



Department
for Education

Childminder agencies and changes to the local authority role

Government consultation response

August 2014

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Introduction

In keeping with commitments made in Parliament to consult on the key requirements for registration for childminder agencies (CMAs) and given the changes to the local authority role in funding early education places, the Government launched a joint consultation on 28 March 2014. This consultation closed on 22 May 2014. This is the Government's response to the consultation.

The aims of CMAs are:

- to attract new childminders to the profession;
- to make life easier for childminders by providing a range of services such as marketing, administrative support, and training and development opportunities to help further raise the quality of their provision; and
- to provide parents with matching services to help them find a childminder, access to holiday and sickness cover, and regular updates about the quality of their childminder.

We are reforming the role of the local authority in early education and childcare to make the rules around who can offer the entitlement clearer and simpler for parents and providers. We want to free up local authorities so they can target their resources on ensuring that all eligible children, regardless of their family background, are able to benefit from a funded early education place.

Next steps

Subject to Parliamentary approval, we intend to:

- make regulations, including on the key requirements for the registration with Ofsted of a CMA and matters relating to the operation of a CMA, with a view to them coming into force and enabling potential CMAs to register with Ofsted from September 2014;
- publish 'departmental advice' on CMAs to support organisations that are planning to establish a CMA;
- make regulations which change the way local authorities secure funded early education for eligible children with a view to them coming into force from September 2014; and
- publish a revised version of the statutory guidance for local authorities on early education and childcare.

Summary of responses received

There were 678 responses to the consultation with 91% responding online; 8% through email and 1% on paper. During the consultation period, officials also conducted discussions with a range of representatives and providers, some of which were organised through our strategic partner, *The Children's Partnership*.

The Government welcomes the number and breadth of responses received. We are grateful to respondents for taking the time to respond to our specific questions and we have considered carefully all the views that were expressed.

The breakdown of respondents to the consultation was as follows:

Respondent type	Total responses including comments on creationism as science and extremist views		Total responses excluding responses solely on creationism as science and extremist views**	
	Total	Total %	Total	Total %
Other*:	285	42%	105	26%
Parent/Carer:	206	30%	115	29%
Local Authority:	73	11%	70	18%
Childminder:	59	9%	59	15%
Childcare or early years organisation:	16	2%	16	4%
Private/voluntary provider full day care:	14	2%	14	4%
Network childminder:	13	2%	13	3%
Employer:	7	1%	3	1%
Private/voluntary provider sessional:	4	1%	1	0%
Holiday activity provider:	1	0%	1	0%
Total:	678	100%	397	100%

* A large number of respondents who ticked 'other' did not provide any further details to identify which group they may belong to. Those who did included academics and private individuals.

** Those responses which commented on creationism as science and extremist views and did not answer any of the consultation questions were classified as a campaign. The Government response to this matter is included within this consultation response.

Childminder agencies

Overall, there was support for our proposals around the number of continuing professional development (CPD) hours per year that childminder agencies should secure for childminders registered with them, and the number of hours of support time and visits that childminder agencies should secure for or with childminders registered with them.

There was less support for whether agencies should only have to undertake a minimum of one visit per year after the first year based on their assessment of the quality of the childminder. A number of points were made in relation to the other legal requirements about how childminder agencies will register with Ofsted and subsequently operate, and we have set out below how we intend to respond.

Local authority role

We received detailed and helpful comments about the implementation of the regulations, the relationship between CMAs and local authorities including data sharing and the allocation of funding. We have noted and listened to areas of concern and set out in the following sections how we intend to respond.

Creationism as science and extremist views

We received a number of responses from organisations or individuals expressing opposition to early education funding going to providers who they believe promote extremist views or teach creationism as scientific fact. We have separately identified those responses which only raised this issue in our analysis of the statistics. We address the matters raised on page 18.

Main findings from the consultation and Government response

Part A: Childminder agencies

Question 1: Do you agree with the suggested hours of CPD?

Options	Number	Percentage
Agree, the level is about right:	176	50%
Disagree, the level is too low:	118	34%
Not sure:	40	11%
Disagree the level is too high:	18	5%

There were 352 responses to this question. Of those respondents who answered this question half (50%) agreed that the suggested hours of CPD was 'about right'. A further 5% felt that the level of CPD suggested was 'too high'. Just over a third (34%) of respondents felt that the suggested hours of CPD were 'too low' and 11% were unsure.

Nearly a third of respondents answering this question provided detailed comments. The majority of those commenting were local authorities and childminders. Issues raised included:

- A number of respondents welcomed the move to ensure that childminder agencies would be required to secure a number of CPD hours for childminders registered with them, viewing CPD as an opportunity to improve quality. However, several respondents raised concerns regarding the quality of the CPD opportunities that might be offered by agencies.
- A number of respondents called for greater clarity regarding the definition of CPD (including whether the 16 hours was a minimum level for each childminder registered with an agency) and what format any CPD activity may take. A number of these concerns link to the above concern regarding the quality of CPD activity.
- There was some uncertainty regarding whether pre-registration and statutory training was included in the suggested level of CPD hours, with many respondents feeling that the required hours of CPD should be in addition to these statutory requirements.
- A number of respondents (mainly local authorities) were concerned about the accountability of childminder agencies and childminders registered with an agency, in terms of securing CPD opportunities.

- Several respondents (mainly childminders and local authorities) felt that the suggested level of CPD was too low, with some expressing the view that they/childminders in their local authority currently engaged in more hours of CPD than the suggested level. Conversely, a small number of childminders also raised concerns that they would not be able to find the time to access the suggested level of CPD.

Government response

In response to the views expressed in this consultation, the Government will proceed to set the levels of CPD hours for childminders registered with agencies at 16 hours for early years childminders and 8 hours for later years childminders. However, we will make clear in regulations that this is for each childminder registered with the agency.

The Government will, building on the requirements to be contained in regulations, also set out some expectations around CPD within the 'departmental advice' document it will be publishing.

Question 2: Do you agree with the number of hours of support time and the number of visits by childminder agencies to their registered childminders?

Options	Number	Percentage
Agree, this level is about right:	156	46%
Disagree, think this is too low:	132	39%
Not sure:	37	11%
Disagree, think this is too high:	12	4%

There were 337 responses to this question. Of those answering this question, the majority (46%) felt that the level of support time and visits suggested in the regulations was 'about right'. An additional 4% of respondents felt that the suggested level was 'too high'. 39% of those respondents answering this question felt that the suggested level of support time and visits was 'too low', while 11% were unsure.

Over a third of respondents answering this question left detailed comments. These comments related to a range of issues. The most common issues are outlined below:

- A number of respondents asked for more clarity around the definition of support time and the format this may take. Several respondents felt that the quality of activities included under 'support time' could be wide ranging and more guidance was needed. Respondents were supportive of face-to-face support as an important way of aiding childminders' development and identifying any specific

needs or concerns; but were less supportive of the inclusion of newsletters and admin-related tasks within support time.

- There was some uncertainty amongst some respondents as to whether the 20 hours of support time should include CPD hours.
- A number of respondents felt that the level of support required by childminders would vary according to the needs of the individual childminder and regulations should be flexible enough to allow this.
- Several respondents were concerned that the level of support time and/or visits is too low.

Government response

In response to the views expressed the Government will proceed to set the level of support hours for each childminder registered with an agency at 20 hours for early years childminders and 10 hours for later years childminders. However, in light of the responses to the consultation, we will make clear that the requirement for early years childminders is to provide 20 hours of practice support (changing the term from support time), of which 16 must be focused on continuous professional development. In relation to later years childminders, we will make clear that that the requirement is to provide 10 hours of practice support, of which 8 must be focused on continuous professional development. In response to consultation responses, we also make clear that CMAs must provide practice support and CPD to each childminder registered with the agency.

The Government will, building on the requirements to be contained in regulations, set out some expectations and clarify requirements around 'practice support' within the 'departmental advice' document it will be publishing.

Question 3: Do you agree that childminder agencies should only have to undertake a minimum of one visit per year after the first year based on their assessment of the quality of the childminder?

Options	Responses	Percentage
No:	184	53%
Yes:	120	34%
Not sure:	44	13%

There were 348 responses to this question. Of those respondents who answered this question 34% agreed that childminder agencies should be able to scale visits back to a minimum of one visit per year based on their assessment of the quality of the childminder. Just over half (53%) of respondents disagreed with this proposal and 13% were unsure.

Over a third of respondents answering this question left detailed comments. These comments related to a range of issues. The most common issues are outlined below:

- A number of respondents welcomed the concept of visits and felt that a system of quality assurance visits had the potential to impact positively on the quality of childminders' practice.
- Several respondents felt that scaling back visits to one year would be acceptable provided the childminder agency was confident of the quality of the childminder. Respondents felt it was important that regulations were clear that the suggested number of visits was a minimum requirement and that childminder agencies had the opportunity to increase the number of visits depending on the needs of each childminder registered with them.
- Respondents were keen to ensure that visits were of a sufficient quality (including ensuring those carrying out the visits were suitably trained to do so). Respondents were also keen that the format of visits enabled agencies and childminders to identify areas for improvement, and be able to implement any recommendations for improvement effectively. Visits being of sufficient length and opportunities to observe a childminder's practice were amongst elements suggested by respondents to ensure quality.
- A number of respondents felt that childminders have differing levels of need and this would be influenced not only by their experience and the quality of their provision but also by the type of children they provided for (e.g. vulnerable 2 year olds, SEN children). Respondents felt that the number of visits should reflect these differences and regulations should allow for this flexibility.

Government response

In response to the views expressed the Government will proceed to only require childminder agencies to undertake a minimum of one visit per year to childminders after the initial year of registration. It is important to be clear that this is a minimum and that this will be set out in final regulations. Childminder agencies will be free to do more visits, based on the agency's assessment of the childminder's quality. The Government will say a little more about this in the 'departmental advice' document it will be publishing.

Question 4: Do you have any comments on the legal requirements set out in the draft regulations for how childminder agencies will register with Ofsted and subsequently operate?

Options	Responses	Percentage
No:	116	42%
Yes:	115	41%
Not Sure:	47	17%

There were 278 responses to this question. Of those respondents who answered this question 41% had comments on the legal requirements set out in the draft regulations for how childminder agencies will register with Ofsted and subsequently operate. The largest proportion of those providing comments were from local authorities.

- A number of respondents felt that draft regulations were unclear. Areas requiring clarity mostly related to how childminder agencies will operate in practice – for example transition arrangements for moving between agencies and/or Ofsted and the registration of childminding assistants.
- A number of respondents provided comments relating to specific details of Ofsted’s role in registering and inspecting CMAs. In particular, further detail was requested on: whether the proposed inspections of childminder agencies will be ‘no notice’ and the proposed sampling of childminders.
- A number of respondents raised issues relating to the clarity of safeguarding arrangements for agencies. Respondents asked for clarity on a number of safeguarding issues including: safeguarding responsibilities of the agency; complaints procedures; and child protection concerns regarding childminders moving between agencies.
- A number of respondents were concerned about the quality assurance of childminders by the agency. Main concerns focused around: ensuring consistency in the level of quality across different agencies; concerns whether agency staff would have appropriate skills and expertise to undertake a quality assessment role effectively; and concerns that quality assurance processes would not be consistent. Some respondents felt that agencies may have a conflict of interest if they are both supporting and quality assuring those childminders registered with them.

Government response

The Government has carefully considered the views expressed here and does not consider that they warrant changes to the requirements set out in the draft regulations. However, it acknowledges that some of the requirements are complex and do not in

themselves explain clearly what we might be required of agencies and/or childminders registering with them.

The Government will, therefore, say more about some of these issues – including transitional arrangements and safeguarding - in the ‘departmental advice’ document it will be publishing. The Government will also work with Ofsted to ensure that their registration guidance for agencies addresses key issues raised here.

Part B: Local authority role

Question 5: Is there anything in the regulations which would prevent local authorities from meeting their duty to secure funded early education for two-, three- and four-year-olds? If yes or not sure please explain your answer below.

Options	Responses	Percentage
No:	88	34%
Yes:	86	33%
Not Sure:	84	33%

There were 258 responses to this question. Responses were evenly split. About a third felt there was not anything in regulations to prevent local authorities from meeting their duty to secure funded early education for two-three and four-year-olds. Similarly, a third felt there was something in the regulations to prevent local authorities from meeting their duty to secure funded early education for two-three-and four-year-olds. A further third were unsure.

Over a third of respondents answering this question left detailed comments. Comments centred on the following issues:

- A number of respondents raised concerns about the sufficiency of places. Specific concerns included: the impact on sufficiency if a CMA was judged inadequate and funding was withdrawn; the effectiveness of data sharing between CMAs and local authorities regarding numbers of funded places, vacancies etc.; and concern regarding supply and demand.
- Several respondents raised concerns regarding the quality of childminders in CMAs. Common concerns in this area included: concern that local authorities must fund solely on the basis of the Ofsted judgement of CMAs; concern that there would be no local authority improvement role for childminders registered with an agency; and concern that local authorities are expected to fund places with providers prior to an Ofsted inspection quality judgement.

- A number of respondents queried the process by which childminder agencies would receive early education funding.

Government response

The Government will require CMAs to share with local authorities data on the number of registered childminders and the number of childcare and early education places available with those childminders. This will support local authorities to ensure that there are sufficient number of childcare places in their area.

In the same way that Ofsted share preliminary Ofsted inspection judgements of providers with local authorities, Ofsted will share the provisional inspection judgement of a CMA in advance of Ofsted's internal quality assurance and publication. This will enable local authorities to consider what action they may need to take to secure the best interests of the children and families involved if a CMA is likely to be assessed as 'inadequate'. The statutory guidance to local authorities will make clear that local authorities should secure alternative provision as soon as reasonably practicable, taking into account the continuity of care for children already receiving their funded place in provision judged inadequate and Ofsted monitoring information about the provision. However, local authorities should not withdraw funding until the Ofsted inspection judgement of 'inadequate' has been confirmed and published.

The Government considers that CMAs are best placed to provide quality improvement support for childminders registered with the agency. CMAs will be required to provide their childminders with CPD, practice support and undertake quality assurance visits.

The Government acknowledges the concerns expressed about funding newly registered providers before their first Ofsted inspection judgement on quality is published. However, the Government considers that Ofsted pre-registration checks for new providers (which include a visit to assess whether an early education provider is suitable to operate a childcare business and that the setting is safe) are sufficiently robust. Similarly, the Government believes that Ofsted pre-registration checks for new CMAs (which will include a visit to or meeting with the agency to assess if they meet the criteria for registration and have systems in place to register and support childminders) will be sufficiently robust. All providers wishing to deliver funded places must be compliant with the '*Welfare and Safeguarding Requirements*' of the Early Years Foundation Stage (EYFS). CMAs will also be required to demonstrate an understanding of the EYFS, in order to prove that they are able to register and support childminders.

The Government will say a little more about the process by which childminders registered with CMAs will receive early education funding in the department's statutory guidance to local authorities and the 'departmental advice' on CMAs.

Question 6: Are there any particular types of providers for which the impact of these regulations will be significant?

Options	Responses	Percentage
Yes, significant impact (negative):	99	35%
Not sure:	75	27%
Yes, significant impact (positive):	33	12%
Yes, some impact (negative):	32	11%
No impact:	24	9%
Yes, some impact (positive):	16	6%

There were 279 responses to this question. The largest proportion of respondents (47%) felt that there would be a negative impact on certain providers as a result of the regulations; 35% felt this negative impact would be significant. 18% of respondents felt the regulations would have a positive impact on some providers; 12% felt this positive impact would be significant. A further 27% of respondents were unsure and 9% felt there would be no impact on providers as a result of the regulations.

Over half of respondents answering this question provided detailed comments. Issues raised included:

- A number of respondents felt that there would be a negative impact on independent childminders. Specific concerns included the impact of reduced support from the local authority on independent childminders and the impact on this group as a result of increased competition from agencies, and the increased focus on schools offering childcare.
- Several respondents suggested that the loss of local authority support would have a negative impact on provider's ability to raise their level of quality
- A number of respondents felt there would be a negative impact on those childminders registered with an agency. The main concern was that those childminders achieving a high quality may be disadvantaged if Ofsted judges the agency to be 'inadequate' meaning that all childminders within that agency are subsequently not entitled to access early education funding.

Government response

The Government plans to make regulations which will give certainty to high quality providers, independent childminders and childminders registered with high quality CMAs. The regulations will require local authorities to fund a place at an early years provider where:

- a parent wants their child to take up a place at that provider;
- the provider is willing to accept the local authority funding and any terms of that funding
- the provider or CMA has been judged by Ofsted to be of sufficient quality:
 - 'good' or better if places are provided for two-, three- and four- year olds;
 - 'satisfactory' or 'requires improvement' if places are provided for three- and four-year olds;
 - The provider or agency's first Ofsted inspection judgement has not been published.

The Government intends to refocus the duty on local authorities to provide information, advice and training (IAT) to childcare providers in their area. The Government intends to require local authorities to secure IAT on the following matters:

- on meeting the requirements of the EYFS;
- meeting the needs of disabled children and children with special educational needs;
- and effective safeguarding and child protection;

to those providers

- who are judged less than 'good'; and
- who are newly registered on the Ofsted Early Years Register who have not yet had an Ofsted quality inspection judgement published

Local authorities will have the power to impose reasonable charges when securing IAT. The regulations will not apply to childminders registered with a CMA where it will be the responsibility of the CMA to provide advice and training.

The Government acknowledges the impact that an 'inadequate' judgement of a CMA may have on all childminders registered with that agency. However, the Government wants all children to be able to take up their funded early education place in a high quality provider. It will be in the CMAs interests to ensure that Ofsted judge them 'good' or 'outstanding' as anything else will impact on their business including childminders and parents who use them. Childminders will also be able to move between agencies or from an agency to Ofsted, meaning that they may be able to access early education funded places in other ways.

Question 7: Are there any particular groups of children and/or parents for which the impact of these regulations will be significant?

Options	Responses	Percentage
Yes, significant impact (negative):	98	36%
Not sure:	63	23%
Yes, some impact (negative):	31	11%
Yes, some impact (positive):	28	10%
No impact:	27	10%
Yes, significant impact (positive):	27	10%

There were 274 responses to this question. The largest proportion of respondents (47%) felt that there would be a negative impact on particular groups of children and/or parents/carers as a result of the regulations; 36% felt this negative impact would be significant. 20% of respondents felt the regulations would have a positive impact on some providers; 10% felt this positive impact would be significant. A further 23% of respondents were unsure and 10% felt there would be no impact on providers as a result of the regulations.

Around half of respondents who answered this question provided more detailed comments. Comments centred around the following issues:

- A number of respondents were concerned regarding the negative impact on families if a childminder agency was to be rated inadequate and children had to move settings.
- A number of respondents were concerned that by admitting children to settings prior to an inspection judgement, the children may be accessing poor quality provision.
- Several respondents were concerned that there was a lack of quality places particularly for those children in disadvantaged areas or rural areas and for those children with SEN, particular medical needs or disabilities.
- A number of respondents were concerned that poorer quality childminders may be able to access early education funding if the agency they are registered with judged to be 'good' or 'outstanding'.

Government response

The Government acknowledges that it can be disruptive for children and families if a child has to change provider as a result of an 'inadequate' Ofsted inspection judgement.

However, evidence shows that higher quality provision has greater development benefits for children, particularly for the most disadvantaged children. Local authorities have a statutory duty to ensure that eligible two-year-olds and all three- and four-year olds are able to take up their funded early education place. Local authorities also have statutory duties to secure sufficient childcare of working parents in their area for children aged 0-14 (0-18) for disabled children and to provide information, advice and assistance to parents and prospective parents in their area on the provision of childcare in their area. The Government does not plan to change these duties.

The Government has listened to concerns about poorer quality childminders registered with high quality CMAs being able to receive funding to deliver early education places. As a result, the Government plans to keep the principle that funding is on the basis of the CMA's Ofsted grading but exempt local authorities from the requirement to secure funded places with a CMA-registered childminder if the CMA has signalled concerns to the LA about the quality of the provision by that childminder. However, local authorities could still choose to fund a childminder based on the Ofsted rating of the CMA if the local authority had reasonable grounds to do so, for example, to secure sufficient places. This will mean that local authorities would not be required to make funding arrangements for early education places through poorer quality childminders, whether they were agency or Ofsted registered.

Question 8: Is there any practical advice related to the regulations and their effect or implementation that you would like to see in the statutory guidance?

Over a hundred respondents provided comments in relation to practical advice on the regulations to be included in the statutory guidance.

- A number of respondents felt that greater clarity in relation to the operation of CMAs and the relationship between CMAs and local authorities would be helpful. Specific issues identified included: early education funding arrangements; data sharing between CMAs and local authorities; the CMA role in safeguarding and keeping children safe; and how Ofsted will inspect CMAs.

The Government will provide more detail on these issues in the 'departmental advice' on CMAs and statutory guidance for local authorities on early education and childcare.

Question 9: Is the guidance clear on what local authorities must do to discharge their statutory duties?

Options	Responses	Percentage
Yes:	108	47%
No:	67	29%
Not Sure:	56	24%

There were 231 responses to this question. Less than a hundred respondents provided comments. The majority of respondents felt that the guidance is clear on what local authorities must do to discharge their statutory duties. Over a quarter of those answering this question (29%) felt that guidance was not clear; while a similar proportion (24%) were unsure.

In response to the issues raised, the Government will provide additional clarification in the guidance on the local authority role about the relationship between local authorities and childminder agencies.

Creationism as science and extremist views

The Government is clear that it is not appropriate for public money for early education to go to providers which do not promote fundamental British values, or which teach creationism as science.

Our final regulations will set out that local authorities must not fund the early education entitlement through providers that fail to actively promote fundamental British values, or which promote as evidence-based views or theories that are contrary to established scientific or historical evidence. These changes will bring the rules for early education into line with those for maintained schools, Academies and Free Schools.

Fundamental British values, as set out in the Government's Prevent strategy, include democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs. In the early years it will be important that these are promoted in an age-appropriate way. Promoting views or theories which are contrary to established scientific or historical evidence and explanations includes, for example, teaching creationism as science.

In most circumstances, we expect local authorities to raise these concerns with the appropriate regulator in the first instance. This is the Secretary of State for independent schools, and Ofsted for other private or voluntary early years providers (nurseries and childminders). We will set out more detail on this in our statutory guidance on the early education entitlement.

We also plan to consult in due course on changes to the Early Years Foundation Stage and the General Childcare Register so that all early years and childcare providers are required to actively promote fundamental British values, in an age-appropriate way.

Annex A: List of organisations that responded to the consultation

- @Home Childcare
- 4Children
- Active Kids Day Nursery
- Bath and North East Somerset Council
- Borough of Poole
- Bournemouth Borough Council
- Bright Kids
- British Humanist Association
- Buckinghamshire County Council
- Calderdale Childminders
- Calderdale MBC
- Catherine House Day Nursery Schools
- Central Bedfordshire Council
- City of Bradford Metropolitan District Council
- Cumbria County Council
- Devon Early Years and Childcare Service
- Dorset County Council
- Dudley Childcare Strategy Team
- Durham County Council
- Early Education
- East Riding of Yorkshire Council
- East Sussex County Council
- Edgbaston Kindergarten
- Gateshead Council
- George Perkins Day Nursery
- Hampshire County Council
- Harrow Local Authority
- Harrow Local Authority
- Hull Local Authority Standards and Improvement Early Years
- Islington Council Early Years Service
- Kirklees Council
- Lancashire County Council
- Leeds City Council

- Leicestershire County Council
- Leicester City Council
- Lilliput Children's Day Nursery Ltd
- Liverpool City Council
- London Borough of Camden
- London Borough of Havering
- London Borough of Newham
- Luton Borough Council
- National Children's Bureau (NCB)
- National Day Nurseries Association (NDNA)
- New Road Nursery
- Newcastle Childminding Association
- Norfolk Humanist Group
- North Somerset Council
- North Somerset Council Early Years
- North Yorkshire County Council
- Northamptonshire Childminding Association
- Nottingham City Council Early Years
- Ofsted
- PACEY
- Peterborough City Council
- Pre-School Learning Alliance
- Reading Borough Council
- Redcar and Cleveland Borough Council
- Regional Quality Improvement Network Yorkshire and Humber
- Roberttown Community Pre-school
- Rochdale MBC
- Rotherham MBC
- Scalchery Training and Development Ltd
- Society for Gender and Child Advancement
- South Tyneside Council
- Southampton City Council
- Somerset County Council
- St Bede Services
- Suffolk County Council
- The Communication Trust

- The Recruitment and Employment Confederation
- Trafford Council
- Warrington Borough Council
- Wiltshire Council



Department
for Education

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