



Code of Conduct for **Employees**



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Introduction

In accordance with section 5.51A(1) of the *Local Government Act 1995* the CEO of every Western Australian local government is to prepare and adopt a code of conduct to be observed by employees.

The *City of Joondalup Code of Conduct for Employees* (the code) has been adopted for this purpose and ensures the roles and responsibilities of employees are understood and respected. This enables professional relationships to be established and maintained in the interests of providing good governance, overall integrity and good government for the community.

The code sets out principles and standards of behaviour employees must observe when performing their duties and is intended to promote accountable and ethical decision-making. However, the code does not establish a rule for every situation an employee may face while undertaking their duties on a daily basis.

The code must be read in conjunction with the *Local Government Act 1995*, the *Local Government (Administration) Regulations 1996* and other legislation that affect employees while performing their duties and the code does not override or affect those provisions or requirements.

The code must contain certain matters for employees as listed in Part 4A of the *Local Government (Administration) Regulations 1996* including:

- the behaviour expected of employees in relation to:
 - o the performance of an employee's duties
 - o dealings with other employees and the broader community
 - o the use and disclosure of information acquired by the employee in the performance of their duties
 - o the use of the City's resources
 - o the use of the City's finances
- how City records are to be kept
- reporting mechanisms and management of suspected breaches of the code and suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour.

Employees of the City of Joondalup (the City) are subject to the provisions of the code upon commencement of their employment and while they remain employed by the City.

Values

The City's *10 Year Strategic Community Plan* articulates the City's vision as being 'A Global City: Bold, Creative and Prosperous'.

In alignment with this vision, the City believes the following primary values should be inherent within any well-functioning and community-driven organisation:

- **Transparent** – We facilitate appropriate levels of scrutiny by recording our decisions and making them accessible.
- **Accountable** – We accept responsibility for our actions and decisions that are within our control.
- **Honest** – We earn and sustain public trust by being honest and open in all our actions and always acting in the public interest.
- **Ethical** – We demonstrate moral behaviour that is free from corruption.
- **Respectful** – We treat people fairly and objectively and without discrimination.
- **Sustainable** – We manage our natural resources and public assets adaptively, ensuring equitable outcomes for future generations.
- **Professional** – We demonstrate strong skills and good judgment and behaviour in delivering our services.

The following distinguishing values guide the direction and operations of the City:

- **Bold** – We will make courageous decisions for the benefit of the community and future generations.
- **Ambitious** – We will lead with strength and conviction to achieve our vision for the City.
- **Innovative** – We will learn and adapt to changing circumstances to ensure we are always one step ahead.
- **Enterprising** – We will undertake ventures that forge new directions for business and the local economy.
- **Prosperous** – We will ensure our City benefits from a thriving economy built on local commercial success.
- **Compassionate** – We will act with empathy and understanding of our community's needs and ambitions.

Council members and committee members are to observe these values to enable the City to achieve its strategic objectives and organisational goals.

Accountable and ethical decision-making

To maintain a high level of community trust and confidence, the way employees conduct themselves impacts directly on that level of trust. Being accountable and ethical in all that employees do and the decisions they make, also impacts on that trust.

Accountable and ethical decision-making is about making decisions and taking actions that can be justified and accurately explained. Accountable and ethical decision-making is also about putting public interest first and ensuring that employees fulfill their public duty.

In practice, putting public interest first means:

- ensuring actions and decisions are impartial and unbiased
- acting fairly and justly, abiding by principles of due process and natural justice
- being accountable and transparent
- performing duties effectively and as efficiently as possible
- behaving in accordance with legislation and the City's code
- declaring any potential conflicts of interest.

Making ethical and accountable decisions is based on four guiding principles of honesty, transparency, diligence and consistency. In view of this there are four key fundamental questions central to ethical and accountable decision-making:

- Am I doing the right thing?
- How would others judge my actions?
- How could my actions impact on others?
- Should I discuss this with someone else?

Managing conflicts of interest

The nature of the City's business is conducive to conflicts of interests arising between an employee's personal interests and the performance of their public or professional duties. Genuine or perceived conflicts of interests may arise from a number of sources, including friends, relatives, close associates, financial investments, past employment and the like.

Although there is no right way to identify conflicts of interest, a good starting point is to consider the following principles:

- **Public duty versus private interests**
Do I have personal or private interests that may conflict, or be perceived to conflict with my public duty?
- **Potential**
Could there be benefits for me now, or in the future, that could cast doubt on my objectivity?
- **Perception**
How will my involvement in the decision/action be viewed by others? Are there risks associated for me/my organisation?
- **Proportion**
Does my involvement in the decision appear fair and reasonable in all circumstances?
- **Presence of mind**
What are the consequences if I ignore a conflict of interest? What if my involvement was questioned publicly?
- **Promises**
Have I made any promises or commitments in relation to the matter? Do I stand to gain or lose from the proposed action/decision?

It is important for employees to remain aware of their obligations and the directives that guide their conduct as an employee of the City. These obligations are contained within their employment contract, common law and this code, as well as other legislation that affect employees while performing their duties.

Division 1 – Preliminary provisions

1. Terms used

(1) In this code –

Act means the *Local Government Act 1995*;

City means the City of Joondalup, being a local government established as a body corporate under section 2.5 of the Act;

CEO means the Chief Executive Officer of the City;

Council means the Council of the City;

Director means a senior employee designated under section 5.37 of the Act;

employee means a person –

(a) employed by the City under section 5.36(1) of the Act; or

(b) engaged by the City under a contract for services.

(2) Other terms used in this code that are also used in the Act, have the same meaning as they have in the Act, unless the contrary intention appears.

Division 2 – General principles

2. Overview of Division

This Division sets out general principles to guide the behaviour of employees.

3. Personal integrity

An employee should –

- (a) act with reasonable care and diligence;
- (b) act with honesty and integrity;
- (c) act in the best interests of the City;
- (d) act lawfully and in good faith;
- (e) identify and appropriately manage any conflict of interest;
- (f) treat others with respect and fairness;
- (g) avoid damage to the reputation of the City; and
- (h) not be impaired by mind affecting substances.

4. Personal behaviour

An employee should –

- (a) act in accordance with the trust placed in them as an employee of the City;
- (b) perform their duties impartially and in the best interests of the City, uninfluenced by fear or favour;
- (c) use the resources of the City entrusted to them, effectively and efficiently in the course of their duties;
- (d) when making recommendations, and determinations on behalf of the City, apply due diligence in the collation and assessment of relevant information;
- (e) communicate in a polite, professional and accurate manner;
- (f) act, and be seen to act, properly and in accordance with the requirement of the law and the code;
- (g) always act in accordance with their employment obligations to the City and in line with any relevant policies, protocols and procedures; and
- (h) actively engage in training and development opportunities to improve the performance and quality of their duties.

5. Relationship with others

An employee should –

- (a) respect and value diversity and inclusion while employed at the City and in the community;
- (b) not make any allegations which are improper or derogatory and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any person unwarranted offence or embarrassment; and
- (c) maintain and contribute to a harmonious, safe and productive work environment.

6. Accountability

An employee should –

- (a) base decisions on relevant and factually correct information;
- (b) make decisions on merit, in the public interest and in accordance with statutory obligations and principles of good governance and procedural fairness; and
- (c) be open and accountable to the City and the community.

Division 3 – Conduct

7. Overview of Division

This Division sets out the requirements relating to the conduct of employees in which a suspected breach can be investigated under Division 4 of the code.

8. Personal behaviour

(1) An employee must –

- (a) obey any lawful order given by any person having authority to make or give such an order;
- (b) report to the workplace 'fit for work', which includes not being impaired by alcohol or drugs in the performance of their duties;
- (c) comply with all local laws, policies, procedures and protocols of the City and give effect to any lawful direction or reasonable management direction in the performance of their duties;
- (d) act in line and in accordance with any delegations of authority or powers given to them as an employee;
- (e) report to the workplace appropriately attired reflecting a positive image of the City including utilising and wearing appropriate personal protective equipment issued to them in the performance of their duties;
- (f) refrain from commenting publicly or on social media platforms where it can potentially affect the impartial performance of their duties or affect the positive image of the City; and
- (g) comply with all resolutions of the Council or a Committee and put them into effect when directed.

9. Relationship with others

An employee –

- (a) must not bully or harass another person in any way;
- (b) must not use offensive or derogatory language when referring to another person;
- (c) must not disparage the character of another employee in connection with the performance of their official duties; and
- (d) must not impute dishonest or unethical motives to another employee in connection with the performance of their official duties.

10. Use of City resources

(1) In this clause –

Resources of the City includes –

- (a) City property, including finances; and
- (b) services provided, or paid for, by the City.

- (2) An employee –
- (a) must not, directly or indirectly, use the resources of the City for any other purpose unless authorised under the Act, or by the City or the CEO;
 - (b) must use the resources of the City entrusted to them effectively and efficiently in the course of their duties;
 - (c) must not misuse resources of the City or allow their misuse by any other person or body; and
 - (d) must not use resources of the City to perform acts of corruption, fraud or other illegal or unethical conduct.

11. Securing personal advantage or disadvantaging others

- (1) An employee must not make improper use of their position to –
- (a) gain, directly or indirectly, an advantage for themselves or any other person; or
 - (b) cause detriment to the City or any other person.
- (2) Subclause (1) does not apply to conduct that contravenes section 5.93 of the Act or *The Criminal Code* section 83.

12. Use of information and recordkeeping

- (1) In this clause –
- closed meeting** means a council or committee meeting, Briefing Session or Strategy Session, or a part of a council or committee meeting, Briefing Session or Strategy Session that is closed to members of the public under section 5.23(2) of the Act;
- confidential document** means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;
- document** includes a part of a document;
- non-confidential document** means a document that is not a confidential document.
- (2) An employee must not make improper use of any information acquired by the employee in the performance of their duties, to gain directly or indirectly, an advantage for themselves or another person, or cause detriment to the City or any other person;
- (3) An employee must not disclose information that the employee -
- (a) derived from a confidential document;
 - (b) acquired at a closed meeting, other than information derived from a non-confidential document; or
 - (c) has come to be aware of through the performance of the employee's duties, where that information (written or oral) is obtained by them in confidence and is considered confidential by the City.
- (4) Subclause (3) does not prevent an employee from disclosing information –
- (a) at a closed meeting; or
 - (b) to the extent specified by the Council and subject to such other conditions as the Council determines; or
 - (c) that is already in the public domain; or
 - (d) to an officer of the Department; or
 - (e) to the Minister; or
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by the CEO or by law.

Note:

Section 5.93 of the *Local Government Act 1995* prohibits a council member, committee member or employee from making improper use of any information acquired in the performance by the person of his or her functions under the *Local Government Act 1995* or any other written law to:

- (a) gain directly or indirectly an advantage for themselves or for any other person; or
- (b) cause detriment to the City or any other person.

The penalty on conviction, is a fine of \$10,000 or imprisonment for 2 years.

- (5) An employee must –
 - (a) ensure that information created in the course of their employment is trustworthy and accurate; and
 - (b) ensure that information (obtained or created) is accurately recorded and stored consistently with relevant laws and the City's recordkeeping plan and associated procedures.

13. Official communications

- (1) Employees must –
 - (a) respect the decision-making processes at the City which are based on a decision of the majority of the Council or a committee;
 - (b) comply with the Act whereby information relating to the decisions of Council are to be communicated in an official capacity only by:
 - (i) the Mayor; or
 - (ii) with the agreement of the Mayor, by the CEO (or employee authorised by the CEO).
- (2) Employees must exercise caution when participating as private citizens in public debate and commentary so as not to be perceived as representing the City.

14. Disclosure of interests for meetings

- (1) In this clause –
 - interest** –
 - (a) means an interest that could, or could reasonably be perceived to adversely affect the impartiality of the person having the interest; and
 - (b) includes an interest arising from kinship, friendship or membership of an association.
- (2) An employee who has an interest in any matter to be discussed at a Council or Committee meeting, Briefing Session and Strategy Session attended by the employee must disclose the nature of the interest -
 - (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- (3) An employee who has given, or will give, advice in respect of any matter to be discussed at a Council or Committee meeting, Briefing Session or Strategy Session not attended by the employee must disclose the nature of any interest the employee has in the matter –
 - (a) in a written notice given to the CEO before the meeting; or
 - (b) at the time the advice is given.
- (4) Subclauses (2) and (3) do not apply to an interest referred to in section 5.60 of the Act.

- (5) Subclauses (2) and (3) do not apply if an employee fails to disclose an interest because the employee did not know –
 - (a) that they had an interest in the matter; or
 - (b) that the matter in which they had an interest would be discussed at the meeting and the employee disclosed the interest as soon as possible after the discussion began.
- (6) If, under subclauses (2) and (3), an employee discloses an interest in a written notice given to the CEO before a meeting, then –
 - (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
- (7) Subclause (8) applies in relation to an interest if -
 - (a) under subclause (2) the interest is disclosed before the meeting or immediately before the matter is discussed;
 - (b) under subclause (3)(b) or (5)(b) the interest is disclosed at a meeting; or
 - (c) under subclause (6)(b) notice of the interest is brought to the attention of the persons present at a meeting.
- (8) The nature of the interest must be recorded in the minutes of the meeting, or other record used for the meeting.

15. General disclosures

- (1) An employee, when undertaking a discretionary function must advise their Director (or if the employee is a Director, the Director must advise the CEO) of any conflict of interest in dealing with the matter, and with the consent of their Director (or CEO), either -
 - (a) continue to perform the discretionary function where it is deemed by the Director (or CEO) that the interest is so trivial or insignificant as to be unlikely to influence the employee's conduct in relation to the discretionary function; or
 - (b) remove themselves from performing the discretionary function and allocate the matter to another employee authorised to perform such discretionary functions.
- (2) An employee must advise the CEO in writing an intention to undertake a dealing in land within the City's district or which may otherwise be in conflict with the City's functions and activities (other than purchasing or leasing their primary place of residence).
- (3) An employee, when exercising a recruitment process must -
 - (a) advise the Manager Human Resource Services in writing before dealing with any relatives or close friends that may have lodged an application as part of that recruitment process; and
 - (b) remove themselves from the recruitment process where it involves dealing with those persons.
- (4) Where the employee in subclause (3) is the Manager Human Resource Services, the Manager Human Resource Services is to notify the Director Governance and Strategy in writing and in accordance with the provisions stated in that subclause.
- (5) An employee who forms part of a tender evaluation panel and where they believe they have a conflict of interest with a tenderer must -
 - (a) make a written declaration to the Director Corporate Services stating the nature of their interest prior to receiving copies of the tenderers' offers and associated evaluation documents; and
 - (b) remove themselves from the process where it is deemed by the Director Corporate Services that the nature of the interest could bring into question the employee's impartiality in evaluating the tender.

- (6) Where the employee in subclause (5) is the Director Corporate Services, the Director Corporate Services is to notify the CEO in writing and in accordance with the provisions stated in that subclause.
- (7) All disclosures made under the code, and any subsequent approval, must be adequately recorded by the employee and retained in the City's record keeping system.

16. Other employment and appointments to groups

- (1) In this clause –

Other employment includes paid employment with another person, organisation or body (not being the City), and includes –

- (a) running an own business or small business;
 - (b) maintaining a professional practice or consultancy;
 - (c) a directorship of a company or board; or
 - (d) voluntary activities where those activities have the potential to affect a person's employment at the City.
- (2) This clause applies to full-time and part-time employees.
 - (3) The City as part of its recruitment process is to identify other employment being undertaken or likely to be undertaken by a person selected as a prospective employee.
 - (4) Subject to subclauses (5) and (6), any employee considering outside employment (including during leave periods) must seek written approval from the Manager Human Resource Services before doing so.
 - (5) Where a Director is considering outside employment (including outside employment during leave periods) they must seek written approval from the CEO before doing so.
 - (6) Where the Manager Human Resource Services is considering outside employment (including outside employment during leave periods), they must seek written approval from the Director Governance and Strategy before doing so.
 - (7) Where an employee has either –
 - (a) disclosed other employment in subclause (3); or
 - (b) been given approval to undertake outside employment under subclauses (4), (5) or (6),
 the employee must not supply any goods or services associated with their outside employment in any way to the City, without seeking the prior written approval of the CEO.
 - (8) Employees that represent the City on external organisations, boards, committees or working groups, must ensure that they –
 - (a) clearly understand the nature of their appointment;
 - (b) provide regular reports to the City on the activities of the organisation, in accordance with any confidentiality requirements of that organisation; and
 - (c) represent the City's interests on all matters relating to that organisation, while maintaining the confidentiality requirements of the City.

17. Gifts

(1) In this clause –

activity involving a City discretion means an activity –

- (a) that cannot be undertaken without an authorisation from the City; or
- (b) by way of a commercial dealing with the City;

associated person means a person who –

- (a) is undertaking or seeking to undertake an activity involving a City discretion; or
- (b) it is reasonable to believe, is intending to undertake an activity involving a City discretion;

employee does not include the CEO;

gift –

- (a) has the meaning given in section 5.57 of the Act; but
- (b) does not include –
 - (i) a gift from a relative as defined in section 5.74(1) of the Act; or
 - (ii) a gift that must be disclosed under the Local Government (Elections) Regulations 1997 regulation 30B; or
 - (iii) a gift from a statutory authority, government instrumentality or non-profit association for professional training; or
 - (iv) a gift from WALGA, the Australian Local Government Association Limited (ABN 31 008 613 876), the Local Government Professionals Australia WA (ABN 91 208 607 072) or the LG Professionals Australia (ABN 85 004 221 818);

Note:

Section 5.57 of the *Local Government Act 1995* states the following:

gift means –

- (a) a conferral of a financial benefit (including a disposition of property) made by 1 person in favour of another person unless adequate consideration in money or money's worth passes from the person in whose favour the conferral is made to the person who makes the conferral; or
- (b) a travel contribution;

travel includes accommodation incidental to a journey;

travel contribution means a financial or other contribution made by 1 person to travel undertaken by another person.

Section 5.74(1) of the *Local Government Act 1995* states the following –

relative, in relation to a relevant person, means any of the following –

- (a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant of the relevant person or of the relevant person's spouse or de facto partner;
- (b) the relevant person's spouse or de facto partner or the spouse or de facto partner of any relative specified in paragraph (a),

whether or not the relationship is traced through, or to, a person whose parents were not actually married to each other at the time of the person's birth or subsequently, and whether the relationship is a natural relationship or a relationship established by a written law;

notifiable gift means –

- (a) a gift worth between \$50 and the threshold amount; or
- (b) a gift that is 1 of 2 or more gifts given to the employee by the same person within a period of six months that are in total worth between \$50 and the threshold amount;

prohibited gift means –

- (a) a gift worth the threshold amount or more; or
- (b) a gift that is 1 of 2 or more gifts given to the employee by the same person within a period of 1 year that are in total worth the threshold amount or more;

threshold amount, for a prohibited gift, means \$300 or a lesser amount as determined by the CEO under regulation 19AF of the *Local Government (Administration) Regulations 1996*.

- (2) An employee must not accept a prohibited gift from an associated person.
- (3) An employee may accept a notifiable gift from an associated person.
- (4) An employee who accepts a notifiable gift from an associated person under subclause (3) must, within 10 days of accepting the notifiable gift, notify the CEO of the acceptance in accordance with subclause (5).
- (5) Notification of the acceptance of a notifiable gift is to be in writing and is to include –
 - (a) the name of the person who gave the gift;
 - (b) the date on which the gift was accepted;
 - (c) a description, and the estimated value, of the gift;
 - (d) the nature of the relationship between the employee and the person who gave the gift; and
 - (e) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) -
 - (i) a description;
 - (ii) the estimated value; and
 - (iii) the date of acceptance,of each other gift accepted within the 6 month period.
- (6) The CEO must maintain a register of gifts, in which details of notices received under subclause (5) are recorded and publish the register on the City’s website.

Division 4 – Reporting and management of suspected breaches

18. Overview of Division

This Division sets out the mechanism for dealing with alleged breaches of the conduct requirements, detailed in Division 3 of this code and other reporting mechanisms relating to the conduct of employees.

19. Reporting suspected code breaches

- (1) Any person who has reason to believe an employee (other than the CEO) breaches the conduct requirements set out in Division 3 of this code, may refer the matter to the employee's supervisor (if known), the Manager Human Resource Services or the CEO.
- (2) Where a matter is raised with the employee's supervisor, the Manager Human Resource Services or the CEO in subclause (1), the employee's supervisor, the Manager Human Resource Services or the CEO will consider the matter and manage it in accordance with the management protocols, procedures or practices of the City and any applicable law concerning employees.
- (3) Any person who has reason to believe the CEO breaches the conduct requirements set out Division 3 of this code, may refer the matter to the Director Governance and Strategy.
- (4) Where a matter is raised with the Director Governance and Strategy in subclause (3), the Director Governance and Strategy will consider the matter and manage it in accordance with the management protocols, procedures or practices of the City and any applicable law.
- (5) All suspected breaches raised in subclauses (1) and (3) are to be dealt with quickly and fairly in accordance with the principles of procedural fairness.

20. Other reporting mechanisms

- (1) Under section 45H of the *Corruption, Crime and Misconduct Act 2003*, the CEO is required to notify the Public Sector Commission of all reasonable suspicions of minor misconduct by employees.
- (2) Under section 28 of the *Corruption, Crime and Misconduct Act 2003*, the CEO is required to notify the Corruption and Crime Commission of all reasonable suspicions of serious misconduct by employees.
- (3) Under the *Corruption, Crime and Misconduct Act 2003*, any person can report any reasonable suspicion of minor misconduct involving a public officer to the Public Sector Commission, or alternatively any reasonable suspicion of serious misconduct to the Corruption and Crime Commission.

Note:

Section 4 of the *Corruption, Crime and Misconduct Act 2003* defines the instances when 'misconduct' occurs:

4. Term used: misconduct

Misconduct occurs if —

- (a) a public officer corruptly acts or corruptly fails to act, in the performance of the functions of the public officer's office or employment; or
- (b) a public officer corruptly takes advantage of the public officer's office, or employment as a public officer to obtain a benefit for himself or herself or another person, or to cause a detriment to any person; or
- (c) a public officer whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years' imprisonment; or
- (d) a public officer engages in conduct that —
 - (i) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or
 - (ii) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial; or
 - (iii) constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer; or
 - (iv) involves the misuse of information or material, that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person,
 and constitutes or could constitute —
- (v) a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the *Public Sector Management Act 1994* (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).

Section 3 of the *Corruption, Crime and Misconduct Act 2003* defines 'serious misconduct' as misconduct of a kind described in section 4(a), (b) or (c) of the *Corruption, Crime and Misconduct Act 2003*.

- (4) In accordance with the *Public Interest Disclosure Act*, a person can report any of the following activities of possible activities of an employee to one of the City's appointed Public Interest Disclosure Officers —
 - (a) improper conduct;
 - (b) an act or omission that constitutes an offence under State law, including corruption;
 - (c) substantial unauthorised or irregular use of, or substantial mismanagement of City resources;
 - (d) conduct involving a substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment; or
 - (e) a matter of administration that can be investigated under section 14 of the *Parliamentary Commissioner Act 1971*.



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