POLICY FOR DEALING WITH ALLEGATIONS OF ABUSE (OF A CHILD) MADE AGAINST A MEMBER OF STAFF, TRUSTEE OR VOLUNTEER

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**Aims**

The First Note Music Trust is committed to the health, safety and wellbeing of its staff and pupils and will take action to ensure this. Everyone who comes into contact with children and their families has a role to play in safeguarding children and The First Note Music Trust must recognise and actively promote this duty.

The Trustees ofThe First Note Music Trust will appoint a Safeguarding Lead (SL) who will provide support to staff members to carry out their safeguarding duties and who will liaise closely with other services such as children’s social care.

The SL will have the training, status and authority within The First Note Music Trust to take lead responsibility for child protection. The SL should receive appropriate training every two years.

The First Note Music Trust recognise that any possibility that a member of staff, trustee or volunteer may have hurt a student in any way must be investigated thoroughly but in a way that does not prejudice either the student or the member of staff.

The Trustees of The First Note Music Trustwill ensure that they comply with their duties under legislation and will have regard to the current edition of [*Keeping Children Safe in Education*](https://www.gov.uk/government/publications/keeping-children-safe-in-education--2), as the organisation works predominantly with young people, to ensure that policies, procedures and training are effective and comply with the law at all times.

TheChair of Trusteeswill ensure that high standards of data security and confidentially are maintained at all times during any investigation into an allegation of abuse and during evidence handling and sourcing.

This policy should be read in conjunction with The First Note Music Trust’s Safeguarding Policy and the [Charities’ Commission guidance on safeguarding](https://www.gov.uk/guidance/safeguarding-duties-for-charity-trustees)**.**

**Keeping Children Safe in Education**

[*Keeping Children Safe in Education*](https://www.gov.uk/government/publications/keeping-children-safe-in-education--2) provides legislation which all First Note Music Trust staff, trustees and volunteers should have a working knowledge of in order to bring issues which may arise to the attention of the Trust’s Safeguarding Lead and the Designated Safeguarding Lead or any other senior member of staff at any educational establishment with which the trust is working. In order to be aware of the issues to watch out for, all staff should have read [Part One](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/828587/Keeping_children_safe_in_education_part_one.pdf) of the legislation which provides guidance on:

* The role of school and college staff;
* What school and college staff need to know;
* What school and college staff should look out for;
* What school and college staff should do if they have concerns about a child;
* What school and college staff should do if they have concerns about another staff member who may pose a risk of harm to children;
* What school or college staff should do if they have concerns about safeguarding practices within the school or college;
* Domestic abuse;
* FGM;
* Forced marriage; and
* Other forms of abuse.

**Framework**

The framework for managing cases of allegations of abuse against people who work with children is set out in:

* [*Working Together to Safeguard Children*](https://www.gov.uk/government/publications/working-together-to-safeguard-children--2)*;*
* [*Keeping Children Safe in Education*](https://www.gov.uk/government/publications/keeping-children-safe-in-education--2)*; and*
* [*What to Do if You’re Worried a Child is Being Abused*](https://www.gov.uk/government/publications/what-to-do-if-youre-worried-a-child-is-being-abused--2)*.*

It is the responsibility of the Chair of Trustees **to ensure that all staff, trustees and volunteers read at least part one of** [*Keeping Children Safe in Education*](https://www.gov.uk/government/publications/keeping-children-safe-in-education--2)and a record is kept confirming that this has been completed by each member of staff.

**Definitions**

The following definitions should be used when determining the outcome of allegation investigations:

* **Substantiated:** there is sufficient evidence to prove the allegation;
* **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
* **False:** there is sufficient evidence to disprove the allegation;
* **Unsubstantiated:** there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence.
* **Unfounded:** there is no evidence or proper basis which supports the allegation being made.

**Initial Allegation**

Any allegation of abuse towards a young and/or vulnerable person by a member of staff must be reported to the Safeguarding Lead.If the allegation is against Safeguarding Lead,then the allegation must be reported to the Chair of Trustees.

Should the allegation meet any of the following criteria then the Safeguarding Lead must report this to the Designated Officer (DO) at the Local Authority (previously known as Local Authority Designated Officer – LADO) and the SL at any relevant educational establishment with immediate effect. The DO can then consult with Police and children’s services as appropriate.

Where it is alleged that any member of staff, trustee or volunteers of The First Note Music Trusthas:

* Behaved in a way that has harmed a child, or may have harmed a child;
* Possibly committed a criminal offence against or related to a child; or
* Behaved towards a child or children in a way that indicates they would pose a risk of harm to children.

The allegation will be recorded and investigated.

Some rare allegations will be so serious that they require immediate intervention by Children’s Social Care Services and/or Police.

The initial investigation will focus on the nature, content and context of the allegation and agree a course of action. If involved, the DO may request the SL to obtain relevant additional information, such as previous history, whether the child or their family have made similar allegations previously and the individual’s current contact with children. Children are classed as vulnerable individuals under data protection law. Data disclosed and processed on any safeguarding issue will be handled with the utmost sensitivity and confidentiality and in accordance with the terms of the *General Data Protection Regulation*.

If the person referred to in the allegation is deemed to be an immediate risk to children or there is evidence of a possible criminal offence, then the Police should be involved immediately.

The SLshould inform the accused person about the allegation as soon as possible after consulting with the DO. The SL should provide the accused person with as much information as possible. However, the SL should not do this if a strategy decision is needed, or the Police or children’s social services need to be involved. The SL must wait until those agencies have agreed what information can be disclosed to the accused.

In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim. The sharing of information may lead to a decision that no further action is to be taken. In this case the decision and the reason for it should be recorded by both the SL and the DO and entered on the Trust’s safeguarding log. They should agree the information will be put in writing to the individual and by whom. They should also agree any further action with regard to the individual who made the initial allegation.

If the allegation refers to physical contact, the strategy discussion or initial evaluation with the Police should take into account that teachers and other school/college staff are entitled to use reasonable force to control or restrain children in certain circumstances, including dealing with disruptive behaviour.

**Duties of the Employer**

The First Note Music Trustand the Trusteesrecognise that it has a duty of care to their employees. The First Note Music Trustand the Trustees recognise that any allegation of abuse made against a teacher or other member of staff or volunteer needs to be dealt with quickly, in a fair and consistent way that provides effective protection for the child and at the same time supports the person who is the subject to of the allegation.The First Note Music Trustwill provide effective support for anyone facing an allegation and provide the employee with a named contact should they be suspended.

Employers should act in such a way to minimise the stress caused by the allegation process. It is the duty of The First Note Music Trustand the Trusteesto support the individual throughout this process. The individual should be advised to contact their trade union representative if they have one and/or a colleague for support. Access to welfare counselling or medical advice should be provided.

Allegations against a member of staff, trustee or volunteer who is no longer employed or working with The First Note Music Trustwill be referred to the Police including any historical allegations of abuse.

Personal data and sensitive personal data relating to staff or former staff involved in abuse allegation cases will be managed with a constant awareness of data protection in a confidential and secure manner. Data will be viewed only by necessary and qualified persons and will not be copied, duplicated or transferred unless absolutely necessary. Concerns regarding how data is managed should be reported to the Chair of Trustees.

If there is Police or Children’s Social Care Services involvement, The First Note Music Trust and/or the Trustees should ask the Police and Children’s Social Care Services to obtain consent from all the individuals involved to share the statements and evidence as the case proceeds for use in any The First Note Music Trustdisciplinary process.

Consent forms a key part of the *General Data Protection Regulation* and The First Note Music Trust will ensure that any consent gathered by The First Note Music Trust is stored in a clear auditable manner. The request for consent will be intelligible, easily accessible, in plain language and with the purpose for the data processing stated and evident. It will be as simple to withdraw consent as it was to give it.

**Duties of the Safeguarding Lead**

The (Safeguarding Lead (DSL) will have the appropriate authority and be given the time, funding, training, resources and support to take part in strategy discussions and inter-agency meetings (and/or to support other staff to do so) and to uncertake any necessary investgiations.

The SL should liaise with the local authority and work with other agencies in line with [*Working Together to Safeguard Children*](https://www.gov.uk/government/publications/working-together-to-safeguard-children--2)*.* The SL should undergo updated child protection training every two years. The SL may also be referred to as the Case Manager once an allegation has been passed to the Designated Officer (DO) at the Local Authority. In this Policy we continue to use the term DSL.

Any allegation of abuse against a student by a member of staff, trustee or volunteer must be reported to both the Chair of Trusteesand the SL.

**Timescales**

The First Note Music Trustwill try to resolve cases as quickly as possible and will strive to instigate a fair and thorough investigation. The time taken to investigate and resolve individual cases will vary depending on their:

* nature;
* seriousness; and
* complexity of the allegation.

The Chair of Trustees will ensure that high standards of data security and confidentially are maintained at all times during the abuse allegation investigations and during evidence handling and sourcing.

Where it is clear immediately that the allegation is unsubstantiated or malicious, these cases should be resolved within one week.

Where the allegation does not involve a possible criminal offence and the matter is to be dealt with by The First Note Music Trustand the Trusteesas the employer, then appropriate action should be taken within three working days if no formal disciplinary action is required. If a disciplinary hearing is required and no further investigation is needed, the hearing should be held within 15 working days.

If at any point there are concerns regarding child protection, then the SL should discuss these with the DO.

**The Child’s Wishes**

The Trustees and SL should ensure the child’s wishes and feelings are taken into account when determining what action to take and what services to provide to protect individual children. There should be systems in place for children to express their views and give feedback. The Trustees should ensure that staff members **do not** agree confidentiality and always act in the best interests of the child.

The First Note Music Trustacknowledges that in the course of their duty of care it may be necessary to refer or offer additional welfare support to pupils, for example through digital or face to face support.

Under the *General Data Protection Regulation 2018,* parental consent is required to process the data of children under the age of 13 online where the processing, in an information services context, is reliant on consent.

Consent is not required in the context of preventative or counselling services offered directly to a child. The First Note Music Trustwill ensure that communications with a child on welfare topics are clear and easy to understand regarding consent to care and processing of information.

**Supporting Carers/Parents**

The First Note Music Trustand the SL recognise that parents/carers of a child or children involved should be told about the allegation as soon as possible, if they do not already know about it, and kept informed throughout the case. However, the SL should not do this if a strategy decision is needed, or the Police or children’s social services need to be involved. The SL must wait until those agencies have agreed what information can be disclosed to the accused.

Parents/Carers should also be kept informed of any disciplinary process where a criminal prosecution is not sought or unlikely to proceed to prosecution. The deliberations and reasoning behind reaching a decision should not be disclosed but the parents/carers should be informed of the outcome of the disciplinary hearing in confidence.

Parents/Carers should be made aware of the requirement to maintain confidentiality about any allegations whilst investigations are ongoing as set out in [*section 141F of the Education Act 2002 (para 125)*](http://www.legislation.gov.uk/ukpga/2011/21/section/13/enacted).

Children’s social services or the Police should consider what support the child/children may need if the child may have suffered significant harm or where there may be a criminal prosecution.

**Supporting the Employee, Trustee or Volunteer**

1. Employers have a duty of care to their employees and all other people working with the organisation such as trustees and volunteers. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by the children’s social care services or the police. The individual should be advised to contact their trade union representative, if they have one, or a colleague for support. They should also be given access to welfare counselling (through, for example, the Employee Assistance Programme) or medical advice where this is provided by the employer.
2. The case manager should appoint a named representative to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for them. Particular care needs to be taken when persons are suspended and that they are assigned to a member of staff or a trustee who will serve as a point of contact to ensure that they are kept informed of both the progress of their case and current work-related issues. Social contact with colleagues and friends should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

**Confidentiality**

The First Note Music Trustwill make every effort to maintain confidentiality and protect against unwanted publicity during the investigation of the allegation. Personal data and sensitive personal data relating to staff involved in abuse allegation cases will be managed with a constant awareness of data protection in a confidential and secure manner.

The First Note Music Trust notes that *The Education Act 2011* introduced reporting restrictions (section 13) which prevents the **publication** of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school. Although, The First Note Music Trust is not beholden to this act as it is not itself an educational establishment, it will act in accordance with it.

The term **publication** includes ‘any speech, writing, relevant programme or other communication in whatever form, addressed to the public at large or any section of the public.’ Relevant programme means a programme included in a programme service within the meaning of the *Broadcasting Act 1990.*

Parents/Carers who publish details of the allegation on a social networking site for example would be in breach of the reporting restrictions if the publication could lead to the identification of the person by members of the public.

The restrictions apply up until the accused person is charged with an offence, or until the Secretary of State or the General Teaching Council for Wales publishes information about an investigation or a decision in a disciplinary case arising from the allegation.

The reporting restrictions will cease to apply if the accused person waives their right to anonymity by going public themselves or by giving written consent for another to do so. At no point should the name of the child/children be bought into the public arena by either the school/academy/parent or the accused unless ordered by the Court e.g. if a judge lifts restrictions in response to a request to do so.

In accordance with the Association of Chief Police Officers’ (ACPO) guidance the Police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. However, in exceptional circumstances, for example an appeal to trace a suspect, the Police can apply to the Magistrates Court to request that reporting restrictions are lifted.

The SL should take advice from the DO, Police and Children’s Social Care Services to determine:

* Who needs to know and what information can be shared;
* If any information can be reasonably given to the wider community to reduce speculation; and
* How to manage press interest, speculation, leaks and gossip.

**Suspension**

1. Some rare cases will require the case manager to consider suspending the accused until the case is resolved. Suspension must not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step and due account should be taken of the [Acas Code of Practice on Suspension](file:///C%3A/Users/User/AppData/Local/Temp/Temp2_wetransfer-55c718.zip/CP/Acas%20Code%20of%20Practice%20on%20Suspension). If the case manager is concerned about the welfare of other children in the community or the teacher’s family, those concerns should be reported to the LADO or police. But suspension is highly unlikely to be justified on the basis of such concerns alone.
2. Suspension should be considered only in a case where there is cause to suspect a child or other children at the school or college is/are at risk of significant harm or the case is so serious that it might be grounds for dismissal. However, a person should not be suspended automatically; the case manager must consider carefully whether the circumstances warrant suspension from contact with children, or until the allegation is resolved, and may wish to seek advice from their HR adviser and the LADO.
3. The case manager should also consider whether the result that would be achieved by immediate suspension could be obtained by alternative arrangements. In many cases an investigation can be resolved quickly and without the need for suspension. If the LADO, police and children’s social care services have no objections to the member of staff continuing to work during the investigation, the case manager should be as proactiveas possible to avoid suspension.

**Alternatives to Suspension**

Based on assessment of risk, the following alternatives should be considered by the case manager before suspending a member of staff:

* Redeployment within the organisation so that the individual does not have direct contact with the child or children concerned, or any other children or vulnerable people;
* Providing an assistant to be present when the individual has contact with children; or
* Redeploying to alternative work so the individual does not have unsupervised access to children.
1. The case manager should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated, unfounded or maliciously intended.
2. If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the case manager and the LADO. This should also include what alternatives to suspension have been considered and why they were rejected.
3. Where it has been deemed appropriate to suspend the accused, written confirmation should be dispatched within **one working day,** giving as much detail as appropriate for the reasons for the suspension. It is not acceptable for an employer to leave a person who has been suspended without any support. The person should be informed, and always preferably in person, at the point of their suspension of the reason for it, who their named contact is within the organisation and provided with their contact details.
4. Children’s social care services or the police cannot require the case manager to suspend a member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the Trustees. However, where a strategy discussion or initial evaluation concludes that there should be enquiries by the children’s social care services and/or an investigation by the police, the LADO should canvass police and children’s social care services for views about whether the accused member of staff needs to be suspended from contact with children in order to inform the school’s/college’s consideration of suspension. Police involvement does not make it mandatory to suspend a member of staff; this decision should be taken on a case-by-case basis having undertaken a risk assessment.
5. As the result of a recent case (***Mezey v South West London and St George’s Mental Health NHS Trust 2010****),* it has been established that suspension is no longer seen to be a wholly neutral act and where there is no good and urgent cause may be a basis for action against an employer. Good and urgent causes may be:
* A threat to the child;
* A threat to evidence; and/or
* A threat to the accused member of staff.

A threat to the school’s reputation is not a good and urgent cause.

**Resignation, Settlement Agreements and DBS Referrals**

1. If the accused person resigns, or ceases to provide their services, this should not prevent an allegation being followed up in accordance with guidance. It is important that every effort is made to reach a conclusion in all cases of allegations with a bearing on the safety or welfare of children, including any in which the person concerned refuses to cooperate with the process. Wherever possible, the accused should be given a full opportunity to answer the allegation and make representations about it; however, the process of recording the allegation, any supporting evidence and reaching a judgement about whether it can be substantiated on the basis of all the information available, should continue even if that cannot be done or the accused does not cooperate.

It may be difficult to reach a conclusion in those circumstances, and it may not be possible to apply any disciplinary sanctions if a person’s period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

1. ‘Compromise agreements’, by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, **should not** be used in these cases. Such an agreement will not prevent a thorough police investigation where that is appropriate and nor can it override the statutory duty to make a referral to the Disclosure and Barring Service (DBS), where circumstances require that referral.

The First Note Music Trust recognises that to enter into an agreement preventing them from making a referral to the DBS would be a breach of their legal duty and could result in a criminal offence being committed.

The First Note Music Trusthave a legal duty to refer to the DBS anyone who has:

* Harmed, or poses a risk of harm, to a child or vulnerable adult;
* Where the harm test is satisfied in respect of that individual;
* Where the individual has received a caution or conviction for a relevant offence, or
* There is reason to believe that the individual has committed a listed relevant offence\*; and
* That individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left.

\*For a list of offences see [*Safeguarding Vulnerable Groups Act 2006 (Controlled Activity and Prescribed Criteria) Regulations 2012*](http://www.legislation.gov.uk/uksi/2012/2160/pdfs/uksi_20122160_en.pdf)*.*

The First Note Music Trust will refer to the DBS as soon as possible after resignation or removal of the individual. The DBS will decide whether to bar the individual.

The First Note Music Trust will make every effort to reach a conclusion in all cases of allegations of abuse against staff including any in which the person accused refuses to cooperate with the process.

**Action to be Taken Following a Criminal Investigation of Prosecution**

The Police should inform the Trustees and the DO immediately when;

* A criminal investigation and any subsequent trial is complete;
* If it is decided to close and investigation without charge; or
* Not to continue to prosecute the case after the accused has been charged.

The DO should then discuss with the SL using the information provided by the Police and/or Children’s Social Care Services, whether any further action, including disciplinary action, is appropriate and, if so, how to proceed. The First Note Music Trust and the SL will consider the different standards of proof required in disciplinary and criminal hearings.

The First Note Music Trust recognise that there is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child, or if an individual otherwise poses a risk of harm to a child. The First Note Music Trust will also refer the matter to the National College for Teaching and Leadership if they have not already done so.

**Action to be Taken in Respect of Unfounded, False or Malicious Allegations**

On conclusion of the case it is decided that the person who may have been suspended can return to work, the SL will offer help and support to return to work after this stressful experience. This may necessitate a phased return to work and/or the provision of a mentor to provide assistance in the short term. The SL will consider how contact with the child or children who made the allegation can best be managed if they are still a pupil at The First Note Music Trust.

If the allegation is found to be unsubstantiated or malicious the DO should refer the matter to the Children’s Social Care Services to determine whether the child concerned is in need of services, or may have been abused by someone else.

If an allegation is shown to be deliberately invented or malicious, the Chair of Trustees, in conjunction with the SL, should consider whether any disciplinary action against the pupil who made it should be taken, or whether the police should be asked to consider if action might be appropriate against the person responsible, even if they were not a pupil.

**References and Record Keeping**

Where an allegation was proven to be false, unsubstantiated, unfounded or malicious should not be included in employer references. This includes a history of allegations lodged against the individual which have all found to be false, unsubstantiated or malicious.

The First Note Music Trust will ensure that all details of allegations, after an investigation has found them to have been malicious in nature will be removed from personnel records.

For all other allegations a clear and detailed summary will be kept which will include (as a minimum):

* Details of how the allegation was investigated;
* How decisions were reached; and
* Any actions taken.

A copy will be kept on the confidential personnel file of the accused and a copy provided to the accused person.

Irrespective of their status, the record will be retained by The First Note Music Trust until the accused has reached normal pension age or for a period of 10 years from the date of the allegation, whichever is longer.

The First Note Music Trust will acknowledge the guidance on employment records published by the Information Commissioner – Guidance on Employment Records in its [*Employment Practices Code*](https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf) and [*Supplementary Guidance*](https://ico.org.uk/media/for-organisations/documents/1066/employment_practice_code_supplementary_guidance.pdf).

Children are classed as vulnerable individuals under data protection law. Data disclosed and processed on any safeguarding topic will be handled with the utmost sensitivity and confidentiality and in accordance with the terms of the *General Data Protection Regulation*.

The First Note Music Trust have every confidence in the integrity of the data protection measures in place, but acknowledges that the loss of sensitive child data could constitute a serious breach which could place the wellbeing of a pupil at risk. Should a breach occur this must be reported promptly to the Chair of Trusteeswho will undertake an assessment of the risks to the rights and freedoms of individuals and disclose this to the subject and supervisory authority if required.

**Monitoring and Review**

At the conclusion of a case in which an allegation is substantiated, the Chair of Trustees, SL and the LADO should review the circumstances of the case with the case manager to determine whether there are any improvements to be made to the school’s or college’s procedures or practice to help prevent similar events in the future.

If the case was found to be false, unsubstantiated or malicious, the Chair of Trustees and the SL will review the case and determine:

* If a member of staff was suspended and subsequently reinstated, was the suspension justified?
* Does any other policy (including for example pupil discipline and safeguarding) need to be reviewed in light of this case?

**Equal Opportunities**

In drawing up and implementing procedures for the positive promotion of student welfare all of the school’s policies relating Equal Opportunities, Diversity and Inclusion must be taken into account.

**Monitoring and Review**

The Chair of Trustees will monitor the implementation and impact of the Policy and will report on this to the Board of Trustees accordingly.

The implementation and impact of this Policy will be reviewed annually by the Governing Body; this may occur earlier should there be a change in, legislation, statutory guidance or an event or incident in The First Note Music Trust which makes this necessary.

**Date of next review:** July 2025

**Signed:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Chair of Governors

**Signed:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Safeguarding Lead

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