

Background on PSEBA Application and Review Process Ordinance

The Public Safety Employee Benefits Act (PSEBA) was enacted in November of 1997 to provide free health insurance benefits to those full time police officers who are either killed or 'catastrophically injured' in the line of duty. Generally, there are two conditions that must be satisfied before a public safety employee can qualify for PSEBA benefits.

First, the employee must have suffered a 'catastrophic injury', which has been defined by the Illinois Supreme Court as any injury that qualifies an officer for a line of duty disability pension. The Illinois Supreme Court recently clarified that the award of a line of duty disability pension, establishes, as a matter of law, that an employee has suffered a 'catastrophic injury' within the meaning of the PSEBA. In other words, if the BHPD Pension Board determined that an officer had suffered a 'catastrophic injury' that occurred in the line of duty and that officer was awarded a duty disability pension, the officer will have satisfied the first prong of the PSEBA benefit process.

The second prong of the PSEBA benefit process must still be satisfied before insurance benefits can be awarded. The effected police officer employee must make the request to the Village of Barrington Hills for PSEBA benefits. To be entitle to the benefit, the employee must still prove that the injury occurred, (1) as a result of an officer engaging in fresh pursuit, (2) as a result of an officer responding to what was reasonable believed to be an emergency, (3) as a result of an unlawful act perpetrated by another, or (4) during the investigation of a criminal act.

Some public employers handle PSEBA claims without a formalized application process and procedure. Others have created an application process which involves some type of review by a municipal representative. Still others have created a formalized application and hearing process by which municipal representatives or a neutral hearing officer collects sworn testimony and evidence from the applicant and other witnesses.

The Village of Barrington Hills currently does not have a formalized application process and procedure. The proposed application process and ordinance was drafted by the BHPD Labor Attorneys at Clark, Baird, and Smith. The documents were also reviewed by the VBH Municipal Attorneys at Bond, Dickson, and Associates.

**AN ORDINANCE ESTABLISHING THE ADMINISTRATIVE PROCEDURE FOR THE
VILLAGE OF BARRINGTON HILLS TO DETERMINE ELIGIBILITY UNDER THE PUBLIC
SAFETY EMPLOYEE BENEFITS ACT**

WHEREAS, the Public Safety Employee Benefits Act (PSEBA), (the Act), was enacted in November 1997 to provide free health insurance benefits to the full-time police officers, and firefighters who are killed or catastrophically injured in the line of duty; and

WHEREAS, it has been determined by the Village President and Board of Trustees that it is in the best interest of the Village and public safety employees to establish administrative procedures to determine eligibility under the Act by creating a PSEBA application and hearing process; and

WHEREAS, the Village of Barrington Hills is a home rule municipality and pursuant to the Illinois Constitution, Article VII, Section 6, has certain powers which it is exercising.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF BARRINGTON HILLS, as follows:

Section I: Purpose.

A. The purpose of this chapter is to provide a fair and efficient method of determining the eligibility of a full-time Village of Barrington Hills police officer to the benefits enumerated under the Public Safety Employee Benefits Act ("PSEBA") through an administrative process, including if necessary, an administrative hearing. All benefits provided employees pursuant to PSEBA must be consistent with the PSEBA.

B. The Administrative procedure established herein is intended to determine eligibility to receive, certain health insurance benefits from the Village. This administrative procedure is not a contract that bestows a benefit or entitlement on any particular individual, and may be modified by the Village at any time without notice.

C. Any full-time police officer, who after November 14, 1997, suffers a catastrophic injury in the line of duty, may apply for health insurance benefits under the Act as set forth below. The same benefits may be extended to the spouse and eligible dependent children of the catastrophically injured public safety employee or police officer killed in the line of duty, provided the conditions as established by the Act are met.

Section II: Application Procedure.

A. *Application Required.* To seek benefits under the Act, a full-time police officer, or in the event of the death or incapacity of the police officer, a family member of the injured or deceased police officer, must file with the Police Chief a fully completed PSEBA application, in writing, within 30 calendar days of the granting of a line-of-duty disability pension, or within 30 calendar days of the date of the adoption of this Ordinance in the event that the employee has filed a pension claim prior to the date of adoption of this ordinance, whichever is later.

The application must include the name of employee, date of hire, detailed information regarding the incident, (including date, time, place, nature of injury, any other factual circumstances surrounding said incident giving rise to said claim), witnesses to the incident, witnesses the applicant intends to call at the PSEBA hearing, information and supporting documentation filed with the pension board by the Applicant or identified as exhibits by the pension board and any pension board determination or ruling, documents/information supporting the PSEBA eligibility requirements. Failure to timely file the fully completed application along with submittal of other required information shall result in a forfeiture of the benefits under PSEBA.

Upon request, the Police Chief, or his designee, shall furnish a Public Safety Employee Benefit Act application to the Applicant.

B. *Sworn Statement Required.* The PSEBA application shall include a sworn and notarized statement explaining how the disabling injury or death directly resulted from:

- (1) A police officer's response to fresh pursuit;
- (2) A police officer's response to what is reasonably believed to be an emergency;
- (3) A police officer's response to an unlawful act perpetrated by another; or
- (4) A police officer's participation during the investigation of a criminal act.

C. *Medical Release Required.* A signed PSEBA medical release authorizing the collection of medical information related to the incident including, but not limited to, the disability pension proceedings, worker's compensation records and medical records, must be submitted with the PSEBA application. The PSEBA medical information release must specify the name, address, email and phone information for pertinent health care provider(s) and hospital(s), along with employee's signature and a witness signature. A review of the PSEBA application will not occur until the PSEBA medical authorization release is submitted.

D. *General Information Release Required.* A signed PSEBA general information release authorizing the collection of general information related to the incident, including, but not limited to disability pension proceedings, worker's compensation records and medical records, must be submitted with the application. The PSEBA general information release must specify the name and signature of the employee along with the name and signature of a witness authorizing the collection of information pertinent to the incident review process. A review of the PSEBA application will not occur until the PSEBA general information release is submitted.

E. *Other Information.* The Police Chief may require other information necessary to make a determination as to whether an administrative hearing is required, including, but not limited to health insurance benefits the employee is currently receiving or is eligible to receive; or, any other health insurance benefits the employee or family members are otherwise entitled. The Applicant has an ongoing obligation to update information provided. Failure to do so may result in the denial of benefits.

Section III: Application Review by the Police Chief and Notification.

A. Upon receipt of a fully completed application for PSEBA benefits timely filed, the Police Chief shall review the application and supporting documents to make an initial determination regarding the application for benefits. That determination may be:

- (1) A determination to grant benefits based upon the preliminary record.
- (2) A determination to deny benefits.
- (3) The making of such other finding as is consistent with the evidence or by agreement of the Applicant and the Village.

B. If the Police Chief grants the benefit based on the preliminary record and subject to any necessary authorization by the Village Board, the Applicant will be notified and required to make further contact with the Police Chief within thirty (30) calendar days for benefit explanation and processing.

C. If the Police Chief denies the benefit based on the preliminary record, the Applicant will receive written notice of such denial and the Applicant shall have the right to request an administrative hearing which must be served in writing to the Police Chief not later than 30 calendar days after being served with written notice of the denial. Upon receipt of a timely notice from the Applicant, the Police Chief shall schedule an administrative hearing and serve the Applicant with notice of the administrative hearing along with a date for the scheduled administrative hearing.

D. Failure to request an administrative hearing within 30 calendar days after being served with written notice of the denial of PSEBA benefits by the Police Chief shall result in the forfeiture of benefits under the PSEBA.

E. If the Applicant or Village, upon receiving written notice of the administrative hearing date, cannot attend said date as indicated in the notice of administrative hearing, the Applicant or the Village, as the case may be, must contact the Hearing Officer within seven calendar days after being served with notice of the administrative hearing, communicating alternative hearing date(s) which are within close proximity of the original hearing date indicated by the Hearing Officer. Continuances will be granted for good cause only. Failure to appear and/or cooperate in the hearing process may result in denial of benefits.

Section IV: Administrative Hearing/Hearing Officer.

A. *Power of the Hearing Officer.* The Hearing Officer shall have all of the powers granted to him under common law relative to the conduct of an administrative hearing including the power to:

- (1) preside over all Village hearings involving PSEBA;
- (2) administer oaths;
- (3) hear testimony taken under oath and affirmation and accept evidence that is relevant to the issue of eligibility under PSEBA;
- (4) issue subpoenas to secure attendance of witnesses and the production of relevant papers or documents upon the request of the parties or their representatives;
- (5) rule upon objections in the admissibility of evidence and other motions;
- (6) preserve and authenticate the record of the hearing and all exhibits in evidence introduced at the hearing;
- (7) issue a determination based on the evidence presented at the hearing, after entertaining arguments in either oral or written format, at the discretion of the Hearing

Officer, the determination of which shall be in writing and shall include a written finding of fact, decision and order.

B. *Appointment of Hearing officer.* The Village President, with the consent of the Board of Trustees, is hereby authorized to appoint a person to hold the position of a Hearing Officer for any hearing that shall be scheduled by the Village. In making said selection, the Village President shall consider all pertinent information including, at a minimum:

- (1) the candidate's ability to competently perform the services; and
- (2) the candidate's service record and performance data made available to the Village President on file with the Village or otherwise obtained by the Village.
- (3) the candidate must be an attorney licensed to practice law in the State of Illinois for at least three years prior to appointment and have knowledge of and experience in employment and labor law, general civil procedure, the rules of evidence, and administrative practice.

Section V: Administrative Hearing.

A. An administrative hearing shall be held to adjudicate and determine whether the Applicant is eligible for benefits under PSEBA. If the Applicant is found eligible, the benefits shall be consistent with the Act.

- (1) *Time and date.* Hearings shall be held on the date, time and place as established by the Village with appropriate notice served upon the Applicant.
- (2) *Record.* The Applicant, at Applicant's expense, shall ensure that all hearings shall be attended by a certified court reporter and a transcript of all proceedings shall be made by said certified court reporter and a copy be provided to the Village at Applicant's expense within fourteen (14) days of the date of the PSEBA hearing
- (3) *Procedures.* The Village and the Applicant shall be entitled to representation by counsel at said hearing and may present witnesses, may present testimony and documents, may cross-examine opposing witnesses, and may request the issuance of subpoenas to compel the appearance of relevant witnesses or the production of relevant documents. Each party shall bear the costs of its own counsel and witnesses.
- (4) *Evidence.* In so far as is practical, the rules of evidence as set forth in the Illinois Code of Evidence shall apply.
- (5) *Final determination.* The determination by the Hearing Officer of whether the Applicant is eligible for the benefits under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.) shall constitute a final administrative determination for the purpose of judicial review.
- (6) *Burden of proof.* At any administrative hearing, the Applicant shall have the obligation and burden of proof to establish that the Applicant is qualified to receive the benefits.
- (7) *Administrative records.* All records pertaining to the administrative process will be held in a separate file in the employee's name maintained by the Village.

Section VI. Health Insurance Benefits.

A. If the Police Chief or Hearing Officer awards PSEBA benefits, the Village's basic level insurance plan, as designated by the Village in the event the Village offers more than one insurance plan will be the plan offered. The Village's basic level insurance plan may change from time to time. If the Applicant chooses to enroll in a plan available in the Village other than the designated basic level insurance plan, then the Applicant must pay any difference in insurance premiums between the Village's basic plan and that of another plan on a monthly basis, due by the 15th of each month in which coverage is effective. Failure to pay said premiums by the 15th of the month in which coverage is effective, may result in cancellation of the health insurance plan.

B. Individuals receiving benefits under PSEBA will only be able to change from one plan to another during the Village's Open Enrollment Period.

Section VII. Other Health Insurance Benefits.

A. Health insurance benefits payable from any other source will reduce the benefits payable from the Village. Each Applicant will be required to sign an affidavit attesting to the fact that he/she is not eligible for insurance benefits from any other source.

B. It is the responsibility of the benefit recipient to notify the Village within 30 days of any changes to other sources of health insurance benefits. Receipt of benefits in violation of this provision will require reimbursement to the Village of any benefits received. The Village reserves the right on an annual basis to have the benefit recipient provide another affidavit affirming whether other health insurance is available or payable to the Applicant, his/her spouse and/or his/her qualifying dependent children.

The Applicant is also required to notify the Village when the Applicant becomes Medicare eligible so the Village can assist with the transition to Medicare coverage and/or adjust health insurance benefits accordingly.

Section VIII. If any provision of this Ordinance is subsequently declared by State or Federal legislative or judicial authority to be unlawful, unenforceable, or not in accordance with applicable statutes, all other provisions of this Agreement shall remain in full force and effect.

Section IX. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

Ayes: Nays: Absent:

PASSED AND APPROVED by the President and Board of Trustees of the Village of Barrington Hills, Illinois, this 23rd day of February, 2017.

APPROVED:

ATTEST:

Village President

Village Clerk

Village of Barrington Hills

Application for Public Safety Employee Benefits Act ("PSEBA") Benefits

The completion of the Application does not automatically qualify one for benefits. The Village of Barrington Hills shall determine eligibility. Additional information may be requested or required. Failure to complete or provide sufficient details of the circumstances of the incident may result in denial of benefits.

Name of Individual Completing Application: _____

If the person completing this application is not the full time Police Officer, state your relationship to the injured or deceased public safety officer.

Was the injured/deceased a full-time Police Officer? _____

Is the public safety officer injured or deceased? _____

What is the injury? _____

The undersigned states, under oath, as follows:

Name of Injured/Deceased Public Safety Officer: _____

Address: _____ City/State/Zip: _____

Phone Number(s): _____

Date of hire of public safety officer: _____

1. Name, age, and relationship of legal dependents of the public safety officer: (Provide a copy of marriage license and birth certificates of each dependent child with this application.)

2. Describe in detail when, where and how injury and/or death occurred: (Use additional page if length exceeds space)

3. Describe in detail when, where and how any contributing injuries occurred and provide any documents in support.

4. List any and all witnesses to the qualifying injury and/or death:

5. Identify the individual to whom the injury was reported, and the circumstances surrounding that report. If the report was not made contemporaneous to the injury, provide an explanation as to why the report was not made contemporaneous to the injury.

6. Was the injury/death in response to fresh pursuit, in response to what was reasonably believed to be an emergency, an unlawful act perpetrated by another, or during the investigation of a criminal act? If so, describe how.

7. Identify the Incident Report Number (s)_____

8. Please describe the nature, extent, date, and circumstances of any previous personal injuries or illness that created any temporary, partial or permanent disability for the public safety officer. This information should be provided without regard to the work related nature of the

injury or illness. Please indicate the name and address of the treating physician(s) or health care provider.

9. Did any of the injuries identified in the question immediately preceding affect the public safety officer's ability to perform his/her job duties (or the essential functions of his/her job) in any manner? If yes, please explain how the officer was affected. If not, please state when the injuries did affect the public safety officer's ability to perform his/her job duties (or the essential functions of his/her job) and why that change occurred.

10. Please identify (name and address) all physicians and other health care providers (such as therapists, counselors, physical therapists, chiropractor, nurse practitioners, etc.) that you have seen in the past ten (10) years.

11. Please list any past hospitalizations.

12. Describe any outside activities, sports, sports leagues, hobbies any other physical activities in which the officer participated. Provide sufficient information to identify the league and/or location of the activity in which the officer participated.

13. Aside from the accident for which the public safety officer is seeking benefits, has any physician or health care provider rendered an opinion that the public safety officer is physically unable to perform the essential functions of the job of a public safety officer. Which provider? When? What was the basis for the opinion?

14. Aside from the accident for which the public safety officer is seeking benefits, has any physician or other health care provider rendered an opinion, that the public safety officer is physically or mentally disabled for any other reason and unable to perform the essential functions of the job of a public safety officer? Which provider? When? What was the basis for the opinion?

15. Please state whether the public safety officer was employed by any other employer or was self-employed in the twelve (12) months preceding the injury. If so, identify the employer, position held, and hours worked.

16. Was the public safety officer working in any other capacity in the forty-eight hours preceding the injury for which benefits are being sought? If so, where were they working, what were they doing, and who was with them?

17. Has a line-of-duty disability pension been granted by the Village's Police Pension Fund Board? ☐ Yes ☐ No

18. If yes, provide the date the pension was granted along with a copy of the Pension Board decision. In addition, provide copies of any materials submitted in support of such a pension as well as any other materials that are in your possession that were considered by the Pension Board:

19. If no, provide the date and a copy of the pension application (if any) along with copies of any materials submitted.

20. Provide any other facts that would qualify the injured or deceased public safety officer for PSEBA benefits:

21. Is the public safety officer currently employed? If yes, provide the name, address and telephone number of the employer.

22. Is the public safety officer eligible for health insurance benefits through his/her current employer? If yes, provide details of benefits offered.

23. Is the spouse of the public safety officer currently employed? If yes, provide the name, address and telephone number of the employer.

24. Is the spouse of the public safety officer eligible for health insurance benefits through their current employer? If yes, provide details of benefits offered.

25. Is the child(ren) of the public safety officer currently employed? If yes, provide the name, address and telephone number of the employer(s).

26. Is the child(ren) of the public safety officer eligible for health insurance benefits through their current employer? If yes, provide details of benefits offered.

27. Is the child(ren) of the public safety officer eligible for health insurance benefits through any other source, such as a mother or father who is not the spouse of the applicant? If so, provide the details of the eligibility for insurance including the identity and relationship of the individual through whom the child(ren) are eligible for insurance.

28. Is the child(ren) currently enrolled in school? If yes, identify the date(s) the child was enrolled, course of study, and anticipated date of graduation.

29. The Act states that benefits shall be provided to the injured public safety officer, the public safety officer's spouse and for each dependent child of the public safety officer. List other current sources of health insurance benefits payable to the injured or deceased public safety officer through other employment, and other entity or spouse; include company name, benefit plan, description of benefits and costs to you and/or spouse for single and/or family coverage.

30. Has the injured or deceased public safety officer or any family member on his/her behalf previously made a request for benefits? If so, identify when the request was made, how it was made and to whom it was made and provide any documentation supporting the previous request for benefits.

Applicant Statement Regarding Essential Functions

From the position description attached as Appendix 1, list the essential functions that you or the injured public safety officer are unable to perform. Also list any reasonable accommodations that you feel could be made to allow you or the injured public safety officer to perform functions as a public safety officer.

It will be assumed that you (or the injured public safety officer) are able to perform those duties not listed without accommodation.

Duty that I am Unable to Perform	Reasonable Accommodation to Perform Duty

Right to Investigate Information on Application

To determine eligibility for PSEBA benefits, the Village of Barrington Hills will review relevant medical and other records concerning the injured public safety officer and related individuals covered by this application. Please have the “Medical Information Release and Consent” form (attached as Appendix 2) completed to authorize the Village of Barrington Hills to review the applicant’s medical records. Please have every individual over the age of 18 who is included within this application and the request for coverage sign the “Authorization and Waiver” form (attached as Appendix 3) that authorizes the Village of Barrington Hills to access additional information to evaluate the application and eligibility.

Limitations on Benefit Eligibility

If the public safety officer, his/her spouse or any of their dependent children become eligible and/or obtain other sources of health insurance benefits, the Village of Barrington Hills must be notified within 30 days of the effective date.

If you or your spouse becomes employed or self-employed the Village of Barrington Hills must be notified within 30 days of the effective date along with the identity of the employer, and position held.

If your PSEBA application is approved, you will be offered free-of-charge the Village’s basic level insurance plan. The Village’s basic level insurance plan may change from time to time. If you choose to enroll in any other plan available in the Village, you must pay any difference in

insurance premiums between the Village's basic plan and that of another plan on a monthly basis. These and other requirements can be found in the Village's PSEBA ordinance.

VERIFICATION OF INFORMATION PROVIDED BY APPLICANT

This statement is made for the sole purpose of receiving benefits under the Public Safety Employee Benefits Act from the Village of Barrington Hills. The information contained in this application is true to the best of my knowledge and belief. I understand that it is unlawful for a person to *willfully and knowingly make*, or cause to be made, any false, fraudulent, or misleading oral or written statement to obtain health insurance coverage as provided by the Public Safety Employee Benefits Act. 820 ILCS 320/10(a)(3). Such actions constitute a Class A Misdemeanor and can serve as the basis for denial or forfeiture of any benefits paid out under the Public Safety Employee Benefits Act.

I agree to abide by the requirements set forth above regarding the receipt and retention of any PSEBA benefits provided by the Village of Barrington Hills.

I, _____, being duly sworn, and state that I have reviewed the information provided in this application FOR BENEFITS UNDER THE PUBLIC SAFETY EMPLOYEE BENEFITS ACT, and declare, under the penalties provided by law pursuant to section 1-109 of the Code of Civil Procedure, that the statements set forth herein are true and correct, except as to matters therein stated to be on information and belief and as to such matters, I certify that I believe them to be true.

Signature of Applicant

Date

State of Illinois)
County of _____)

Subscribed and sworn to
Before me this ____ day of _____

Notary Public

APPENDIX 3

VILLAGE OF BARRINGTON HILLS

PSEBA Applicant's Acknowledgment and Waiver

Please read this carefully and in its entirety before signing below

I authorize the Village of Barrington Hills to investigate any of the information contained on my application for benefits under the PSEBA, including employment records, membership records, education and medical records, and other facts stated on the application. I further authorize all individuals and organizations named in such application to give the Village of Barrington Hills all information relative to such verification. I acknowledge that establishing my eligibility for benefits requires a thorough investigation into my circumstances surrounding my asserted injury, existing and available insurance coverage for myself and my dependents, and information pertaining to the employment or educational status of myself and my dependents. I specifically consent to the disclosure of confidential information required to verify information I have provided and determine my eligibility for claimed benefits, and I waive my rights to enforce any confidentiality protections with regard to this disclosure. Additionally, I waive any claim to privacy in such information, consent to the disclosure of information which may be exempt from disclosure by law, and waive any claims I may have to the protection of such information for the limited purposes of investigating and verifying my application for benefits under the PSEBA. I waive any right I may have to be notified by any individuals and organizations named in my application prior to the release of any information to the Village of Barrington Hills, including the release of information concerning any disciplinary action taken against me by former employers.

I hereby release and discharge the Village of Barrington Hills and any person or entity from whom any such information is obtained from any liability whatsoever related to the use or disclosure of such information.

Date

Print Your Name

Sign Your Name

Witness

APPENDIX 2

MEDICAL INFORMATION RELEASE AND CONSENT FORM **(Required for each health care provider)**

To: _____ (fill in any health care provider's name and address)

and _____ (fill in any hospital(s), clinics, treatment centers or
practice(s) name and address)

I hereby authorize my physician, physical therapist, and any other health care providers, as well as the institution(s) with which they are affiliated, to release to the Village of Barrington Hills and/or its representatives any medical records or other medical information (including by not limited to medical or mental health records, reports, x-rays, photographs, notes, bills, payment schedules, prescriptions, insurance records or claim forms) which relate in any way to my medical and/or mental health treatment. The above described medical records and information should be released to the Village of Barrington Hills attn.: Village Administrator [POLICE CHIEF?] at 112 Algonquin Road Barrington Hills, IL 60010-5199, (847) 551-3000, or any other authorized Village representative, agent or attorneys. The purpose of such a release is for the Village of Barrington Hills to evaluate my qualifications for free health insurance benefits under the Illinois Public Safety Employee Benefits Act. 820 ILCS 320/1 *et seq.*

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, the Village and I ask that you not provide any genetic information when responding to this request for medical information. 'Genetic information' as defined by GINA includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

I understand that by releasing these records, I am waiving any rights I might have under the Illinois Mental Health and Developmental Disabilities Confidentiality Act, which governs disclosure of certain confidential mental health information. This consent will expire one year from the date next to my signature, unless I revoke it earlier at any time, in writing, signed by a witness. I understand any such revocation will not be effective until delivered to the health care providers listed above and will not affect any prior release of information. I understand I may ask to inspect and copy the records which are being released.

I also understand that if I refuse to consent to the release of documents subject to the Illinois Mental Health and Developmental Disabilities Confidentiality Act, the Village of Barrington Hills will assess my application for benefits based solely on the limited information and documentation that it has in its possession.

Name

Date

Witness