



Department
for Education

Free school admissions: common issues

Mainstream admissions

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Introduction: understanding Admissions

1. Guidance on this site will help those new to the process get 'up and running' but those persons within the Trust responsible for admissions must quickly become fully conversant with the requirements of the [School Admissions Code](#) and the [School Admission Appeals Code](#). Free school funding agreements require them to comply with these Codes.

Administering applications

Firming up offers

2. A free school becomes an admission authority once its funding agreement is signed and sealed. As soon as this happens it should firm up any offers, offer appeals to those refused a place, and inform the local authority.

Obtaining information from parents in order to administer admissions

3. You should only ask parents for information that is required to apply your oversubscription criteria, and you **must not** ask for any information listed in paragraph 2.4 of the [School Admissions Code](#).

4. In addition to basic personnel details about their child (for example, name, address and date of birth), you can ask for proof of address, but only if that is relevant to the application of your oversubscription criteria.

5. Once parents have been offered a place for their child, you can also ask for proof of birth date, but you must not ask for a 'long' birth certificate or any other documents which would include information about the parents.

Oversubscription criteria

Guaranteeing places for children from the same family

6. It is not possible to guarantee places, but it is possible to formulate your admissions policy in a way that ensures that in the vast majority of cases, children from same family, whether in the same year group, or applying in different years, are all admitted.

7. In the case of children of multiple births you can choose to admit all the children of that multiple birth when they apply at the same time even if to do so would mean exceeding your admission number. You should make this approach clear in your admission arrangements. You can do this even if it means exceeding infant class size limits (See 2.15 of the School Admissions Code). In the case of young children, we would *strongly encourage* you to do so.

8. It is also possible – and many schools choose – to prioritise siblings of children already attending the school in their admissions criteria. (This is set out in paragraphs 1.11-1.12 of the School Admissions Code). It is less usual for schools to prioritise siblings of pupils who formerly attended the school, but again, it is possible to do so. If you choose to do this you must provide a clear and simple definition of ‘sibling’, for example, setting out whether this includes step-siblings, children living in the same house who are not ‘blood’ relatives and if appropriate, ‘former pupils’.

The Pupil Premium and Service Premium and how they are relevant to admissions policies

9. The Pupil Premium is additional funding provided to schools to support disadvantaged pupils in reaching their potential and helping schools reduce educational inequalities. The Service Premium is designed to support children with parents serving in the regular British armed forces. Schools receive the Pupil or Service Premium for each pupil:

- who has been registered as eligible for free school meals (FSM) at any point in the last six years;
- who has been looked after in public care continuously for at least six months;
- who is a child of a parent who is serving in the regular UK armed forces or was serving in the past 3 years
- who is in receipt of a pension under the Armed Forces Compensation Scheme (AFCS) and the War Pensions Scheme (WPS) because their parent(s) died on active service with the UK armed forces.

10. The Government is keen that every school seeks to tackle the particular educational disadvantages faced by children eligible for the Pupil Premium, and to

support the children of military families and would like to see academies and free schools prioritise these children in their admission arrangements. You can choose, therefore, to prioritise children eligible for the Pupil and Service Premiums as one of your oversubscription criteria. You can prioritise pupils for admission based on all the categories of children in paragraph 9, or one or more categories of these children.

Allocating places to the children of service families

11. School places for children of service personnel are generally allocated in the same way as for other children, but there are steps you should take to ensure that their children are not unfairly disadvantaged when applying for school places as a result of their mobility.

12. In particular, you should adjust your requirements that require proof of address when parents apply for places. Where UK service personnel have a confirmed posting to a new area, you must allocate a place in advance of the actual move, and on the basis of the Unit postal address or quarterly area address rather than require a specific address for an individual family.

13. You can also choose to admit children of UK service personnel as exceptions to the infant class size limit if they move outside the normal admissions round.

14. In addition to this, you can choose to prioritise children eligible for the Pupil Premium – including children of UK service personnel - as part of your oversubscription criteria, but if you choose to do this you must prioritise all children eligible for the premiums, and not just the children of service personnel.

Random allocation

15. Random allocation is most commonly used as a tie breaker – to differentiate between two otherwise equal applications - rather than a method to allocate all places. Some schools choose to randomly allocate places to applications from within a defined area, to widen the geographical area from which pupils are drawn and to minimise the likelihood that only children of parents who can afford to buy property near the school will be admitted.

16. If you choose to use random allocation as part of your admissions process, it must be carried out by somebody independent of the school, and you should set this out in your admission arrangements.

17. If using random allocation within your admissions criteria, rather than first applying a distance tie-break or catchment area, you should consider the transport implications of adopting a process which could lead to pupils, obtaining a place who live outside the distance for which your LA will fund transport.

Setting a catchment area

18. Schools do not have to set a catchment area within their policies but many choose to do so.

19. Catchment areas (also known as designated or priority areas) are used by many schools to prioritise admissions for children who live in that area as part of their oversubscription criteria. Choosing to have a catchment area does not guarantee admission to the school for children who live in the area, but it may increase their likelihood of being admitted.

20. If you decide to have a catchment area, it must be designed in a way that is clear and reasonable. You should ensure that your catchment areas are inclusive and do not unfairly disadvantage pupils living in particular areas, especially if those areas are areas of economic disadvantage.

Using an LA boundary to define a catchment area

21. The home LA area should not be used as a catchment. There is case law – known as the Greenwich Judgement – that states that pupils should not be treated less favourably in admissions just because they live outside the home local authority. In practice, this means that a catchment area or areas that align with the home local authority's boundary and lead to those living within the LA having higher priority for admission than those living outside, would be likely to breach the Greenwich Judgement.

Options when the school's final location is unclear.

22. There are a number of options you can consider if you want to draw children from a particular area but you don't know exactly where the school will be located. In most cases, the most appropriate decision will either be to use a nodal point – an appropriately chosen fixed point, such as a station or village hall – and measure distance from there, or to design a catchment from the area around the anticipated location of your school and randomly allocate places from within that catchment.

23. Once your site has been finalised, you should review your admission arrangements, and amend them for future years if appropriate, but bear in mind you will need to consult upon any changes as set out in paragraphs 1.42 to 1.47 of the School Admissions Code once you have a signed funding agreement in place. Also see the admissions timeline on pages 32 to 33 of the Code. Arrangements which apply for September 2015 would need to be determined by 15 April 2014.

Giving priority to pupils in feeder schools

24. You can give priority to children attending named feeder schools, as long as that school is a maintained school, free school or an Academy. You must have a clear and

reasonable rationale for naming a feeder school, and be able to defend it if challenged. We would not expect, for example, you to prioritise children attending a feeder school five miles away – even if it has a similar ethos or is part of the same Academy Trust - if other, closer schools are not also prioritised.

Feeder nurseries

25. A nursery can only be named as a feeder school if it is not a fee-paying nursery. It is possible to give priority to children attending a specified nursery but you need to be aware that where the nursery and the reception class have the same, or a similar, number of places, and the majority of children tend to transfer from the nursery to the school, this could breach the Admissions Code, as attendance of the nursery would be a pre-condition of admission to the school. This is set out in paragraph 1.9 a) of the Code.

26. You should also ensure that giving such a priority is fair to local parents who choose not to send their children to nursery. As a rule of thumb, such arrangements are likely to be unfair – and be vulnerable to an objection to the Schools Adjudicator - if very few or no places are available to other parents once those attending the nursery have been admitted to reception. If a majority of places are available to parents who have not sent their children to the nursery, the arrangements are likely to be less vulnerable to objection. However, anyone can object to a school's admission arrangements and so it is important that you understand local parents' views on giving priority to children in a nursery before adopting it as an oversubscription criterion, and keep the policy under review.

27. Fee-paying nurseries cannot be named as a feeder institution, as this would contravene paragraph 1.9 e) of the Code which prohibits giving priority for admission on the basis of any financial support that parents give the school or an associated organisation.

Allocating places to the children of employees

28. You can give priority in your oversubscription criteria to children of staff as long as:

- the member of staff has been employed at the school for two or more years at the time at which the application for admission to the school is made, or
- the member of staff is recruited to fill a vacant post for which there is a demonstrable skill shortage.

29. While this means that in most cases, for the first two years of a school's operation, no children will be admitted on this basis you can consider whether you want to include this provision in your oversubscription criteria in order to attract staff for future years.

30. Note: This covers all staff at the school, not just teaching staff.

Faith schools, adopting faith admission criteria

31. If you are a faith-designated free school, you must admit at least 50% of your pupils without reference to faith when the school is oversubscribed. This doesn't mean that those children must not be 'of' the faith, but just that you **must not** take into account whether they are of the faith or not when you consider their applications.

32. You should also be clear whether your faith places will be open to children from one particular faith or denomination, or several.

Selection

Selection by ability

33. You cannot adopt selection by ability as part of your admission arrangements. The School Admissions Code and the Academies Act prevents schools which were not formerly selective maintained schools from adopting any selection by ability. This prohibition also applies to independent fee-paying schools, which may previously have selected their pupils by ability, and which join the state sector as free schools.

34. The exception to this is for entry into Year 12, when you can set academic entry requirements, for example, a certain number of GCSEs at particular grades.

Selection by aptitude

35. Free Schools that have a specialism in one of the following areas, can admit up to 10% of their pupils with reference to their aptitude in that specialism:

- modern foreign languages;
- performing arts
- visual arts;
- sport;

36. Limiting the proportion at 10% allows the school to develop and embed its specialism whilst acknowledging that the school is there to serve the whole of its community.

37. In testing for aptitude, you must look to determine a pupil's natural talent for a particular subject, and their potential to develop it further. You must not test a pupil's prior learning or ability – whether a pupil has agility and balance tests aptitude for sport; whether a pupil has represented the county at football tests ability.

Banding: how it is used.

38. Banding is a way of having an intake that reflects the range of abilities of the children applying to your school, or of children in the local authority or country. It can be used only where your school is oversubscribed.

39. If you want to use banding, you need to write the process into your admission arrangements. Schools adopt a set number of ability bands ranging from high to low ability. All children applying for a place are placed into these ability bands based on their performance in a test or other assessment. Places are then allocated within each band using your oversubscription criteria (e.g. distance, catchment areas, siblings, random

allocation). You must not either apply another test of ability once children are allocated to bands or give priority within bands according to a child's performance in the test.

Is it good practice to use banding?

40. Banding tends to be more effective in urban, rather than rural, areas where there is often a greater concentration of schools serving a number of children. Banding can help to reduce segregation, particularly if used together with inner and outer catchment areas as this can help to ensure an intake with both a broader ability range and wider social mix than would be the case if distance alone was used. However, every local area is different and you will need to decide if banding is likely to have the desired effect in your area.

How many bands can a school set?

41. As an admission authority, you can decide how many bands your school has and what proportion of children to place in each band, but **you must ensure that the bands don't under or over-represent particular levels of ability**. Too many bands can also over-complicate your admission policy and render them difficult to understand and apply.

42. You can either have bands which are equally weighted (for example there will be 25% of pupils in each band, if using four bands), or proportionately-weighted bands. If you use this method, you should set bands which are symmetrical either side of the median (for example, if using five bands, the percentage of pupils in each band could be 10 – 20 – 40 - 20 – 10, or 30 – 10 – 20 – 10 – 30.)

What would happen if one of the bands was undersubscribed?

43. You would re-distribute the children so that there is an equal number in each band. Where you have an odd number, you would need to ensure that no ability band is significantly under or over-represented.

44. It is recommended that if you band, you write a process into your admission arrangements to cover this eventuality. For example, if you had 3 bands and 2 extra children you could say there would be an extra child in bands 1 and 3 or an extra 2 children in band 2.

Arranging banding tests

45. You must test or assess children before you apply your oversubscription criteria. Places are then allocated within that band based on your oversubscription criteria.

Once you are within LA co-ordinated admissions you should speak with your LA to ensure that the date, or dates on which you run tests will enable them to be run and

marked prior to the date you are required to send ranked lists of applicants back to the LA.

Applying oversubscription criteria within banding

46. Your oversubscription criteria would be applied after the banding process and when pupils have been placed into bands. For example, with a PAN of 100 with 200 applicants there would be 40 pupils in each band and you would apply your criteria to determine which 20 from each band are admitted - looked-after children/previously looked-after children, then siblings, then distance etc.

Post-16 admissions in secondary schools

The application of School Admissions Code to school-based sixth forms

47. The School Admissions Code applies to every relevant age group for admission in schools, including Year 12. While you can set a minimum academic standard for entry into Year 12, such as 5 GCSEs at grades A*-C, once this minimum standard has been met, you must prioritise applications in accordance with the School Admissions Code.

48. The minimum standard must be the same for internal or external applicants. You can also not assess any applicant, whether internal or external to the school on past behaviour, attendance, attitude or appearance. You cannot interview to determine admissions.

Process for year 11 students already on the school roll

49. Such students are already on roll and should not be required to apply again for a place. If they meet the minimum academic entry/progression requirement you have set for the sixth form year 11 students already on the roll of your school will transfer automatically into Year 12.

50. You can, however, ask them to notify you if they wish to move up to year 12 and ask them to inform you which subjects they wish to follow. You can also remove them from roll at the end of year 11 if they do not meet any minimum academic requirements you adopt for progression/entry to the sixth form.

Deciding on setting a PAN for year 12.

51. Many schools wonder how they can set a PAN for year 12 when they are not certain how many year 11 pupils will move up automatically to year 12. The answer is to set a low PAN. The school can always exceed this if fewer of your own year 11 pupils meet the minimum academic standards.

52. Within your arrangements you should:

- state clearly the overall size of the year 12 year group ;
- set your Year 12 PAN at 5 or 10 or some other small number ;
- state that if fewer of the school's own year 11 pupils progress to the sixth form additional external applicants will be admitted up to the overall year 12 capacity; and
- set out the oversubscription criteria that external applicants will be assessed against if places are still available once internal transfers have been admitted.
- An example of how this could be set out is included in the model admission arrangements [here](#).

Admission outside the normal admissions round/year group

Co-ordination and in-year applications.

53. Admissions are co-ordinated by the local authority for all on time applicants (those in the 'normal admissions round') and late applicants (those applying before the start of the school year).

54. It is not required to co-ordinate 'In year' applications (applications received after the start of the school year or for year groups other than a normal transfer point).

55. Some local authorities may choose to offer to co-ordinate in-year admissions for you – as they will be managing in-year admissions for community and voluntary-controlled schools, but you do not have to accept this offer.

Your responsibilities to share information if managing in-year admissions.

56. The School Admissions Code requires local authorities to provide information about the availability of school places to parents on request. If you do not provide information to them about any applications for in-year admittance, they will not be able to provide up-to-date information. You therefore need to inform them of all applications and offers so they are aware both of children that have a place and those which do not.

Deferred entry

57. A child reaches compulsory school age on the prescribed day following his/her fifth birthday (or on his/her fifth birthday if it falls on a prescribed day). The prescribed days are 31 December, 31 March and 31 August¹. Children must attend school, full-time, from the beginning of the term immediately after the prescribed days. Parents of children that are yet to reach compulsory school age can request either that:

- their child's attendance at school is deferred until the start of the term in which they reach compulsory school age; or
- their child attends the school on a part-time basis, until they reach compulsory school age.

58. Admissions is an annual process, so entry cannot be deferred until the next academic year so, if an application is made for a place in the 2015 admission round,

¹ Compulsory school age is set out in section 8 of the Education Act 1996 and The Education (Start of Compulsory School Age) Order 1998

entry cannot be deferred beyond the final term in the 2015/16 school year (i.e. the summer term), for the youngest children.

59. We have produced [advice on the admission of summer born children](#) to further assist schools and parents.

Admitting children to an older or younger year group

60. Parents may request their children are admitted into a different year group than normal, but it is up to you as the admissions authority to decide whether you accept a request. Such decisions must be made on a case-by-case basis and on the basis of the individual's circumstances. Advancement or deferral may be appropriate in exceptional cases such as where a child has missed a lot of school because of a severe illness, or if they are extremely gifted. You should strongly advise parents to think through the implications of such a request as any school the child later moves on to will not be obliged to continue to educate their child out of the normal age group. This could lead to children having to repeat a year of primary education or missing a year of secondary education.

The Fair Access Protocol

61. Each local authority must have a Fair Access Protocol, agreed with the majority of the schools in its area, to ensure that – outside the normal admissions round – unplaced children, especially the most vulnerable, are offered a place at a suitable school as quickly as possible – even if that means admitting pupils in excess of the admission number - and that no school is asked to take a disproportionate number of children with challenging behaviour or children excluded from other schools.

62. All admission authorities, including those of academies and free schools, are required to participate in the Fair Access Protocol for their area. This means that schools should all admit their share of hard to place children, even when they have reached their admission number.

Which children fall under a Fair Access Protocol?

63. It is for local authorities, together with their schools, to decide on which children should be eligible for consideration under their Fair Access Protocol, but paragraph 3.15 of the School Admissions Code lists certain categories of children that must be included as a minimum:

- a) children from the criminal justice system or Pupil Referral Units who need to be reintegrated into mainstream education;
- b) children who have been out of education for two months or more;
- c) children of Gypsies, Roma, Travellers, refugees and asylum seekers;

- d) children who are homeless;
- e) children with unsupportive family backgrounds for whom a place has not been sought;
- f) children who are carers; and
- g) children with special educational needs, disabilities or medical conditions (but without a statement).

64. Further guidance on Fair Access Protocols is [here](#)

The infant class size limit

65. Schools with infant classes (i.e. where the majority are aged 5, 6 or 7) must not have classes of more than 30 pupils to a teacher.

66. However, there are some exceptions. These are set out in paragraph 2.15 of the School Admissions Code. You can admit over the limit of 30 pupils in a class if:

- during a normal admissions round:
 - you or the local authority made a procedural error in administering the applications, where the child should have been admitted but was not;
 - an independent appeals panel upholds an appeal;
 - the child has a twin (or other siblings from a multiple birth) who is admitted (other than as one of these exceptions) ; or
 - the child has special educational needs and is normally taught in a special educational needs unit attached to the school, or registered at a special school, but attends some infant classes within the mainstream school.
- it is outside the normal admissions round and the child:
 - has a statement of special educational needs specifying the school on the statement;
 - is looked after, or has previously been looked after;
 - is the child or UK forces personnel who have moved into the area; or
 - has moved into the area and there is no other school within a reasonable distance.

67. Children admitted in this way are referred to as 'excepted', and will remain as 'excepted' throughout their time in an infant class or until the class size reduces to 30.

Appeals

68. Appeals must be run once a free school becomes an admission authority (i.e. once the funding agreement is signed and sealed) and in accordance with the timetable in the School Admission Appeals Code.

Parents' right of appeal

69. Parents have a right of appeal against any refusal to admit. Their appeal will be held by the independent appeals panel you have established.

70. By 28 February each year you **must** set out on your website a timetable for organising and hearing appeals that:

- includes a deadline for lodging appeals which allows those appealing at least 20 school days from the date of notification that their application was unsuccessful to prepare and lodge their written appeal;
- ensures that those appealing receive at least 10 school days' notice of their appeal hearing;
- includes reasonable deadlines for those appealing to submit additional evidence, for you to submit your evidence, and for the clerk to send appeal papers to the panel and parties;
- ensures that decision letters are sent within five school days of the hearing wherever possible.

Setting up the independent appeals panel

71. As an admissions authority, you have a statutory responsibility for making arrangements for appeals. There are a number of options open to you. You can either:

- establish your own independent appeals panel;
- make joint arrangements for hearing appeals with other admission authorities;
- use the appeals service provided by a local authority (there may be a charge for this); or
- contract the process out to one of the many commercial organisations running appeals for schools. There will be a charge for this.

Informing parents about appeals: schools' responsibilities.

72. When a local authority or an admission authority informs a parent of a decision to refuse their child a place at a school for which they have applied, it **must** include the reason why admission was refused; information about the right to appeal; the deadline

for lodging an appeal and the contact details for making an appeal. At that point you **must** inform parents that, if they wish to appeal, they have to set out their grounds for appeal in writing. There are a number of steps that must then be taken. These are set out in the [School Admission Appeals Code](#) from paragraph 2.05 onwards. You must become familiar with this.

Do parents have a right to appeal against refusal to admit their child to a different year group to which they would normally be admitted?

73. No. Parents have the right to ask you to consider admitting their child to a different year group, but you have absolute discretion whether you agree to their request.
Objections to Admission arrangements

Rights of Objection

74. Every year you must determine your arrangements by 15 April (and publish them on your website. Following on from publication, anyone can object to your admission arrangements before 30 June. Objections go to the Schools Adjudicator. Ensuring your admission arrangements comply with the Code will assist you in avoiding objections.

The role of the Adjudicator

75. Schools Adjudicators are appointed to act impartially, independently and objectively. They rule on objections to the admission arrangements of academies, free schools and maintained schools and they rule on some school organisation issues for maintained schools.

76. School Adjudicators do **not** deal with complaints from parents whose child has not been offered a place at a particular school

77. Where an objection is made to a school's admission arrangements, the Adjudicator will consider whether they comply with the Code and the law relating to admissions.

Complying with an Adjudicator's decision

78. The Adjudicator's decision to uphold an objection is binding. Therefore, if an Adjudicator finds that your school's admission arrangements do not comply with the Code (taking into account any exemptions from the Code you have been granted) then you must revise your admission arrangements as quickly as possible and by 15 April following the decision at the latest, which is the deadline for determination of admission arrangements. An Adjudicator's determination is binding and enforceable. If you do not,

then you risk a direction from the Secretary of State, judicial review, or the termination of your funding agreement by the Secretary of State.

Working with your local authority

Co-ordinated admissions

79. Co-ordination makes the application process simpler for parents. You are required, under your funding agreement, to participate in your local authority's co-ordinated admissions process. However, because of the timing involved in setting up a free school, you have the option not to be part of the initial co-ordinated process on opening. And the local authority cannot lawfully make a single offer of a place for a free school which does not yet have a signed and sealed funding agreement. It can, instead, make a firm offer for another school alongside a conditional offer for a proposed free school.

80. Co-ordination is the process by which local authorities co-ordinate applications for school places and ensure parents have an offer of a school place. The main elements to co-ordination are:

- the LA publishing a composite prospectus, which provides information to parents on schools in their area, and includes detailed admission arrangements for all schools in their area;
- parents being given the opportunity to express a preference for at least 3 schools on the common application form (CAF);;
- the LA administering applications, made through the CAF;
- admission authorities ranking applicants against their oversubscription criteria; and informing the LA;
- the LA allocating the highest available preference to parents .

Implications of being outside co-ordination on opening

81. Managing your own admissions in the first year of operation means that you can set your own deadlines for receiving applications and for making offers. You can therefore accept an application for a place to your school later than other schools in the area. It also means that you can follow-up expressions of interest directly with parents, who won't have to apply to your school via the local authority.

82. Even if you decide to manage the application process and allocate places yourself, you should have your school's details included in the LA composite prospectus. This will raise the profile of your school with parents in the local authority area.

83. For more information on your options, please refer to the free school Proposer Guidance.

Offering places

84. You can make provisional offers before your funding agreement is signed. But at that stage you will not exist as an admission authority (that only occurs on the signing and sealing of the FA). You must therefore make it clear to parents that your offer is conditional on the funding agreement being signed. Once signed, you can formalise the offer, accept pupils and offer appeals to those refused a place.

85. You should also advise parents to apply for, and accept, places at local authority schools. This means that parents can hold two places – one from the proposed free school and one from the local authority. We would strongly encourage you to advise parents to give up the place they don't need as soon as they can and to inform the LA of their choice.

Changing the school's admission arrangements and consultation

Changing proposed arrangements prior to the Secretary of State signing and sealing the funding agreement.

86. This might be necessary if your catchment has to change due to you being located in a different site to the one originally planned. If you change your admission arrangements before your funding agreement is signed, you must consult at least those who you consulted on setting up the Academy, and affected parents on the changes. You should publish the changes on your website, and allow people with an interest in your school sufficient time to comment.

Changing arrangements post signature

87. If you change your admission arrangements once you are open, you must publish the intended changes on your website, and formally consult on any changes (apart from increasing your PAN – although you should make sure your local authority is aware). The consultation must last for at least eight weeks, and must take place between 1st November and 1st March. Any changes made to your admission arrangements will apply in the following academic year, i.e., if you consult on changes by 1st March 2015, those changes will apply in the 2016/17 academic year.

Determination and publication

88. As soon as your funding agreement is signed and sealed you must determine your arrangements (a decision of the trust to ratify the arrangements as final), publish them and send them to the local authority.

89. Every following year you must determine your arrangements by 15 April, publish them on your website and send them to your local authority before 1 May. These will apply for September in the following year (i.e. you determine September 2016 arrangements in April 2015). You must do this every year even if there are no changes to the arrangements.



Department
for Education

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