

**SELECTION AND MEMBER SERVICES COMMITTEE**

**Thursday, 24th February, 2022**

**2.30 pm**

**Council Chamber, Sessions House, County Hall,  
Maidstone**









## AGENDA

### SELECTION AND MEMBER SERVICES COMMITTEE

Thursday, 24 February 2022, at 2.30 pm      Ask for:      **Andrew Tait**  
Council Chamber, Sessions House, County      Telephone:      **03000 416749**  
Hall, Maidstone

#### Membership (8)

Conservative (5):      Mr N J Collor (Chairman),      Mr M C Dance,      Mr R W Gough,  
Mr C Simkins and Mr B J Sweetland

Labour (1):      Dr L Sullivan

Liberal Democrat (1):      Mr A J Hook

Green and      Mr Lehmann  
Independent (1):

#### Webcasting Notice

Please note: this meeting may be filmed for live or subsequent broadcast via the Council's internet site or by any member of the public or press present. The Chairman will confirm if all or part of the meeting is to be filmed by the Council.

By entering the meeting room you are consenting to being filmed. If you do not wish to have your image captured please let the Clerk know immediately.

#### **UNRESTRICTED ITEMS**

*(During these items the meeting is likely to be open to the public)*

- 1      Substitutes
- 2      Declarations of Interests by Members in items on the Agenda for this meeting.
- 3      Minutes - 25 November 2021 (Pages 1 - 8)
- 4      Constitution Amendment - Urgent Executive Decisions (Pages 9 - 12)
- 5      Document Signing - Constitutional Amendments (Pages 13 - 18)
- 6      Other Items which the Chairman decides are Urgent

## **EXEMPT ITEMS**

*(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)*

Benjamin Watts  
General Counsel  
03000 416814

**Wednesday, 16 February 2022**

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## KENT COUNTY COUNCIL

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### SELECTION AND MEMBER SERVICES COMMITTEE

MINUTES of a meeting of the Selection and Member Services Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Thursday, 25 November 2021.

PRESENT: Mr N J Collor (Chairman), Mr R W Gough, Mr A J Hook, Mr Lehmann, Mr C Simkins, Dr L Sullivan and Mr B J Sweetland

ALSO PRESENT: Mr H Rayner

IN ATTENDANCE: Mr B Watts (General Counsel), Mr T Godfrey (Scrutiny Research Officer), Ms L Adam (Scrutiny Research Officer), Ms S Connelly, Mr M Dentten (Democratic Services Officer) and Mr A Tait (Democratic Services Officer)

### UNRESTRICTED ITEMS

**19. Minutes - 28 October 2021**  
*(Item 3)*

(1) The General Counsel informed the Committee that, with reference to Minute 18 (11), he had not yet written to the Secretary but would do so in the next few weeks.

(2) RESOLVED that the Minutes of the meeting held on 28 October 2021 are correctly recorded and that they be signed by the Chairman.

**20. Member KNet Pages**  
*(Item 4)*

(1) The GLD Delivery Officer gave a presentation showing the Members' Page on the KCC Intranet site (KNet). She began with the "Carousel" page which set out the menu and explained that it was reviewed and updated every week. It typically contained time-limited or time-sensitive items such as new Covid Vaccination Centres, new Consultations and stories of general interest to KCC.

(2) At the bottom of the page, there was a bar entitled "Resources" which contained a number of features including an email address which Members could utilise if they needed information that they could not access elsewhere. The "Video Area" consisted of three channels: "Inductions", "Briefings" and "Training and Member Development." Access to these channels was limited to members and those officers who needed to upload content. The "Update" section contained the latest news on a variety of issues and announcements. It was kept up-to-date on a weekly basis.

(3) The GLD Delivery Officer then explained the purpose of the nine tiles under the heading “Quick Links.” These were “Useful Contacts” (including Directorate Structure Charts), “Expenses”, “Useful Documents” (which now included the Member Handbooks and FAQs), the “Committee Calendar” (which now included a Committees Page), the “Consultation Site” “Emergency Planning”, the “Information Point”, and “Member Development” which linked to KCC’s Delta Service page (KCC’s e-learning platform.)

(4) The GLD Delivery Officer then said that the page also contained space for additional tiles such as the “Tribute” page which was currently there. Additional pages were available for news updates as well as advice and guidance. The “Media Hub” was automatically updated whenever KCC issued a press release.

(5) The General Counsel commented that the work carried out to make the Members’ Page as relevant and up-to-date as possible was carried out by staff in Democratic Services and other Teams such as Corporate Communications and Policy. It also gave opportunities for Members to comment upon the current content and suggest improvements.

(6) Mr Gough asked whether Members were generally aware of the existence and usefulness of this service. The GLD Delivery Officer replied that it was difficult to quantify use of the site by Members due to the confidential nature of the way in which it had been set up. Although it was possible to ascertain the number of hits on the site, the actual users could not be identified. This meant that the users could be an officer who had uploaded data or the same Member using the site regularly. Members had been notified by email earlier in the year that work on building up and improving the Members’ Area. She was not aware whether similar correspondence had been sent to the new cohort following the May elections.

(7) The General Counsel agreed with Mr Gough’s suggestion that all-Member briefings on any topic would afford an excellent opportunity to incorporate a brief presentation on Members Area, such as the Committee had just received. He agreed to discuss this with his colleagues with a view to including a Members Page introductory presentation at a suitable briefing session.

(8) Mr Sweetland said that the Constitution and the current budget should be made easily accessible in the Members Area.

(9) The General Counsel agreed to investigate whether there was a possibility of identifying how many Members were actually using the Members Area on KNet. He would respond in writing to all Members of the Committee.

(10) The GLD Delivery Officer responded to a question from Dr Sullivan by saying that the FAQ tile was being built up to inform Members about such matters as how best to assist parents who were taking part in School Transport appeals. She added that she would be very interested in receiving input from Members on questions commonly asked of them by the public.

(11) The General Counsel said that one of the most important benefits of the Members Area was that it was able to signpost Members to the areas they were



interested in. The Member Development Sub-Committee was expected to be formed in the New Year, providing an excellent opportunity for this service to be considered in detail.

(12) Mr Hook said that, whilst accepting that there were other creative ways for Members to be informed about Members Area, a simple email from the General Counsel explaining the benefits and accessibility of the service would also be very useful. He also agreed with the general view of the Committee Members that the political groups should use their meetings to publicise it amongst their Members.

(13) Mr Hook then said that KCC should guard against treating the information provided to Members as though it were confidential. In Many cases, this information could be made accessible to the public.

(14) The General Counsel replied that he would be reporting to the January meeting of the Policy and Resources Cabinet Committee on Freedom of Information, Data Protection and Information Governance. The issue Mr Hook had just raised would be considered within it. Ideally, KCC should publish as much as possible. Much of it was already available on the KCC website. There was, however, the question of resources to be considered. For example, it would be resource intensive if senior KCC staff were to examine every slide contained in a presentation initially given to Members in order to establish whether it contained confidential information. Also, the Members Area often directed Members to relatively junior staff, who would not be the appropriate people to deal with questions posed to KCC by the public.

(15) The General Counsel agreed to consider options for making KNet accessible to Members who were using their personal devices. He added that the Deputy Leader was currently considering the IT that was made available to them, as it was becoming outdated.

(16) The General Counsel replied to a question by the Chairman on paragraph 5 of the report by saying that he would inform Members of their ability to participate in workshops on the KNet pages if they were interested in doing so.

(17) RESOLVED that:-

- (a) the report be noted together with the comments made by Members of the Committee; and
- (b) the information about registering interest in the KNet workshops be circulated to all Members.

**21. Member Remuneration Panel Report -- Matters Arising**  
*(Item 5)*

(1) The General Counsel introduced the report which set out recommendations of the Member Remuneration Panel (MRP) which were not directly related to the Members' Allowances Scheme.

(2) The Committee discussed the question of whether there was anything in the way that KCC operated which militated against a more diverse membership. Mr Lehmann asked whether it was possible to means test Members' Allowances so that a higher allowance could be offered to younger Members who were on a low income. The General Counsel replied that this suggestion would be added to the list of Members' suggestions that would be presented to the MRP when it next considered the Members' Allowances Scheme.

(3) The General Counsel replied to a question from Dr Sullivan by saying that he would be considering how to inform potential candidates before the next election of the ways in which they could become involved in supporting their communities. Most of the candidates were nominated by their political parties, so he would be writing to local parties to make them aware of some of the recommendations of the MRP. Possible supporting activities would be considered by Personnel Committee and Standards Committee. The Selection and Member Services Committee also had a role in considering how to support Members through their terms of office and how to demonstrate that KCC was fulfilling its statutory duty to support equalities.

(4) Mr Gough said that the MRP's recommendation that KCC should appoint a Lead Member for Equality and Diversity had not been taken forward in the way that the Panel had suggested. This was partly due to cost but mainly because the decision on who to nominate was a matter for political parties, over whom the County Council had no control. There might, however, be an opportunity to appoint a less formal champion. He noted that membership of the County Council had become more diverse since he had first been elected in 2005, particularly in terms of the number of women and younger people. He believed that the question was to what extent people were encouraged or discouraged from putting themselves forward to the pool from which nominations were made.

(5) Mr Hook said that all the political parties found it difficult to put forward as diverse a range of candidates as it would like. It seemed that, even amongst party members who had joined a party out of broad political interest, there was a lack of knowledge and understanding of what the County Council actually did, what its budget was and how it differed from the work of Parliament or District Councils.

(6) Mr Hook then said that there was a need to improve webcasting of its meetings. This was because it was of insufficient quality for a TV network to use its images in its news programmes. If this was improved, awareness of the County Council would improve as well, leading to a greater variety of people becoming motivated to seek election.

(7) Mr Hook continued that consideration could be given to enabling networking across age and gender groups within KCC regardless of political affiliation. This would not even involve staff time as it could be done on an informal basis.

(8) Dr Sullivan said that the County Council Members were predominantly male, white and older. She suggested that in order for minorities to feel safely

able to speak and be listened to, the advice of the MRP should be followed, with a Cabinet Member having specific responsibility for diversity initiatives and to be someone with authority that people could speak to in the event that they felt that behaviour towards them should be improved.

(9) Mr Sweetland said that his portfolio included responsibility for diversity and that he took it seriously. He would welcome a diversity champion from within the current cohort of KCC Members. He welcomed Mr Hook's suggestion on networking and added that all Members needed to be aware of the need for them to consider how they could promote diversity.

(10) Mr Gough said that the Administration was discussing this issue in depth and that he would take forward the suggestion of a Champion drawn from the wider membership of the Council for inclusion in these discussions.

(11) The General Counsel said that there was a role for the service that he was responsible for to develop a strategy for Members' wellbeing, particularly if they faced hostility in the social media.

(12) Mr Hook opened the discussion on the "Transparency" section of the report by saying that he welcomed the suggestion on tabulating Member attendance either as a Committee Member or as a substitute. He suggested that Members' questions at County Council and debates they had taken part in could also be recorded in the same way. If the webcasting were to be improved, it might also be possible to incorporate a link to the contribution made.

(13) The General Counsel said that the current webcasting contract was due to come to an end in 2022. It would be possible at this point to consider the inclusion of features which could record information in a particular way. He would be willing to bring forward a more detailed report on this issue to a future meeting of the Committee. He added that it could be misleading to simply set out a bland statistic which simply quantified the number of meetings attended.

(14) Mr Gough said that it would be useful for the General Counsel to provide the report he had suggested. It was difficult to provide any statistic that gave an entirely accurate picture of the entire contribution made by any Member of the Council. He nevertheless agreed with Mr Hook's suggestion because it would lead to incremental improvement in the transparency of the County Council, which he believed was the best approach to adopt.

(15) Mr Lehmann said that attendance at Parish Council, Joint Transportation Board and Outside Body meetings should also be recorded as they were an integral part of a Member's work.

(16) Dr Sullivan said in respect of the Dependents' Carers' Allowance section of the report that it would help to reduce the stigma that could be experienced by carers if this particular allowance could be recorded separately from other Members' expenses, as happened with attendance at conferences and training.

(17) The General Counsel said that he needed to check the Transparency Regulations to see whether the Dependents' Carers' Allowance had to be

displayed against individuals or a pot. Once he had done so, he would prepare a report containing suggestions for achieving the desired result.

(18) RESOLVED to note:-

- (a) that Member attendance at meetings will be tabulated and published as soon as is practical; and
- (b) the comments made and requested actions in respect of:-
  - (i) the additional information which could be published to give a more accurate picture of Member contribution;
  - (ii) whether there is anything in how the Council operates which militates against a more diverse membership and
  - (iii) how better to promote the Dependents' Carers' Allowance.

**22. Update from the Monitoring Officer**  
(Item 6)

(1) The General Counsel updated the Committee on arrangements for the County Council meeting on 16 December 2021. The number of Covid cases in Kent was being closely monitored and the Director of Public Health was regularly asked to provide updated information. At this stage it was intended to hold the meeting in the Council Chamber.

(2) The General Counsel then said that he would shortly be writing to all the Group Leaders to ask whether they supported the arrangements in the light of experience at the previous County Council meeting. He would also welcome any suggestions for improvement.

(3) In response to a question from Mr Sweetland, the general Counsel confirmed that the any Member who took part virtually would be noted in the Minutes, although only those physically present could be formally recorded as attendees.

(4) Mr Simkins commented that the facilitation of Lateral Flow Tests prior to the previous meeting had been helpful and reassuring.

(5) In response to a question from Mr Rayner, the General Counsel said that it was his understanding that any Member who only attended Council meetings remotely during a six-month period would potentially be subject to disqualification. At present, no Members of the Council faced this risk. Were such a problem to arise, the Member in question could attend a meeting of a committee which was sufficiently small to mitigate their concerns over the pandemic. He added that every meeting held in the Council Chamber could be attended virtually by any Member who preferred this option.

(6) RESOLVED that the report be noted.

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From: Ben Watts, General Counsel  
To: Selection and Member Services Committee, 24 February 2022  
Subject: Constitution Amendment: Urgent Executive Decisions  
Status: Unrestricted

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## 1. Introduction

- a) This paper is brought forward following work by the Strategic Governance Manager reviewing the Constitution and is part of our ongoing programme of Governance review.
- b) Section 12.32 of the Constitution sets out the procedure for taking a Key decision when it is not possible for the proposed decision to appear on the FED prior to being taken.
- c) Before the decision can be taken, “the Chair of the Scrutiny Committee and relevant Senior Manager have agreed that the decision cannot reasonably be deferred.” The Constitution makes no allowance for the possibility of the Chair of the Scrutiny Committee being unavailable when their agreement is required, or for the position of Scrutiny Committee Chair being vacant.

## 2. Proposed Amendment

- a) This possibility was considered in The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that underpin the Executive Member decision-making process. In these regulations it is set out that:
  - i. “the decision may only be made where the decision maker has obtained agreement from — (a) the chairman of the relevant overview and scrutiny committee; or (b) if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the chairman of the relevant local authority; or (c) where there is no chairman of either the relevant overview and scrutiny committee or of the relevant local authority, the vice-chairman of the relevant local authority, that the making of the decision is urgent and cannot reasonably be deferred.”
- b) For business continuity purposes, it is important that it is clear in the Constitution what would have to happen in the event of the Chair of the Scrutiny Committee being unable to act in connection with urgent decisions.
- c) The appendix shows the suggested additions to section 12.32 of the Constitution, with the new wording shown in bold and underlined.

### **3. Recommendation**

The Selection and Member Services Committee is asked to recommend to County Council that the Constitution be amended to allow the Chairman of the Council to act with regards urgent key decisions where the Chair of the Scrutiny Committee cannot, or the Vice-Chairman of the Council where the Chairman cannot.

### **4. Background Documents**

None.

### **5. Report Author and Relevant Director**

Ben Watts, General Counsel  
03000 416814  
[benjamin.watts@kent.gov.uk](mailto:benjamin.watts@kent.gov.uk)

Tristan Godfrey, Strategic Governance Manager  
03000 411704  
[tristan.godfrey@kent.gov.uk](mailto:tristan.godfrey@kent.gov.uk)



## Appendix – Proposed Amendment to Section 12.32 of the Constitution

12.32 Where a Key Decision or other decision requiring publication on the FED is so urgent that the minimum requirement of five clear working days cannot be given, the decision may only be taken **where the following apply**:

- (a) the Chair of the Scrutiny Committee and relevant Senior Manager have agreed that the decision cannot reasonably be deferred. **Where the Chair of the Scrutiny Committee is unable to act, the Chairman of the Council has to agree that the decision cannot reasonably be deferred, or the Vice Chairman on the Council where both are unable to act; and**
- (b) the Group Spokespersons of the Scrutiny Committee, Chair and Group Spokespersons of the relevant Cabinet Committee and affected local Members have been informed in writing by Democratic Services and given an opportunity for their comments to be included in the Record of Decision.

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From: Ben Watts, General Counsel

To: Selection and Member Services Committee, 24 February 2022

Subject: Document Signing: Constitutional Amendments

Status: Unrestricted

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## 1. Introduction

- a) The Office of the General Counsel (OGC) is responsible for arranging the sealing and signing of the Council's deeds and significant contracts. In doing so, they reconcile the proposed documents with earlier political decision making to ensure that appropriate direct or delegated authority is in place.
- b) Since March 2020 and the onset of the Covid-19 pandemic, it has become clear that the process for the sealing and signing of contracts is inefficient and of limited flexibility. This project is the first of a number that will be coming forward seeking to optimise and modernise the Council's arrangements in line with our learning during the pandemic and to improve efficiency.
- c) The Legal Support Team within OGC do excellent work managing this process on the Council's behalf and other staff across Governance, Law, and Democracy are involved as authorised signatories of the Council, checking the paperwork as well as physically signing the documents and applying the common seal where appropriate. The team within the service are independent and act impartially to protect the best interests of the Council and to ensure compliance with political decision-making.
- d) Under our current arrangements, many of the documents require a signature from a KCC Member, and Cabinet Members have worked their way through hundreds of documents. After the contracts/deeds have been completed, Invicta Law and other legal firms will return them to OGC Legal Support Team for storing in the Legal Archive.
- e) This consumes many hours, has involved considerable use of couriers and brings associated cost. With the shift to virtual working in many other areas of the Council's work, the current system is looking increasingly like an anachronism.
- f) At the same time, Members will know that outside the Council a range of other like documents and contracts are now signed electronically with consequential time and resource savings for the organisations involved.

## 2. Electronic Signing and Sealing

- a) We have been exploring different alternatives to the current paper-based system and have identified a cloud-based e-signature service as the best solution for preparing and executing documents electronically. This is a secure service with multiple safeguards to ensure only the authorised people can sign/seal documents and ensure that at each stage only the relevant information/documents can be viewed. This allows an end-to-end process with

a document's 'journey' tracked through the different stages. The information generated is automatically pulled through to the SharePoint sealing register/repository, thereby saving OGC's Legal Support time in manually inputting the information.

- b) Longer term, our ultimate objective is to move to complete digitisation of the contracts and deeds that we sign, seal and archive and to automate processes wherever possible. This includes a proposal to digitise all of the physical records held within the basement at Sessions House. This will allow quick searchability and retrieval and save on building storage space.
- c) In addition to the technological change, the process is recommended to be simplified. There is no legal requirement for Members to sign the document as they do in the current process. Members provide strategic direction through their decision-making or delegations and checks are made at different stages of the process, both within Governance, Law and Democracy and through externally appointed lawyers. The ability of the Council's authorised signatories to also independently review the documents will remain under this system.
- d) Removing the administrative Member signing process will reduce cost, increase agility in concluding these documents, remove the burden on Cabinet Members and free up capacity. The accountability to comply with Member decision-making is unaffected by the change.
- e) Signing and sealing is the formal end of the decision-making process leading up to the deed and/or contract being required. In accordance with the decision-making procedures and rules of the Council, Members will have been involved and authority granted where necessary, for example through a Cabinet Member signing a Record of Decision and other Members involved as part of the key decision process.

### **3. Amendments to the Constitution**

- a) The sections in the Constitution covering the signing and sealing of documents are set out in section 11, under the duties of the Monitoring Officer, and in section 13, financial procedures. These were drafted when 'wet ink' signing was not only commonplace, but the only viable option. Even if we were not proposing to move to a physical paper-free system, the amendments being proposed bring these sections of the Constitution up to date and allow for the full range of options.
- b) The proposed amendments are set out in the Appendix as track changes to the current wording as set out in the Constitution. They allow for electronic signing to be valid under our Constitution and remove the requirement for a Member to counter-sign certain documents.

### **4. Recommendation:**

The Selection and Member Services Committee is asked to note the report and recommend to County Council the approval of the proposed amendments to the Constitution.

### **5. Background Documents**

None.

## **6. Report Author and Relevant Director**

Ben Watts, General Counsel

03000 416814

[benjamin.watts@kent.gov.uk](mailto:benjamin.watts@kent.gov.uk)

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## Appendix – Proposed Amendments to the Constitution on Signing and Sealing

- 11.18 On behalf of the Council and in support of their delegated Executive functions the Monitoring Officer has the following responsibilities: ...
- (k) Custody of the Common Seal of the Council. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which, in the opinion of the Monitoring Officer, should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer, or some other person authorised by them in writing to do so, provided that in any transaction relating to land to which The Regulatory Reform (Execution of Deed and Documents) Order 2005 applies, the Common Seal shall be attested by a Member of the County Council and an authorised signatory. The Common Seal of the Council may be affixed either by physical means or by such electronic means as the Monitoring Officer may from time to time authorise. The affixing of an electronic seal shall be of the same legal effect as affixing the Common Seal of the Council physically.
- ...
- 13.16 Any contract with a value in excess of £1m must be made in writing and either:
- (a) affixed with the common seal of the Council, and be attested by at least one authorised Officer ~~(as defined in 13.17~~see section 13.18), or
- (b) signed as a deed by at least one authorised Officer (as defined in 13.18) unless otherwise determined by the Monitoring Officer.
- 13.17 The common seal of the Council shall be affixed to any deeds (unless a specific statutory provision permits otherwise) and any document or agreement if the Monitoring Officer considers it appropriate for the purpose of transacting the Council's business or safeguarding its interests.
- 13.18 ~~The seal may be fixed and witnessed, or the document signed as a deed only by the Monitoring Officer or Officers authorised by them in writing to do so.~~The affixing of the Common Seal, either by physical or electronic means (as defined in section 11.18), may only be attested by the Monitoring Officer, or Officers authorised by them in writing to do so.
- 13.19 The Monitoring Officer shall ensure a register is maintained of all documents and agreements that are sealed including the name of the person who witnessed the affixing of the seal.
- ...
- 13.22 Where there is a requirement (legal or otherwise) for a 'wet ink' signature on legal agreements, they will be sealed and/or signed physically. Otherwise, section 13.23 may apply.

~~13.2213.23~~ ~~With the exception of charges and deeds that have to be registered at the Land Registry or Companies Registry in order to take effect or to have legal protection (where a 'wet ink' signature will still be required), electronic signatures will, in line with the Electronic Communication Act 2000, Where the law, and (where applicable) any additional requirements of a public registry (for example, HM Land Registry) allow, electronic signatures may be permitted, and will be accepted as a fair representation of a willingness to enter into a contract with the Council, insofar as the e-signature is a true representation of the authorised person's written signature and (a) and (b) below apply, in which case an e-signature and a signature will be referred to as the same. as long as the following apply:~~

(a) the Contract will be entered into in relation to being either under seal or under hand,

~~(b) the electronic signature is a true representation of the authorised person's written signature, and~~

~~(b)(c)~~ is supported with a contemporaneous document of authenticity and authorisation from the Supplier.

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