

Local Government &
Social Care
OMBUDSMAN

***Review of Local
Government Complaints
2022-23***

July 2023

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Ombudsman's foreword



I was delighted to be appointed to the role of interim Ombudsman in April 2023 and am pleased to be able to look back on the year and present our Review of Local Government Complaints for 2022-23.

This report reflects on the complaints we have investigated about the sector during the year and, importantly, highlights the value to be gained from complaints as a tool for learning and service improvement. Complaint oversight is core to good corporate governance and it is the responsibility of Elected Members, Chief Executives, Monitoring Officers, and Statutory Officers to identify patterns of complaint and drive improvement.

Together, with the data we publish alongside the report, I hope you are able to gain insight into your own organisation's strengths and challenges around complaint handling and to learn from the approach of others.

Our complaint statistics for 2022-23 tell us:

- > We received and upheld more complaints about Education and Children's services than any other service area
- > We recommended more service improvements than ever before, with 2,412 recommendations focused on delivering policy change, procedure review or staff training
- > We published 38 public interest reports, with Education and Children's Services, Adult Care Services and Housing the subject matter in most cases
- > Compliance with our recommendations was 99.3%

We continue to find the highest proportion of fault in complaints about Education and Children's Services, and they remain some of our most high-profile cases, featuring in more than half of our public interest reports. The themes of these reports are all too familiar – failure to properly provide for Special Educational Needs and Education, Health and Care plans are common features. While we are aware of the challenges authorities face, at the heart of many of these complaints are children and young people going without the support they are entitled to, and we will continue to hold authorities to account for what they are required to provide.

Like many organisations we have, in recent years, been focused on doing the most we can with the resources we have, prioritising cases where it is in the public interest to investigate. As a result, we are less likely to carry out investigations into 'borderline' issues and are finding a higher proportion of fault as a result. While allowing a more sustainable way for us to work, the change means that our uphold rate has increased seven percentage points from last year to 74%. We have reported a steadily increasing uphold rate for several years, but this year's increase is not wholly attributable to the nature of the cases that came to us and so comparison with previous years carries a note of caution.

The recommendations we make to remedy complaints remains a key focus for us – we made more service improvement recommendations during the year than ever before. Where we find fault, we will always ask authorities to put things right for the person that has brought the complaint and will also consider others that may have been similarly affected or will make recommendations to improve services for future users.

Evidence points to the importance of attending to the experience of residents and the need to invest in and support their complaint functions – it is a false economy not to.

These recommendations can be hugely impactful, resulting in significant changes to how services are delivered; we detail some cases later in this report. We track the impact of these recommendations with interest – a single resident’s recent complaint about a council’s use of fixed penalty notices for fly-tipping resulted in 191 fines being cancelled or refunded to residents. I commend authorities that accept and carry out these recommendations to their fullest, despite challenging circumstances.

Our system of redress relies on compliance with our recommendations, which are non-binding. It is therefore pleasing to note a 99.3% compliance rate. However, we continue to see around a fifth of our recommendations implemented outside of agreed timescales. Delay in carrying out agreed actions further frustrates complainants and is an ineffective use of resources. I urge authorities to review their mechanisms for considering and implementing our recommendations to ensure they are efficient and effective.

During our investigations, it is not uncommon for us to uncover poor complaint handling practices by authorities. We see evidence of authorities

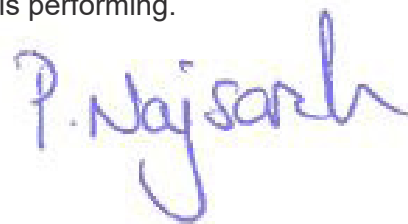
failing to correctly signpost to our service or to use the statutory children’s complaints process appropriately. Issues with timeliness and communication are often evident in both local complaint handling and authorities’ liaison with us.

While I am aware of the demanding context within which authorities are working, this evidence points to the importance of attending to the experience of residents and the need to invest in and support complaint functions – it is a false economy not to. Putting people who use services at the centre of the complaints system is important for achieving good outcomes and we want to support authorities to do this.

As such, we have continued to work with colleagues at the Housing Ombudsman Service to support authorities to focus on the fundamentals of complaint handling. A joint complaint handling code will provide a standard for authorities to work to. We will consult on the code and its implications later in the year.

Working with our partners both nationally and locally to share the wealth of data and intelligence we gather from our casework to help improve services is a key focus for us. Equally, we are committed to our own continuous improvement and have commissioned a peer review of our work focusing both on our efficiency and effectiveness, which will be published later in the year.

Alongside this report, we publish our complaints data at local authority level, and upload annual data to the [your council’s performance](#) map. Now with five years’ worth of data on councils’ complaint outcomes and commitments to improve, I encourage you to take a look at how your organisation is performing.



Paul Najsarek
Interim Local Government and
Social Care Ombudsman
July 2023

Putting things right

2,548

cases with
recommendations to
put things right

15,488

complaints and
enquiries received

2,412

recommendations
to improve services
for everyone*

12%

upheld cases where
we agreed with the
authority's remedy

4,907

recommendations
to remedy
personal injustice*

** In many cases, we will recommend more than one type of remedy. For example, we may recommend an authority makes an apology, pays a sum of money, and reviews a policy or procedure.*

Compliance with recommendations

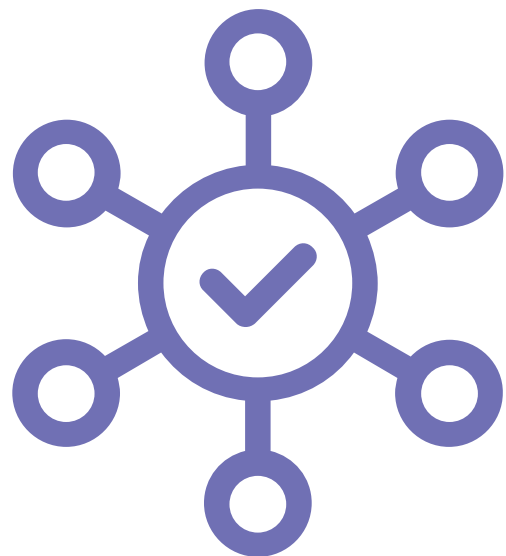


Our recommendations to put things right are non-binding and in most cases authorities agree to comply with our remedies.

We were satisfied with authorities' compliance with our recommendations in 99.3% of cases. But, in 19% of cases, compliance was not within the agreed timescales and was late. To ensure remedies are implemented on time, authorities should consider:

- > The timescales proposed at the draft decision stage for implementing recommendations to ensure they are achievable
- > Keeping track of agreed recommendations and keeping in touch, informing us of any delays
- > Letting us know promptly when a remedy is completed, including providing the requested evidence
- > Establishing clear processes that allow for swift action of apologies and payments to complainants; these should be simple actions to complete on time

There were 17 cases where we were not satisfied that the authority had complied with our recommendations. When an authority fails to implement our recommendations, we can consider a range of actions, including issuing a public interest report and opening a new investigation into the authority's failure to provide the agreed remedy. Non-compliance is also reported publicly on our website.



Learning from complaints

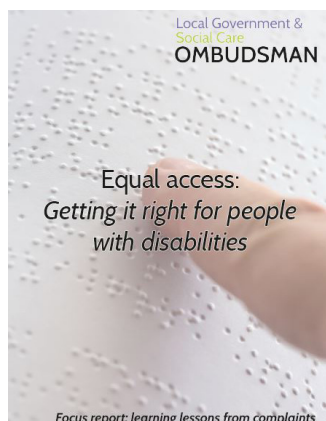
Focus reports

Our casework provides a unique insight into the concerns of people who use local services. Where we identify recurrent problems across authorities, we will publish a focus report to feed back the learning from the complaints we investigate to the sector. These reports shine a spotlight on issues and help authorities learn from others' mistakes and improve services. The reports also act as a useful tool for elected members; we include suggested questions councillors can use as part of their role to scrutinise services.

In addition, our good practice guides set out what we expect from local complaint handling and how we will approach investigations about common areas of complaint.

These were the topics we commented on during the year:

[Equal Access: Getting it right for people with disabilities](#)



The Equality Act 2010 requires organisations to ensure people with disabilities can access their service easily; often this will involve making 'reasonable adjustments'. Our report shares the learning from cases where councils got things wrong in dealing with reasonable adjustments and offers opportunities for others

to learn. It is vital that local authorities anticipate people's needs, as the law requires, and proactively seek to find out about any help people may need.

[Out of School, Out of Sight?](#)



Our report finds that, all too often, children are being robbed of the chance to fulfil their potential, because some councils are not putting in place alternative education when they need it. We find fault in nearly 9 out of 10 investigations about alternative education and commonly find

that councils can be unclear of their duty and seek to pass responsibility to schools. We are clear of councils' obligation to properly consider alternative education options and plan for children who cannot receive education because of illness, exclusion or otherwise

[Equal justice: learning lessons from complaints about people's human rights](#)



Our report highlights the expectation that we should all expect to be treated with fairness, respect and dignity when receiving public services. We urge councils to take a rights-based approach when developing services and making day-to-day decisions on how they are delivered.

The report highlights cases where people's rights basic rights were infringed when receiving public services

More Home Truths: learning lessons from complaints about the Homelessness Reduction Act



Five years after the Homelessness Reduction Act came into force, our report highlights where things are still going wrong. The Act gave local housing authorities additional duties to help people at risk of homelessness, but, too often, our investigations uncover problems with

councils not getting the basics right, like not considering the individual circumstances of the applicant, or turning people away if they haven't yet been issued with a warrant for their eviction.

Good practice guides

We issued two good practice guides aimed at helping authorities to get things right before cases get escalated to us.



Section 117
Aftercare



Guidance for
practitioners

Section 117 Aftercare

This guide, produced with the Parliamentary and Health Service Ombudsman (PHSO), sets out the common mistakes we find in complaints about the aftercare of patients receiving support under

the Mental Health Act. The guide is aimed at both councils and Clinical Commissioning Groups (and their successor Integrated Care Boards) who have joint responsibilities to provide Section 117 aftercare services.



Deprivation
of Capital



Guidance for
practitioners

Deprivation of Capital

This guide focuses on the often-complex issue of deprivation of capital decisions. Particularly helpful to financial assessment practitioners, it sets out our approach to investigating complaints from people where their

local authority has decided they have intentionally deprived themselves of capital when assessing how much they should contribute to their care fees.

Decisions and reports

We are one of the only Ombudsman schemes to publish the decisions we make. We do this to share learning and be transparent.

Our decisions are published at www.lgo.org.uk/decisions and can be searched by theme, key word, category, decision outcome, date and organisation.

Cases that raise serious issues or highlight matters of public interest are given extra prominence and issued as public interest reports. We published 38 public interest reports during the year.

Our press releases highlight our public interest reports and can be found at www.lgo.org.uk/information-centre/news



Education & Children's Services

1,263 detailed investigations
84% upheld

21 published reports

[Birmingham CC: Children's Disabled Facilities Grants](#)

[Birmingham CC: SEND provision and EHC plans](#)

[Cambridgeshire CC: SEND provision and EHC plans](#)

[Dorset Council: SEND provision and EHC plans](#)

[Hampshire CC: School Transport](#)

[Hertfordshire CC: SEND provision and EHC plans](#)

[Liverpool City Council: Children's Services - Disabled Child](#)

[LB Croydon: Children's Services - Disabled Child](#)

[LB Croydon: Children's Services - Looked After Children](#)

[LB Ealing: Children's Services - Statutory Complaints Procedure](#)

[Milton Keynes Council: Family and Friends Carers](#)

[Northumberland CC: School Transport](#)

[North Yorkshire CC: SEND provision and EHC plans](#)

[Nottinghamshire CC: Education - Nursery Fees](#)

[Oxfordshire CC: SEND provision and EHC plans](#)

[Redcar and Cleveland Council: Children's Services - Disabled Child](#)

[Sheffield CC: Children's Services - Disabled Child](#)

[Suffolk CC: SEND provision and EHC plans](#)

[Suffolk CC: Education - Alternative Provision](#)

[Surrey CC: SEND provision and EHC Plans](#)

[West Northamptonshire Council: SEND provision and EHC plans](#)



Adult Care Services

898 detailed investigations
73% upheld

8 published reports

[Birmingham CC: Charging](#)

[Bradford MBC: Assessment and Care Planning](#)

[LB Croydon: Assessment and Care Planning](#)

[Leeds CC: Residential Care](#)

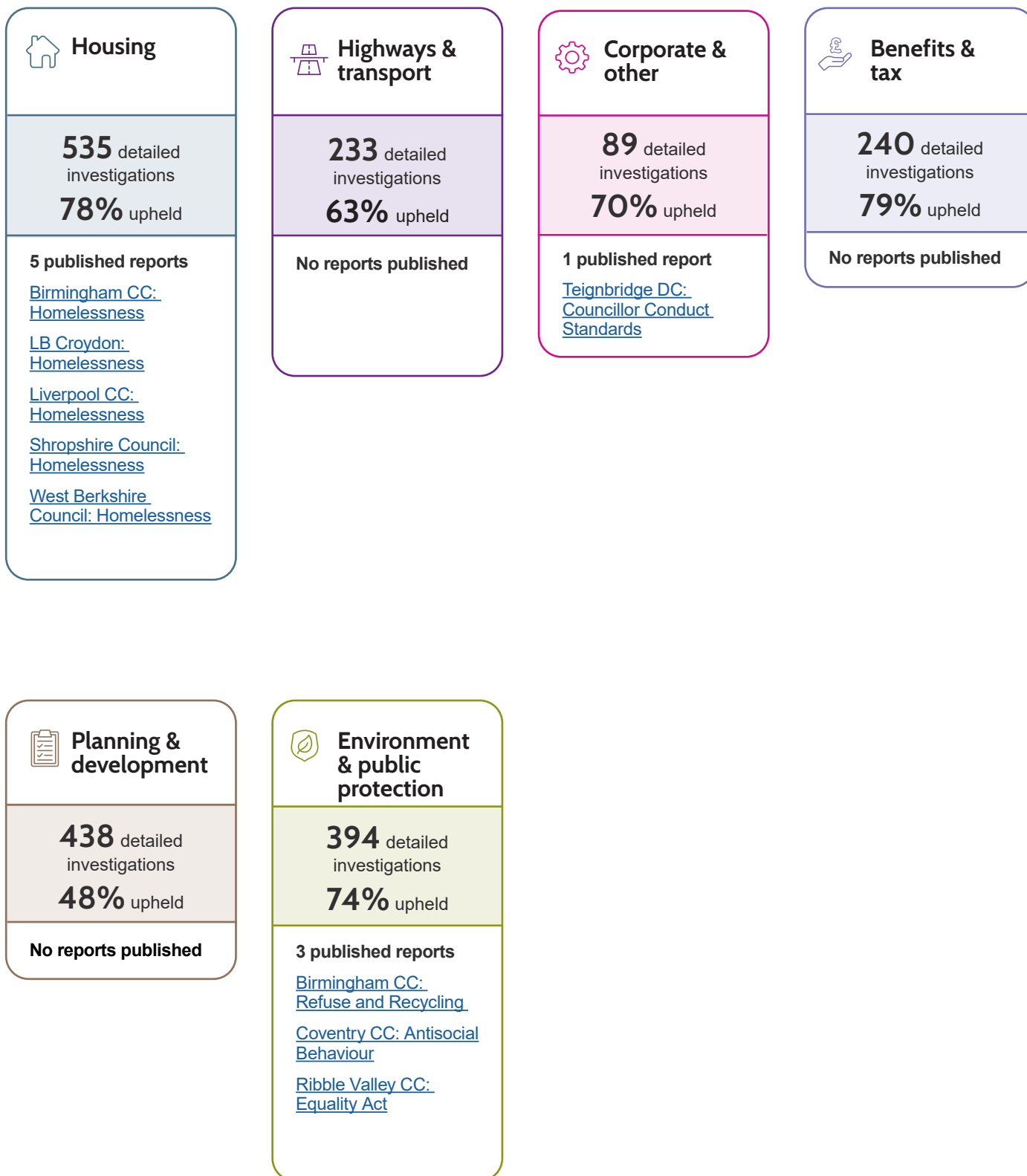
[Leicestershire CC: Assessment and Care Planning](#)

[Slough BC: Disabled Facilities Grants](#)

[Warrington Council: Charging](#)

[Worcestershire CC: Direct Payments](#)

Decisions and reports



The impact of a single complaint



A single complaint can make a difference to many people. During our investigations, we will assess if others could be affected by the same issue and recommend ways for services to improve. The most positive outcomes are achieved when authorities commit to our service improvements and the case summaries below are great examples of this. By sharing them here, we are giving all authorities the opportunity to learn and check their own practice in these areas.

Full details of these cases can be found by clicking on the links, or you can search the case reference numbers at www.lgo.org.uk/decisions



Council's 'dual contract' arrangements with care homes ended after investigation
Case reference: [20 013 485](#)

Our investigation found that Leeds City Council allowed a private care provider to put a second contract in place with a family whose relative was placed in a care home. The dual contract meant the family were required to pay the difference between the council's rate for a placement and the provider's private rate.

We found the arrangements confusing and contrary to Government guidance; service users whose care is arranged by a council should not pay more than the council's contracted rate for care.

We recommended, and the council agreed, to apologise to the complainant and arrange for repayment of the fees paid. It also agreed to revisit its contract arrangements and end this practice with all care providers in its area.



82% of residential care complaints upheld

Service improvements

The council agreed to revisit its contract arrangements and end this practice with all care providers in its area



Remedies for families affected by delays to Education, Health and Care plans

Case reference: [21 005 558](#)

Our investigation found delays in the Education, Health and Care (EHC) plan process at North Yorkshire County Council was caused by difficulty recruiting educational psychologists - a key requirement of the EHC plan statutory process. We know this is a national issue and have seen similar difficulties across large areas of England.

However, as the timescales are set in law, we found the council took between three and four months too long to issue the child's EHC plan, delaying the family's right to appeal to the Special Educational Needs (SEN) and Disabilities Tribunal. It meant the child also missed out on the specialist provision they should have received at mainstream primary school.

As a result of our investigation, the council agreed to apologise and pay £700 for the injustice caused to the parent and child.

We also asked the council to review where others' may have been similarly affected. It reviewed 26 other complaints that it upheld in 2020 about similar issues to see if those families were due a remedy in line with our recommendations. The council agreed to make payments in 20 of those cases for lost special educational provision.



**92% of SEN provision
and EHC plan
complaints upheld**

Remedies for others affected

***Payments were made to 20 other
families where they had lost SEN
provision***

The impact of a single complaint



Process review prompted by failure to support homeless woman
Case reference: [21 014 573](#)

An investigation into West Berkshire Council's handling of a homelessness application from an applicant fleeing violence in another council area found it did not offer interim accommodation and failed to properly consider whether it owed a relief duty.

The council agreed to our recommendations that it apologise and pay the complainant £500 for the frustration and uncertainty caused.

It also agreed to review its processes, and train relevant staff, to ensure it accepts homelessness applications and provides interim accommodation in line with the law and guidance.



87% of homelessness complaints upheld

Service improvements

The council agreed to review its processes, train relevant staff, and provide interim accommodation in line with the law and guidance

The impact of a single complaint



Education for out of school pupils reviewed Case reference: [19 018 501](#)

Our investigation found Central Bedfordshire Council failed to provide alternative education to a young boy who was unable to attend regular school, meaning he missed out on a year of education.

We recommended payments to the boy's family and a review of its policy for pupils out of school to ensure that decisions and actions about non-attendance are taken quickly, named officers are assigned to cases and alternative education provision is made available.

In light of the complaint, the council also agreed to review the cases of other pupils out of school who may have been similarly impacted.



**90% of alternative
education provision
complaints upheld**

Remedies for others affected

The council also agreed to review the cases of other pupils who may have been similarly impacted

Raising the profile of complaints

Listening to public concerns is an essential component of a well-run, accountable authority that is committed to public engagement, learning and improvement. We encourage officers and elected officials to use the information we publish to determine the health of their local complaints system.

Complaints officers can use the range of information we publish to support their own complaint handling, learning from cases we have published and the remedies we have recommended. They can raise the profile of complaints in their authority by feeding relevant information into service areas, management teams and to elected members.

Elected members have important roles in scrutinising local performance and retain the final decision on whether to accept our non-binding remedies and service improvements. They can champion the voice of complainants and use local democratic processes to hold officers to account where appropriate.

Resources to use

- > Our [council performance map](#) places all our council complaint statistics in a single, interactive hub. It is a mine of searchable information and allows comparisons to be made between similar councils.
- > Each council page also includes our annual review letters, links to decisions we have made, public interest reports published, and every service improvement the council has agreed to make. Annual review letters of other authorities can be found here.
- > We also publish [data tables](#) providing complaints information at local authority level, which can be freely analysed and segmented.

What to look for

- > **Uphold rates** show the proportion of investigations in which we find some fault and can indicate problems with services. How does your authority compare against the national averages or other similar authorities?
- > **Offering a suitable remedy** for a complaint before it comes to us is a good sign your authority can accept fault and offer appropriate ways to put things right. How often does your authority do this, and how does it compare with others?
- > **Compliance rates** show the proportion of cases in which we are satisfied our recommendations have been implemented (based on the evidence authorities give us). Compliance below 100% is rare. Does your authority have a 100% compliance rate – if not, what is it doing to scrutinise complaints where it failed to comply?
- > **Service improvement recommendations** show what your authority agrees to do to make things better for everyone. Do you track the service improvements your authority agrees to make? How are they being implemented, and their impact monitored?

We want authorities to operate, and benefit from, excellent complaint systems. Where support is needed to achieve this, we offer online complaint handling training.

To find out more visit www.lgo.org.uk/training.

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