CYNGOR SIR POWYS COUNTY COUNCIL.

Standards Committee 17th June 2015

REPORT BY: Solicitor to the Council

SUBJECT: Matters appertaining to Standards Issues

REPORT FOR: Decision, Information and Discussion

A. General Standards Issues for County Councillors and Co-opted Members

A1 Code of Conduct Training

The second round of Code of Conduct training was undertaken on 27th April 2015 which was attended by 8 County Councillors and 1 Co-opted Member. 1 Co-opted Member has resigned (Church representative) and an appointment for this post has been made together with a new appointment of a further Co-opted Member (Parent Governor Representative). These two Co-opted Members received their Code of Conduct training on 26th March 2015. Thus there remain 10 County Councillors yet to undertake the Mandatory Code of Conduct Training.

It is proposed that these Members are given a date in September when a third and final training session will be available to them.

A2 Member Development

A report on Mandatory Training was considered at Council on 23rd April 2015 where it was referred back to the Democratic Services Committee for further consideration. The Democratic Services Working Group had an initial discussion regarding Mandatory Training on the 8th June 2015 and this will then be considered by the Democratic Services Committee on 9th July 2015 with a view to taking the matter back to Full Council on 17th July 2015.

B. Referral of Councillors to Public Services Ombudsman

B1. County Councillor Referrals

B1.1 The following matters are with the Ombudsman:

1/15/CC	Case closed
2/15/CC	Found no breach but training requirement identified
3/15/CC	Not investigating
4/15/CC	Complaint referred for local resolution
5/15/CC	Not investigating
6/15/CC	Awaiting decision whether or not investigating

C. Other Standards Issues

C1 Standards Committee Membership

At a meeting of Powys County Council held on 23rd April 2015 Independent Member Helen Rhydderch-Roberts was reappointed for a second term of officer for a period of four years expiring on 13th May 2019.

At the Annual Meeting of Powys County Council on 13th May 2015 County Councillor Kath Roberts-Jones was appointed to the Standards Committee in place of County Councillor Stephen Hayes.

D Dispensations

D1. Applications - County Councillors

No applications for dispensation have been received.

E. Late payment of expenses

No applications have been received.

E1 Broadband expenses

It is intended that the Democratic Services Committee will undertake a review of acceptable payments to Members such as telephone, postage and IT equipment at their meeting on 9th July 2015.

F. Attendance

F1 County Councillor Attendance Statistics

Attendance calculations for the period 1st December 2014 – 12th May 2015 have been undertaken and will be reported to Committee.

F2 Attendance

A new system for producing agendas is being introduced in September. There is a function within the system for automatic publication of Member attendance information. This gives an opportunity to record absence when Members are in attendance at other Council meetings or Statutory Bodies. At present Standards Committee allow attendance at Statutory Bodies to count towards the calculation but not attendance at other meetings of the Council or Outside Bodies to which Members have been appointed by the Council with a requirement to provide further information where attendance drops below 60%.

The new system will list Members attendance at all meetings they are expected to attend on the website. However, it will be necessary for Officers to do further work on the new system to ascertain exactly how attendance can now be reported at Standards and it is intended to bring further information in this regard to the next meeting of Standards Committee.

G. Whistleblowing Policy

The Whistleblowing Policy was agreed at Council on 24th April 2015.

H Standards Conference

The Standards Conference has been arranged for 20th October 2015 and will be held in Cardiff. Each County Council has been offered 4 places and interest can be indicated at the meeting.

I Ombudsman's Office

I1 New Guidance on Code of Conduct

The Ombudsman published new Guidance on the Code of Conduct for Members of County Councils in March 2015. A copy of this Guidance is can be accessed from the website of the Public Services Ombudsman for Wales at:

http://www.ombudsman-wales.org.uk/en/publications/Guidance-policies.aspx

12 Ombudsman's Casebook

The Ombudsman has published Code of Conduct Casebooks for the period March 2014 – March 2015. Copies of the Casebooks can be accessed from the website of the Public Services Ombudsman for Wales at:

http://www.ombudsman-wales.org.uk/en/publications/The-Code-of-Conduct-Casebook.aspx

J. The Local Government (Democracy) (Wales) Act 2013 (Commencement No 2) Order 2015

This order brings ss.55, 56, 57 and 58 (Community Councils - access to information) and ss. 68 and 69 (Joint Standards Committees) of the 2013 Act into force in Wales on 1 May 2015. (16 April 2015).

A copy of the Commencement Order is attached at **Appendix A.**

K. Meeting Dates

K 1 To note dates of future meetings as follows:

Wednesday 25th November 2015

All meetings to commence at 10.00am with the option of training available afterwards.

Contact Officer Name:	Tel:	Fax:	Email:
Clive Pinney – Solicitor to	01597 826746	01597 826220	clive.pinney@powys.gov.
the Council			<u>uk</u>

POWYS STANDARDS COMMITTEE / COMMUNITY SUB-COMMITTEE

APPLICATION FOR DISPENSATION BY MEMBER WITH PREJUDICIAL INTEREST

I, Councillor Gemma-Jane Bowker

of Powys County COUNCIL

hereby apply to the Powys Standards Committee/Community Sub-Committee for a Dispensation to participate, as described in Section 1 below, in that business of the Council described in Section 2 below notwithstanding that I have the Prejudicial Interest(s) detailed in Section 3 below.

I make this application on the ground(s) set out in Section 4 below which I submit apply because of the reasons detailed in Section 5 below.

SECTION 1

How you wish to participate – please <u>tick all relevant categories</u> below:

Attend a meeting	✓
Speak at a meeting	✓
Vote at a meeting	✓
Seek to influence a decision on a matter	✓
Make written representations	✓
Make oral representations	✓
Exercise Board functions (County Councillor only)	

SECTION 2

- (A) Describe in the box below:
 - i) the business in which you wish to participate;
 - ii) how your Council will deal with the matter;
 - iii) how many Members there are on your Council;
 - iv) what meetings will be held to consider it, when and where they will be held; and
 - v) those taking part.

I would like to participate in discussions about the review of early years provision in Powys as a County Councillor. However, I have fed into the review as a parent of a toddler. There are 73 members of Powys County Council and there will be meetings and member briefings in order to discuss the restructure of provision in order to better meet need and budgets. As there is a playgroup run at the local community hall in my ward, I would appreciate a dispensation on this.

- (B) If the business relates to or affects an organisation(s) please detail below:
 - o how were you appointed to that organisation (i.e. by appointment by the Town or Community Council or by other means), and

 what is the nature of the business: A Funding B Planning – applications, building improvement/changes C Licencees – liquor/entertainment D Land E Management/operation of the organisation F General matters
The business relates to general matters and I was elected to Powys County Council in May 2012. Funding will also form part of discussions relating to early years provision.
(C) Is the organisation a registered charity? If so, are you a Trustee of the charity?
No
SECTION 3
Detail the PREJUDICIAL interest(s) you have in the business referred to in Section 2 above. Please refer to the attached Guidance Notes (Attached) and include the relevant category reference e.g C.4 if the matter concerns a good friend of yours who stands to benefit as a result of a decision on the matter.
I am a parent of a toddler (aged 2) and so am concerned with early years provision as a result of that. He currently attends a private day nursery part-time and attends Ti a Fi at Ysgol Dafydd Llwyd. Any changes to early years provision are likely to affect some of my parenting choices and whether or not I access additional childcare.

SECTION 4

Set out the GROUND(S) upon which you rely by placing a tick in the right hand column against the relevant category/ies below.

Eligible Applicant	Ground		
County Councillors and Town and Community Councillors	(a) No fewer than half of the Members of the relevant Authority or of a committee of the Authority (as the case may be) by which the business is to be considered has an interest which relates to that business;	Speak and Vote Speak only	-
County Councillors only	(b) No fewer than half of the Members of a leader and cabinet executive of the relevant Authority by which the business is to be considered has an interest which relates to that business and either Paragraph (d) or (e) also applies;	Speak and Vote Speak only	-
County Councillors only	(c) In the case of a County or County Borough Council, the inability of the Member to participate would upset the political balance of the relevant Authority or of the committee of the Authority by which the business is to be considered to such an extent that the outcome would be likely to be affected.	Speak and Vote Speak only	1
County Councillors and Town and Community Councillors	(d) The nature of the Member's interest is such that the Member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant Authority's business;	Speak and Vote Speak only	-
County Councillors and Town and Community Councillors	(e) The interest is common to the Member and a significant proportion of the general public;	Speak and Vote Speak only	- 🗸
County Councillors and Town and Community Councillors	(f) The participation of the Member in the business to which the interest relates is justified by the Member's particular role or expertise;	Speak and Vote Speak only	- 🗸
County Councillors only	(g) The business to which the interest relates is to be considered by an Overview and Scrutiny Committee of the relevant Authority and the Member's interest is not a pecuniary interest.	Speak and Vote Speak only	-
County Councillors and Town and Community Councillors	(h) The business which is to be considered relates to the finances or property of a voluntary organisation of whose Management Committee or Board the Member is a Member otherwise than as a representative of the relevant Authority and the Member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or	Speak only	
County Councillors and Town and Community Councillors	(i) It appears to the committee to be in the interests of the inhabitants of the area of the relevant Authority that the disability should be removed provided that written notification of the grant of the dispensation is given to the National Assembly for Wales within seven days in such manner as it may specify.	Speak and Vote Speak only	-

SECTION 5

Detail in full the reasons why you submit the grounds selected in Section 4 apply in the case of your application and justify the grant of the dispensation you seek

I believe this may well be an area in which many members have an interest and that it would be to the detriment of my ward and its early years provision were I to have no involvement as a County Councillor. Moreover, the timetable for the review means that for my son the changes to early years provision may well be implemented after he has started school and is no longer eligible for such provision.

Applicant's home address:	14 Bryn Close, Newtown, Powys, SY16 2DT
Applicant's telephone number:	07816 204762
Applicant's fax number:	
Applicant's E Mail address:	Cllr.gemma.jane.bowker@powys.gov.uk

SIGNED: Gemma-Jane Bowker			
DATED:	June 10th 2015		

This form fully completed, signed and dated should be returned to:

Mrs Elizabeth Patterson, Committee Clerk, Legal, Scrutiny and Democratic Services, County Hall, Llandrindod Wells, Powys, LD1 5LG.

Tel No: 01597 826980 Fax No: 01597 826220

E-Mail: Elizabeth.patterson@powys.gov.uk

From whom further information and advice may be obtained.

Application by	County Councillor G.J. Bowker		
Council	Powys County Council		
Involvement With /	All Matters relating to the review of early years provision in		
Business To Be	Powys.		
Considered	. 5,5.		
Background	Councillor Bowker is a parent of a young child who attends a playgroup. The County Council is undertaking a review of early years provision in Powys.		
	Currently the Council funds 10 hours week (3 hours a day maximum) provision. If parents require additional hours then they would fund this themselves. The Council is seeking to fund units with a higher capacity due to the requirement for at least 2 staff to be present at all times (staff to child ratio is 1:8). The number of hours funded will remain the same. The likely implementation date for the change will be September 2016.		
	Councillor Bowker has fed into the review as a parent and has been advised by officers that she needs to separate the roles of parent and County Councillor and not take any part in the review process as a County Councillor due to her likely interests in the matter.		
	It is likely due to the timetable for implementation of any changes that Councillor Bowker's child will be attending school so will not be affected by the changes, but the Committee will have to consider whether the public will make this distinction.		
	The applicant is seeking a dispensation to: (i) Attend a meeting. (ii) Speak at a meeting. (iii) Vote at a meeting. (iv) Seek to influence a decision on the matter. (v) Make written representations. (vi) Make oral representations.		
	(vi) Make oral representations.		
STEP 1 Personal Interest(s) under paragraph 10 of the Code.	Councillor Bowker has the following personal interests: 10 (2) (a) (v) - You must regard yourself as having a personal interest in any business of your authority if it relates to, or is likely to affect any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above 10 (2) (c) (i) (aa) - You must regard yourself as having a personal interest in any business of your authority if a decision upon it might reasonably be regarded as affecting your well-being or financial position, or that of a person with whom you live, or any person with whom you		
	have a close personal association to a greater extent than the majority of in the case of any authority with electoral divisions or wards, other council tax payers,		

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	rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision
	As the review could affect the level of payments made by the Council for this provision which will in turn affect parental contributions, then Councillor Bowker also has a pecuniary interest.
STEP 2 Exemptions under paragraph 12 (2) & (3) of the Code.	In relation to County Councillor Bowker, none of the exemptions in Paragraph 12(2) would apply in relation to the personal interests detailed above.
STEP 3 Application of "public perception" test under paragraph 12 (1) of the Code.	In applying the Paragraph 12(1) test in relation to the business involving the review of early years provision [relating to the personal interests listed above] it is suggested that the Committee approach the issue in this way i.e. to ask itself:
	"Is it reasonable to suppose that the public perception would regard the Councillor's personal interest, as so significant that whenever the matter regarding the review of early years provision was discussed the potential conflict of interest would be so significant as to be likely to prejudice his / her judgement of the public interest in performing his / her role as a County Councillor?"
	In applying the Paragraph 12(1) test in relation to this matter (and particular interest) it is difficult to conclude that the Committee would answer this question otherwise than in the affirmative i.e. that a prejudicial interest would exist in this situation, unless the business under discussion is of such a nature that it would be categorised as trivial, insignificant or uncontentious.
STEP 4 Ground(s) on which dispensation could be granted	In relation to the County Councillor the grounds which could be considered for this matter would be ground (d), namely:
could be granted	(d) The nature of the Member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant Authority's business.
	(This ground enables the grant of dispensation to speak and vote or to speak only).
STEP 5 Determine the application:- (i) Refuse (ii) Approve:-	The applicant has requested a dispensation to attend, speak and vote at meetings, to seek to influence and to make written and oral representations relating to the review of early years provision.
(a) attend (b) speak (c) vote (d) exercise Board Function (e) seek to influence	 The two questions for the committee are: (i) Does the fact that Councillor Bowker's child is likely to be in school and therefore mean that he will not be accessing early years provision lessen the impact on the interest which Councillor Bowker has? (ii) Are there any other Members of the Council which could be affected by this provise with a research transfer and the series of the council which could be affected by this provise with a research transfer and the series of the council which could be affected by the series of the council which could be affected by the series of the council which could be affected by the series of the council which could be affected by the series of the council which could be a series of the c
	be affected by this review either as a parent, grandparent

(f) make written communications (g) make oral representations	or guardian of a child so that the Committee would need to consider making a general dispensation?
RECOMMENDATION:	The Committee will need to consider the questions under Step 5 above in determining whether to grant a dispensation.



OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2015 Rhif 1182 (Cy. 79) (C. 71)

LLYWODRAETH LEOL, CYMRU

Gorchymyn Deddf Llywodraeth Leol (Democratiaeth) (Cymru) 2013 (Cychwyn Rhif 2) 2015

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Gwneir y Gorchymyn hwn o dan adran 75(3) o Ddeddf Llywodraeth Leol (Democratiaeth) (Cymru) 2013 ("y Ddeddf"). Hwn yw'r ail orchymyn cychwyn i'w wneud o dan y Ddeddf.

Mae erthygl 2 o'r Gorchymyn hwn yn dwyn i rym adrannau 55, 56, 57, 58, 68 a 69 o'r Ddeddf ar 1 Mai 2015.

Mae adran 55 yn ei gwneud yn ofynnol i gyngor cymuned sicrhau bod gwybodaeth benodol am y cyngor cymuned ar gael yn electronig. Mae hefyd yn ei gwneud yn ofynnol i gyngor cymuned, pan fydd yn cyflawni ei ddyletswyddau o dan adran 55, roi sylw i ganllawiau a ddyroddir gan Weinidogion Cymru.

Mae adran 56 yn diwygio adran 232 o Ddeddf Llywodraeth Leol 1972 ("Deddf 1972") sy'n ymwneud â'r ffordd y mae awdurdodau lleol yn rhoi hysbysiadau cyhoeddus. Mae'r diwygiad yn ei gwneud yn ofynnol i hysbysiad cyhoeddus a roddir gan gyngor cymuned gael ei gyhoeddi'n electronig.

Mae adran 57 yn gwneud nifer o ddiwygiadau i Atodlen 12 i Ddeddf 1972. Mae Atodlen 12 yn ymwneud â chyfarfodydd a thrafodion awdurdodau lleol ac mae'r diwygiadau yn gwneud darpariaeth sy'n ymwneud â chyhoeddi gwybodaeth benodol yn electronig gan gynghorau cymuned.

Mae adran 58 yn diwygio adran 81 o Ddeddf Llywodraeth Leol 2000 ("Deddf 2000"). Mae'r diwygiad yn ei gwneud yn ofynnol bod cofrestr buddiannau'r aelodau o dan adran 81 o Ddeddf 2000 ar gael yn electronig a bod yr wybodaeth am sut i gael mynediad ati hefyd ar gael.

2015 No. 1182 (W. 79) (C. 71)

LOCAL GOVERNMENT, WALES

The Local Government (Democracy) (Wales) Act 2013 (Commencement No. 2) Order 2015

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 75(3) of the Local Government (Democracy) (Wales) Act 2013 ("the Act"). It is the second commencement order to be made under the Act.

Article 2 of this Order brings into force on 1 May 2015 sections 55, 56, 57, 58, 68 and 69 of the Act.

Section 55 requires a community council to make certain information about the community council available electronically. It also requires a community council, when discharging its duties under section 55, to have regard to guidance issued by the Welsh Ministers.

Section 56 amends section 232 of the Local Government Act 1972 ("the 1972 Act") which relates to the giving of public notices by local authorities. The amendment requires a public notice given by a community council to be published electronically.

Section 57 makes a number of amendments to Schedule 12 to the 1972 Act. Schedule 12 relates to meetings and proceedings of local authorities and the amendments make provision relating to the electronic publication of certain information by community councils.

Section 58 amends section 81 of the Local Government Act 2000 ("the 2000 Act"). The amendment requires the register of members' interests under section 81 of the 2000 Act to be made available electronically and that information about how to access it is made available.

Mae adran 68 yn diwygio adran 53 o Ddeddf 2000 i alluogi awdurdodau perthnasol i sefydlu cydbwyllgorau safonau gydag un neu ragor o awdurdodau eraill. Mae'r ddarpariaeth newydd yn galluogi Gweinidogion Cymru i wneud rheoliadau sy'n ymwneud â chyd-bwyllgorau o'r fath ac yn ei gwneud yn ofynnol i awdurdodau sy'n ystyried sefydlu cydbwyllgor roi sylw i ganllawiau a ddyroddir gan Weinidogion Cymru.

Mae adran 69 yn diwygio adran 73 o Ddeddf 2000 sy'n galluogi Gweinidogion Cymru i wneud rheoliadau yn ymwneud â materion a atgyfeirir at swyddog monitro awdurdod perthnasol. Mae'r diwygiadau yn galluogi rheoliadau i gael eu gwneud sy'n ymwneud â gallu'r swyddog monitro neu bwyllgor safonau un awdurdod i atgyfeirio mater i bwyllgor safonau awdurdod arall. Mae adran 69 hefyd vn diwygio adran 81 o Ddeddf 2000 mewn perthynas â goddefebau a ganiateir gan bwyllgorau safonau o dan adran 81(4) pan fydd aelod neu aelod cyfetholedig wedi cofrestru buddiant drwy gydnabod y caiff pwyllgor safonau awdurdod perthnasol arall ganiatáu goddefeb a thrwy ehangu pŵer Gweinidogion Cymru i wneud rheoliadau yn adran 81(5) i'w galluogi i wneud darpariaeth am y weithdrefn i'w dilyn.

Section 68 amends section 53 of the 2000 Act to enable relevant authorities to establish joint standards committees with one or more other authorities. The new provision enables the Welsh Ministers to make regulations relating to such joint committees and requires authorities considering establishing a joint committee to have regard to guidance issued by the Welsh Ministers.

Section 69 amends section 73 of the 2000 Act which enables the Welsh Ministers to make regulations relating to matters referred to a relevant authority's monitoring officer. The amendments regulations to be made relating to the monitoring officer or standards committee of one authority being able to refer a matter to the standards committee of another authority. Section 69 also amends section 81 of the 2000 Act in relation to dispensations granted by standards committees under section 81(4) when a member or co-opted member has registered an interest by recognising that a standards committee of another relevant authority may grant a dispensation and by widening the Welsh Ministers' power to make regulations in section 81(5) to enable them to make provision about the procedure to be followed.

NODYN YNGHYLCH GORCHMYNION CYCHWYN CYNHARACH

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Mae darpariaeth a ganlyn y Ddeddf wedi ei dwyn i rym drwy orchymyn cychwyn a wnaed cyn dyddiad y Gorchymyn hwn.

NOTE AS TO EARLIER COMMENCEMNT ORDERS

(This note is not part of the Order)

The following provision of the Act has been brought into force by commencement order made before the date of this Order.

Y Ddarpariaeth	Y Dyddiad Cychwyn	Rhif O.S.
Adran 63	11.4.2004	2014/380
		(Cy. 45)
		(C. 15)

Provision	Date of Commencement	S.I. No.
Section 63	11.4.2004	2014/380
		(W. 45)
		(C. 15)

OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2015 Rhif 1182 (Cy. 79) (C. 71)

LLYWODRAETH LEOL, CYMRU

Gorchymyn Deddf Llywodraeth Leol (Democratiaeth) (Cymru) 2013 (Cychwyn Rhif 2) 2015

Gwnaed 16 Ebrill 2015

Mae Gweinidogion Cymru, drwy arfer y pŵer a roddwyd gan adran 75(3) o Ddeddf Llywodraeth Leol (Democratiaeth) (Cymru) 2013(1), yn gwneud y Gorchymyn a ganlyn:

Enwi

1. Enw'r Gorchymyn hwn yw Gorchymyn Deddf Llywodraeth Leol (Democratiaeth) (Cymru) 2013 (Cychwyn Rhif 2) 2015.

Y diwrnod penodedig

- **2.** Y diwrnod penodedig ar gyfer dwyn yr adrannau a ganlyn o Ddeddf Llywodraeth Leol (Democratiaeth) (Cymru) 2013 i rym yw 1 Mai 2015—
 - (a) adran 55 (gwefannau cynghorau cymuned);
 - (b) adran 56 (gofyniad i roi hysbysiadau cyhoeddus yn electronig);
 - (c) adran 57 (cyfarfodydd a thrafodion cymunedau);
 - (d) adran 58 (cofrestrau buddiannau aelodau);
 - (e) adran 68 (cyd-bwyllgorau safonau); ac
 - (f) adran 69 (atgyfeirio achosion yn ymwneud ag ymddygiad).

2015 No. 1182 (W. 79) (C. 71)

LOCAL GOVERNMENT, WALES

The Local Government (Democracy) (Wales) Act 2013 (Commencement No. 2) Order 2015

Made 16 April 2015

The Welsh Ministers, in exercise of the power conferred by section 75(3) of the Local Government (Democracy) (Wales) Act 2013(1), make the following Order:

Title

1. The title of this Order is the Local Government (Democracy) (Wales) Act 2013 (Commencement No. 2) Order 2015.

Appointed day

- **2.** The appointed day for the coming into force of the following sections of the Local Government (Democracy) (Wales) Act 2013 is the 1 May 2015—
 - (a) section 55 (community council websites);
 - (b) section 56 (requirement to give public notices electronically);
 - (c) section 57 (meetings and proceedings of communities);
 - (d) section 58 (register of members' interests);
 - (e) section 68 (joint standards committees); and
 - (f) section 69 (referral of cases relating to conduct).

(1) 2013 decc 4.

(1) 2013 anaw 4.

Leighton Andrews

Y Gweinidog Gwasanaethau Cyhoeddus, un o Weinidogion Cymru

16 Ebrill 2015

Minister for Public Services, one of the Welsh Ministers

16 April 2015

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