

THE HEALTH PROFESSIONS COUNCIL

Chief Executive and Registrar: Mr Marc Seale

Park House
 184 Kennington Park Road
 London SE11 4BU
 Telephone: +44 (0)20 7840 9785
 Fax: +44 (0)20 7840 9807
 e-mail: *sophie.butcher@hpc-uk.org*

MINUTES of the twenty third meeting of the Health Professions Council held at **11a.m. on Thursday 12 May 2005** at Park House, 184 Kennington Park Road, London, SE11 4BU.

Professor N Brook (President)
 Mr J Camp
 Mrs S Chaudhry
 Mr R Clegg
 Miss M Crawford
 Ms C Farrell
 Professor T Hazell
 Dr R Jones
 Ms R Levenson (part)
 Professor J Lucas (part)
 Miss M MacKellar
 Dr J Old
 Mr K Ross
 Miss P Sabine
 Mrs. B. Stuart (part)
 Dr A Van Der Gaag
 Professor D Waller
 Mr N Willis
 Dr S Yule

IN ATTENDANCE:

Mr T Berrie, Strategy Manager
 Miss S Butcher, Secretary to Committees
 Ms S Dawson, Registration Manager, Grandparenting/International
 Ms C Harkin, Registration Manager, U.K.
 Ms K Johnson, Director of Fitness to Practise
 Mr M Seale, Chief Executive and Registrar
 Ms R Tripp, Policy Manager

Item 1.04/250 INTRODUCTION AND WELCOME

- 1.1 Professor Brook welcomed all members and non-members to the meeting. The following non-members were present: Ms Uriel Jamieson of the Scottish Executive Health Department, Sandra Verkuytea, Chief Executive of the Hearing Aid Council, Mr Will Oliver of the Health Professions Wales and Ros Mead from the Department of Health.

Item 2.05/251 APOLOGIES FOR ABSENCE

- 2.1 Apologies for absence were received from the following Council members; Ms M Clark-Glass, Mr C Lea, Professor J Harper, Ms J Manning (Mr D Whitmore), Mr W Munro (Mr I Massey), Mrs C McGartland (Ms H Davis), Mr S Wordsworth (Mr A Mount).

Item 3.05/252 APPROVAL OF AGENDA

- 3.1 The Council approved the agenda.

Item 4.05/253 MINUTES

- 4.1 It was agreed that the minutes of the twenty-second meeting of the Health Professions Council be confirmed as a true record and signed by the President subject to the following amendments;
- 4.2 7.3 The Council noted that a surplus was achieved in January and HPC finances had therefore improved.
- 4.3 The Council noted that 7.3 of the previous minutes stated that a 'profit' was achieved in January and that this was not a correct terminology as profits were not made, rather a surplus of monies was achieved.
- 12.4 The Council agreed that representation for patients was needed and should be sought from bodies such as Long Term Medical Alliance.
- 4.4 The Council noted that 12.4 of the previous minutes stated that representation should be sought from 'professional' bodies and that this was an incorrect definition as Long Term Medical Alliance was not a professional body. For the purposes of accuracy this reference was therefore removed.
- 4.5 15.4 The Council recommended that legal advice was sought on how similar organisations dealt with the matter.

- 4.4 The Council noted that it had not referred the item back to the Finance and Resources Committee for further research on the legal position but rather that legal advice be sought as soon as possible.

Item 5.05/254 MATTERS ARISING

- 5.1 Item 5.4 – Ethnic Monitoring
- 5.1.1 The Council noted that the implementation of the proposed strategy and timetabled plan for addressing HPC's general duty under the Race Relations (Amendment) Act was a long term project that would not be finalised until 2006.
- 5.2 Item 5.5 – Managing Your Fitness to Practise
- 5.2.1 The Council noted that the consultation on the document 'Managing Your Fitness to Practise' was likely to run in conjunction with the Returner's to Practise consultation.
- 5.3 Item 8.3 – Report on the Fifth Report of the Shipman Inquiry
- 5.3.1 The Council noted that this item had been scheduled at the last fitness to practise committee meetings for their discussion in accordance with the recommendations made by Council at its meeting on 2 March 2005. The committees' main topic of discussion concerned the definition of what was meant by good practice. The Council noted that following the Conduct and Competence Committee meeting a further meeting was proposed to be held between all of the three fitness to practise committees in the next 2-3 months subject to the findings of the Foster and Donaldson Reviews. A draft response would then be compiled for Council highlighting the reports main implications for the Health Professions Council.

Action: SB/KJ

- 5.4 Item 12.3/12.8 – Review of Standards of Proficiency
- 5.4.1 The Council noted that the Professional Liaison Group for the Review of the Standards of Proficiency would hold its first meeting in July 2005.
- 5.5 Item 24.2 – Any Other Business
- 5.5.1 Council noted that under any other business of its last meeting a letter had been presented from the Privy Council detailing the proposed election schedule. An error had been made in Schedule 2 6(a) and was recommended that the Chief Executive wrote forthwith to the Privy Council, Department of Health requesting for the relevant correction to be made. The Council had requested that these letters be made available on the Council member's section of the HPC website and also e-mailed for members' information. Council noted that this action had not yet been taken and requested that this was done as soon as possible.

Action: MJS/SB**Item 6.05/255 PRESIDENT'S REPORT**

- 6.1 The President reported that this was a very busy time for the Health Professions Council. The President had sat on the interview panels for the appointment of Chairs to the fitness to practise panels. The majority of applications had been received from lay members and was noted to be indicative of the vast experience that such members had acquired.

Item 7.05/256 CHIEF EXECUTIVE'S REPORT

- 7.1 The Council received a paper from the Chief Executive.
- 7.2 The Chief Executive reported that there had been a sharp increase in the number of grandparenting applications received by the International Registration department and anticipated a further 1,000-1,500 applications to reach HPC by 8 July 2005. The International/Grandparenting team were currently dealing with approximately 200-300 applications per month and would continue to process these at the same rate. The Council noted that pertinent stakeholders and organisations would be written to so that they were aware of this increase.

Action: MJS

- 7.3 The Council noted that government officials from Brunei would be visiting the HPC tomorrow to seek further information and advice about how to set up a similar regulatory body in their own country.
- 7.4 The Council noted that the Chief Executive and President of HPC had been asked to participate in a personal capacity in the Foster review but not as representatives of the HPC. The Chief Executive of the Nursing and Midwifery Council (NMC) and their President were members of the advisory group. No other members from professional bodies had been asked to participate. Other regulatory bodies were currently petitioning Lord Warner to expand the Committee. Two larger reference groups had also been set up to support these processes and were comprised of education and training bodies, professional organisations as well as consumer and healthcare quality interests. It was anticipated that the findings of both committees would be made available by December 2005.

Item 8.05/257 STRUCTURE OF THE COUNCIL

- 8.1 The Council received a paper from the Chief Executive for discussion/approval.

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- 8.2 The Chief Executive reported that Council had now met a total of four times to discuss solutions for the way forward in accommodating an ever increasing Council. With over a dozen professions indicating that they would apply to the HPC for statutory regulation the resulting increase in size beyond 30 members was likely to result in an inefficient Council that would not be able to effectively operate good corporate governance.
- 8.3 Following discussions with Council it was established that the majority were in favour of an Annual Conference. There were two fundamental principles that underpinned this model. 1. That the Council is a regulator of health professionals and was not a representative forum of the professions and 2. The role of Council members was not to represent a particular profession or specific interest group, but to bring their experience to the discussion and decision making process.
- 8.4 The Council ratified the proposal for an Annual Congress and recommended that the Chief Executive write to the Privy Council requesting that the Health Professions Order 2001 be amended in accordance with this.

Action: MJS

Item 9.05/258 APPLICATION FROM MAXILLOFACIAL PROSTHETISTS AND TECHNOLOGISTS

- 9.1 The Council received a paper from the Chief Executive for discussion/approval.
- 9.2 The Council noted that in the absence of Ms Karen Scott, Manager of Aspirant Groups and CPD the Chief Executive would present the paper on her behalf.
- 9.3 The Council considered the application submitted by the Maxillofacial Prosthetists and Technologists (IMPT) for regulation as a profession by the Health Professions Council (HPC). The Council noted that the view of IMPT was that they should be regulated. As illustrated by the MaxFax Scoring sheet, IMPT had met nine out of ten of the criteria against which it was marked. The Chief Executive recommended that if Council was satisfied with the scoring given, the next stage would be to invite IMPT to give a presentation to Council at its next meeting on 7 July 2005. The Council noted that it was important to engage in an independent overview of the assessment and ideally not someone who's already involved in the process. The Council discussed why the HPC had been recommended to regulate dental-related duties as undertaken by MPT's when this was clearly the jurisdiction of the General Dental Council (GDC). The Council were additionally concerned that HPC were ascribing

“professional status” to disparate groups when they could be dealt with more collectively. Council therefore wished for more information to be detailed on the undertaking of MPT’s continuous professional development (CPD) record.

- 9.4 Council recommended that subject to the queries they had raised, IMPT be invited to give a presentation to Council at the next meeting on 7 July 2005.

Action: SB/KS

Item 10.05/259 RETURNERS TO PRACTISE

- 10.1 The Council received a paper from Ms Rachel Tripp for discussion/approval.
- 10.2 The Council noted that following the suspension of the old return to practise process, a consultation paper had been compiled which included new proposals, and a suggested way forward to implement a new process. The Council noted that all relevant stakeholders were consulted for their viewpoints and were incorporated accordingly.
- 10.3 Clarification was sought on when the initial decision was taken that a review should be undertaken and additionally why it got suspended before the review had taken place. Council noted that it was essential for clarification on these matters especially with regard as to what the requirements were for a consultation and what mechanisms triggered its resultant carrying out. Council noted that the processes employed impacted heavily upon the decision-making processes as undertaken by Council and its Committees. Council considered what implications this would have for current returner’s to practise when their requirements were currently suspended. Mr Jonathan Bracken reported on the previous policy and the appeals process. Council noted that their standards of proficiency went some way to safeguard such a scenario. Council therefore recommended that in the introduction to the consultation document background information be provided.
- 10.4 Council requested clarification on how many hours constituted a day and it was confirmed that this was 7 hours. A further amendment was recommended to page 4 of the document in the second from last paragraph, where it was identified that there should be a distinction made between clinical research and other types of academic research. The Council discussed whether a time limit should be specified for when this policy became ineffective, for example some members felt that 30 years would be too excessive for a returner to practise to be validated. After a

full discussion Council agreed that this should be included as part of the consultation criteria.

- 10.5 Council recommended the following action be taken; that the Chairman of the Registration Committee, Rosemary Klem be sent the amended paper with Council's revisions and approval sought forthwith. That the amended paper go to consultation and the subsequent revisions recommended from this process be reviewed by the Registration Committee who should then submit the final paper to Council for their approval.

Action: RT

Item 11.05/260 HEALTH PROFESSIONS COUNCIL ANNUAL REPORT 2005

- 11.1 The Council received a paper from the Executive for discussion/approval.
- 11.2 Ms C Farrell reported that she had submitted detailed comments to the Director of Communications, Chris Middleton for their inclusion in the final version of the HPC Annual Report 2005. Council were in agreement that the initial draft was not yet of a standard to go out to publication and recommended that a clear format was followed both for this report and for future reports produced and underlined by three areas of concern: principles, objectives and achievements to date. Council noted that each committee needed to be given ample opportunity to provide adequate feedback on the report and was a priority for the future.
- 11.3 Chris Middleton reported that the actual print date of the report was 8th July 2005 so had enough time in which to action all of the changes that Council had suggested. Mr J Camp reported that there were two Council meetings held in March 2005, one on 2nd March 2005 and the other was the Special meeting of Council held on 29th March 2005, one of which had been omitted from the Council meeting attendance table.

Action: SB

- 11.4 Council noted that an error had occurred in the report where Jo Manning thanked herself and therefore recommended this to be corrected forthwith. Mr N Willis reported that amendments needed to be made to the Education and Training Committee report especially with regard to the CPD process.
- 11.5 Council therefore recommended that the appropriate HPC employees reviewed each section that they were accountable for so to be able to make the appropriate corrections. Council were also requested to e-mail any

pertinent comments to Chris Middleton for their incorporation as soon as possible.

Action: CM

Item 12.05/261 APPLIED PSYCHOLOGISTS CONSULTATION

- 12.1 The Council received a paper from the Chief Executive for discussion/approval.
- 12.2 The Chief Executive reported that a consultation document was published on 12th March 2005 by the Department of Health on the proposals for the Health Professions Council (HPC) to statutorily regulate applied psychologists. A recommendation from the HPC was made to the Secretary of State for Health on 4th June 2004 that the profession should be regulated.
- 12.3 The Council discussed the implications for regulating applied psychologists. It was anticipated for a substantial increase in fitness to practise cases to occur. The Council noted that when the AODP joined the register in October 2004 the HPC had to fund those registrants' outstanding legal cases. The Council were in agreement that HPC should now not be responsible for the funding of such cases when the applied psychologists are transferred across and that payment of these should be sought from more appropriate sources such as the Department of Health or directly from their professional body.
- 12.4 Professor Waller reminded Council that although the generic name of her profession was Arts Therapists, the protected titles were Art Therapist/Art Psychotherapist, Drama therapist and Music Therapist. "Arts Therapists" was the name of that part of the Register only and was not used by registrants to describe themselves.
- 12.5 The Council ratified HPC's draft response and recommended that the Chief Executive submit the application to statutorily regulate applied psychologists to the Department of Health and post it to the HPC website.

Action: MJS

Item 13.05/262 AMENDMENTS TO THE RENEWAL FORMS AND GUIDANCE NOTES FOR REGISTRANTS

- 13.1 The Council received a paper from the Executive for discussion/approval.
- 13.2 The Director of Information reported that various changes had been required for implementation to the renewal forms, guidance notes and

processes overall. This had transpired from a review of the processes put into operation following the 2003/04 renewal cycle for the first 12 professions regulated by the HPC. The Council noted that it was hoped for these amendments to assist in the timely processing of these forms, with the introduction of a more robust security feature. In-house testing of the forms would be run before the final roll out.

- 13.3 The Council noted that subject to Rule changes due before the end of the second transition period, the Privy Council would no longer be required to approve such amendments but rather ratification would be sought directly from Council.
- 13.4 The Council discussed the form in detail and noted that it was not clear what was meant by 'The approximate location of this address will be available to the public'. The Council recommended that this should be defined to specify that the town/city would be made available to the public as shown on the HPC register. The Council noted that the form could not currently be put on the website in a downloadable format as there was the concern that registrants would hijack the registration process.
- 13.5 The Council ratified the amended forms and guidance notes to be used in the renewal cycle for 2005/06.

Action: RD

Item 14.05/263 PROSECUTIONS POLICY

- 14.1 The Council received a paper from the Executive for discussion/approval.
- 14.2 The Director of Fitness to Practise reported that Council had agreed at its last meeting on 2 March 2005 a prosecutions policy. Various changes to the document had been made to incorporate necessary timescales and clarity of language so that it was clear that HPC would prosecute where it was deemed appropriate. The Council noted that the decision to prosecute was determined by a non-discriminatory policy that applied two tests, the evidential test and the public interest test and was in alignment with the Crown Prosecutions Service's Code of Prosecutors.
- 14.3 The Council were satisfied with the changes made therein and ratified the prosecution policy.

Item 15.05/264 FITNESS TO PRACTISE ANNUAL REPORT 2005

- 15.1 The Council received a paper from the Executive for discussion/approval.

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15.2 The Director of Fitness to Practice reported that in accordance with Article 44 (1) of the Health Professions Order 2001 a fitness to practice annual report for 2004/05 had been compiled. The Council noted that this document had been reviewed at the fitness to practice committee meetings held in April 2005 and recommended various changes contained therein. In addition HPC's legal advisor had had sight of the document and was happy with its content.

15.3 The Council ratified the Fitness to Practise Annual Report 2004/05.

Item 16.05/265 SANCTIONS GUIDANCE

16.1 The Council received a paper from the Executive for discussion/approval.

16.2 The Director of Fitness to Practice reported that Article 29 of the Health Professions Order 2001 detailed those orders that could be imposed by panels of the Health and Conduct and Competence Committees. The Council noted that the sanctions practice note had been revised to include further guidance on cases that involved criminal convictions with particular reference to Child Pornography Offences. Further clarification had also been provided for conditions of practice. The Council noted that the changes were highlighted in italics for their information. Council noted as a general increase in such cases had occurred the document provided would be most useful to panel members.

16.3 The Council ratified the practice note on sanctions guidance.

Item 17.05/266 PROTECTED TITLES AND HPC BRANDING

17.1 The Council received a paper from the Executive for discussion/approval.

17.2 The Director of Communications reported that frequently when private practitioners wished to advertise their services they wanted to do so with the bolster of adding letters after their name in combination with the HPC logo. This would illustrate to the public that they were bone fide through their registration with the HPC. The letters SR was often used after registrants names but since it no longer had any legal credibility the alternative 'HPC registered' was favoured.

17.3 The Council noted that whilst no action would be taken against registrants already using such titles or letters, or even against those who start to do so, the formal recommendation would be to advise registrants that they use their protected title only. The Council additionally noted that the use of the HPC logo be restricted to HPC Council members and the Executive team only. Health professionals using the logo would be requested to remove it as their professional title was their badge. This policy had been

approved by the Communications Committee at its meeting on 28th February and recommended that Council did the same.

17.4 The Council ratified the policy on use of letters and the HPC logo.

Item 18.05/267 PUBLISHING FITNESS TO PRACTISE HEARINGS

18.1 The Council received a paper from the Executive for discussion/approval.

18.2 The Council noted that since 9th July 2003, the Communications department had been responsible for publicising the results of fitness to practice hearings. Council noted that currently press releases were not sent to national or regional press when the hearing was considered to be of a sensitive nature such as a health case. However releases were sent to professional bodies. Complaints had been received regarding the appropriateness of this procedure. The Council noted that in seeking to protect the rights of registered professionals, press releases should not be issued in cases of a sensitive nature, including all health cases. The Council noted that the decision and order would still be available on the HPC website. A notice of hearing would still be issued to interested parties when a hearing date was set and would contain the allegation.

18.3 The Council ratified the policy regarding publishing fitness to practice hearings.

Action: KJ/CM

Item 19.05/268 MINUTES OF THE PLG – HEALTH, DISABILITY AND REGISTRATION HELD ON 24 FEBRUARY 2005

19.1 The Council received the minutes of the Professional Liaison Group for Health, Disability and Registration held on 24 February 2005.

Item 20.05/269 MINUTES OF THE PLG – STANDARDS OF EDUCATION AND TRAINING GUIDANCE FOR EDUCATION PROVIDERS HELD ON 11 MARCH 2005

20.1 The Council received the minutes of the Professional Liaison Group for Standards of Education and Training Guidance for Education Providers held on 11 March 2005.

Item 21.05/270 MINUTES OF THE PLG – STANDARDS OF EDUCATION AND TRAINING GUIDANCE FOR EDUCATION PROVIDERS HELD ON 24 MARCH 2005

- 21.1 The Council received the minutes of the Professional Liaison Group for Standards of Education and Training Guidance for Education Providers held on 24 March 2005.

Item 22.05/271 MINUTES OF THE FINANCE AND RESOURCES COMMITTEE HELD ON 23 MARCH AND 28 APRIL 2005

- 22.1 The Council agreed that the minutes of the finance and resources committee held on 23 March and 28 April 2005 respectively would be addressed at the next meeting of Council on 7th July 2005.

Item 23.05/272 JELLETT CASE

- 23.1 The Council received a paper for note from the Executive.
- 23.2 The Council noted that following the referral of the Jellett case by the Council for Healthcare Regulatory Excellence (CHRE's) to the High Court a reconvened panel of the Conduct and Competence Committee heard the remitted case on 31st March 2005 (following the directive that that it consider and impose appropriate conditions of practice). The panel was comprised of the same members that heard the original restoration application in August 2004. Mr Jellett was restored to the register with conditions attached to his registration.

Item 24.05/273 THE EXTENSION OF SUPPLEMENTARY PRESCRIBING TO PHYSIOTHERAPISTS, RADIOGRAPHERS AND CHIROPODISTS/PODIATRISTS

- 24.1 The Council received a paper for note from the Chief Executive.
- 24.2 The Council noted that an extensive consultation had now taken place with various groups, including representatives of this Council, The Medicines and Healthcare products Regulatory Agency (MHRA) resulting in the amendment of the Prescription Only Medicines (POM) Order to include three allied health professions (AHPs), namely, physiotherapist, radiographers and chiropodists/podiatrists following appropriate training. The Council noted that the Department of Health had also made similar amendments to NHS regulations in primary care and covered NHS pharmaceutical regulations, charges regulations and the General Medical Services and Personal Medical Services regulation.

Item 25.05/274 NOMINATION DECLARATION FOR ELECTIONS TO COUNCIL

- 25.1 The Council received a paper for note from the Chief Executive.
- 25.2 The Council noted that the Electoral Reform Services (ERS) were currently running elections for registrant and alternate members of all the 13 professions that HPC regulates. Those elected would be appointed to Council from July 2005.
- 25.3 The Chief Executive reported that there had been concern the four home country requirements as set out in the Health Professions Council Order 2001 “the Order” would not be met but has nevertheless been achieved. Following the initial nomination process it had transpired that candidates for the alternate The Council noted that polling would end as of 5pm on Friday 20th May 2005.

Item 26.05/275 PLG – STANDARDS OF EDUCATION AND TRAINING GUIDANCE FOR EDUCATION PROVIDERS

- 26.1 The Council received a paper for note from the Policy Manager, Rachel Tripp.
- 26.2 The Council noted that the professional liaison group for the consideration of curriculum guidance had now met twice. The Group had agreed to change their title as it was felt that ‘curriculum guidance’ was not congruent with its intentions. Since many professional bodies were involved in the provision of detailed curriculum guidance, the Groups directive was not to reproduce such work. Rather, the commitment was to review the guidance that the HPC produced, namely the Standards of Education and Training and the drafting of an Approvals Handbook.
- 26.3 The Council noted that in partnership with the professional body representatives and Group members, a first draft would be produced and circulated to all participants for feedback. The second draft of guidance, in agreement with the Group would then be put before Council for ratification.

Item 27.05/276 RESOLUTIONS AGREED ELECTRONICALLY

- 27.1 The Council received a paper for note from the Secretary to Committees.
- 27.2 The Council noted that various resolutions had been sent to Council by e-mail and agreed electronically, namely concerning Investigating Committee membership as it did not comply with the membership

requirements as laid out in the Order 2001 and the appointment of Visitors.

Item 28.05/277 MINUTES OF THE HEALTH COMMITTEE HELD ON 9 FEBRUARY 2005

28.1 The Council received the minutes of the Health Committee held on 9 February 2005.

Item 29.05/278 MINUTES OF THE INVESTIGATING COMMITTEE HELD ON 10 FEBRUARY 2005

29.1 The Council received the minutes of the Investigating Committee held on 10 February 2005.

Item 30.05/279 MINUTES OF THE CONDUCT AND COMPETENCE COMMITTEE HELD ON 15 FEBRUARY 2005

30.1 The Council received the minutes of the Conduct and Competence Committee held on 15 February 2005.

Item 31.05/280 MINUTES OF THE SPECIAL MEETING OF COUNCIL – STRUCTURE OF THE REGISTER HELD ON 29 MARCH 2005

31.1 The Council received the minutes of the special meeting of Council – Structure of the Register held on 29 March 2005.

Item 32.05/281 MINUTES OF THE EDUCATION AND TRAINING COMMITTEE HELD ON 30 MARCH 2005

32.1 The Council received the minutes of the Education and Training Committee held on 30 March 2005.

Item 33.05/282 ANY OTHER BUSINESS

33.1 The Council noted that there were two items of any other business.

Rule Changes

33.2 The Council noted that the rule changes it had recommended had not yet been finalised. The final revised version would be e-mailed to all members with the changes highlighted for their information and asked to approve it subsequently.

Partners Fees for Conducting HPC's Test of Competence

33.3 The Council received a paper from the Executive for discussion/approval.

- 33.4 The Council noted that currently HPC partners who conduct the HPC oral Tests of Competence for prospective registrants were paid £60 per test. In contrast, Partners undertaking registration appeals are paid a daily fee of £130. It was recommended that the existing policy was changed and that Partners were paid a £130 daily fee for undertaking Tests of Competence. Before the new policy was implemented, all relevant Partners would be sent a letter detailing the changes.
- 33.5 The Council ratified the change to the policy regarding partners' fees for conducting HPC's Test of Competence.

Item 34.05/283 DATE AND TIME OF NEXT MEETING

- 34.1 The next meeting of the Council would be at 11a.m. on Thursday 7 July 2005.

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