom the commissioner is proposing to appoint ("the candidate");
  - b. The criteria used to assess the suitability of the candidate for the appointment;
  - c. Why the candidate satisfies those criteria; and
  - d. The terms and conditions on which the candidate is to be appointed.

5. The Panel, in accordance with Schedule 1, Paragraph 10 of the Act, must review the proposed appointment and make a report to the Commissioner on the proposed appointment, including a recommendation as to whether or not the candidate should be appointed. This is to be undertaken within three weeks beginning with the day on which the Panel receives notification from the Commissioner of the proposed appointment.
6. The Commissioner must notify the Panel of the decision whether to accept or reject the recommendation of the Panel.

## **Recommendation**

7. Members of the Panel are recommended to:
  - a. note the process to be followed for the confirmation hearing for the appointment of the Deputy PCC.
  - b. consider the report of the Commissioner shown at Appendix 3 and review the proposed appointment of Nigel Bryson as the Deputy PCC; and
  - c. respond and make recommendations to the Commissioner on the proposed appointment.

## **Background**

8. The Panel have the functions conferred by Schedule 1, Paragraph 10 of the Police Reform and Social Responsibility Act 2011 (Scrutiny of Senior Appointments). This enables the Panel to:
  - (i) Review the proposed appointment, by holding a confirmation hearing within three weeks of notification being given. A 'confirmation hearing' is a meeting of the Panel, held in public, at which the candidate is requested to appear for the purpose of answering questions relating to the appointment;
  - (ii) Make a report to the Commissioner on the proposed senior appointment;
  - (iii) Include a recommendation to the Commissioner as to whether or not the candidate should be appointed;
  - (iv) Publish the report to the Commissioner made under (ii).
9. Section 18(1) of the Police Reform and Social Responsibility Act 2011 ('the Act') provides that the Commissioner for a police area may appoint a person as the Deputy police and crime commissioner for that area.
10. Part 1 of the Police and Crime Commissioner Review conducted by the Home Office concluded that to enhance resilience and capacity of Police and Crime Commissioners, legislation will come forward to mandate the appointment of a Deputy PCC. In the interim, Commissioners are expected to have a formal succession plan in the event of a vacancy or incapacitation.
11. The Police and Crime Commissioner for Durham (the Commissioner) has notified the Panel of her intention, in accordance with the Act, to appoint a Deputy PCC and as a result the Panel are required to hold a confirmation hearing to consider the appointment.

## **Confirmation Hearing for the appointment of a Deputy Police and Crime Commissioner**

12. The Clerk to the Panel received formal notification from the Commissioner of the proposed appointment of Mr Nigel Bryan to the role of Deputy Police and Crime Commissioner on 18 October 2021.
13. The appointment is a permanent appointment, and therefore it is subject to the public scrutiny that is required as part of a proposed senior appointment within the meaning of Schedule 1 of the Police Reform and Social Responsibility Act 2011.
14. In order to assist the Panel in reviewing the suitability of the preferred candidate, the Commissioner has provided a report detailing the

following:

- a. Name of the preferred candidate;
- b. The criteria used to assess the suitability of the candidate for the appointment;
- c. A report from the Commissioner stating why the preferred candidate meets criteria of role; and
- d. Terms and conditions of appointment.

## **The Process**

15. The first part of the meeting will be conducted in public and structured as follows:
  - i. The candidate will be welcomed to the meeting.
  - ii. The Clerk to the Panel will outline the procedure before inviting the Commissioner to present the details of the proposed appointment.
  - iii. The candidate will have an opportunity to present to the Panel their understanding of the role.
  - iv. The Panel will have the opportunity for to ask questions of the candidate.
  - v. The candidate will be given opportunity to clarify any answers given during the hearing and ask questions of the Panel about the next stage of the process.
16. The Panel will ask questions of the candidate which relate to their professional competence and personal independence, the answers to which will enable the Members to evaluate their suitability for the role.
17. The Local Government Association provides the following commentary in respect of confirmation hearings for the appointment of a Deputy Police and Crime Commissioner:

*“The role of a Deputy commissioner differs from the other appointments in that it is likely to be a political appointment and therefore less able to be tested in terms of professional judgement and expertise. It may also be an unpaid position, so further outside the scope of employment procedures. However, the panel still need to assure themselves of the understanding by the candidate of her/his role, the position of the commissioner and the operational independence of the chief constable (and chief fire officer). Key lines of enquiry of the panel for a Deputy*

*commissioner might focus around her/his understanding of the commissioner's vision and priorities and the role that the Deputy would play in support of the commissioner's strategy and delivery of the plan. The panel might also ask questions in relation to public engagement or other significant requirements to fulfil the role profile in the more political".*

18. At the end of the confirmation hearing, the Panel move into a closed session in order to decide on its recommendations to the Commissioner regarding the appointment to the role of Deputy PCC.
19. The Panel will consider and discuss the following:
  - a. Whether the candidate has the professional competence to exercise the role as set out in the role profile.
  - b. Whether the Panel feels that the candidate has the personal independence to exercise the role.
20. Where a candidate meets the standards expected by the Commissioner for the political appointment of Deputy PCC, but there is cause for concern about his suitability, it may be appropriate to outline those concerns in the Panel's response to the Commissioner.
21. The Panel do not have a power to veto the proposed appointment. In instances where a candidate does not meet the minimum standards, this would suggest a significant failure in the appointments process undertaken by the Commissioner. If the Panel believes that there has been a significant failure in the appointments process, the Panel may choose to not recommend the candidate to the role of Deputy PCC.
22. Following the confirmation hearing, the recommendations of the Panel will be communicated to the Commissioner in writing. The Commissioner must notify the Panel of the decision whether to accept or reject the recommendation of the Panel.

### **Background papers**

None.

### **Other useful documents**

None.

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## **Appendix 1: Implications**

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### **Legal Implications**

As detailed within the report there is a requirement to hold a confirmation hearing within three weeks of notification to consider the proposed appointment in accordance with the Police Reform and Social Responsibility Act 2011

### **Finance**

The remuneration of the Deputy PCC is met by the budget held by the Durham Police and Crime Commissioner.

### **Consultation**

None.

### **Equality and Diversity / Public Sector Equality Duty**

None

### **Climate Change**

None.

### **Human Rights**

None

### **Crime and Disorder**

This is a key focus of the role of the Police and Crime Commissioner and Police and Crime Panel. The appointment of the Deputy PCC allows the PCC to enhance resilience to deliver the objectives of the Commissioner.

### **Staffing**

The report proposes the appointment of a Deputy PCC. In accordance with Section 18(10) of the Act, the Deputy police and crime commissioner is a member of the police and crime commissioner's staff.

### **Accommodation**

None

### **Risk**

None

### **Procurement**

None.

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## Appendix 2: Relevant extracts from the Police Reform and Social Responsibility Act 2011

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### Section 18 Police Reform and Social Responsibility Act 2011 Delegation of functions by police and crime commissioners

- (1) The police and crime commissioner for a police area may -
  - (a) appoint a person as the Deputy police and crime commissioner for that police area, and
  - (b) arrange for the Deputy police and crime commissioner to exercise any function of the police and crime commissioner.
  
- (2) A police and crime commissioner may arrange for any person (who is not the Deputy police and crime commissioner) to exercise any function of the commissioner.
  
- (3) But a police and crime commissioner may not -
  - (a) appoint a person listed in subsection (6) as the Deputy police and crime commissioner;
  - [(aa) arrange, under subsection (1)(b) or (2), for the Deputy police and crime commissioner or any other person to exercise a function that the police and crime commissioner has under or by virtue of Part 2 of the Police Reform Act 2002 (see instead section 23(2)(pa) of that Act and regulations made under that provision);]
  - (b) arrange for the Deputy police and crime commissioner to exercise a function listed in subsection (7)(a), (e) or (f);
  - (c) arrange, under subsection (2), for a person listed in subsection (6) to exercise any function; or
  - (d) arrange, under subsection (2), for any person to exercise a function listed in subsection (7).
  
- (4) A Deputy police and crime commissioner may arrange for any other person to exercise any function of the police and crime commissioner which is, in accordance with subsection (1)(b), exercisable by the Deputy police and crime commissioner.
  

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- (6) The persons referred to in subsections (3)(a) and (c) and (5) are -
  - (a) a constable (whether or not in England and Wales);
  - (b) a police and crime commissioner;
  - (c) the Mayor's Office for Policing and Crime;

- (d) the Deputy Mayor for Policing and Crime appointed by the Mayor's Office for Policing and Crime;
- (e) the Mayor of London;
- (f) the Common Council of the City of London;
- (g) any other person or body which maintains a police force;
- (h) a member of the staff of a person falling within any of paragraphs (a) to (g).

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**Schedule 1, Paragraph 8, Police Reform and Social Responsibility Act 2011**

- (1) This paragraph applies to a person appointed under section 18 by a police and crime commissioner to be the Deputy police and crime commissioner.
- (2) None of the following may be appointed as the Deputy police and crime commissioner -
  - (a) a person who has not attained the age of 18 on the day of the appointment;
  - (b) a person who is subject to a relevant disqualification;
  - (c) a Member of the House of Commons;
  - (d) a member of the European Parliament;
  - (e) a member of the National Assembly for Wales;
  - (f) a member of the Scottish Parliament;
  - (g) a member of the Northern Ireland Assembly.
- [(3) The terms and conditions of a person appointed as the Deputy police and crime commissioner must ensure that the term of office ends no later than the sixth day after the day of the poll at the next ordinary election of police and crime commissioners (that is, the day on which the term of office of the appointing police and crime commissioner would, if there were no vacancy in the office before then, end in accordance with section 50(7)(b)).
- (3A) The terms and conditions must also provide for the Deputy police and crime commissioner's appointment to end when, following an election held under section 51 to fill a vacancy in the office of the appointing police and crime commissioner, the person elected makes and delivers a declaration of acceptance of office under section 70(1).
- (3B) Subject to sub-paragraphs (3) and (3A), the terms and conditions may make such provision about termination as the appointing police and crime commissioner thinks appropriate.]

- (4) Section 7 of the Local Government and Housing Act 1989 (appointment of staff on merit) does not apply to the Deputy police and crime commissioner.
- (5) . . .
- (6) For the purposes of this paragraph, a person is subject to a relevant disqualification if the person is disqualified from being elected as, or being, a police and crime commissioner under—
  - (a) section 65(1) (police officers, police-related employment etc), other than paragraph (e)(ii); or
  - (b) section 66(1), (3)(a)(iii) or (iv), (3)(c) or (3)(d) (citizenship, bankruptcy, criminal convictions & corrupt or illegal election practices).

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**Section 65 of Police Reform and Social Responsibility Act 2011  
Disqualification from election or holding office as police and crime commissioner: police grounds**

- (1) A person is disqualified from being elected as, or being, a police and crime commissioner if the person—
  - (a) is disqualified from being a member of the House of Commons under section 1(1)(d) of the House of Commons Disqualification Act 1975 (members of police forces for police areas in the United Kingdom);
  - (b) is a member of—
    - (i) the British Transport Police Force;
    - (ii) the Civil Nuclear Constabulary;
  - (c) is a special constable appointed—
    - (i) under section 27 of the Police Act 1996 for a police area or the City of London police area;
    - (ii) under section 25 of the Railways and Transport Safety Act 2003 (British Transport Police Force);
  - (d) is a member of staff of the chief officer of police of any police force maintained for a police area;
  - (e) is a member of staff of—
    - (i) a police and crime commissioner;
    - (ii) the Mayor's Office for Policing and Crime;
  - (f) is the Mayor of London;
  - (g) is a member of the Common Council of the City of London or a member of staff of that Council in its capacity as a police authority;
  - (h) is a member (including a member who is chairman or chief executive), or member of staff, of—
    - (i) the British Transport Police Authority;
    - (ii) the Civil Nuclear Police Authority;

- (iii) the [Independent Office for Police Conduct];
- (iv) the Serious Organised Crime Agency;
- (v) . . .
- (i) holds any employment in an entity which is under the control of—
  - (i) a local policing body;
  - (ii) any body mentioned in paragraph (h);
  - (iii) the chief officer of police for any police force maintained for a police area or the City of London police area;
  - (iv) the chief officer of police for any police force mentioned in paragraph

**Section 66 of Police Reform and Social Responsibility Act 2011**  
**Disqualification from election or holding office as police and crime commissioner: other grounds**

- (1) A person is disqualified from being elected as, or being, a police and crime commissioner unless the person satisfies the citizenship condition (see section 68).
- (2) A person is disqualified from being elected as, or being, a police and crime commissioner if the person—
  - (a) is disqualified from being a member of the House of Commons under section 1(1)(a) to (c) of the House of Commons Disqualification Act 1975 (judges, civil servants, members of the armed forces), or
  - (b) is a member of the legislature of any country or territory outside the United Kingdom.
- (3) A person is disqualified from being elected as, or being, a police and crime commissioner if—
  - (a) the person is the subject of—
    - (i) a debt relief restrictions order under paragraph 1 of Schedule 4ZB to the Insolvency Act 1986;
    - (ii) an interim debt relief restrictions order under paragraph 5 of that Schedule;
    - (iii) a bankruptcy restrictions order under paragraph 1 of Schedule 4A to that Act;
    - (iv) a bankruptcy restrictions interim order under paragraph 5 of that Schedule;
  - (b) a debt relief restrictions undertaking has effect in respect of the person under paragraph 7 of Schedule 4ZB to that Act;
  - (c) the person has been convicted in the United Kingdom, the Channel Islands, or the Isle of Man, of any imprisonable offence (whether or not sentenced to a term of imprisonment in respect of the offence); or
  - (d) the person is incapable of being elected as a member of the House of Commons, or is required to vacate a seat in the House

of Commons, under Part 3 of the Representation of the People Act 1983 (consequences of corrupt or illegal practices).

- (4) For the purpose of subsection (3)(c)—
- (a) “imprisonable offence” means an offence—
    - (i) for which a person who has attained the age of 18 years may be sentenced to a term of imprisonment, or
    - (ii) for which, in the case of such a person, the sentence is fixed by law as life imprisonment;
  - (b) a person is to be treated as having been convicted -
    - (i) on the expiry of the ordinary period allowed for an appeal or application in respect of the conviction, or
    - (ii) if an appeal or application is made in respect of the conviction, when the appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution.
- (5) A person is disqualified from being elected as, or being, police and crime commissioner for a police area if the person -
- (a) is a member of staff of a relevant council, or
  - (b) holds any employment in an entity which is under the control of a relevant council within subsection (7)(a), (b), (c) or (f).

**Section 67 Police Reform and Social Responsibility Act 2011  
Disqualification of person holding office as police and crime commissioner**

A person becomes disqualified from being a police and crime commissioner upon becoming a member of—

- (a) the House of Commons;
- (b) the Scottish Parliament;
- (c) the National Assembly for Wales;
- (d) the Northern Ireland Assembly;
- (e) the European Parliament.

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## Appendix 3: Report from the Police and Crime Commissioner

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### Police and Crime Panel

5th November 2021



### Appointment of Deputy Police and Crime Commissioner

### Report of Police and Crime Commissioner

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#### Purpose

1. The purpose of this report is to notify the Police and Crime Panel of the proposed appointment of the Deputy Police and Crime Commissioner and to request that they review the proposed appointment and make a recommendation to the Durham Police and Crime Commissioner.

#### Background

2. The Police Reform and Social Responsibility Act 2011 enables the Commissioner to appoint a Deputy and to delegate certain functions and responsibilities to that person. The Act also outlines certain functions which cannot be delegated.
3. The Act also requires Police and Crime Panels to scrutinise senior appointments proposed by the Police and Crime Commissioner. Schedule 1 paragraph 9 (1) of the Act defines senior appointments as the Commissioner's Chief Executive, Chief Finance Officer and the Deputy Police and Crime Commissioner.
4. The Commissioner must notify the Panel of the following information: (a) The name of the person she is proposing to appoint; (b) The criteria used to assess the suitability of the candidate for the appointment; (c) Why the candidate satisfies the criteria; and (d) The terms and conditions on which the candidate is to be appointed.
5. Schedule 1 paragraph 10 of the Act requires the Panel to review the proposed appointments and report back to the Commissioner which must include a recommendation as to whether or not the candidate should be appointed. This must be done within a period of three weeks beginning with the day on which the Panel

receives the notification from the Commissioner of the proposed senior appointment(s).

6. Schedule 1 paragraph 11 of the Act requires the Panel to hold a confirmation hearing before making a report and recommendation under paragraph 10 to the Police and Crime Commissioner in relation to a proposed senior appointment.
7. Schedule 1 paragraph 12 allows the Acting Police and Crime Commissioner the right to accept or reject the Panel's recommendation and he must notify the Panel of his decision.
8. Schedule 1 paragraph 12 allows the Police and Crime Commissioner the right to accept or reject the Panel's recommendation and she must notify the Panel of her decision.

## **Job Specification**

9. The role of the Deputy, whilst working with the Commissioner's other staff, is to deputise and support the Commissioner in carrying out her functions including:
  - a. Acting as a local link between communities and the police
  - b. Assisting in setting the force budget and the precept and deciding how other crime reduction budgets are spent
  - c. Assisting in the delivery of the Police and Crime Plan
  - d. Entering into collaboration agreements as necessary
  - e. Holding the chief constable to account
  - f. Working co-operatively with community safety and criminal justice partners

The Deputy Police and Crime Commissioner may not:

- a. Issue a Police and Crime Plan
- b. Determine police objectives
- c. Attend Police and Crime Panel meetings on behalf of the Commissioner
- d. Prepare the Annual Report
- e. Appoint or suspend the chief constable or call upon the chief constable to retire or resign
- f. Set the precept

## **Main Duties & Responsibilities**

1. To be the PCC nominee as Acting PCC in the event the PCC is incapacitated.
2. As an employee of the Durham Police and Crime Commissioner (PCC) to work closely with them to ensure effective development and delivery of the Police and Crime Plan for 2021-2024.
3. To provide strategic leadership on portfolio areas related to policing and crime in the Durham force area.
4. To represent the PCC and work on their behalf in holding Durham Constabulary to account for the provision of an effective and efficient policing service.
5. To engage local people and help build trust and confidence in policing.
6. To maintain strong working and collaborative arrangements with partner organisations and with political leaders across County Durham and Darlington.
6. To contribute and on occasion to Chair meetings of the Executive Board, and to apply and promote the principal terms of reference for the Board to:
  - Maintain an overview of the implementation of the PCC's manifesto in order to ensure consistency in approach but having regard to the differing needs in County Durham and Darlington
  - Assist the PCC to monitor the implementation and achievement of the Police and Crime Plan and support them in any work required to vary the Plan during their term of office
  - Scrutinise, support and challenge the overall performance of the force including against priorities agreed within the Plan
  - Advise the PCC in exercising their functions in setting the budget and precept
  - Ensure the effective working of arrangements for consulting with and engaging local residents, communities and victims of crime
  - Ensure effective working with local authorities and other partners
  - Advise and support the PCC in their decision-making role and holding the Chief Constable to account
  - Support the PCC more generally in the fulfilment of their statutory duties, to include equalities and human rights obligations.
7. To represent the PCC on a variety of Boards, Committees and at other events, and to deputise at such meetings and events if required.
8. To be a member and regular attendee at
  - The Executive Board
  - Such other meetings and events at which attendance may be required by the PCC.
9. To consider papers and reports and proposed decisions of the PCC to be considered at meetings of the Executive Board and apply skill, knowledge and expertise in discussions by providing constructive criticism, analysis, comments and views to them.
10. Liaison with the Force in relation to such matters as may be agreed with the PCC.
11. To make timely reports in writing to the PCC as required from time to time on such matters as fall within the area of responsibility of the DPCC.

12. To support the PCC generally in the exercise of their statutory functions.
13. To have a commitment to delivery of the PCC's manifesto and their political ambitions.
14. To help the PCC uphold the very high standards of public life detailed in the Nolan Principles.
16. To exercise such decision-making powers as may be delegated.
17. To undertake on behalf of the PCC community engagement and consultation activities.
18. To represent the PCC as required.
19. To act as a critical friend and to provide advice and challenge as appropriate.
20. To help promote equality and diversity within Durham Constabulary and across County Durham and Darlington.

## **Appointment Process**

10. It is proposed that Mr Nigel Bryson is appointed to the position of Deputy Police and Crime Commissioner.
11. I have selected Mr Bryson as I consider him to have the requisite skills and qualities which will be beneficial in his role as Deputy Police and Crime Commissioner which include motivation, negotiation, and communication. Mr Bryson has experience as a Health and Safety consultant and his background is in relation to business performance and improving systems of a management. This requires an open-minded approach, critical analysis skills and good listening skills.
12. The position of Deputy Police and Crime Commissioner is not politically restricted. The role is not vetted but the office holder is a Crown Servant for the purposes of The Official Secrets Act. Other aspects of the role, including eligibility requirements, are set out in the Police Reform and Social Responsibility Act 2011 and associated legislation.
13. Mr Bryson has signed a Declaration re: Eligibility for Appointment- (see Appendix A )

## **Terms and Conditions**

14. Mr Bryson is to be appointed for two days a week and will be given a Special Responsibility Allowance of £25,830 per annum (**Pro rata two days per week – 10,322**).

## **Recommendations**

15. In accordance with the Police Reform and Social Responsibility Act 2011, Schedule 1, Paragraph 9 (1) the Panel is invited to:
  - (i) Review the proposed appointment of Mr Nigel Bryson as the Deputy Police and Crime Commissioner;

- (ii) To make a recommendation to the Commissioner as to whether Mr Nigel Bryson should be appointed in accordance with Schedule 1, Paragraph 10 (4) of the Act.

**Joy Allen**  
**Police and Crime Commissioner**

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## **Appendix 1: Risks and Implications**

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### **Finance**

All funding decisions will be reflected in the OPCC 2021/22 budgets and the medium-term financial planning process.

### **Staffing**

The appointment of a Deputy PCC is a newly created role to support the PCC in the delivery of the Police and Crime Plan. At this stage, it is too early to comment on risks and implications and this will be continually monitored.

### **Equality and Diversity**

n/a

### **Accommodation**

n/a

### **Crime and Disorder**

Many of the projects are aimed at reducing crime and disorder.

### **Children's Act 2004**

n/a

### **Stakeholder/Community Engagement**

Information about the PCC's funding streams will be set out in the Police and Crime Plan 2021-24

### **Environment**

n/a

### **Collaboration and Partnerships**

n/a

### **Value for Money and Productivity**

Value for Money is a key consideration in the allocation of all funding.

### **Potential Impact on Police and Crime Plan Priorities**

All funding is expected to have a positive impact on priorities.

As per the report.

**Other risks**

n/a

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