

2014 No. 200

LOCAL GOVERNMENT

The Local Authority Accounts (Scotland) Regulations 2014

Made - - - - *3rd July 2014*

Laid before the Scottish Parliament *7th July 2014*

Coming into force - - *10th October 2014*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 105(1) of the Local Government (Scotland) Act 1973(a) and all other powers enabling them to do so.

In accordance with section 105(2) of that Act, they have consulted with such associations of local authorities as appear to them to be concerned.

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the Local Authority Accounts (Scotland) Regulations 2014 and come into force on 10th October 2014.

Saving provision

2. Nothing in these Regulations applies to any accounts, or any Annual Accounts, that relate to a financial year that began prior to 1st April 2014.

Interpretation

3. In these Regulations—

“the 1973 Act” means the Local Government (Scotland) Act 1973;

“Annual Accounts” means the abstract of accounts which requires to be produced under section 96(3) of the 1973 Act;

“auditor” means the person appointed to audit a local authority’s accounts as required by section 96(4) (accounts and audit)(b) of the 1973 Act;

(a) 1973 c.65, which is amended by the Rating and Valuation (Amendment) (Scotland) Act 1984 (c.31), section 10(2). The functions of the Secretary of State in section 105 transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) Section 96(4) is amended by paragraph 3 of schedule 4 to the Public Finance and Accountability (Scotland) Act 2000 (asp 1).

“Chief Executive”, in relation to a local authority, means the person designated by it as the head of its paid service by virtue of section 4 (designation and reports of head of paid service)(a) of the Local Government and Housing Act 1989;

“Leader of the Council” means the convener of a local authority elected in terms of section 4(1) (election of convener)(b) of the Local Government etc. (Scotland) Act 1994 or such other councillor as that local authority decides has the title of Leader of the Council for the purposes of payment of remuneration;

“local authority subsidiary body” means any entity, including an unincorporated entity, that is controlled by a local authority;

“proper accounting practices” are those practices set out in section 12 (proper accounting practices)(c) of the Local Government in Scotland Act 2003;

“proper officer” means—

- (a) the proper officer having responsibility for the administration of the financial affairs of the local authority by virtue of section 95 (financial administration) of the 1973 Act; or
- (b) where that officer is unable to act owing to absence or illness, such officer as is appointed by, or under arrangements made by, that local authority for the purposes of these Regulations;

“working day” means any day other than a Saturday, Sunday, Christmas Eve or a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(d).

Revocations

4. The following instruments are revoked—

- (a) the Local Authority Accounts (Scotland) Regulations 1985(e);
- (b) the Local Authority Accounts (Scotland) Amendment Regulations 1997(f);
- (c) the Local Authority Accounts (Scotland) Amendment Regulations 2011(g); and
- (d) paragraph 22 of schedule 1 to the Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013(h).

PART 2

Financial management and internal control

Responsibility for financial management

5.—(1) A local authority is responsible for ensuring that the financial management of the authority is adequate and effective and that the authority has a sound system of internal control which—

- (a) facilitates the effective exercise of the authority’s functions; and
- (b) includes arrangements for the management of risk.

(2) The local authority must conduct a review at least once in each financial year of the effectiveness of its system of internal control.

(a) 1989 c.42. There are amendments to section 4 that are not relevant for the purposes of these Regulations.
(b) 1994 c.39.
(c) 2003 asp 1.
(d) 1971 c.80.
(e) S.I. 1985/267.
(f) S.I. 1997/1980.
(g) S.S.I. 2011/64.
(h) S.S.I. 2013/119.

(3) The findings of the review referred to in paragraph (2) must be considered at a meeting either of the local authority or of a committee of the local authority whose remit includes audit or governance functions.

(4) Following consideration of the findings of the review referred to in paragraph (3) that authority or committee must approve an annual governance statement, prepared in accordance with proper practices in relation to internal control.

(5) The annual governance statement must be signed by the Chief Executive and the Leader of the Council.

Accounting records and control systems

6.—(1) A local authority must keep adequate accounting records.

(2) Adequate accounting records means records that are sufficient—

- (a) to show and explain the local authority's transactions;
- (b) to disclose with reasonable accuracy, at any time, a summary of the financial position of the authority; and
- (c) to enable members of the local authority to ensure that any accounts that require to be prepared comply with the requirements of these Regulations.

(3) The accounting records must in particular contain—

- (a) entries from day to day of all sums of money received and expended by the local authority and the matters in respect of which the receipt and expenditure takes place; and
- (b) a record of the assets and liabilities of the authority.

(4) If the local authority deals in goods, the accounting records must contain—

- (a) statements of stock held by the authority at the end of each financial year;
- (b) all statements of stocktakings from which any statement of stock as is mentioned in subparagraph (a) has been or is to be prepared; and
- (c) except in the case of goods sold by way of ordinary retail trade, statements of all goods sold and purchased, showing the goods and the buyers and sellers in sufficient detail to enable all these to be identified.

(5) Where a local authority has a local authority subsidiary body that is not subject to the requirements of this regulation, the local authority must ensure that the body takes such reasonable steps as are necessary to secure that the body's accounting records enable the authority to fulfil its duties under the 1973 Act and these Regulations.

(6) The proper officer is responsible, on behalf of the local authority, and subject to any instructions given to that officer by that authority, for determining the form of, and maintaining, the authority's—

- (a) accounting control systems; and
- (b) accounting records and supporting accounting records.

(7) The proper officer must ensure that the accounting control systems are observed and that the accounting records of the local authority are kept up to date.

Internal auditing

7.—(1) A local authority must operate a professional and objective internal auditing service in accordance with recognised standards and practices in relation to internal auditing.

(2) Any officer or member of a local authority must, as required by those undertaking internal auditing—

- (a) make available such documents of that authority which relate to its accounting and other records for the purpose of internal auditing; and

(b) supply such information and explanation as those undertaking internal auditing consider necessary for that purpose.

(3) A local authority must from time to time assess the efficiency and effectiveness of its internal auditing, in accordance with the standards and practices referred to in paragraph (1).

(4) The findings of the assessments referred to in paragraph (3) must be considered, as part of the consideration of the system of internal control referred to in regulation 5(2), at the meeting referred to in regulation 5(3).

PART 3

Published accounts and audit

Annual Accounts

8.—(1) A local authority must ensure that its Annual Accounts are prepared in accordance with these Regulations and, so far as compatible with these Regulations, in accordance with proper accounting practices.

(2) The Annual Accounts must include, in addition to the financial statements required by proper accounting practices, the following statements, which are to be prepared in accordance with proper accounting practices and recognised guidance—

- (a) a management commentary;
- (b) a statement of responsibilities;
- (c) an annual governance statement;
- (d) either—
 - (i) a remuneration report in the style set out in the Schedule to these Regulations, or
 - (ii) a statement that no remuneration report has been prepared because no persons have received remuneration that requires to be included in such a report.

(3) The Annual Accounts must also include such of the following statements and disclosures as are relevant to the functions of the local authority—

- (a) a housing revenue account;
- (b) a non-domestic rate account;
- (c) a council tax account;
- (d) any other statement relating to statutory funds which is required by any statutory provision.

(4) The remuneration report referred to in paragraph (2)(d)(i) must contain the information set out in the Schedule to these Regulations.

(5) The proper officer must ensure that—

- (a) the statement of responsibilities required by paragraph (2)(b) accurately reflects the proper officer's responsibilities; and
- (b) the financial statements give a true and fair view of the financial position of the local authority and its group at the end of the financial year and the transactions of the local authority and its group for that year.

(6) Once the proper officer is satisfied as to the matters set out in paragraph (5), the proper officer must certify these matters by signing and dating the statement of responsibilities and the balance sheets contained within the Annual Accounts and then submit the Annual Accounts to the auditor.

(7) The Annual Accounts must be submitted to the auditor no later than 30th June immediately following the financial year to which the Annual Accounts relate.

(8) The local authority must publish a copy of the Annual Accounts submitted to the auditor, clearly identified as an unaudited version, on a website of the authority from the date they are submitted until the date on which the audited Annual Accounts are published in accordance with regulation 11.

(9) A local authority or a committee of that authority whose remit includes audit or governance functions must meet to consider the unaudited Annual Accounts as submitted to the auditor.

(10) The meeting referred to in paragraph (9) must be held no later than 31st August immediately following the financial year to which the Annual Accounts relate.

Notice of public right to inspect and object to accounts

9.—(1) A local authority must give public notice of the right of interested persons to inspect and object to its accounts, as provided for by section 101 (rights of interested persons to inspect and copy documents and to object to accounts)(a) of the 1973 Act.

(2) In the application of this regulation, in any year in which a date referred to is not a working day, that date is to be read as the date of the next working day.

(3) The notice referred to in paragraph (1) must—

- (a) be given in accordance with section 195 (public notices) of the 1973 Act no later than 17th June immediately following the financial year to which the accounts relate;
- (b) be published on a website of the authority; and
- (c) not be removed from that website during the period throughout which the right to inspect subsists, as described in paragraph (4)(a).

(4) The notice referred to in paragraph (1) must set out the provisions of section 101(1) and (2) of the 1973 Act and state—

- (a) that the accounts and other documents referred to in section 101(1) of the 1973 Act will be available for inspection during the ordinary business hours of the local authority for a period of 15 working days from (and including) the date specified in the notice in accordance with paragraph (5);
- (b) the place or places at which those accounts and other documents will be available and the hours during which they will be available there;
- (c) that no charge will be made for inspection of documents or for copying of them by persons who are inspecting them, with details of any charges that the local authority proposes to make should a person inspecting them wish to be provided with copies;
- (d) the name and address of the auditor; and
- (e) that objections to the accounts may be sent to the auditor at that address until the end of the working day that follows the period described in sub-paragraph (a).

(5) The date specified in the notice in terms of paragraph (4)(a) must be at least 14 days after the date that notice is published, but cannot be later than 1st July in the year in which the notice is published.

Consideration and signing of audited Annual Accounts

10.—(1) A local authority, or a committee of that authority whose remit includes audit or governance functions, must—

- (a) meet to consider the audited Annual Accounts; and
- (b) aim to approve those accounts for signature as described in this regulation no later than 30th September immediately following the financial year to which the accounts relate.

(a) Section 101 is amended by section 10(1) of the Rating and Valuation (Amendment) (Scotland) Act 1984 (c.31) and paragraph 3(8) of schedule 4 to the Public Finance and Accountability (Scotland) Act 2000 (asp 1).

(2) That local authority or committee must consider whether the Annual Accounts should be signed, having regard to any report made on those accounts and any advice given by the proper officer or the auditor.

(3) Immediately following the approval of the Annual Accounts for signature, the statements which form part of those accounts are to be signed and dated as follows—

- (a) the management commentary by the proper officer, the Chief Executive and the Leader of the Council;
- (b) the statement of responsibilities by the Leader of the Council and the proper officer, who must also certify the matters referred to in paragraphs (5) and (6) respectively;
- (c) the annual governance statement by the Chief Executive and the Leader of the Council;
- (d) the remuneration report by the Chief Executive and the Leader of the Council; and
- (e) the balance sheets by the proper officer, to authorise publication of the financial statements.

(4) Where a local authority does not have a Chief Executive or a Leader of the Council, the statements that paragraph (3) requires that person to sign are to be signed by such other person as it nominates for that purpose.

(5) The person who signs the statement of responsibilities as Leader of the Council must certify that the Annual Accounts have been approved for signature by, or on behalf of, the authority.

(6) The proper officer must certify that the financial statements give a true and fair view of the financial position of the local authority and its group at the end of the financial year and the transactions of the local authority and its group for that year.

(7) Following the signature of the Annual Accounts, the proper officer must provide the Annual Accounts, including the signed statements, to the auditor.

(8) Any further report provided by the auditor following the signature of the Annual Accounts which relates to those accounts must be considered by the local authority or a committee of that authority whose remit includes audit or governance functions.

Publication of the audited Annual Accounts

11.—(1) The local authority must publish—

- (a) the Annual Accounts for that financial year as signed under regulation 10;
- (b) the certificate placed on the Annual Accounts under section 101(4) of the 1973 Act by the auditor;
- (c) the accounts of all its local authority subsidiary bodies; and
- (d) a copy of every further report provided by the auditor to the authority that relates to the signed Annual Accounts.

(2) A local authority is to publish the documents mentioned in paragraph (1) by making a copy of them, or a link to a copy of them, available on a website of the authority for a period of at least five years and by making copies available for purchase throughout that period on payment of such amount as the authority considers reasonable.

(3) The documents referred to in paragraph (1)(a) to (c) must be published no later than 31st October immediately following the financial year to which they relate, and any report referred to in paragraph (1)(d) must be published no later than the following 31st December.

(4) Paragraph (5) applies where a local authority receives—

- (a) a report sent in terms of section 102(2) of the 1973 Act (reports to Accounts Commission for Scotland by Controller of Audit)(a), other than a report with respect only to the matters described in section 102(1)(c) of that Act (best value and community planning);

(a) Section 102(1) and (2) were substituted by section 56 of the Local Government in Scotland Act 2003. There are other amendments to section 102 that are not relevant to these Regulations.

- (b) a report sent in terms of section 102(4) of that Act (special report by the Controller of Audit with respect to local authority accounts); or
- (c) an order under section 103F(7) of that Act (order of the Scottish Ministers following Accounts Commission recommendations)(a).

(5) The local authority must immediately on receipt of any report or order referred to in paragraph (4)—

- (a) publish it in the manner set out in paragraph (2); and
- (b) provide a link to that report or order along with any documents referred to in paragraph (1) that are published on its website, for every financial year to which the report or order relates.

PART 4

Charities

Modification of Regulations

12. In the application of these Regulations to any body which requires to prepare a statement of account under section 44(1)(b) of the Charities and Trustee Investment (Scotland) Act 2005 (charity accounts)(b) the following requirements of these Regulations do not apply—

- (a) regulation 5(2) to (5) (review of internal control system);
- (b) regulation 6(1) to (5) (accounting records);
- (c) regulation 7 (internal auditing);
- (d) regulation 8 (Annual Accounts); and
- (e) regulation 10 (consideration and signing of audited accounts).

DEREK MACKAY

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
3rd July 2014

(a) Section 103F was added by section 33(3) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7).
(b) 2005 asp 10.

SCHEDULE

Regulation 8(2)(d)(i)

Content of Remuneration Report

Definitions

1. In this Schedule—

“annual remuneration” is to be calculated—

- (a) in respect of a person who is employed or serves on a part time basis, with the salary element of remuneration increased to what it would have been had the person been paid for usual full time hours at the same hourly rate;
- (b) in respect of a person who is employed or serves for less than the full relevant financial year, with the salary element of remuneration increased to what it would have been had the person been employed for the whole year, at the same rate as applied to their period of employment or service; or
- (c) in respect of a person who falls within both of sub-paragraphs (a) and (b), with the salary element of remuneration increased as required by sub-paragraph (a) and then further increased as required by sub-paragraph (b);

“exit package” means any agreement by which a local authority and a person agree that the person will relinquish an office or employment with the authority in exchange for compensation, and the cost of an exit package is to be calculated by adding together the costs of all benefits to that person which are payable by the authority as a result of that agreement, including any compulsory or voluntary redundancy costs, the capitalised cost of pension contributions in respect of added years, and ex-gratia payments;

“relevant person”, in relation to a Remuneration Report for a financial year, means—

- (a) a senior councillor or senior employee employed by the local authority or holding office with that authority, whether on a permanent or temporary basis, in the financial year to which that Remuneration Report relates; and
- (b) a person whose name is shown in a Remuneration Report for that financial year by virtue of paragraph 7 (persons employed by local authority subsidiary bodies);

“remuneration” means salary, fees and bonuses, whether paid to or receivable by a person, by or from a local authority or local authority subsidiary body, and includes sums paid or due by way of expenses allowance (so far as those sums are chargeable to United Kingdom income tax) and the estimated monetary value of any other benefits received by a person otherwise than in cash, and—

- (a) includes any sum paid as compensation for loss of employment or termination of a contract for provision of services; but
- (b) excludes any sum that has been paid by the local authority or local authority subsidiary body as a contribution to the person’s pension;

“senior councillor” means a Leader of the Council (as defined by regulation 3), or a Civic Head or a Senior Councillor, both as defined by regulation 2 of the Local Governance (Scotland) Act 2004 (Remuneration) Regulations 2007(a);

“senior employee” means any local authority employee—

- (a) who has responsibility for management of the local authority to the extent that the person has power to direct or control the major activities of the authority (including activities involving the expenditure of money), during the financial year to which the Report relates, whether solely or collectively with other persons;

(a) S.S.I. 2007/183.

- (b) who holds a post that is politically restricted by reason of section 2(1)(a), (b) or (c) of the Local Government and Housing Act 1989(a); or
- (c) whose annual remuneration, including any annual remuneration from a local authority subsidiary body, is £150,000 or more.

Remuneration arrangements

2. A Remuneration Report is to provide details of the local authority's remuneration policy for senior employees and senior councillors, and details of any role the authority has in determining the remuneration policy for any local authority subsidiary body.

3. A Remuneration Report is to describe the role, and state the membership of, the local authority's committee that deals with remuneration arrangements or, where the authority does not have such a committee, state how remuneration arrangements are managed within the authority.

Disclosure of exit packages

4. A Remuneration Report is to give the number of exit packages agreed by the local authority in the financial year to which it relates and the number agreed in the preceding financial year, in each case—

- (a) separated into exit packages in respect of compulsory redundancies and other departures;
- (b) shown on a scale using brackets initially in multiples of £20,000, starting with exit packages costing up to £20,000, and after the bracket for exit packages costing up to £100,000 continuing in multiples of £50,000, but if publication of a bracket would result in details of an individual's exit package being identifiable, and those details are not otherwise accessible to the public, that bracket is to be combined with such adjoining bracket as the local authority considers appropriate; and
- (c) giving for each published bracket of the scale the combined cost of the packages it contains.

5. However, paragraph 4 does not require a Remuneration Report to refer to any exit package that did not require the agreement of the local authority (such as where a person exercises a contractual right to leave employment on the grounds of ill health).

General disclosure by pay band

6. A Remuneration Report is to give the number of employees of the local authority in the financial year to which it relates whose remuneration from that authority fell into each bracket of a scale in multiples of £5,000, starting with £50,000, along with the number of employees in each band in the preceding financial year.

Disclosure - local authority subsidiary bodies

7. A Remuneration Report is to give, for any local authority subsidiary body, the name of that body, together with—

- (a) the full post title and name of the chief executive of that body (or, if there is no chief executive, the post held and name of the most senior manager in that body); and
- (b) the full post title and name of each director or employee of the body whose annual remuneration in that year, including any annual remuneration from a local authority, was £150,000 or more.

(a) 1989 c.42.

Disclosure of remuneration for relevant persons

8. The Remuneration Report for each financial year is to show, in tabular form, against the post held and name of each relevant person the total amounts (before tax and other deductions), whether received or receivable, by each relevant person from the local authority or, as the case may be, local authority subsidiary body—

- (a) listed individually and rounded to the nearest whole pound;
- (b) under each of the categories listed in paragraph 10; and
- (c) for the financial year to which the Report relates, except for the total amount required by paragraph 10(h).

9. The Remuneration Report must show in separate tables—

- (a) remuneration from the local authority to relevant persons who are senior employees;
- (b) remuneration from the local authority to relevant persons who are senior councillors; and
- (c) remuneration from the local authority subsidiary body to relevant persons who are included in a Remuneration Report for that financial year by virtue of paragraph 7.

10. The categories are—

- (a) the total amount of salary, fees or allowances due to the person, whether paid or not;
- (b) the total amount of bonuses so paid or receivable;
- (c) the total amount of sums paid by way of expenses allowance that are chargeable to United Kingdom income tax and were paid to or receivable by the person;
- (d) the total amount of any compensation for loss of employment paid to or receivable by the person, and any other payments made to or receivable by the person in connection with the termination of their employment, or, in the case of a councillor, the total of any payment made to that person in connection with their ceasing to hold office before the end of a fixed term appointment;
- (e) the total estimated value of any benefits received by the person otherwise than in cash that do not fall within sub-paragraphs (a) to (d), are emoluments of the person, and are received by the person in respect of their employment or in their capacity as a councillor, with a footnote describing the nature of any such benefits;
- (f) the total amount of any payments made by the local authority and local authority subsidiary body by way of remuneration to or in respect of the person that do not otherwise fall within this paragraph, other than payments relating to pensions;
- (g) the amount that is the total of the sums shown in categories (a) to (f); and
- (h) the amount that is the total of the payments that were made by way of remuneration to or in respect of the person under categories (a) to (f) in the financial year preceding that to which the Remuneration Report relates.

Pension rights - disclosure of information and calculation of value

11. The Remuneration Report must show, in tabular form, against the post held and name of each relevant person the value of pension rights held and acquired by that person, as required by paragraphs 13 and 14.

12. The Remuneration Report must group in separate tables—

- (a) relevant persons who are senior employees;
- (b) relevant persons who are senior councillors; and
- (c) relevant persons who do not fall within sub-paragraph (a) or (b) and who are included in a Remuneration Report for that financial year by virtue of paragraph 7.

13.—(1) Where a relevant person included in a Remuneration Report under paragraph 11 has rights under a pension scheme which will provide defined benefits (within the meaning of section 99 of the Pensions Act 2008(a)), the information to be provided in respect of the person is—

- (a) the value of the person’s accrued pension benefits under the scheme as at 31st March in the financial year to which the Remuneration Report relates, rounded to the nearest £1,000;
- (b) the difference between that value and the equivalent value (so rounded) as at the previous 31st March; and
- (c) the amount, rounded to the nearest whole pound, of any pension contributions made to that scheme by the local authority producing the Remuneration Report, or a local authority subsidiary body named in that Report, during the financial year to which that Report relates, including any contributions which that local authority, or a local authority subsidiary body named in that Report, has agreed to pay in respect of the relevant person at a later date.

(2) In sub-paragraph (1)(a) and (b) the value of accrued pension benefits is to be calculated—

- (a) on the basis of the age at which the person will first become entitled to receive a full pension on retirement without reduction on account of its payment at that age, disregarding any entitlement to payment upon retirement on the grounds of illness, incapacity or redundancy;
- (b) assuming that the person left the related employment or service as at 31st March in the year to which the value relates without exercising any option to commute pension entitlement into a lump sum;
- (c) including any contributions that the relevant person is required to make in terms of the scheme rules, but disregarding any voluntary contributions made by the relevant person; and
- (d) without any adjustment for the effects of future inflation.

14.—(1) Where a relevant person included in a Remuneration Report under paragraph 11 has rights under a pension scheme which is a money purchase scheme (within the meaning of sub-paragraph (2)), the information to be provided in respect of the person is the amount, rounded to the nearest whole pound, of any pension contributions made to that scheme by the local authority producing that Report, or a local authority subsidiary body named in that Report, during the financial year to which that Report relates, including any contributions which that local authority, or a local authority subsidiary body named in that Report, has agreed to pay in respect of the relevant person at a later date.

(2) A “money purchase scheme” means a scheme under which all the benefits that may become payable to or in respect of a person are retirement benefits, the rate or amount of which is calculated by reference to payments made, or treated as made, by the person (or by any other person in respect of that person) and which are not average salary benefits.

(a) 2008 c.30.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace the Local Authority Accounts (Scotland) Regulations 1985.

The principal changes are, first, to introduce requirements that local authorities review at least annually their system of internal financial control and prepare an annual governance statement. Secondly, Part 3 of these Regulations sets out a more detailed process for consideration of local authority Annual Accounts, both prior to and after auditing.

Public rights to inspect financial documents and to object to the accounts are included in the process, with requirements for electronic publication of information to assist persons who wish to exercise those rights.

Regulation 12 adjusts the application of the requirements in these Regulations where a body is regulated as a charity. Section 106 of the Local Government (Scotland) Act 1973 applies the provisions of these Regulations to various bodies, some of which are subject to charity law requirements.

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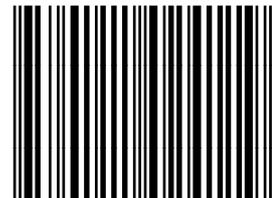
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