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MEETING: AUDIT AND GOVERNANCE COMMITTEE

DATE: Wednesday, 16 April, 2014

TIME: 3.00 p.m.

VENUE: Town Hall, Bootle

Member

Councillor
Councillor Roberts (Chair)
Councillor McGinnity (Vice-Chair)
Councillor Brennan
Councillor Lord Fearn
Councillor John Joseph Kelly
Councillor Maher
Councillor McIvor
Councillor Papworth
Councillor Shaw
Councillor Weavers

Substitute

Councillor
Councillor Friel
Councillor Byrom
Councillor Mahon
Councillor Ashton
Councillor Kermode
Councillor Moncur
Councillor Dorgan
Councillor Dutton
Councillor Hands
Councillor Tonkiss

COMMITTEE OFFICER: Mike Morris
Senior Democratic Services Officer
Telephone: 0151 934 2045
Fax: 0151 934 2034
E-mail: mike.morris@sefton.gov.uk

If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.

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A G E N D A

1. Apologies for absence

2. Declarations of Interest

Members are requested to give notice of any personal or prejudicial interest and the nature of that interest, relating to any item on the agenda, in accordance with the Members Code of Conduct.

3. Minutes

(Pages 5 - 8)

Minutes of the meeting held on 26 March 2014

4. Proposed Changes to the Code of Conduct for Councillors and Officers Dealing with Planning Applications

(Pages 9 - 14)

Report of the Director of Built Environment

5. Hearings Sub - Committee - Outcome of Investigation

(Pages 15 -
22)

Report of the Acting Monitoring Officer

6. Contracts Procedure Rules

Report of the Director of Corporate Services (To Follow)

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THIS SET OF MINUTES IS NOT SUBJECT TO "CALL-IN"

AUDIT AND GOVERNANCE COMMITTEE

MEETING HELD AT THE TOWN HALL, SOUTHPORT ON WEDNESDAY, 26 MARCH 2014

PRESENT: Councillor Roberts (in the Chair)
Councillor McGinnity (Vice-Chair)
Councillors Lord Fearn, John Joseph Kelly, Mclvor,
Papworth, Shaw and Weavers

ALSO PRESENT: Councillor Dorgan and Kermode

36. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Brennan, Maher, Mahon and Moncur.

37. DECLARATIONS OF INTEREST

No declarations of interest were received.

38. MINUTES

RESOLVED:

That the Minutes of the meeting held on 11 December 2013 be confirmed as a correct record.

39. EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for that part of the following item of business when details of individual debts are being considered on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Act. The Public Interest Test has been applied and favoured exclusion of the information from the press and public.

40. REVENUES - WRITE OFF OF IRRECOVERABLE DEBTS WITH BALANCES OVER £10,000

The Committee considered the report of the Head of Corporate Finance and ICT which sought approval to write off irrecoverable debts with balances over £10,000.

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AUDIT AND GOVERNANCE COMMITTEE- WEDNESDAY 26TH MARCH, 2014

RESOLVED:

That approval be given to 42 non-domestic rate debts amounting to £1,047,182.79; 4 sundry debts amounting to £97,358.73; and 2 overpaid Housing Benefit debts amounting to £31,373.22 being written-off (total amount for write-off being £1,175, 914.74). .

41. TREASURY MANAGEMENT 2013/14 - POSITION TO FEBRUARY 2014

The Committee considered the report of the Head of Corporate Finance and ICT which provided details of the Treasury Management activities undertaken in the current financial year up until 28 February 2014, in accordance with the Council's Treasury Management Policy and Strategy 2013/14.

RESOLVED:

That the report be noted.

42. AUDIT PLAN 2013/14 - INTERNAL AUDIT PERFORMANCE REPORT APRIL 2013 TO FEBRUARY 2014

The Committee considered the report of the Head of Corporate Finance and ICT which provided a summary of internal audit work undertaken during the period April 2013 to February 2014. The Committee was required to be informed of and review Internal Audit work as part of its review of the internal control environment and overall Governance arrangements.

The report also provided details of the performance trend of Arvato's Benefit Fraud Investigation Team.

RESOLVED:

That the report be noted.

43. RISK MANAGEMENT SERVICES - QUARTERLY UPDATE

The Committee considered the report of the Head of Corporate Finance and ICT which provided an update on the Corporate Risk Register and matters relating to Risk Management Services.

The actual Corporate Risk Register was confidential and would be considered in the restricted part of the meeting.

RESOLVED:

That the report be noted.

44. DRAFT INTERNAL AUDIT PLAN 2014/15

AUDIT AND GOVERNANCE COMMITTEE- WEDNESDAY 26TH MARCH, 2014

The Committee considered the report of the Head of Corporate Finance and ICT on a draft Internal Audit Plan for 2014/15 which would be subject to consultation with the Strategic Leadership Team in order to identify the key areas of risk for the forthcoming financial year and ensure that appropriate coverage of Council services is undertaken in order to enable an opinion on the effectiveness of the overall control environment to be formed at the end of 2014/15. Following the consultation process, it was intended to submit an amended Plan for approval to the meeting of the Committee to be held in June 2014.

RESOLVED:

That the draft Annual Audit Plan for 2014/15 be noted.

45. INTERNAL AUDIT FRAUD REPORT

The Committee considered the report of the Head of Corporate Finance and ICT which provided a summary of the proactive and anti-fraud and corruption and investigation work undertaken during 2013/14 by the Internal Audit Team.

RESOLVED:

That the report be noted.

46. EXTERNAL AUDIT PLAN 2013/14

The Committee considered a report by PricewaterhouseCoopers, the Council's external auditors, setting out the framework for the audit and inspection work to be undertaken for the 2013/14 financial year, including an analysis of any areas of heightened risk including fraud, the proposed audit strategy approach to be taken by the external auditors, the reporting and audit timetable and details of the indicative audit fee for 2013/14.

RESOLVED:

That the External Audit Plan 2013/14 be approved.

47. EXTERNAL AUDIT CERTIFICATION REPORT 2012/13

The Committee considered the annual certification report of PricewaterhouseCoopers, the Council's external auditors, setting out the results of the certification work undertaken for the Council in 2012/13; the certification fees; and the adequacy of the proposed management action plan for 2012/13.

RESOLVED

That the report be noted.

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AUDIT AND GOVERNANCE COMMITTEE- WEDNESDAY 26TH MARCH, 2014

48. EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they would involve the likely disclosure of exempt information as defined in Paragraphs 3 and 7 of Part 1 of Schedule 12A to the Act. The Public Interest Test has been applied and favoured exclusion of the information from the press and public.

49. CORPORATE RISK REGISTER - QUARTERLY UPDATE

The Committee considered the report of the Head of Corporate Finance and ICT on the work undertaken on the management and mitigation of risk within the Council since the last meeting of the Committee. The report also provided details of the Corporate Risk Register which had been reviewed and refreshed to reflect the Council's current risks and the associated controls in place. No new risks had been added to the Register.

RESOLVED:

That the report be noted.

50. INTERNAL AUDIT FRAUD REPORT - ONGOING INVESTIGATIONS

The Committee considered the report of the Head of Corporate Finance and ICT which provided a summary of the ongoing investigations and new referrals of suspected fraud dealt with by the Internal Audit Team since the last meeting of the Committee.

RESOLVED:

That the report be noted.

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Reasons for the Recommendation:

To ensure existing policies and procedures for planning decision making are robust, transparent and up to date.

What will it cost and how will it be financed?

(A) **Revenue Costs** - None

(B) **Capital Costs** - None

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal

The updates within this report will need to be considered by Audit and Governance Committee and Cabinet.

Human Resources

N/A

Equality

1. No Equality Implication

2. Equality Implications identified and mitigated

3. Equality Implication identified and risk remains

Impact on Service Delivery:

What consultations have taken place on the proposals and when?

The Head of Corporate Finance & ICT (FD2824/14) notes that the report recommends procedural changes and does not have any financial implications.

The Head of Corporate Legal Services has been consulted and her comments have been included in the report. (LD 2130/14)

Are there any other options available for consideration?

No

Implementation Date for the Decision

Following consideration by Audit and Governance Committee and Council.

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Contact Officer: Jane Gowing – Head of Planning Services

Tel: 0151 934 3544

Email: janegowing@sefton.gov.uk

Background Papers:

Council's Constitution

Protocol - Pre Applications with Planning Committee

Protocol – Planning Committee Site Visits

Planning Advisory Service 'Probity in Planning for councillors and officers' April 2013

Agenda Item 4

Introduction

From time to time it is necessary to review processes and protocols for planning decision making. This is good practice and will help to ensure that appropriate, robust and transparent decision making takes place. This is especially necessary within the Planning System since decisions are made in the public arena and can create significant interest and legal challenge. This report contains proposed changes to the process of decision making and protocols for members which, if approved, will need to be reflected in the Council's Code of Conduct and constitution.

It is clear to members that the planning system has undergone significant change in recent years – and it is fair to expect further changes in the coming months. Systems of planning decision making have to balance social, environmental and economic issues in order to achieve sustainable economic development. The abundance of changes in the national system mean that it is more important than ever to ensure that decision making is clear, robust and based on material planning considerations. Planning decisions have to be made in a transparent manner and on occasion decisions taken by committee, or officers, can be controversial since the planning process often has to balance competing interests when coming to a decision. It is therefore essential to ensure that appropriate measures are in place to both inform and protect decision makers.

In recent years this committee has approved a number of protocols to provide more transparency in the committee's process. For example the Site Visit Protocol and the Pre Application with Planning Committee Protocols. These are good practice and have been used successfully to inform and assist decision making in a positive manner. It is considered that there are opportunities to make some adjustments to the code of conduct in order to continue to make improvements to processes, provide more clarity and to ensure decisions remain robust.

Proposed Updates to the Code of Conduct;

- **Ongoing monthly training programme for members is proposed to be continued.** This training is available for all members, including substitute members and any other member who may be interested in the subject. This is important because of the complexities of the planning system, ongoing legislative and procedural changes and the need to ensure members are up to date with training on various planning issues. The monthly training sessions run by officers are well attended and provide a regular platform for discussion and learning. Members are invited to advise the Head of Planning Services at any time for specific topics/requests to be added to the programme.
- **Mandatory training.** In addition to the above and as a consequence of the quasi judicial nature of planning – it is proposed to introduce a new requirement for all committee members (including substitute members) to attend one mandatory training session with officers covering key planning principles/information. This requirement will need to be met before sitting on the committee each municipal year. In addition, there will be a need to attend a further two compulsory training events during the course of each municipal year. Failure to attend the total three required sessions each year may lead to that member being excluded from the committee. Whilst training events are run every month members will be encouraged to continue to attend as many as possible, having regard to other pressures on their time and availability. This will help to ensure members are well

informed and up to date on relevant matters – in particular the council will be able to demonstrate its commitment to informed and robust decision making – in times of increased legal challenge and appeals.

- **Annual appointments** – linked to the above points regarding training is the need to ensure that members are informed to make decisions on planning matters. On occasion membership of the committee changes during the year. This brings new members, sometimes with limited knowledge of planning, onto the committee. In light of the proposed changes regarding mandatory training it is also considered appropriate that appointments to planning committee be made for the full municipal year. If any changes to membership need to occur in exceptional circumstances any new member will be required to undergo the mandatory training before sitting on the Committee.
- **Visiting Panel –attendance to be prioritised for members or substitutes.** Committee site visits are an integral part of the committee’s decision making role. Site visits by the committee enable an additional level of information to be obtained to inform decision making. Visits do not cover all applications on the agenda. Officers will continue to make pro active use of visiting panel as appropriate as recognised good practice to inform decision making– identifying all applications subject to petitions, also identifying sites which involve unusual or complex policy/contextual issues. Members are able to defer items for committee site visits – and are required to set out clear planning reasons for these requests. Due to the importance of Visiting Panel members are strongly encouraged to attend all committee Visiting Panels as an important part of the committee’s role and responsibilities.
- **Visiting Panel – attendance at committee and visiting panel by the same member.** Attendance at visiting panel is key to informed decision making. If a member knows that they are able to attend the site visit but not the committee meeting – or vice versa- that member should wherever possible arrange with their substitute member to attend both meetings. This is to ensure consistency in decision making and to help ensure that all decision makers have access to the same information.
- **Petitions –circulation of materials/photographs to committee to be prohibited.** On occasion petitioners bring along written or other material to the meeting and ask to circulate this to members. At present this is not covered by any protocol and is at the discretion of the Chair. Officers have expressed some concern in these circumstances as they have not seen the information, not had opportunity to form any conclusions on the relevant information and importantly are not able to advise committee as to the accuracy or relevance of the materials. This has potential to put committee in a difficult position – when considering the amount of weight they should (or shouldn’t) give to this information. It is therefore proposed that petitioners, respondents or any other person addressing the committee will not be permitted to display or circulate any information to members or the committee. This can then be communicated in advance to interested parties to help avoid confusion.
- **Ward members addressing the committee** –ward members often ask to address the committee, this is subject to approval of the Chair and occurs at the committee meeting. Hitherto it has been practise that ward members address the committee after both a petitioner and the respondent have addressed the committee. This means that the committee, applicant and objectors do not know in advance of the meeting that a ward member will address the committee. In addition the respondent cannot currently respond to the ward members

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submissions as the member addresses the committee last. In the interests of balanced decision making it is suggested that an amendment to this process would be appropriate and fair. It is suggested that ward members (and only ward members) will be able to address the committee provided that they have written/emailed Democratic Services by midday the day before committee – setting out that they will be addressing the committee and including a short summary of the issues they intend to raise. This information can then be brought to the attention of the petitioner/respondent/applicant as appropriate. The process at committee will then be amended such that the petitioner addresses the committee first, ward councillors address the committee second and the respondent responds to the committee last. It is considered that this measure ensures balance to the decision making process. If there is not a petition the ward councillor may address the committee (subject to the notification as set out above) and the applicant or agent will be given the opportunity to respond. The usual time limits will apply in all cases, i.e. no more than five minutes for each speaker.

Conclusions

The proposed changes are intended to provide further transparency, clarity and equity to the processes of the committee and decision making. In order to ensure appropriate approvals are in place these proposals will need to be considered by Audit and Governance Committee and Council. The Council's Constitution will then be updated in accordance with the final approved scheme.

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Report to: Audit and Governance Committee **Date of Meeting:** 16 April 2014

Subject: Hearings Sub-Committee – Outcome of Investigation **Wards Affected:** Park and Sudell

Report of: The Acting Monitoring Officer

Is this a Key Decision? No **Is it included in the Forward Plan?** No

Exempt/Confidential No

Purpose/Summary

To present, for the information of the Committee, the outcome of a recent investigation into a complaint made against a Maghull Town Councillor.

Recommendation

That the decisions and recommendations of the Hearings Sub-Committee be noted.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity		√	
3	Environmental Sustainability		√	
4	Health and Well-Being		√	
5	Children and Young People		√	
6	Creating Safe Communities		√	
7	Creating Inclusive Communities		√	
8	Improving the Quality of Council Services and Strengthening Local Democracy	√		

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Reasons for the Recommendation:

A formal procedure for the Hearings Sub-Committee has now been adopted and this provides for the Monitoring Officer to report the Sub-Committee’s decisions and recommendations to the Audit and Governance Committee for its information.

Alternative Options Considered and Rejected:

None.

What will it cost and how will it be financed?

(A) Revenue Costs

N/A

(B) Capital Costs

N/A

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial		
Legal		
Human Resources		
Equality		
1.	No Equality Implication	<input checked="" type="checkbox"/>
2.	Equality Implications identified and mitigated	<input type="checkbox"/>
3.	Equality Implication identified and risk remains	<input type="checkbox"/>

Impact of the Proposals on Service Delivery:

None.

What consultations have taken place on the proposals and when?

The Head of Corporate Finance and ICT (FD2927) notes that the purpose of the report is to update Members on the findings of an independent review into allegations made against a Member and that there are no financial implications.

The Head of Corporate Legal Services (LD2232/14) has been consulted and has no comments on the report.

Implementation Date for the Decision

Immediately following the Committee meeting.

Contact Officer: Andrea Watts
Tel: 0151 934 2030
Email: andrea.watts@sefton.gov.uk

Background Papers:

There are no background papers available for inspection.

1. Introduction/Background

- 1.1 On 3 October 2013, a complaint was received from a member of the public, Mr. Brendan Grant, against a Member of Maghull Town Council, Councillor David Jones.
- 1.2 The complaint was considered by the Initial Assessment Sub-Committee on 1 November 2013 and that Sub-Committee determined that it should be referred for investigation and the evidence subsequently heard by the Hearings Sub-Committee.

2. Hearings Sub-Committee Meeting

- 2.1 On 7 March 2014, the Hearings Sub-Committee, comprising Councillors McGinnity, Papworth and Weavers met to consider the evidence obtained by the Monitoring Officer and to hear personal representations made by Town Councillor Jones and Mr. Grant, together with submissions made by an independent person, as required by the procedure.
- 2.2 The formal decision notice in respect of this complaint was published on the Council's website on 20 March 2014 and a copy is attached as Annexe A.

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ANNEXE A

HEARINGS SUB-COMMITTEE

DECISION NOTICE

Complaint about Maghull Town Councillor David Jones
Lodged by Mr. Brendan Grant

On 7 March 2014, the Hearings Sub-Committee considered a report of an investigation into the alleged conduct of Councillor David Jones, a Member of Maghull Town Council. A general summary of the complaint is set out below.

Complaint summary

The complainant alleged that:-

- (1) Councillor Jones used his position as a Councillor to "try to drive TMS F.C. out of business as then Maghull F.C. would benefit". This relates to the proposal to charge TMS F.C. £2,000 per annum for the hire of Whinneybrook Playing Field.
- (2) Councillor Jones (as a Committee Member for Senior Teams of Maghull F.C.) should have declared an interest when taking part in Committee meetings at which the fees for playing fields were being discussed.
- (3) Councillor Jones should not have disclosed confidential Council information to a third party in a public house.

Consultation with independent person

The Independent Person's views can be summarised as follows:-

1. This confusing state of affairs would appear to have arisen because Maghull Town Council, or at least its Finance Sub-Committee, took a decision based on inaccurate information, i.e.
 - (a) the fact that TMS Soccer School (the commercial business) is a separate entity from TMS Boys FC. and
 - (b) nobody thought it necessary to obtain an accurate figure for attendance at the club, but instead relied on one man's guess. From my reading of the facts, none of this can be laid at the door of Councillor Jones personally (other than his membership of the Council who took the decision). Indeed, the documentation would indicate that Councillor Jones took an active part in reducing the original £2,000 decision once the true attendance figures were known. In my view it is down to some disturbing unprofessionalism by the Council and its officers in not making sure of their facts before proceeding to their first decision.
2. I could not see any conflict of interest for Councillor Jones inasmuch as the decision concerning pitch fees did not involve Maghull F.C.
3. We now come to the conduct of Councillor Jones in the Meadows public house on 18 August 2013. That the conversation took place is not in dispute. That Mr. Grant and Mr. McPhillips interpreted it as pre-empting the decision,

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or Councillor Jones's explanation that he was expressing an opinion as to what the decision may be, is irrelevant. Should he have been discussing it at all? If this is considered to be a breach of Council confidentiality, I would suggest that it does not rank among the most heinous of its kind. It would appear that it was done with the kindest of motives - to ease Mr. Grant's concerns. It is not clear from Mr. Grant's documentation whether he is alleging that Councillor Jones had a hand in the "missing minutes" episode (the meeting of 27 September). In any case, it disturbs me that the investigation did not appear to pursue this matter. According to the notes of interview with a Town Council officer, the matter was not raised with her. Were minutes taken or not? If not, why not?

[Subsequent to these comments having been received from the Independent Person, enquiries were made of Maghull Town Council and it was stated that the meeting in question was an informal one which would not usually be minuted by officers.]

Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Sub-Committee reached the following decisions:-

(1) The Sub-Committee registered its surprise that notwithstanding the fact that he was a recently-elected Member of the Town Council, Councillor Jones appeared not to realise that in seeking to influence the Town Council's consideration of the setting of pitch fees for one local football organisation whilst holding a senior managerial position with another local football organisation, he risked exposing himself to possible allegations of partiality. However, the Sub-Committee found no evidence that Councillor Jones used his position as a Councillor to "try to drive TMS F.C. out of business as then Maghull F.C. would benefit". Therefore, there was no breach of the Code of Conduct in relation to this aspect of the complaint.

(2) The Sub-Committee did not consider that Councillor Jones (as a Committee Member for Senior Teams of Maghull F.C.) should have declared an interest when taking part in Committee meetings at which the fees for playing fields were being discussed, because those fees did not involve Maghull F.C. Therefore, there was no breach of the Code of Conduct in relation to this aspect of the complaint.

(3) The Sub-Committee found no evidence that Councillor Jones disclosed confidential Council information to a third party in a public house. The Sub-Committee was satisfied that Councillor Jones was attempting to obtain confirmation about the level of usage of the playing fields in question in order to inform a subsequent decision about a proposed fees increase. Therefore, there was no breach of the Code of Conduct in relation to this aspect of the complaint.

The Sub-Committee also made the following recommendation:

The Monitoring Officer was recommended to bring the following matters to the attention of the Town Clerk of Maghull Town Council:-

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(1) The Sub-Committee expressed its deep disappointment that Maghull Town Council had apparently failed to arrange or execute any suitable form of induction training for newly-elected Members, despite the care which had been taken by Sefton MBC to ensure that all Parish Councils were aware of Sefton's version of the Code of Conduct.

(2) The Sub-Committee was also deeply troubled that it seemed clear that no notes or minutes were kept of a meeting on 27 September 2013 which was attended by one of the Town Council's officers, particularly as it seemed that they may have reinforced the case presented by the complainant, Mr. Grant.

(3) Finally, the Sub-Committee expressed its surprise that another newly elected Town Councillor had been promptly given significant responsibility as a Committee Chair and that he was not challenged over his important but incorrect assessment of the numbers attending Mr. Grant's football training sessions.

Appeal

There is no right of appeal against the Sub-Committee's decisions.

Notification of decision

This decision notice is sent to:

- Councillor David Jones
- Mr. Brendan Grant
- Sefton Council's Monitoring Officer
- Miss Angela McIntyre, Town Clerk to the Maghull Town Council

Signed:

Date: 20 March 2014

Print name: COUNCILLOR PETER PAPWORTH

Chair of the Hearings Sub-Committee
Sefton M.B.C
Town Hall
Trinity Road
Bootle
L20 7AE

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