

# Making your community business more accessible and inclusive for people with disabilities – A guide



# Helping more people from all backgrounds and abilities get involved in community business



**By their nature, community businesses operate for the broad benefit of the community, so they need to be accessible to all the people in it. But it can be hard to understand the legal requirements around diversity and inclusion and adjust to people's needs.**

As the independent trust that supports community business in England, Power to Change wants to improve the diversity and inclusion of the community business sector. We have created this guide to support you to make reasonable adjustments, a legal requirement for people with disabilities. How this looks in practice can be anything from a new build community centre including a lift so that people with mobility impairments can access all floors, through to something as simple as procuring a wrist rest for a regular computer user with chronic wrist pain.

We also want to help you go beyond legal compliance with the Equality Act 2010 and offer reasonable adjustments not just to disabled people but to all employees. For example, if you are making an adjustment for a disabled employee to work from home one day a week, why not someone undergoing a gender transition? Why not someone older, or younger? With caring responsibilities? Many such adjustments exist already such as religious holidays, flexible working hours for parents to collect children from school, flexible working offered during periods of ill health and so forth.

We hope this guide will help you confidently make reasonable adjustments so people with disabilities, but also people from all backgrounds and abilities can get involved as staff, volunteers, customers or service users in your community business more easily.

If you require this guidance to be sent to you in large print, braille or an audio transcript, please get in touch by email [comms@powertochange.org.uk](mailto:comms@powertochange.org.uk)

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## Diversity and inclusion law

Diversity and Inclusion (D&I) is the phrase generally used in the UK to describe the active drive towards treating people equally and/or equitably regardless of human difference. It is illegal to discriminate, harass or victimize people who have or are perceived to have any of the nine protected characteristics, set out in the Equality Act 2010:

1. Age
2. Sex
3. Sexual orientation
4. Gender reassignment
5. Disability
6. Marriage or civil partnership
7. Race
8. Religion or belief
9. Pregnancy and maternity

## Understanding unlawful actions

**Discrimination** is behaving less favourably towards someone in relation to a protected characteristic. It can be direct (choosing not to hire someone who is gay) or indirect (requiring all staff to be able to be a fire marshal for the building, which indirectly excludes some disabled people) or by association (not hiring a single mother of a child with complex care needs due to disability).

**Harassment** is unwanted behaviour related to a characteristic which has the purpose or effect of violating someone's dignity or creating a hostile, degrading, humiliating or offensive work environment.

**Victimization** is treating someone unfavourably because they have taken some form of action relating to the Equality Act 2010. For example, bringing an Employment Tribunal case against an employer, writing a letter about workplace discrimination to a board of trustees, or supporting someone through making a complaint.



## Objectively justified discrimination

It is possible to defend discrimination if it can be “objectively justified”, in the following situations:

1. Indirect discrimination
2. Direct age discrimination
3. Discrimination arising from disability

The test here is whether an employer or service provider can prove that the discrimination is “a proportionate means of achieving a legitimate aim”. For example:

- ▶ Not allowing younger people to perform a job role in which they are likely to be at a higher risk. (Direct Age Discrimination)
- ▶ Recruiting a Teaching Assistant in a school from a specific race in order to move towards race parity between teaching staff and students from a diverse area. (Indirectly Discriminating against people not of this race).
- ▶ Requiring a physical assessment that a disabled person cannot complete as part of the recruitment process for the Fire Service. (Discrimination arising from a disability).

If there exists a less discriminatory means of achieving that legitimate aim, then that must be taken into consideration. Note that economic reasons cannot be the only consideration for an objective justification; “It's cheaper to discriminate” is not acceptable.

## Best practice tips

- ▶ Consider training staff where you feel there may be a skills gap. There is a variety of training available in this field from different providers, such as disability confidence or disability equality, trans-equality training, diversity and inclusion training and many others. Local Disabled People's User-Led Organisations (DPULO's) can be a wealth of experience on such matters, as can local charities. Try to find an organisation or trainer with lived experience of the field.
- ▶ Ensure your policies on diversity and inclusion are accurate and included in staff inductions. In the event of discrimination, harassment or victimisation, if your organisation does not have a clear policy, it can be you who is organisationally responsible for staff behaviour.
- ▶ Ensure you communicate your positive attitude and action towards diversity and inclusion with staff members and also community members/beneficiaries of your service. Be proud of the positive influence you are having!
- ▶ It can be useful to ask yourself the follow questions to assess how inclusive and diverse your community business is:
  - **Diversity:** “Does our organisation’s staff, volunteers, board and beneficiaries/service users accurately reflect the diversity of the community around us? If not, why not?”



- **Inclusion:** “Is everyone, regardless of human difference, able to contribute equally to and/or benefit equally from our operations? If not, why not?”
- ▶ Diversity and inclusion complement each other. A diverse group that is not inclusive doesn't create equal opportunities for everyone to contribute or benefit. An inclusive group without diversity is one that allows equal contribution/benefit to members but only allows a certain group or characteristic to become members.

## Further guidance

- ↗ [General Guidance on the Equality Act](#)
- ↗ [Sector-Specific Guidance for the Equality Act \(choose your business sector on the right\)](#)
- ↗ [Guidance on Service Provision to people with Protected Characteristics, Disabled People, Single-Sex Services](#)
- ↗ [Equality & Human Rights Commission: Employment, Statutory Code of Practice](#)
- ↗ [Equality & Human Rights Commission: What Equality Law Means for you as an Employer: When you Recruit someone to work for you](#)
- ↗ <https://www.gov.uk/government/publications/employing-disabled-people-and-people-with-health-conditions/employing-disabled-people-and-people-with-health-conditions>

## 2. Disability inclusion and recruitment



**In compliance with the Equality Act 2010, it is your duty to make reasonable adjustments to your practices to promote equal access for disabled applicants. It defines when it is legally acceptable to ask questions of candidates relating to protected characteristics, including their health and disability.<sup>1</sup> It also outlines when you can be biased in recruitment.**

Generally, you should avoid asking candidates about any protected characteristic in advance of making them a job offer. Doing so could be construed as you wishing to gain knowledge of a protected characteristic to discriminate against them. For example, asking a woman at interview if she wants to have children soon means you could discriminate against her getting the job so you don't have to cover her maternity pay.

If you ask candidates to complete Equality and Diversity monitoring forms, or any form with a similar aim of capturing personal data about protected characteristics, these forms must be kept separate from the recruitment process and not used when considering individual candidates.

<sup>1</sup> <https://www.gov.uk/employer-preventing-discrimination/recruitment>

### Asking candidates about disability and health

The Equality Act 2010 also explains that you can ask questions of a candidate about their health or any disability during the recruitment process only in the following situations:

- ▶ You are trying to find out if an applicant is able to attend an interview or assessment as part of the recruitment process, including whether or not someone needs reasonable adjustments.
- ▶ To determine if someone is able to carry out a function that is intrinsic to the job role. This means any element of the role that is essential for it to function. Note that you must still consider reasonable adjustments that could make the job possible. For example, if travelling for business is required, could another colleague do it or could remote meetings be done instead?
- ▶ To monitor diversity, although it must not form part of the recruitment process.
- ▶ To support positive action for disabled people, for example, “We offer disabled candidates a guaranteed interview. Please indicate here if you consider yourself disabled and would like a guaranteed interview.”
- ▶ If there is an occupational requirement for the person to be disabled.

You cannot avoid this ban by asking someone else, for example a recruitment agency, to ask questions contravening these rules on your behalf. Allowing this to take place even when you did not instruct it can still lead you to be liable.

Asking questions like “Do you have any disabilities?” are not allowed, arguing that you were attempting to find out if a candidate can carry out a function intrinsic to the job role is not acceptable. Justifiable questions need to make specific reference to those intrinsic functions, e.g. “This role will involve setting up rooms for training sessions, including moving furniture.

Do you have any health or disability issues that might impact that?” Remember that you must also consider reasonable adjustments.



## Hiring someone without discrimination

You can ask questions once you have made a job offer or included someone in a group of successful candidates. At that stage, you could make sure that someone's health or disability would not prevent them from doing the job. But you must consider whether there are reasonable adjustments that would enable them to do the job.

As above, once a job offer has been made or a candidate is now in a pool of successful candidates, you as an organisation can ask questions relating to disability. You're able to make such offers of employment contingent on the candidate completing a health assessment, but the result must not be discriminatory. That means it must still meet the requirement listed above – if something in their health history would prevent them from doing a job, there must be no reasonable adjustments available to make that employment possible.

If you do become aware of a protected characteristic, you are able to choose a candidate with a protected characteristic over a candidate without one if both are suitable for the role. This is only permissible where they are underrepresented in the workforce, profession or industry and suffer a disadvantage connected to the protected characteristic.<sup>2</sup>

<sup>2</sup> Equality Act, Part 11, Chapter 2, Section 159.

## Best practice tips

- ▶ Plan interview questions in advance to ensure none are discriminatory.
- ▶ Ensure that any statements about a function of a job role being intrinsic are accurate; can adjustments make it possible for disabled people to do the intrinsic function?
- ▶ Ask all employees to complete a diversity and equality monitoring form. This can be done anonymously once they have been offered a job.
- ▶ Consider making a lived experience of disability a desirable or even essential feature of a job description if this would bring genuine value to your organisation/team and is a proportionate means of achieving a legitimate aim.
- ▶ Never make assumptions about the abilities of a candidate; as an employer you have the right to ask direct questions about their ability to carry out a function intrinsic to a role. Use that right and understand specifically the issues at hand, and don't go beyond this by asking open-ended or unnecessary personal questions.
- ▶ Consider offering a guaranteed interview to job applicants (and allow them to choose whether or not to take this up).

## Further guidance

↗ [Government Guide on Questions During Recruitment](https://www.rnib.org.uk/services-we-offer-advice-professionals-employing-blind-or-partially-sighted-person/access-work)

↗ [The Access to Work scheme is a government initiative to support people with disabilities into employment.](https://www.rnib.org.uk/services-we-offer-advice-professionals-employing-blind-or-partially-sighted-person/access-work)

<https://www.rnib.org.uk/services-we-offer-advice-professionals-employing-blind-or-partially-sighted-person/access-work>

<https://www.gov.uk/access-to-work>



# 3. Making reasonable adjustments



**In compliance with the Equality Act 2010, it is your duty to make reasonable adjustments to your practices to promote equal access for disabled service users, volunteers and employees.<sup>3</sup>**



<sup>3</sup> Equality Act 2010 Part 2, Chapter 2, Section 20.

## For service users

You must anticipate any issues that may be faced by disabled people in using your services.<sup>4</sup> It does not mean that you must have prepared for every possible eventuality and type of disability in designing your services. You should be able to show you undertook a process aimed at making your service as inclusive as possible as early as practical, and you can adapt this as your needs change i.e. a service user with a disability requests a different adjustment.

## For employees

An employer needs to consider reasonable adjustments for employees or applicants when any one of the following happens:

- ▶ it becomes aware of their disability
- ▶ it could reasonably be expected to know a worker has a disability<sup>5</sup>
- ▶ a disabled worker asks for adjustments to be made
- ▶ a disabled worker is having difficulty with any part of their job
- ▶ either the worker's sickness record, or delay in returning to work, is linked to their disability.

<sup>4</sup> <https://www.equalityhumanrights.com/en/multipage-guide/using-service-reasonable-adjustments-disabled-people>

<sup>5</sup> This is used when an employee tells a manager, has an adjustment made and then that manager leaves. Subsequent management should have appropriate notes/handover for the employee to continue to benefit from needed adjustments. From the first instance of being told about the need for an adjustment for a disabled employee, regardless of staff changes around that disabled employee, the employer should "reasonably know".

## When do you need to make reasonable adjustments?

The remaining elements of reasonable adjustments are the same, whether for service users or employees/applicants.

For the duty to exist, a disabled person<sup>6</sup> must be put at a "substantial disadvantage compared to people who are not disabled" by one of the following elements of your business:

- ▶ "A provision, criterion or practice" (processes or the way you do things)
- ▶ The physical features of premises
- ▶ The absence of an auxiliary aid or service.

You then have a duty to make reasonable adjustments to reduce or remove that substantial disadvantage.

<sup>6</sup> As defined by the Equality Act 2010 Part 2, Chapter 1, Section 6.

## What is reasonable?

The test for what is a reasonable adjustment comes from a variety of factors including but not limited to:

- ▶ Is it practical?
- ▶ Is it financially affordable?
- ▶ Will it be effective at reducing or removing the disadvantage?
- ▶ Will the adjustment have an adverse effect on the health or safety of others?

## Examples of “Reasonable” factors

Employees and service users cannot dictate to you which adjustment they want made. Their input is valuable, but if you as a business can mitigate or eliminate their substantial disadvantage in more than one way, you are able to choose, so long as you are not discriminating in doing so.

### Practical

Where a deaf person is applying for a job it would be practical to consider as an adjustment that the element of their job which involves telephone use be allocated to another team member, and the deaf employee instead do a representative share of paperwork. If that person is applying for a job where s/he will be working alone it is not practical to adjust the role, there are no other staff to swap job elements with.

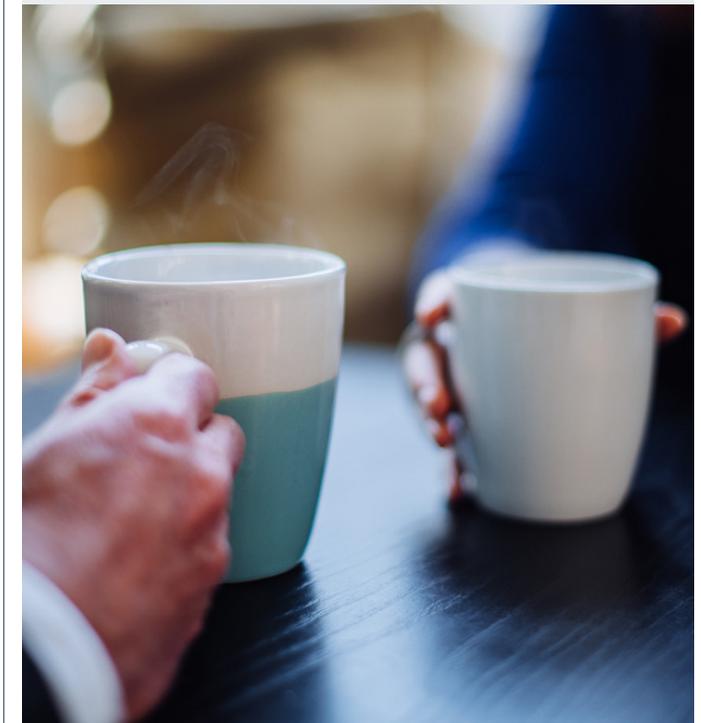
## Mitigation

Adjustments don't always have to completely solve a problem. Some situations exist where a complete resolution is impossible. Taking steps in that situation to mitigate an issue is appropriate.

- ▶ Always consider reasonable adjustments to overcome issues in the workplace, regardless if it is disability causing a disadvantage.
- ▶ Remember that as an employer you are not required to do anything that is not reasonable. The Employment Tribunal is acutely aware of the pressures on employers, and favours those who behave in line with the law.
- ▶ Document reasonable adjustments in a way that allow management level staff to learn from them, and avoid a disabled employee having to “repeat” asking for an adjustment if there are management changes. Maintain confidentiality of such documentation.
- ▶ When planning any new building, site, service or project consider accessibility; who couldn't participate, either in the final project or in the planning itself, and why? Consider drawing on local resident experience. If you engage disabled community members, pay them for their time.
- ▶ Remember all the benefits that come from a workplace that is open and supportive to disabled people; lower staff turnover, less sick leave, higher morale and increased customer confidence.

## Further guidance

- ▶ [ACAS Guidance on Making Reasonable Adjustments](#)
- ▶ [Citizens Advice Reasonable Adjustment Guide](#)
- ▶ [Equality and Human Rights Commission – Using Reasonable Adjustments](#)



**Accessibility can mean a variety of different things with regards to diversity and inclusion. The most common usage means the physical accessibility of a venue, but this is widening to include inclusive practices like providing training materials in large print or audio format, ensuring that clear information about physical layout is available online or advertising specific showings of films at cinemas as ‘autism-friendly’ screenings.**

### Physical accessibility

Some of the most common issues faced by disabled people with regards to physical access are:

- ▶ Lack of access in older buildings with stair only access to upper floors.
- ▶ Narrow corridors in old buildings.
- ▶ Heavy doors (requires significant effort to open or hold open).
- ▶ Poor or missing signage.
- ▶ Lack of level access or improper level access.
- ▶ Lack of information online about accessibility.
- ▶ Improperly designed or kept accessible toilet.
- ▶ Improper door handles.
- ▶ Lack of manifestation on glass doors/walls.
- ▶ Lack of or improper handrails.
- ▶ High door thresholds prevent wheelchair access unaided.
- ▶ Provision of appropriate accessible parking bays.
- ▶ Staff are unaware of disabilities issues or don't know how to assist.

Some of these physical features are insurmountable, at least with the resources available to a small enterprise. Some are likely to be insurmountable in any case; many council buildings are unable to feature lifts to due historic construction and/or listed status.

There may be practical steps you can take with regards to physical accessibility:

- ▶ Adjust door closers to allow opening with force of 20N.
- ▶ Ensure space around doors is clear for manoeuvring of a wheelchair.
- ▶ Include vision panels in doors where appropriate.
- ▶ Ensure door handles are of a design that can be operated easily with a closed fist.
- ▶ Where doors are glass in their entirety, ensure manifestation (glazing or laser etching; posters are effective if needs must) makes it obvious to someone with a visual impairment.
- ▶ Ensure an accessible toilet is kept clear of clutter; examples of things left in the space intended for a wheelchair user to turn include waste bins, spare toilet rolls and step-ladders.
- ▶ Ensure that there is adequate signage.
- ▶ Consider training staff members if needed.

There are a variety of other issues that can cause problems for disabled people including floor reflectivity, contrast between walls and floors, sound and light levels, lift designs and frequency of landings in ramps.

You can consider asking an access consultant to look at your premises to obtain further advice about physical access. A report focusing specifically on these issues is known as an access audit.

## Other accessibility issues

There are also features that are non-physical which can affect the accessibility of your venue or services. Prompts to help you think about these:

- ▶ Can people find information about the physical accessibility of our building on our website, to plan their visits in advance?
- ▶ If a disabled person is in need of assistance, would our staff know how to do this appropriately?
- ▶ Are our staff trained to a level we are happy with regarding dealing with disabled people and/or communicating about disability issues?
- ▶ If we are advertising our service or organisation, who wouldn't be able to access such advertising? Is there a way we can reach these potential customers?
- ▶ Are we able to include in such advertising how accessible we are, that our staff are welcoming and have been trained?
- ▶ Do we openly welcome applications from people with a range of human differences? If not, why not?
- ▶ Are events planned and publicised far enough into the future that someone who needs to arrange specialist transport to attend will be able to do so?
- ▶ Is it possible to provide a service or project in a more accessible venue if our venue has features that cannot be changed?



# Bristol Community Ferry Boats

Based in Bristol Docks, Bristol Community Ferry Boats offer a fleet of five ferry boats to help local people and visitors get around the city quickly and discover the historic waterways. Alongside running a timetabled ferry service an impressive 365 days a year, they improve the lives of local people.



They help young unemployed people train as skippers and crew members, and combat social isolation felt by many elderly residents by providing a safe space to come together.

Pictured is the Brigantia, a 45-50 person ferry boat with an accessible lift for wheelchair users and other disabled people with mobility limitations.

Philippa Bungard of Bristol Community Ferry Boats says

“

**We're the only ferryboat here offering disabled access, and it's great for us. Not only does it ensure we are able to welcome more members of the community and be more inclusive, but it allows us to widen our customer base, which benefits our sustainability as a community business.**

## The Burton Street Foundation

The Burton Street Foundation is a community benefit society in Sheffield. It specialises in providing support for people with learning disabilities. They work with almost 250 adults and 50 children every week, with needs ranging from moderate learning difficulties, to profound and multiple learning disabilities.



They also have many facilities which are open to the wider community. These include office and meeting spaces, functions and events spaces, a fully stocked bar, a gym, and a sports hall. Regular events include film screenings, toddler groups, bistros, dances, markets, and more. Burton Street employs around 150 local people, and their fully accessible site is used by around 2500 people each week.

Key to Burton Street's inclusive culture is the broad range of people that rub shoulders at the site every day. The team work hard to maintain an inclusive programme of events and a unique range of services that appeal to as broad a section of the community as possible. When

attracting clients, customers, volunteers and employees, the focus is on what people can do, rather than what they can't do.

In 2017 they took the uncommon step of recruiting a shadow board, made up exclusively of adults with disabilities who regularly use their services. The work of this board now feeds directly into the governance of the organisation, effecting policy and procedure as required.

As a community hub, it is important for Burton Street that inclusion isn't just an afterthought. It is baked into everything they do.

## The Gardeners Rest

The Gardeners Rest is a community run pub in Neepsend, Sheffield. Owned by over 400 investors, the Gardeners prides itself on the high quality of its beer and its regular arts and community events.



The Gardeners works in partnership with Yes2Ventures to employ adults with learning difficulties and mental health problems in the pub, as everything from kitchen staff to gardeners to bar staff. Speak to Mark Powell of Yes2Ventures and you know immediately that he understands the real value in these activities; making the pub a place for a pulled pint, important personal development and community cohesion.

The activities that help reduce social isolation, increase the professional skills of local residents and garner critical

social skills for adults with autism-spectrum conditions are just as at home at the Gardeners as the regulars.

You might even find you have a taste for Gorilla Poetry, Bar Billiards or Board Games, Folk or Country music, or a warm welcome from any of the local conservation groups that meet there, as well as the guaranteed warm welcome from the bar staff. As Mark will say, if you don't believe it, "Come and see for yourself!"

## 6. Glossary of terms



### Definition of disability

The Equality Act 2010 defines disability as:



**A physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.<sup>7</sup>**

Substantial is not defined, but is generally common sense, and has been deemed “more than minor or trivial”. Long term simply means that a condition has, or is likely to, last more than 12 months, for example, broken bones are unlikely to qualify as they should heal within a 12 month period.

Normal day-to-day activities are defined by case law, and includes shopping, walking, talking, preparing meals, eating, socialising, performing work and is generally quite wide. For example, night shift working has been deemed to be normal day-to-day activity.

Progressive conditions such as muscular dystrophy and motor neurone disease are considered disabilities even if they have not yet progressed to the stage of being a “substantial and long-term adverse effect” because by nature of them being progressive, they are going to be in the future. The Equality Act 2010 automatically considers someone with Cancer, HIV or Multiple Sclerosis as disabled from the date of diagnosis. This also includes pre-cancerous conditions as of March 2018 and the case of *Lofty v Hamis* UKEAT/0177/17.

<sup>7</sup> Equality Act 2010, Part 2, Chapter 1, Section 6.

### Diversity

The state of a group as having people with a range of human difference as members. This can include old, young, physically able or disabled, pregnant people, married and unmarried, of different races, religions, genders, transgender status, sexuality and wealth backgrounds among others.

### Gender reassignment

Gender reassignment is the legally recognised process under the Gender Recognition Act 2004 of transitioning from one gender to another. There are legal requirements to this process, which is medical in nature but does not necessarily involve physical surgery. The protected characteristic of gender reassignment, under the act, is quite broad.



**To be protected from gender reassignment discrimination, you do not need to have undergone any specific treatment or surgery to change from your birth sex to your preferred gender. This is because changing your physiological or other gender attributes is a personal process rather than a medical one. You can be at any stage in the transition process – from proposing to reassign your gender, to undergoing a process to reassign your gender, or having completed it.<sup>8</sup>**

<sup>8</sup> <https://www.equalityhumanrights.com/en/advice-and-guidance/gender-reassignment-discrimination>

Under the Gender Recognition Act 2004 it is a specific offence for someone who has learnt in an official capacity of someone else’s application under the GRA 2004 to disclose identifying information about that application without the person in question’s consent. A variety of situations when it is not an offence apply, for example, in legal proceedings or criminal cases.<sup>9</sup>

### Inclusion

The practice of ensuring that all members of a group are equally able to bring value, conversation, ideas, and otherwise interact with the group, and to benefit equally from it. No one member of the group is forced to be less or more of a participant or beneficiary than any other.

### Reasonable adjustments

Reasonable adjustments are changes to workplace policy and practice or the availability of aides/equipment with goal of removing substantial disadvantage faced by disabled. Employers must consider them, but only must make changes where they are reasonable, which means that they are affordable, practical and don’t put others at risk (among other factors).

<sup>9</sup> <https://www.legislation.gov.uk/ukpga/2004/7/section/22>



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