

Research Briefing

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Council tax: local referendums

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Summary

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Summary

This briefing explains the system of local referendums on ‘excessive’ increases in council tax, that has been in place in England since the 2012/13 financial year. It explains the legal background to the system, including the procedures, timings and costs for referendums and how council tax increases are presented by local authorities.

Local authorities, fire authorities, and Police and Crime Commissioners are required to determine whether the amount of council tax they plan to raise is ‘excessive’. The Secretary of State sets thresholds of excessiveness, known as ‘referendum principles’, for different classes of authority. Since 2016-17, these thresholds have also included a ‘social care precept’, providing higher thresholds for authorities with social care responsibilities. The thresholds are finalised alongside the annual Local Government Finance Settlement each February.

Any authority proposing an excessive increase in council tax must hold a local referendum and obtain a ‘yes’ vote before implementing the increase. An authority proposing an excessive increase must also make substitute calculations, based on a non-excessive council tax level. This is implemented if the excessive increase is rejected in the referendum.

In 2022/23, local authorities with social care responsibilities (county and unitary authorities) will have a total threshold of 3% or more. Of this, 1% is available for adult social care and 2% for general spending. District councils have a threshold of 2% or £5.00 on a band D bill; and for Police and Crime Commissioners, the threshold is £10 on a band D bill. No thresholds were applied to parish and town councils or to mayoral combined authorities.

In most cases, local authorities set their council tax increases at levels below the thresholds. Only one council tax referendum has taken place to date. The Bedfordshire Police and Crime Commissioner, Olly Martins, proposed a 15.8% increase in council tax for 2015/16. The poll was held on 7 May 2015. 91,086 voters (30.5%) supported the proposal, while 207,551 (69.5%) opposed it; subsequently, a lower increase in the PCC’s share of council tax was implemented.

1 The council tax system

1.1 ‘Capping’ of council tax rates

The Government first introduced powers under which it could limit the amount of tax raised by local authorities in 1984. The [Rates Act 1984](#) gave the Government power selectively to ‘cap’ local authority rate levels. In 1991 a universal capping power was introduced which placed a cap on any authority whose planned budget exceeded a given level of increase or expenditure. This system applied to the community charge (or “poll tax”) and then to its replacement, council tax, which was introduced from April 1993.

The Labour Government elected in 1997 replaced what it called the “crude and universal”¹ capping system with reserve powers to cap selectively. In essence, the Secretary of State determined capping principles for a given financial year. These had to relate to the size of an authority’s budget requirement but, in practice, they also related to planned increases in council tax. The Secretary of State then decided, in the light of these principles, whether any authorities had set excessive budget requirements.

Authorities could be “designated” to be capped in-year or “nominated” in respect of future years. These capping powers were not used until 2004-05 but after that, according to the Department for Communities and Local Government (DCLG), 36 authorities were capped (43 times overall). Of these, 16 were subject to in-year designation which meant that they were required to re-bill taxpayers immediately.²

Sir Michael Lyons recommended the abolition of capping in the final report of his independent inquiry into local government. He said:

Capping is a sign that central and local government have together failed to make the system work, and represents a short-term response to tax increases which are a symptom of problems elsewhere in the system – namely the pressure on local budgets and hence council tax, combined with a lack of local flexibility and unclear accountability. While it is borne out of understandable motives, capping confuses accountability and can have perverse effects.³

¹ Labour Party, [New Labour: New Life for Britain](#), 1997

² DCLG, [Localism Bill – Provision for referendums to veto excessive council tax increases: impact assessment – consultation stage](#), August 2010, p11

³ Lyons Inquiry into Local Government, [Place-shaping: a shared ambition for the future of local government](#), March 2007, Executive Summary, p.10. Fuller discussion of this issue can be found in part 4 (pp127-8) of the report.

1.2

Changes under the Coalition Government

The Conservative Party's 2009 policy paper on local government, [Control Shift](#), stated:

The problem with... 'capping' is that it takes the power of decision about local spending and local taxation out of the hands of local voters, and hands it to remote central bureaucracies. That is why a Conservative government will introduce a new system that uses local referendums to control the level of local taxation – providing a direct link between local residents and the spending decisions of the local authorities to whom they pay their council taxes. A referendum will be triggered if an authority proposes a council tax increase above the national threshold.⁴

The Coalition's programme for government repeated the promise in the Conservative general election manifesto that:

We will give residents the power to veto excessive council tax increases.⁵

A consultation paper on the practicalities of the proposed scheme was published on 30 July 2010.⁶ The paper sketched out the main features of the referendum scheme. An impact assessment, published in August 2010, set out the key policy objectives as:

1. To ensure that excessive council tax increases occur only where they have a clear mandate from local people.
2. To abolish central government capping powers.⁷

The referendum scheme was introduced in the [Localism Act 2011](#). It applies to England only. In Wales, Senedd Cymru / the Welsh Parliament still has the power to cap local authorities' council tax rises selectively. No capping power has ever existed in Scotland.

An attempt was made to introduce a referendum system of this kind, to apply to rate rises, by the then Conservative government in 1981, but this was withdrawn following political pressure.

⁴ Conservative Party, [Control shift: returning power to local communities](#), February 2009,

⁵ The Coalition, [Our programme for government](#), May 2010, p28

⁶ DCLG, [Local referendums to veto excessive council tax increases: consultation](#), July 2010

⁷ DCLG, [Localism Bill – Provision for referendums to veto excessive council tax increases: impact assessment – consultation stage](#), August 2010, p1

2 How the referendum legislation works

2.1 Principles of excessiveness

The [Localism Act 2011](#) sets a duty on billing authorities, major precepting authorities (i.e. county councils, Police and Crime Commissioners, fire and rescue authorities, the GLA) and local precepting authorities (parish and town councils) to determine whether their relevant basic amount of council tax for a financial year is ‘excessive’.

A set of principles determined by the Secretary of State is used to decide whether an authority’s council tax level is excessive. S/he may set one or more principles, but they must include a comparison between council tax levels for the year under consideration and the previous year. S/he may determine principles for particular categories of authority.

The principles must be specified in a report, which must be laid before the House of Commons before the date on which the local government finance report for the year is approved by the House.

A local referendum must be held, and won, for an authority to increase council tax by more than the amount specified in the principles. An authority proposing to set an excessive council tax level is required to make substitute calculations which will take effect if the proposed ‘excessive’ amount of council tax is rejected in a referendum. The substitute council tax level must be below the amount which is considered excessive under the principles.⁸

Electors in the authority’s area may vote in the referendum. The outcome is decided by a simple majority. Where multiple referendums are held on behalf of a major precepting authority, a majority of persons voting across the entire area (e.g. a county or a police area) will determine the outcome: a majority in each council area is not required.

A local authority which tries to impose an ‘excessive’ increase without triggering the referendum process would see its council tax collection account automatically frozen in law.

If a referendum is held after the beginning of the relevant financial year, the higher rate of council tax will be payable unless and until it is overturned by a ‘no’ vote in the referendum. In the event that a referendum rejects the increase, the billing authority would be able to issue new bills, offer refunds at the end of the year or allow credits against liability the following year,

⁸ [Localism Act 2011](#) schedule 5: this inserts clause 52ZF into the Local Government Finance Act 1992.

although individual council taxpayers would be entitled to a refund on demand.⁹

Where it appears that an authority will be unable to discharge its functions effectively or to meet its financial obligations unless it sets an increase in council tax which exceeds the principles, the Secretary of State has a power to direct that the referendum provisions do not apply.

2.2 Timing of referendums

Where a major precepting authority sets an excessive council tax increase, it must notify the appropriate billing authority which will then hold a referendum. Where this means that two or more billing authorities will be required to hold a referendum, they must be held on the first Thursday in May (or another date specified by the Secretary of State). Billing authorities will be able to recover from precepting authorities the costs of referendums held on the latter's behalf.

Referendums triggered by the actions of billing authorities or local precepting authorities can be held at any time of the billing authority's choosing, subject to this being no later than the first Thursday in May (or another date specified by the Secretary of State).

2.3 Publicity and expenses

Regulations provide for the question to be asked in the referendum, publicity, and restrictions on expenses, as well as setting out detailed rules on polling.¹⁰ On the issue of publicity, the explanatory memorandum states:

7.4 To ensure people living in the authority's area are aware that a council referendum is due to be held and that they are informed of key information relating to the referendum, regulations 4 to 6 provide that the authority triggering the referendum must publish a detailed notice of referendum in its local area.

7.5 Once this notice has been published (and triggered the period of campaigning), in accordance with regulation 11, an authority may publish an additional statement setting out the reasons for the excessive increase, and the likely consequences if its council tax increase is not approved. This statement will be subject to the campaign expenses limit for the referendum and published no later than 28 days before the poll. To ensure the authority is not able to unduly influence the result of the referendum, regulation 10 places

⁹ See DCLG, [Local referendums to veto excessive council tax increases: consultation](#), July 2010, p9

¹⁰ See the [Local Authorities \(Conduct of Referendums\) \(Council Tax Increases\) \(England\) \(Amendment No.2\) Regulations 2014](#) (SI 2014/925)

restrictions on the publication of other promotional material by or on behalf of the authority.

2.4 Costs of referendums

The one referendum held so far, by Bedfordshire's Police and Crime Commissioner, is estimated to have cost £600,000. The Bedfordshire PCC covers three unitary local authorities and a population of some 640,000.

An impact assessment on the scheme, published in August 2010, set out the estimated costs of other referendums including the elected regional assembly referendum in the North East, mayoral referendums and non-binding council tax referendums. Tower Hamlets Council had estimated that a stand-alone mayoral referendum might cost up to £250,000 but, if combined with council elections, the additional cost was estimated at around £70,000. The paper concluded:

...it seems reasonable to estimate the range of costs of such referendums as £85,000 - £300,000. Actual costs will vary depending on the size of the authority and whether the referendum is combined with a local election.¹¹

The paper also noted examples of rebilling costs for recently-capped authorities, such as £380,000 for Lincolnshire Police Authority in 2008/09 (£1.22 per household) and £626,000 for Surrey Police Authority in 2009/10 (£1.29 per household).

¹¹ DCLG, [Localism Bill – Provision for referendums to veto excessive council tax increases: impact assessment](#), January 2011, p10-11

3 Referendums held and the annual thresholds

3.1 Referendums held

One referendum has been held on a rise in council tax, by the Bedfordshire Police and Crime Commissioner, Olly Martins. He proposed a rise in council tax of 15.8% in 2015/16. This would have equated to an extra £24.80 on a Band D council tax bill in Bedfordshire. The poll was held on 7 May 2015. 91,086 voters (30.5%) supported the proposal, whilst 207,551 (69.5%) opposed it.

Surrey County Council proposed to hold a referendum on a 15% increase in council tax for 201/18, but later dropped the proposal.

3.2 Freeze grants

Between 2012/13 and 2015/16, the Government offered a 'freeze grant' to any local authority which agreed not to increase its level of council tax. This allowed local authorities to increase their funding without resorting to raising local tax levels. In 2013/14, 2014/15, and 2015/16, the freeze grant was equivalent to the revenue that the local authority in question would have obtained via a 1% rise in council tax (i.e. less than the referendum threshold applied in those years). In effect, authorities could choose between extra funding without raising council tax and a larger amount of extra funding from raising council tax.

In each of these years, the freeze grant was also 'rolled in' permanently to the central government funding for the local authorities which accepted it. Rolling the grant in ensures that an authority which accepts a freeze grant will be in the same financial position in future years as a council which increases council tax. An increase in council tax is permanent, in that the funds obtained in a given year remain part of the budget in subsequent years.

3.3 Referendum thresholds

Table 1 shows the main referendum principles that have been set since the introduction of council tax referendums in the 2012/13 financial year. The amounts shown in the table are the points at which a referendum is triggered: for instance, a police and crime commissioner that sets a £15 increase on a

Band D property in 2023/24 does not require a referendum, but a sum greater than £15 would.

Referendum principles have most commonly taken one of two forms. One is percentage thresholds: that is, council tax may not increase by 2% or 3% or more, for example, compared to the level set in the previous financial year. Thus, local authorities might increase their council tax by 1.99% or 2.99% (for example), as a 2% or 3% figure would trigger a referendum.

A second option has been for the Government to set a cash level, above which a Band D council tax bill cannot increase without triggering a referendum. For instance, in many financial years district councils have only been required to hold a referendum if their rise exceeds both 2% and £5 on a Band D council tax bill. As district councils' share of council tax bills is relatively small, a £5 rise may often be higher than a 2% rise.

The system of band ratios means that a given cash increase on a Band D bill will equate to a larger cash increase for properties in bands E, F, G and H; and a smaller one for properties in bands A, B and C (see section 1.2 and Appendix 3 of the Library briefing paper [Council tax: frequently asked questions](#)).

As table 1 indicates, the Government has typically set different thresholds for county and unitary councils, district councils, Police and Crime Commissioners (PCCs), fire and rescue authorities and the Greater London Authority. In some financial years, it has set different thresholds for sub-groups within these classes of authority. For instance, in 2017/18 the quartile of PCCs with the lowest levels of council tax were permitted additional 'headroom' (£5 on a Band D bill alongside 2%). One rationale for this type of provision is to avoid penalising authorities that had historically kept council tax low, during periods when all authorities were facing spending challenges.

In some years, individual authorities have been permitted additional thresholds. For instance, Northamptonshire County Council was permitted an extra 2% in 2019/20, following a period of high-profile financial difficulty. Somerset County Council was permitted an extra 1.25% in 2016/17, to part-fund the establishment of the Somerset Rivers Authority.¹²

Regulations require the percentage increase in council tax revenue to be displayed to one decimal place on a council tax bill.¹³ Thus an increase displayed as 5.0% on a bill, that would appear to trigger a referendum if the threshold was 5%, may in fact be an increase of 4.99% and therefore not trigger a referendum in that instance.

¹² See DCLG, [Referendums relating to Council Tax Increases \(Alternative Notional Amounts\) \(England\) Report 2016/17](#), 2015, pp5-7

¹³ See regulation 2 (3) (b) of the [Council Tax \(Demand Notices\) \(England\) \(Amendment\) Regulations 2017](#) (SI 2017/13)

Table 1: Council tax - referendum principles

Year	County and unitary councils	Social care precept	District councils	Fire and rescue authorities	Police and crime commissioners	GLA	Notes
2023-24	3%	Over 2%	3% and more than £5 on Band D	£5 on Band D	More than £15 on Band D	More than £38.55 on Band D	
2022-23	2%	Over 1%	2% and more than £5 on Band D	More than £5 on Band D	More than £10 on Band D	More than £31.93 on Band D	Eight lowest spending FRAs: more than £5 on Band D
2021-22	2%	Over 3%	2% and more than £5 on Band D	2%	More than £15 on Band D	More than £31.59 on Band D	SCP can be deferred to 2022-23 in part or in full
2020-21	2%	Over 2%	2% and more than £5 on Band D	2%	More than £10 on Band D	More than £11.56 on Band D	
2019-20	3%	Over 2%	3% and more than £5 on Band D	More than £10 on Band D	More than £24 on Band D	3%	
2018-19	3%	Over 3%	3% and more than £5 on Band D	3%	More than £12 on Band D	3% or more than £14.21 on Band D	
2017-18	2%	Over 3%	2% and more than £5 on Band D	3%	2%	2%	2% and more than £5 on Band D for PCCs in lowest quartile
2016-17	2%	Over 2%	2% and more than £5 on Band D	2%	2%	2%	2% and more than £5 on Band D for PCCs in lowest quartile
2015-16	2%		2%	2%	2%	2%	
2014-15	2%		2%	2%	2%	2%	0% for GLA precept on City of London
2013-14	Over 2%		Over 2%	Over 2%	Over 2%	Over 2%	2% and more than £5 on Band D for authorities in lowest quartile
2012-13	Over 3.5%		Over 3.5%	Over 4%	Over 4%	Over 4%	City of London: 3.75%

Other authorities

The Government has never set any referendum principles for parish and town councils or for mayoral combined authorities. They have the power to do so but have never exercised it. Mayoralities that have absorbed Police and Crime Commissioners (Greater London, Greater Manchester and West Yorkshire) are set referendum principles for the PCC element of their council tax precept.

The Government published initial proposals for referendum thresholds for parish and town councils in 2017/18 in a broader consultation in September 2016.¹⁴ Parish and town councils with a Band D precept above £75.46,¹⁵ and which had a total precept for 2016/17 of at least £500,000, would have required a referendum if their council tax precept was to be increased by 2% or more and more than £5.00 on a Band D property. In the draft consultation on the settlement itself, the proposals were ‘deferred’.¹⁶

The consultation suggested that around 120 parish and town councils would have been covered by this threshold. However, it also proposed that where a parish or town council raised council tax above this threshold to cover a responsibility that had been formally transferred from a higher tier of local government, it would not be caught by the referendum regime.¹⁷

In 2017, the Secretary of State stated that no thresholds would be set for parish and town councils between 2018/19 and 2020/21.¹⁸

3.4 Thresholds do not apply to the bill as a whole

The council tax system is operated by billing authorities (district and unitary councils). Other authorities that are entitled to levy council tax are known as ‘precepting authorities’. Precepting authorities issue demands to billing authorities, and these are passed on to taxpayers as part of the council tax bill. Precepting authorities include county councils; fire and rescue authorities; Police and Crime Commissioners; the GLA and mayoral combined authorities; and parish and town councils.

Billing authorities are required to display, on a council tax bill, the amount of council tax demanded by each separate authority. A council tax bill may therefore, for instance, include as many as five separate lines: county, district and parish councils, a fire and rescue authority, and a PCC.

¹⁴ DCLG, [The 2017-18 Local Government Finance Settlement: Technical consultation paper](#), 2016, p8

¹⁵ According to the consultation, this was the rate of council tax due on a Band D property in the lowest charging district council.

¹⁶ DCLG, [The provisional 2017-18 local government finance settlement: confirming the offer to councils](#), 15 December 2016, p18

¹⁷ DCLG, [The 2017-18 Local Government Finance Settlement: Technical consultation paper](#), 2016, p14

¹⁸ [HCDeb 19 Dec 2017](#) c919

The Government's referendum thresholds apply to the separate lines on a council tax bill, not to the bill as a whole. This can mean that the total percentage increase on a council tax bill is higher than the bill-payer may have expected. For instance, 'cash increases' arising from district council or PCC demands may drive the total percentage increase on a bill above, say, 3% or 5%, although that percentage has been presented as 'the limit' in commentary or the media. Alternatively, parish and town councils may sometimes increase their precepts by considerable percentages – for instance, 20% or more – causing a similar effect.

3.5 Social care precept

Since 2016/17, local authorities with social care responsibilities have been permitted to increase council tax by an additional percentage amount. This is known as the 'adult social care precept'. It is applied to county and unitary councils, metropolitan boroughs, and London boroughs.

The adult social care precept has no independent legal existence. In legal terms it is a different referendum threshold that applies to certain local authorities.

In 2017/18, the Government announced three-year provisions for the adult social care precept. Social care authorities would be permitted to raise council tax by a total of six percentage points between 2017/18 and 2019/20. Authorities that raised a social care precept of up to 3% in 2017/18 and 3% in 2018/19 were unable to raise a further one in 2019/20.¹⁹ An earlier consultation, published in September 2016, had stated that the power to raise additional money through this route would be "subject to consideration of the use made of the Adult Social Care precept in the previous year".²⁰

Similarly, the Adult Social Care precept permitted in 2021/22 could be deferred to 2022/23, in part or in total, and local authorities could then apply it alongside the threshold applicable to 2022/23.

Display of social care precept on council tax bills

Billing authorities are required to display the Adult Social Care precept separately on council tax bills, providing an extra line on these bills. This is provided for in regulation 2 (3) (b) of the [Council Tax \(Demand Notices\) \(England\) \(Amendment\) Regulations 2017](#) (SI 2017/13).

Billing authorities must display the percentage increase in the adult social care precept to one decimal place. They must display this increase in relation to the total rise in the social care authority's amount of council tax, not in

¹⁹ DCLG, [The provisional 2017-18 local government finance settlement: confirming the offer to councils](#), 15 December 2016, p17

²⁰ DCLG, [The 2017-18 Local Government Finance Settlement: Technical consultation paper](#), 2016, p8

relation to the previous year's social care precept. Thus, if a social care precept was raised from, for instance, £60 to £75, the increase would be displayed as, for instance, 2%, not 25%.²¹ As the social care precept has existed for only a few years, it is normally small in cash terms.

3.6 Settlement documentation

As noted in section 2.1, the Government is required to publish a report alongside the annual local government finance settlement setting out the referendum principles that will apply for the relevant financial year.²² This document is normally published in draft form as part of the provisional settlement (typically in the December preceding the relevant financial year) and then in final form as part of the final settlement (typically in the February preceding the relevant financial year). In some years, initial proposals have been published in a technical consultation document at an earlier stage: for instance, in respect of the [2020/21](#), [2018/19](#), and [2017/18](#) financial years.

²¹ This is the effect of new paragraph 3C (d) and (e), in regulation 2 (3) (b) of the [Council Tax \(Demand Notices\) \(England\) \(Amendment\) Regulations 2017](#)

²² See section 52ZD (1) of the Local Government Finance Act 1992, inserted by [schedule 5 of the Localism Act 2011](#)

4

Views on the referendum regime

Eric Pickles, formerly Secretary of State for Communities and Local Government, stated:

Since 1997 people have seen their council tax more than double, pushing typical bills to £120 a month. We are getting to grips with this with another council tax freeze deal and by radically extending direct democracy over big bill increases with a new local tax lock.

Councils have a moral obligation to help hard-working families and pensioners with the cost of living. If they want to hike taxes on their local residents above 3.5 per cent they'll now need to get a direct democratic mandate to do it.²³

The Local Government Group submitted written evidence to the Public Bill Committee on the Localism Bill. This stated:

15. We agree with the Government that it is for local people to determine whether a proposed council tax rise is excessive. The decentralising thrust of this proposal is mitigated, however by the proposals that Ministers will nationally fix the rate of tax that should trigger a referendum. A localist approach would provide local areas the freedom to decide and set a level of tax to raise and what to spend it on and to hold this to account through the ballot box at local elections; giving local voters greater choices and influence in local elections as a result.²⁴

Lord McKenzie of Luton has said that the provisions effectively amounted to “a capping regime” but acknowledged that “successive Governments have reserved the right to limit increases in domestic taxation when they have been judged to be excessive.”²⁵ He was, however, concerned that prescribed referendum arrangements would stack the cards against councils whose proposals trigger a referendum.²⁶

Ministers have argued that the new arrangements would allow councils greater freedom than in the past, even if the final decision rests with the taxpayers:

Bob Neill: The great advantage for councils is that if they believe that they have a case to put to their electorate that they should set a council tax increase greater than that set as the trigger by the Secretary of State, they can do so. Councils cannot do that at the moment. Therefore the council has the opportunity to make its case to the electorate about whether it should be

²³ DCLG, [New powers for public to stop council tax rises this year](#), 8 December 2011

²⁴ House of Commons Public Bill Committee on the Localism Bill, [Memorandum submitted by the Local Government Group \(L114\)](#), February 2011

²⁵ HLDeb 30 June 2011 c1968

²⁶ Ibid.: see also HLDeb 5 July 2011 cc135-6

allowed to impose a council tax increase above the trigger limit. That is a much more liberal approach from central Government.²⁷

A number of commentators considered that the process would serve to undermine the role of elected representatives. Professors George Jones and John Stewart wrote as follows to the Local Government Chronicle:

The local budget is the result of a process of balancing expenditure priorities, which cannot be expressed in a simple yes/no question. It damages representative democracy since it destroys the whole point of local elections, if elected councillors see their judgments based on their electoral promises overturned in a referendum called by a minister.²⁸

Many reports published in 2014 and 2015, proposing devolution of various powers to local government, proposed that the referendum regime should be ended and that local authorities should be free to set council tax levels without any reserve powers being available to the Government. This suggestion was made in the City Growth Commission's [Powers to Grow](#) (2014); the LGA's [Investing in our Nation's Future](#) (2014); and the final report of the [Independent Commission on Local Government Finance](#) (2015). The Government rejected these suggestions.²⁹

It would be open to a future government simply to not set 'principles of excessiveness' for a given financial year, whilst retaining the power to do so in statute.

²⁷ Public Bill Committee proceedings, 8 February 2011 (tenth sitting), c439

²⁸ Letter: "Council tax referendums are damaging", Local Government Chronicle, 5 August 2010, p9

²⁹ Kate Youde, "Local government minister rejects council tax recommendations", [Local Government Chronicle](#), 19 February 2015

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