



FYLDE BOROUGH COUNCIL



Meeting Agenda

**Standards Committee
Reception Room, Town Hall
9 February 2006, 7:15pm**

STANDARDS COMMITTEE

MEMBERSHIP

CHAIRMAN - Councillor Eric Bamber

VICE-CHAIRMAN – Councillor Kiran Mulholland

Members

John Longstaff

Howard Henshaw

Mr D D E Birchall

Mr A Marsh

Mr W E Twist

Mrs J McCormick

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CORPORATE OBJECTIVES

The Council's investment and activities are focused on achieving our five key objectives which aim to :

- Conserve, protect and enhance the quality of the Fylde natural and built environment
- Work with partners to help maintain safe communities in which individuals and businesses can thrive
- Stimulate strong economic prosperity and regeneration within a diverse and vibrant economic environment
- Improve access to good quality local housing and promote the health and wellbeing and equality of opportunity of all people in the Borough
- Ensure we are an efficient and effective council.

CORE VALUES

In striving to achieve these objectives we have adopted a number of key values which underpin everything we do :

- Provide equal access to services whether you live in town, village or countryside,
- Provide effective leadership for the community,
- Value our staff and create a 'can do' culture,
- Work effectively through partnerships,
- Strive to achieve 'more with less'.



AGENDA

PART I - MATTERS DELEGATED TO COMMITTEE

ITEM	PAGE
1. DECLARATIONS OF INTEREST: <i>In accordance with the Council's Code of Conduct, members are reminded that any personal/prejudicial interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Local Government Act 2000.</i>	4
2. CONFIRMATION OF MINUTES: <i>To confirm as a correct record the Minutes of the Standards Committee held on 26 April 2005.</i>	4
3. SUBSTITUTE MEMBERS: <i>Details of any substitute members notified in accordance with council procedure rule 26.3</i>	4
4. COMPLAINTS TO THE STANDARDS BOARD: STATISTICS	5 – 8
5. MEMBER-OFFICER RELATIONS	9 – 11
6. STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE	12 – 21

REPORT



REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	STANDARDS COMMITTEE	9 TH FEBRUARY 2006	4

COMPLAINTS TO THE STANDARDS BOARD: STATISTICS

Public/Exempt item

This item is for consideration in the public part of the meeting.

Summary

There have been complaints to the Standards Board about fourteen borough or parish councillors since the last meeting of the committee. Two of these have been referred for investigation.

Recommendation/s

1. Note the statistical information.

Executive brief

The item falls within the following executive brief[s]: Leader and quality services (Councillor John Coombes).

Report

1. The last meeting of the Standards Committee was in April 2005. This report sets out a statistical breakdown of complaints since then. As members know, the committee covers both Fylde Borough Council and the 14 parish councils within the borough.
2. Since the last meeting, the Standards Board for England has received complaints about fourteen councillors in the Fylde area. Four of the councillors complained about were members of the borough council only. Two of the councillors were

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members of the borough council and of a parish council. The remaining eight were members of a parish council. One complaint was directed towards eight individuals. Another was directed against two individuals. For the purposes of this report, I have treated each of these as one complaint.

3. The table below sets out the findings on the complaints:

Not referred for investigation: no evidence of failure to comply with code of conduct	1
Not referred for investigation: alleged conduct not of significance to justify investigation	3
Referred to ethical standards officer for investigation: no failure to comply with code of conduct found	0
Referred to ethical standards officer for investigation: Decision not yet received	2
Referred to ethical standards officer for investigation: Failure to comply with code proved	0

4. At the time of the last committee meeting, two complaints had been referred to an ethical standards officer for investigation, but no decision had been reached on them. Those investigations have now been completed. In both cases, the ethical standards officer found that there was no evidence that the code of conduct had been broken.
5. The table below sets out a breakdown of the nature of complaints referred for investigation, and compares it with national statistics published by the Standards Board. For the purposes of comparison, only matters referred since April 2005 are included.

	National %	Local %
Bringing authority into disrepute	23	0
Failure to register financial interests	1	0
Using position to confer or secure an advantage or disadvantage	12	0
Failure to disclose personal interest	13	0
Failure to treat others with respect	15	100
Prejudicial interest	23	0

Other	13	0
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6. The Standards Board also publishes data about the source of allegations. The table below compares that information (from April 2005) with local information.

	National %	Local %
Fellow councillor	29	20
Council employee	6	20
Member of the public	64	60
Other	1	0

IMPLICATIONS	
Finance	None
Legal	None
Community Safety	None
Human Rights and Equalities	None
Sustainability	None
Health & Safety and Risk Management	None

REPORT AUTHOR	TEL	DATE	DOC ID
Ian Curtis	(01253) 658506	5 January 2006	

LIST OF BACKGROUND PAPERS		
NAME OF DOCUMENT	DATE	WHERE AVAILABLE FOR INSPECTION
Allegation notification SBE11299.05-SBE11306.05	3 June 2005	Town Hall, St Annes

Allegation notification SBE11296.05	3 June 2005	Town Hall, St Annes
Allegation notification SBE11298.05	3 June 2005	Town Hall, St Annes
Allegation notification SBE11078.05	6 July 2005	Town Hall, St Annes
Case summary SBE8132.04	20 September 2005	Town Hall, St Annes
Case summary SBE8061.04	6 May 2005	Town Hall, St Annes
Allegation notification SBE13261.05	17 November 2005	Town Hall, St Annes
Allegation notification SBE13511.05	19 December 2005	Town Hall, St Annes
Standards Board monthly statistical digest	January 2006	www.standardsboard.co.uk/Casesummaries/MonthlyStatisticalDigest/

REPORT



REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	STANDARDS COMMITTEE	9 TH FEBRUARY 2006	5

MEMBER-OFFICER RELATIONS

Public/Exempt item

This item is for consideration in the public part of the meeting.

Summary

The chairman of the committee is concerned about the relationship between members and officers. He asks the committee to endorse the guidance note set out in the report.

Recommendation/s

1. Adopt the guidance note set out in the report
2. Invite the mayor, the leader of the council, the chairmen of the three community forums and the chief executive to endorse the guidance note.

Executive brief

The item falls within the following executive brief[s]: Leader and quality services (Councillor John Coombes).

Report

Background

1. The chairman of the committee, Councillor Bamber, has become increasingly concerned about what he sees as deteriorating standards in the public relationship between members of the Fylde Borough Council and its officers. He considers that the

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committee ought, as part of its remit to promote and maintain high standards of conduct by members, to comment and issue guidance to address the problem.

2. Councillor Bamber hopes that the guidance note set out below will be endorsed by the mayor, the leader, the chief executive and the chairmen of the three community forums, as well as by the committee.

The proposed guidance note

3. The relationship between members and officers of a local authority is a key factor in determining whether the authority succeeds in its various roles. Members cannot work without officers. Officers cannot work without members. Neither members nor officers can do their work effectively unless there is mutual trust between them.
4. Over the past year or so, there has been an impression that member-officer relations have broken down. This is far from the case. In almost all cases, officers and members work together constructively and with mutual respect outside the public arena. But there have been occasions where officers have been subject to express or implied criticism by members either in council or committee meetings or in dealings with third parties.
5. Members and officers will not always agree. This is natural and normal. Officers are employed for their technical and professional skills. Members are elected to represent the views of their electorate. There are occasions when officers have to offer advice to members that may be unwelcome. Members need to have confidence that officers are fully aware of members' concerns and aspirations. Officers need to be happy that members will take their professional or technical advice fully into account.
6. Mutual trust and confidence is undermined if members react to unwelcome advice by criticising the officer who has given it. This places unfair pressure on officers to tailor their advice to the anticipated views of members. If an officer feels obliged to tailor their advice because of member reaction, decision-making will be impaired. This is different to the need for an officer to be aware of the political context, which should be part of the professional skills of all senior officers.
7. The council's constitution contains a protocol on member-officer relations. Paragraph 3.2 of the protocol is as follows:

"Members must...respect the impartiality and integrity of all the Council's officers. Similarly, officers must respect the role of members as elected representatives. It is important that any dealings between members and officers should observe proper standards of courtesy and that neither party should seek to take unfair advantage of their position."

If a member has a concern about the conduct of a particular officer, the proper channel to raise it is through the head of paid service.

8. It is imperative that trust and confidence between members and officers be maintained and enhanced. The standards committee expects to play a full part in that process. The committee can only impose a formal sanction where the Standards Board for England has referred a matter to it. But it can and it will take what action it can, short of a formal sanction, where behaviour comes to its attention which is incompatible with increasing trust and confidence. The committee will be proactive in drawing unacceptable conduct to the attention of political groups, or, exceptionally, in highlighting it to the wider membership of the council.

9. We hope that the past few months can be seen, in retrospect, as an exceptional period. We hope that highlighting the problems will lead to their resolution, and that the Standards Committee will not need to intervene in this way.

IMPLICATIONS	
Finance	
Legal	
Community Safety	
Human Rights and Equalities	
Sustainability	
Health & Safety and Risk Management	

REPORT AUTHOR	TEL	DATE	DOC ID
Ian Curtis	(01253) 658506	22 September 2005	

LIST OF BACKGROUND PAPERS		
NAME OF DOCUMENT	DATE	WHERE AVAILABLE FOR INSPECTION
None		

REPORT



REPORT OF	MEETING	DATE	ITEM NO
LEGAL & DEMOCRATIC SERVICES	STANDARDS COMMITTEE	9 TH FEBRUARY 2006	6

STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE

Public/Exempt item

This item is for consideration in the public part of the meeting.

Summary

The Government has published a consultation paper drawing together its current views on the future of the conduct regime for local government in England. The paper sets out a vision for the future regime and provides a co-ordinated response to a series of recent recommendations, reviews and consultations relevant to conduct issues in local government.

Government seeks responses to its consultation by April 15.

Recommendation/s

1. Consider responding to the Government's consultation.

Executive brief

The item falls within the following executive brief[s]: Leader and quality services (Councillor John Coombes).

Report

1. The Government has published a paper drawing together its current views on the future of the conduct regime for local government in England. The paper sets out a

Continued....

vision for the future regime and provides a co-ordinated response to a series of recent recommendations, reviews and consultations relevant to conduct issues in local government. The deadline for consultation is 15 April.

2. The attached briefing note, produced by Eversheds, solicitors, summarises the Government's position and proposals. A full copy of the consultation paper is at <http://www.odpm.gov.uk/index.asp?id=1162582> and can be made available in hard copy on request.
3. The committee has previously responded to the Standards Board's consultation on the future of the code of conduct. A copy of the response is attached for reference.
4. Members are asked if the committee wishes to respond to the present consultation.

IMPLICATIONS	
Finance	
Legal	None at present. If the proposals are passed as set out in the consultation, more resources may need to be devoted to monitoring and standards.
Community Safety	
Human Rights and Equalities	
Sustainability	
Health & Safety and Risk Management	

REPORT AUTHOR	TEL	DATE	DOC ID
Ian Curtis	(01253) 658506	20 December 2005	

LIST OF BACKGROUND PAPERS		
NAME OF DOCUMENT	DATE	WHERE AVAILABLE FOR INSPECTION
Eversheds Local Government Briefing Note 31/2005	19 December 2005	Town Hall, St Annes

Attached documents

Eversheds Local Government Briefing Note 31/2005

Response to Standards Board Consultation

Eversheds

19 December 2005

Briefing Note 31/2005 – 'Standards of conduct in English local government: the future'

By Denis Cooper and Judith Barnes

The government responds

This paper, published on 15 December, draws together the government's current views on the future of the conduct regime for local government in England. It sets out a vision for the future regime and provides a co-ordinated response to a series of recent recommendations, reviews and consultations relevant to conduct issues in local government.

In particular, this paper incorporates the government's response to:

- chapter 3 of the tenth report of the Committee on Standards in Public Life (Graham Committee) – 'Getting the Balance Right – Implementing Standards in Public Life', January 2005
- 'The Role and Effectiveness of the Standards Board for England' – Report of the ODPM Select Committee, April 2005
- recommendations following consultation on the 'Code of Conduct for Members' by the Standards Board for England
- 'Review of the Regulatory Framework Governing the Political Activities of Local Government Employees', which was the subject of an ODPM consultation paper in August 2004; and
- a 'Model Code of Conduct for Local Government Employees' – an ODPM consultation paper, August 2004.

It has taken some considerable time for the government to produce its response to these papers but the comprehensive approach made possible by this delay is to be welcomed.

The government's responses to these reviews and recommendations reflect the fact that local authorities in England have a strong track record of high standards of conduct and are based on the continuing need:

- to maintain high standards of conduct for local authority members and employees
- to define effectively what standards of conduct are expected of members and officers, and for such rules to be fair and clear
- for an effective means of taking action when breaches of the rules occur, and for such means to be fair, clear, proportionate, rigorous and thorough; and
- to ensure that measures are in place to guarantee public confidence in the appropriateness of the ethical regime.

The government's vision is for the different elements of the conduct regime – including the members' Code of Conduct, the Standards Board, local Standards Committees and Monitoring Officers – to work effectively together and be an integrated whole.

The changes

The overall approach to conduct set out in the paper would involve the following principal changes to current arrangements:

- initial assessment of all misconduct allegations to be undertaken by Standards Committees, rather than the Standards Board
- Local Standards Committees to be responsible for investigating and determining most cases
- the Standards Board to adopt a more strategic, advisory and monitoring role but retaining responsibility for investigating the most serious misconduct allegations; and
- improvements to the operation and composition of local Standards Committees, with independent chairs and committees to include independent members with a balance of experience.

These changes are designed to secure public confidence in giving Standards Committees powers to make initial assessments of all allegations.

In order to ensure the independence and thoroughness on which public confidence in such a locally-based system depends, there is seen to be a fundamental need to improve the independence of Standards Committees and encourage the building up of the capacity and capability of the committees to undertake their new role. The changes will also mean the evolution of the Standards Board into a strategic, arm's-length body dealing only with the most serious cases nationally, and ensuring capacity is increased at local level through increased support, advice and guidance.

Standards Committees should be at the heart of decision-making within the conduct regime. Standards Committees are in the lead in ensuring high standards of conduct at the local level, and are increasingly taking on a greater role in the determination of cases. The government wishes to continue this development, and consider that it would be a logical step to extend their role further to take on the initial assessment of all allegations. Monitoring Officers would be responsible for arranging to undertake the investigation of most allegations, and committees would make determinations in most cases. Only the most serious cases would be referred to the Standards Board for investigation.

A more locally-based regime would provide an appropriate way for local knowledge of the authority and its members to be fed into the decision-making process. It would enable the experience and skills of the Monitoring Officer to be used more effectively, including potentially allowing more opportunity for local mediation or other intervention falling short of investigation, which might allow disagreements to be diffused before they turn into full-blown allegations. Such a regime might also give an opportunity for Standards Committees to spot politically inspired or vexatious complaints, which might mean that unworthy cases could be rejected as soon as possible, but handled with an understanding of local pressures and sensitivities.

Monitoring Officers and Committees would need to become central, not only in investigating but also in promoting and championing high standards, and ensuring that standards become embedded as an intrinsic part of the local culture. In taking ownership of this issue in this way, Committees would become the main means of increasing councils' awareness of standards issues. There are clear links here to the increasing importance of governance and standards in the CPA process.

Authorities will need to do more than at present to ensure that Monitoring Officers and Standards Committees are:

- properly supported;
- of the appropriate quality; and
- able to promote high standards of conduct throughout each authority, so that concern for conduct issues is embedded in every aspect of councils' work.

The government accepts the Graham Committee's strong view that to retain public confidence in the independence and rigour of a more locally-based regime, Standards Committees should be required to have an independent chair. However, it does not accept that committees should be required to have a majority of independent members.

Changes to the Code

It is also proposed to simplify and clarify the Code of Conduct for members, so that it better reflects the way modern councils work and is easier for members and others to understand and use. The government has welcomed the recommendations the Standards Board has presented, arising from its consultation on the review of the Code of

Conduct for members and agreed that amendments to the Code should be made along the lines suggested by the Board, including:

- making the Code clearer and simpler; but
- maintaining a rigorous approach to the identification of serious misconduct;
- amending the regime for declaring interests and speaking at council meetings particularly for members who also serve on other public bodies;
- making changes to the arrangements for determining whether conduct in private life should fall within the ambit of the Code; and
- amending the rules on the reporting of allegations by members to reduce the number of vexatious complaints.

The government also accepts the Board's recommendation that a clearer balance needs to be set between the need for an authority to protect genuinely confidential information and members' rights to make information available in the public interest, in the light of the provisions of the Freedom of Information Act.

The Board's recommendation that a specific provision should be added to the Code to clarify that bullying behaviour constitutes a breach of the Code is also accepted.

The following key changes are proposed to the Code:

1. The general principles, currently contained in a separate Order, should be published alongside the Code which we believe is to serve as a reminder of the guiding principles for member conduct and give a positive tone to the provisions of the Code.
2. Certain behaviour outside official duties should continue to be regulated, but this should be restricted only to matters that would be regarded as unlawful.
3. In relation to appointments to other public bodies amendments to the Code will adopt a solution involving the member making a declaration of personal interest at the time when s/he speaks on a relevant issue (rather than at the start of the meeting). In addition, even where the member has a prejudicial interest in the matter relating to the body he represents (eg where the matter has a direct impact on the body concerned, or where the member is involved in regulatory matters in a decision-making capacity such as in respect of planning and licensing), s/he should be allowed to remain in the meeting to speak on behalf of the body, or on behalf of a campaign that s/he supports, but should withdraw before the vote.
4. A similar approach is to be adopted to members having a personal or prejudicial interest in a planning application.
5. The 'whistleblowing' obligation to report breaches of the Code will be abolished (which most members will welcome).

In parallel, the conduct regime relating to local authority employees will be made more systematic, in particular, by the introduction of a Code of Conduct for employees, taking into account lessons learnt in the operation of the Code for members. The current rules requiring senior local authority posts to be politically restricted will be retained but with changes to raise the pay limits for political assistants and removal of limitations on the changes. A separate briefing will deal more fully with these topics.

The government believes this approach will provide the conduct regime that local government will need in future as it develops the kind of strategic role encouraged as part of the 'Local Vision' debate. A number of the ideas for change require legislation which will occur at the next convenient opportunity that Parliamentary time allows. No information is provided as to when this might be, but it is not expected until at least the 2006/7 Parliamentary Session.

Conclusion

At last the government seems to have accepted the thrust of the original Nolan recommendations to ensure that standards issues are largely dealt with locally, bringing in strategic regulation at a national level. Whilst it might be nice to say 'we told you so' the proposals should be welcomed as bringing back an appropriate sense of proportion to ethics and standards issues.

The proposed changes will go a long way towards resolving some of the criticisms of the Code itself and the enforcement regime. Doubtless there will be some disappointments. In particular the emphasis on improving the quality of standards committee work may be seen as a slight on the valuable work done in many authorities since the Local Government Act 2000 to raise the profile of ethics and standards issues and to promote high standards. The further consultation proposed and the need for legislation will mean the changes will not all happen as quickly as some would like. The test of commitment will be the extent to which all involved will move forward in the spirit of the new regime in anticipation of the changes being formalised.

Any comments or views on the Consultation Paper should be sent to:

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London SW1E 5DU
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Dear Ian,

Thank you for responding to our consultation on the review of the Code of Conduct. Your answers are included below for your information.

Consultation closes on 17 June 2005, and we will be considering your opinions carefully over the summer as we prepare our recommendations to the Government.

Please check back on our website later in the year for more news.

Question 1: Should the ten general principles be incorporated as a preamble to the Code of Conduct?

Answer: yes

Question 2: Are there any other principles which should be included in the Code of Conduct?

Answer: not answered

Comments on this section: not answered

Question 3: Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement?

Answer: A broad test is more appropriate

Question 4: Should the Code of Conduct include a specific provision on bullying?

Answer: The area of bullying is adequately covered by existing parts of the code of conduct

Question 4a: If so, is the Acas definition of bullying quoted in the full consultation paper appropriate for this?

Answer: not answered

Comments on this section: not answered

Question 5: Should the Code of Conduct contain an explicit public interest defence for members who believe they have acted in the public interest by disclosing confidential information?

Answer: no

Question 6: Do you think the Code of Conduct should cover only information which is in law "exempt" or "confidential", to make it clear that it would not be a breach to disclose any information that an authority had withheld unlawfully?

Answer: yes

Comments on this section: not answered

Question 7: Should the provision relating to disrepute be limited to activities undertaken in a member's official capacity or should it continue to apply to certain activities in a member's private life?

Answer: The provisions are broad enough as they stand

Question 8: If the latter, should it continue to be a broad provision or would you restrict it solely to criminal convictions and situations where criminal conduct has been acknowledged?

Answer: not answered

Comments on this section: not answered

Question 9: We believe that the Code should prohibit breaches of the publicity code, breaches of any local protocols, and misuse of resources for inappropriate political purposes. Do you agree?

Answer: no

Question 10: If you agree, how could we define 'inappropriate political purposes'?

Answer: not answered

Question 11: Is the Code of Conduct right not to distinguish between physical and electronic resources?

Answer: yes

Comments on this section: not answered

Question 12: Should the provision of the Code of Conduct that requires members to report breaches of the Code by fellow members be retained in full, removed altogether, or somehow narrowed?

Answer: Yes, the provision should remain as drafted.

Question 13: If you believe the provision should be narrowed, how would you define it? For example, should it apply only to misconduct in a member's public capacity, or only to significant breaches of the Code?

Answer: not answered

Question 14: Should there be a further provision about making false, malicious or politically-motivated allegations?

Answer: no

Question 15: Does the Code of Conduct need to provide effective protection for complainants against intimidation, or do existing sections of the Code of Conduct and other current legislation already cover this area adequately?

Answer: The code does provide effective protection already.

Comments on this section: not answered

Question 16: Do you think the term 'friend' requires further definition in the Code of Conduct?

Answer: no

Question 17: Should the personal interest test be narrowed so that members do not have to declare interests shared by a substantial number of other inhabitants in an authority's area?

Answer: yes

Question 18: Should a new category of 'public service interests' be created, relating to service on other public bodies and which is subject to different rules of conduct?

Answer: no

Question 19: If so, do you think public service interests which are not prejudicial and which appear in the public register of interests should have to be declared at meetings?

Answer: not answered

Question 20: Do you think paragraph 10(2)(a-c), which provides limited exemption from the prejudicial interest rules for some members in certain circumstances, should be removed from the Code of Conduct?

Answer: no

Question 21: Do you think less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups?

Answer: no

Comments on this section: not answered

Question 22: Should members with a prejudicial interest in a matter under discussion be allowed to address the meeting before withdrawing?

Answer: no

Question 23: If you said yes to creating a new category of public service interests, do you think members with these interests should be allowed to contribute to the debate before withdrawing from the vote?

Answer: not answered

Comments on this section: not answered

Question 24: Should members employed in areas of sensitive employment, such as the security services, need to declare their occupation in the public register of interests?

Answer: no

Question 25: Should members be required to register membership of private clubs and organisations?

Answer: no

Question 25a: And if so, should the requirement be limited to organisations within or near an authority's area?

Answer: not answered

Comments on this section: not answered

Question 26: Should the Code require that the register of gifts and hospitality be made publicly available?

Answer: yes

Question 27: Should members also need to declare offers of gifts and hospitality that are declined?

Answer: no

Question 28: Should members need to declare a series of gifts from the same source, even if these gifts do not individually meet the threshold for declaration?

Answer: yes

Question 28a: If so, how could we define this?

Answer: not answered

Question 29: Is £25 an appropriate threshold for the declaration of gifts and hospitality?

Answer: yes

Comments on this section: not answered

Final thoughts: not answered

Question 30: Do you want us to treat your response as confidential?

Answer: no

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