

SPEAKERS



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AGENDA

1. Health and social care levy
2. Employment status/IR35/Off-payroll working
3. Volunteers
4. Holiday pay
5. Hybrid working
6. What's on the horizon?
7. Rates



1. Health and social care levy

HEALTH AND SOCIAL CARE LEVY

1

Previously announced on 7 September 2021.

2

Introduction of a new health and social care levy from April 2022.

3

Temporary 1.25 per cent increase to National Insurance Contributions (NIC) for the 2022/23 tax year.

4

Replaced by a new 1.25 per cent levy from April 2023.

5

To support the NHS and social care across the UK.

Salary Sacrifice NI Savings – review agreements as Employers NIC increases from 13.8% - 15.05%

NATIONAL INSURANCE: THE NEW HEALTH AND SOCIAL CARE LEVY

	Employee	Employer
	Main / higher	
Current NICs rates	12% / 2%	13.80%
2022-23 NICs rates	13.25% / 3.25%	15.05%

Existing NICs reliefs to support employers will apply to the Levy.

Applies to benefits in kind as well.

NATIONAL INSURANCE: THE NEW HEALTH AND SOCIAL CARE LEVY

Suggested wording from HMRC re payslips

To ensure taxpayers understand that their increased contribution is helping fund public services, we are asking payroll software developers, where possible, to put a message on payslip templates explaining what these funds will be used for. The message applies to all payslips for the Tax year 2022-23 and should read '1.25% uplift in NICs funds NHS, health & social care'.

If you are unable to update your payslip templates directly, but your software allows employers to add free format messages to payslips themselves, please include the following guidance in your support models:

- On 7 September 2021 the government announced a new 1.25% Health and Social Care Levy to fund investment in the NHS and social care. The Levy will be effectively introduced from April 2022 when National Insurance Contributions (NICs) for working age employees, self-employed people and employers will increase by 1.25% and be added to the existing NHS allocation. From April 2023, the Levy will be formally separated from NICs and also apply to the earnings of individuals working above State Pension age and National Insurance Contribution rates will return to 2021-22 levels.

2. Off payroll working

EMPLOYED V SELF-EMPLOYED?

Determining status is not a checklist exercise

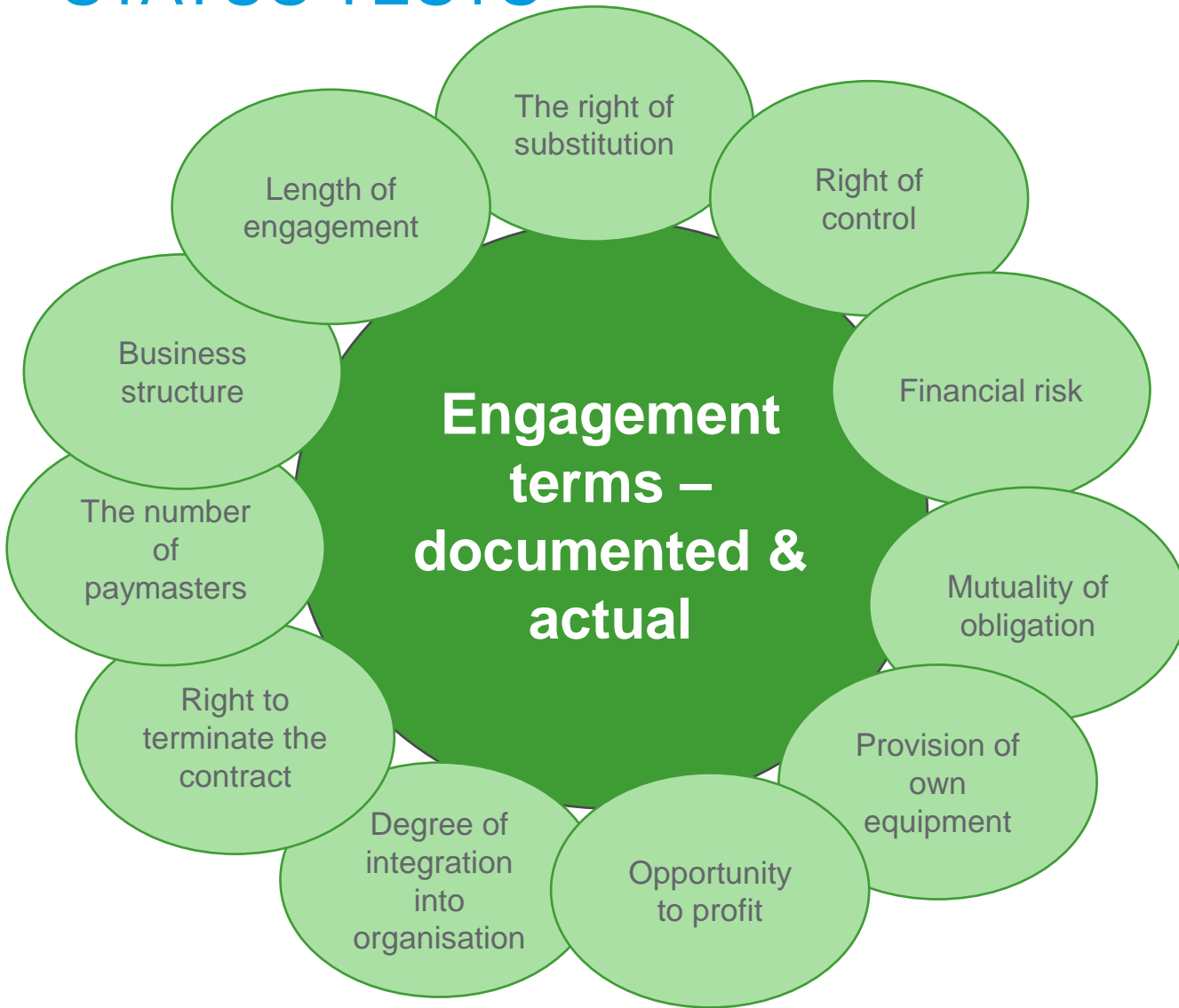
Engager should look at the whole picture of the engagement to determine if the worker is an employee, or someone who is self-employed and in business of their own accord, on their own merits

This draws the distinction between:

- The individual who may come under some right of control by another in relation to some element of the work and as part of the business of another
- and
- The individual who goes it alone and sets up on his own account bearing responsibility for the success or failure of the enterprise

If the general picture is the first scenario, this would indicate employment

STATUS TESTS



Control:

Right to control what the worker has to do, where it has to be done, when it has to be done and how it has to be done

Mutuality of obligation:

Engager obliged to pay the worker, worker obliged to provide his own work or skill

Personal service:

Obligation of the worker to provide personal service rather than send a substitute

AGENCY LEGISLATION

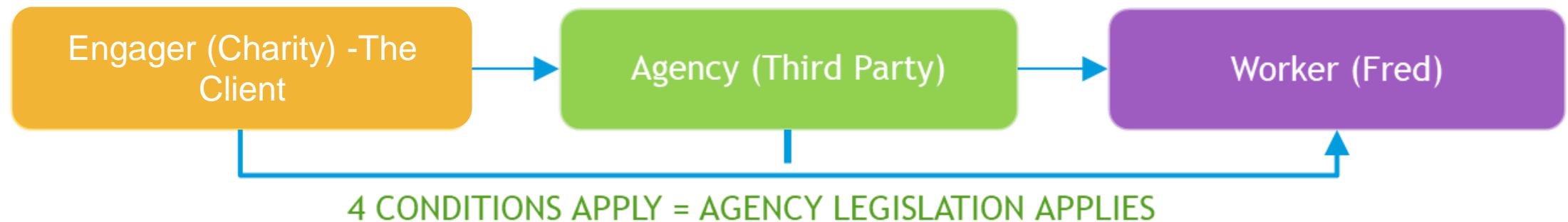
Conditions for Agency Legislation from 2014:

Worker must provide **personal service** to client

Services are not provided through a contract between the client and the worker but involve a third party and the client pays for the services

Worker must be subject to (or to a right of) **SUPERVISION, DIRECTION and CONTROL** by any person

Remuneration received by the worker is not already employment income



PAYMENTS ARE TREATED AS EMPLOYMENT INCOME FOR TAX AND NIC PURPOSES

* Note: There are some exemptions to this

IR35- PUBLIC SECTOR RULES FROM APRIL 2017

- From 6 April 2017 rules applied to workers services provided to a Public Authority through an Intermediary – existing rules continued for the self employed
- The rules applied where a worker personally performed services for a Public Authority and would have been treated as an employee if contracted directly
- A 'Public Authority' follows the definition in the Freedom of Information Act 2000 and the Freedom of Information Act (Scotland) 2002
- Onus was on the Public Authority to review each engagement and determine, based on established tests, if new rules apply.
- Fee payer was responsible for reporting PAYE/NIC via RTI and for accounting for employers NIC etc

IR35 - WHAT CHANGED FROM 6 APRIL 2021?

- From 6 April 2021, medium/large private sector end-users and the public sector had **additional obligations** under the off-payroll working rules when a **worker** provides their personal service via an **intermediary, most commonly a Personal Service Company (PSC)**.
- Such end-users are required to assess whether the worker would be deemed to be an employee if (ignoring the PSC or intermediary) they were providing their services directly under a hypothetical contract directly, but in addition need to:
 - Issue a formal Status Determination Statement (SDS)
 - Offer a formal Status Disagreement Process
- This applies even where other parties (eg agencies) sit between the end-user and the worker's PSC in the labour **supply chain**.
- Where the end-user determines that the worker would be deemed an employee, the **fee payer** needs to account for tax and NIC under PAYE when paying the worker's PSC (including employer's NIC and, where relevant, the Apprenticeship Levy).
- Separate, existing rules continue to apply to arrangements with self employed individuals.

IR35

- HMRC have been taking a ‘supportive compliance’ approach to the private sector BUT large settlements have been recovered in the public sector.
- Soft landing = light touch to penalties, unless there’s evidence of deliberate non-compliance in private sector until April 2022.
- HMRC approach set out in their document [“Supporting organisations to comply with changes to the off-payroll working rules \(IR35\)”](#)
- We are already seeing HMRC focus on certain sectors and issuing letters
- Sometimes asking the recipient to contact HMRC by a certain date to arrange a telephone call on IR35.
- Letters should not be ignored - could be the start of a compliance check.
- We recommend that IR35 compliance, and compliance on off-payroll workers more generally, is reviewed.

3. Volunteers

IS SOMEONE A VOLUNTEER?

- Is the arrangement contractual?
- Are they paid “volunteer expenses” despite not incurring any expenses?
- Are they receiving perks that could be regarded as consideration?
- Do they provide their time and effort freely with no expectation of, and without receiving any reward?
- Are they obliged to work at certain times and carry out instructions?
- Can they come and go as they please and/or refuse tasks?
- Will they suffer any sanctions if they do not perform their volunteer duties?

WHY IS THIS IMPORTANT?

01

Employees enjoy full statutory employment rights.

Workers have reduced statutory employment rights.

04

Tax and Class 1 NIC (including employer's Class 1 NIC) is due on payments for work.

02

Both employees and workers are entitled to the National Minimum Wage ('NMW')/National Living Wage ('NLW').

05

Expenses payments and benefits might become taxable and liable to NIC if a volunteer is actually a worker or employee.

4. Holiday pay

HOLIDAY PAY FOCUS - BASIS FOR CALCULATING STATUTORY HOLIDAY PAY FOR VARIABLE PAID WORKERS

Change	For whom?	Impact
Statutory holiday pay calculation reference period change.	Employees and workers on variable pay.	Holiday pay calculation reference period extended from 12 weeks to <ul style="list-style-type: none">• 52 weeks; or• the maximum number of weeks of employment, if employed for less than 52 weeks.

Practical tips

- Applies to all statutory holiday – ie all 5.6 weeks for FTE.

NB

- First four weeks (EU) statutory holiday is calculated at normal remuneration.
- Additional 1.6 weeks (UK only) statutory holiday is calculated at ‘a week’s pay’.

SMITH V PIMLICO PLUMBERS - COURT OF APPEAL 2022

PAID ANNUAL LEAVE ENTITLEMENT

Employer:

- C not a worker.
- C had no paid annual leave during his employment.

Courts:

- C **was** a worker
- C was awarded compensation at normal remuneration rate for all paid annual leave (four weeks' Working Time Directive leave) during six years of employment carried forward and aggregated as a payment in lieu on termination

The Court of Appeal decision

Applies whether or not worker took leave because he wasn't allowed to take paid annual leave.

Employers must ensure:

- they have categorised their workforce correctly;
- to resist a claim to paid annual leave they can show they have done all of:
 - specifically and transparently given the worker the opportunity to take paid annual leave;
 - encouraged the worker to take paid annual leave;
 - informed the worker that the right would be lost at the end of the leave year; and
- they correctly calculate holiday pay.

- The WTR has different calculation bases dependent on whether the worker has normal working hours.
- The shortcut route of 12.07 per cent often used may not be correct.
- The WTR require the exercise of identifying a week's pay in accordance with the provisions of sections 221-224 WTR and multiplying that figure by 5.6.

5. Hybrid working

UK HYBRID WORKING: TACKLING THE CHANGES

Business travel rules

- What has changed?
- Is home a workplace?
- Who is a home worker?



Home working expenses and equipment

- HMRC Covid easements
- Amending expense policies



Review of employee benefits 'packages'

- Car parking, loans, canteens, cars, fuel
- Welfare related, equipment, flexibility



Salary sacrifice

- Pensions, bicycles, electric cars



GLOBAL HYBRID WORKING – TAX CONSIDERATIONS

What are the issues?

01

UK considerations

UK residency and UK payroll
UK tax return to claim any foreign tax credit/can this be done via payroll
Ongoing UK National Insurance

02

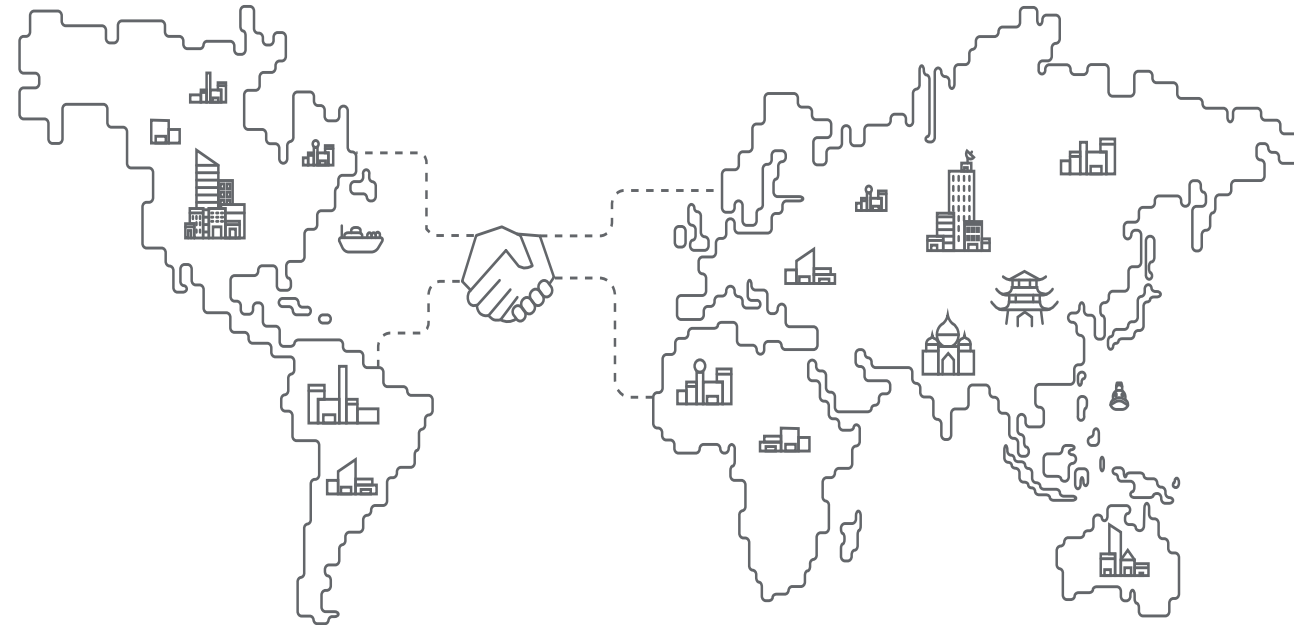
Overseas/Host country considerations

Is a tax liability triggered? Is there a tax treaty?
Even if not, is there a payroll obligation to file a personal tax return to claim treaty exemption?
Is the country one which is EU or the UK has a reciprocal agreement for social security?
Is there a Posted Worker registration obligation?

03

Social security

EU or non EU
No Coverage
De minimis for applications



6. What's on the horizon

HMRC COMPLIANCE REVIEWS

1

HMRC's engagement with organisations depends on the organisation's size and complexity.

2

HMRC has increased its activity by adopting a range of approaches

3

Can now range from enquires by letter, to onsite reviews, to 'nudge' letters

4

Seeing a focus on National Minimum Wage, and status/IR35 compliance.

5

Also CJRS

HMRC COMPLIANCE REVIEWS

Increase in the number and type of interventions initiated by HMRC

1

Likely to continue

2

Highlights the need for good compliance, backed up by a robust review process

3

Need to demonstrate reasonable care

4

Do not take these visits or letters lightly as the financial and reputational consequences are potentially significant

5

Take professional advice/support

6

WHAT'S ON THE HORIZON?

- Health & Social Care Levy
- Holiday pay
- Employment status
- Employment Bill/ Single Enforcement Body

QUESTIONS AND ANSWERS?

OUR CONTACT DETAILS



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7. Rates

RATES AND THRESHOLDS

National Minimum Wage from 1 April 2022

	Rate from April 2022	Current rate (April 2021 to March 2022)	Increase
National Living wage	£9.50	£8.91	6.6%
21-22 year old rate	£9.18	£8.36	9.8%
18-20 year old rate	£6.83	£6.56	4.1%
16-17 year old rate	£4.81	£4.62	4.1%
Apprentice rate	£4.81	£4.30	11.9%
Accommodation offset	£8.70	£8.36	4.1%

INCOME TAX THRESHOLDS (ENGLAND & N.I.)

	2018/2019	2019/2020	2020/2021	2021/2022	2022/23
Personal allowance	£11,850	£12,500	£12,500	£12,570	£12,570
Basic rate band	£34,500	£37,500	£37,500	£37,700	£37,700
Higher rate threshold	£46,350	£50,000	£50,000	£50,270	£50,270
Restriction to personal allowance	£100,000 - £123,700	£100,000 - £125,000	£100,000 - £125,000	£100,000 - £125,140	£100,000 - £125,140

UK TAX BANDS (NO CHANGE)

The three tax bands for UK taxpayers are proposed as:

Band of income in 2022/23	Name of tax band	Income tax rate
£0 - £37,700	Basic rate	20%
£37,701 - £150,000	Higher rate	40%
Above £150,000	Additional rate	45%

SCOTTISH TAX BANDS

A Scottish taxpayer is entitled to the same personal allowance as taxpayers in the rest of the UK (£12,569 for 2022/23), which is withdrawn for every £1 for every £2 of income over £100,000.

The six tax bands for NSND for Scottish taxpayers are proposed as:

Band of NSND income in 2022/23	Name of rate / band	Income tax rates
£0 - £12,569	Personal allowance	0%
£12,570 - £14,732	Starter rate	19%
£14,733 - £25,688	Basic rate	20%
£25,689 - £43,662	Intermediate rate	21%
£43,663 - £150,000	Higher rate	41%
Above £150,000	Top rate	46%

WELSH TAX BANDS

Band of income in 2022/23	Name of tax band	Income tax rate
£0 - £37,700	Basic rate	20%
£37,701 - £150,000	Higher rate	40%
Above £150,000	Additional rate	45%

NATIONAL INSURANCE (NI)

Class 1 NICs	2021/22			2022/23		
	Weekly	Monthly	Annual	Weekly	Monthly	Annual
Lower Earning Limit (LEL)	£120	£520	£6,240	£123	£533	£6,396
Primary Threshold (PT)	£184	£797	£9,568	£190	£823	£9,880
Secondary Threshold (ST)	£170	£737	£8,840	£175	£758	£9,100
Freeports Upper Secondary Threshold	N/A	N/A	N/A	£481	£2,083	£25,000
Upper Earnings Limit (UEL)						
Upper Secondary Threshold (UST)	£967	£4,189	£50,270	£967	£4,189	£50,270
Apprentice Upper Secondary Threshold (AUST)						

NI HOLIDAY FOR EMPLOYERS OF ARMED FORCES VETERANS

- In the spring budget of 2020, the Chancellor announced the introduction of a National Insurance holiday for employers that hire former members of the UK regular armed forces. The holiday will exempt **employers** from any National Insurance contributions liability on a veteran's salary up to the Upper Secondary Threshold (UST) in their first year of civilian employment (the **employee** will still be liable for National Insurance contributions)
- This relief became available from April 2021. Employers are able to claim this relief for 12 months starting from the first day of the veterans first civilian employment after leaving Her Majesty's armed forces. Subsequent employers will be able to claim this relief during this 12 month period.
- The refund can be claimed from April 2022 as per this
 1. Employers pay as normal during 21/22
 2. From April 2022 onwards, employers will be able to apply the relief in real time through PAYE.
 3. Further information [Claim National Insurance contributions relief for veterans as an employer - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/claim-national-insurance-contributions-relief-for-veterans-as-an-employer)

KEY DATES – YEAR END SUMMARY

What employers need to do	When employers need to do it
Registration for payrolling of benefits	By 5 April 2022
Filing the last RTI return for 2021/22	By 5 April 2022
Check for missed leavers	Before 19 April 2022 The final deadline for 2021/22 final submissions.
Cleardown Employers may need to remember to clear down all the Year to Date (YTD) balances from the previous tax year if their payroll software doesn't automatically.	From 6 April Update employee payroll records and update payroll software to the new year. Prior to first pay run of the new 2022/23 tax year.
Final Submission Either the final Full Payment Submission (FPS) or final Employer Payment Summary (EPS) submission must be marked with the final submission of the year indicator to confirm to HMRC to close that tax year.	19 April 2022
Produce P60s All employees who were still working for the organisation on 5 April 2022 need to receive a P60.	By 31 May 2022 All employees must have been given their P60.
Complete P11D process Employers need to report employee expenses and benefits to HMRC, if not processed through payroll, and provide P11d forms to employees.	By 6 July 2022

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