

STANDARDS COMMITTEE AGENDA



Tuesday 14 December 2010

at 4.00 p.m.

**in Committee Room C,
Civic Centre, Hartlepool.**

MEMBERS: STANDARDS COMMITTEE:

Councillors Fleet, Griffin, Dr Morris, Preece, Shaw, Simmons and Sutheran.

Co-opted Members: B Footitt, B Gray and T Jackson.

Parish Councillors: A Bell, Hart Parish Council and 2 vacancies.

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

3.1 To confirm the minutes of the meeting held on 5 October 2010.

4. ITEMS FOR DECISION / INFORMATION

4.1 The Local Government Ombudsman Annual Review 2009/10 and Visit to Hartlepool Borough Council – *Chief Solicitor*

STANDARDS COMMITTEE

MINUTES AND DECISION RECORD

5 October 2010

The meeting commenced at 4.00 pm in the Civic Centre, Hartlepool

Present:

Ted Jackson (Independent Member) (In the Chair)

Councillors Sheila Griffin, Dr Morris, Arthur Preece, Jane Shaw, Chris Simmons and Lillian Sutheran

Parish Councillor: Alan Bell (Hart Parish Council)

Officers: Peter Devlin, Chief Solicitor and Monitoring Officer
 Tony McNab, Solicitor
 Denise Wimpenny, Principal Democratic Services Officer

22. Apologies for Absence

Apologies for absence were submitted on behalf of Independent Member Barry Gray.

23. Declarations of interest by members

None

24. Confirmation of the minutes of the meeting held on 8 September 2010

Confirmed.

25. Matters Arising from the Minutes

With regard to Minute 19 of the last meeting, the Chief Solicitor reported that a notice outlining the outcome of the determination hearing would be published in the next few days following the expiry of the 21 day notice of appeal period.

26. The Future of Standards for England and the Standards Framework *(Chief Solicitor and Monitoring Officer)*

The Chief Solicitor referred to Bulletin 48 from the Standards for England, a

copy of which was circulated at the last meeting, which detailed the Government's announcement of its intention to abolish the Standards Board regime. The report provided certain aspects of that particular communication and a more recent Central Government announcement.

Primary legislation would be needed to formally abolish Standards for England. It appeared to be the coalition Government's intention through the planned Decentralisation and Localism Bill to proceed with the abolition of Standards for England with an anticipation that Royal Assent would be given some time between July and October 2011. This would likely lead to the final closure of the organisation between late 2011 and the first quarter of 2012. As indicated within the Bulletin *"the local standards framework still exists and Standards Committees and Monitoring Officers have an obligation to keep the system operating."*

Standards for England would continue to provide advice and information as to the operation of the standards framework and update their guidance, produce an updated case review and continue to carry out investigations as referred through the local assessment and determination process by Standards Committees. It was pointed out that Standards for England had not made any changes to factors or criteria in its consideration of acceptance of complaints from the local Standards Committees, however, consideration would be given to the aspect of resources available to Standards for England and the relative importance of cases.

The Chief Solicitor stated that the recent announcement from the Department for Communities and Local Government indicated that serious misconduct for personal gain would become a criminal act while petty local vendettas would no longer get a hearing, further details of which were set out in the report.

It was also indicated within this announcement the Government's intention to give the Local Government Ombudsman additional powers and legislate to make it clear that Councillors who campaigned could also vote freely on their issues. Councillors, who had been prevented from speaking on such issues, with specific reference to "planning matters" would be allowed to have the freedom to express their views. Although Councillors would be subject to registration of certain personal interests in a publicly available register. Whilst it appeared that some vestige of the ethical framework would remain, for example, a register of interests, it would need to be determined as to whether any general obligations as presently contained within the Members Code of Conduct would remain or not.

Whilst it was also the Government's intention to create a criminal offence for what appeared to be impropriety in the conduct of an Elected Member, such provisions already existed under various Acts of Parliament referred to in the report. There were also the common law principles covering aspects of, for example, predetermination, wherein any form of prejudice or bias could undermine the decision making process of a public authority and lay it open to formal challenge. It therefore appeared, such announcements

were seen as being somewhat headline grabbing and the detail behind these present announcements would need to be analysed in the forthcoming Bill, details of which were awaited.

Members expressed disappointment regarding the Government's decision to abolish the Standards Board Regime and the implications of this decision were discussed. The benefits of the current arrangements were debated including the importance of accountability to the community and local knowledge.

Following discussion regarding future arrangements, the Chief Solicitor advised that arrangements would be made for a representative from the Ombudsman's office to attend a future meeting of this Committee to discuss pending legislation and the current and future role of the Ombudsman.

In response to a request for clarification regarding the current arrangements and timescales for the implementation of the legislation, the Chief Solicitor advised that current arrangements would apply until such time as amended legislation was enacted.

Decision

- (i) That the contents of the report and comments of the Committee, be noted.
- (ii) That a representative from the Ombudsman's Office be invited to attend a future meeting of this Committee to discuss pending legislation and the current and future role of the Ombudsman.

27. Protocol for Local Authority Partnership Working (Chief Solicitor)

The Chief Solicitor reported that Standards for England had developed a partnership behaviour protocol, which had been initially developed in conjunction with Manchester City Council and some of its partner agencies. The protocol, attached at Appendix 1 had been developed as it was recognised that partners who were not Members or co-opted Members of a public authority, should have some awareness, understanding and allegiance to those principles. The 10 general principles as set out in the Relevant Authorities (General Principles) Order, 2001, were also encapsulated within the preamble to the Council's own Members Code of Conduct. The approach involved partners developing a shared set of values and behaviours that they think should underpin their partnership work. Standards for England therefore invited local authorities to use this protocol either wholly or as adapted to meet the particular set of circumstances of each individual partnering arrangement.

The purpose and the aim of the partnership protocol were detailed in the report. It was noted that the protocol did not have any statutory basis, although it was open for authorities to consider a possible role of Standards Committees in maintaining and overseeing adherence to the protocol.

Decision

That the contents of the report be noted.

28. Any Other Items which the Chairman Considers are Urgent

The Chairman ruled that the following item of business should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B) (4)(b) of the Local Government Act 1972 in order that the matter could be dealt with without delay.

29. Any Other Business – Correspondence Received from an Elected Member

The Chair referred to a letter received from an Elected Member, a copy of which had been circulated direct to all Members of the Committee. It was noted that there could be an opportunity to discuss this at a future meeting of the Consideration Sub-Committee.

Decision

That the information given, be noted.

The meeting concluded at 4.28 pm.

CHAIR

STANDARDS COMMITTEE

14 December 2010



Report of: Chief Solicitor

Subject: THE LOCAL GOVERNMENT OMBUDSMAN
ANNUAL REVIEW 2009/10 AND VISIT TO
HARTLEPOOL BOROUGH COUNCIL

1. PURPOSE OF REPORT

To remind members of a previous report which referred to the Local Government Ombudsman's Annual Review 2009/10 (a copy of which is attached for members reference, at **Appendix 1**)

2. BACKGROUND

On the 24th August 2010 members were presented with a copy of the Annual Review of the Local Government Ombudsman 2009/10 for Hartlepool Borough Council. Reference was made to an invitation for the Local Government Ombudsman or one of his senior colleagues to meet with Standards Committee and discuss the Annual Review and any aspects of the Local Government Ombudsman's work. In a letter dated 12 October 2010, attached at **Appendix 2**, confirmation was received of the Ombudsman's acceptance of this invitation and notification of the attendance of Mr Richard Corney, Assistant Ombudsman to speak to the Standards Committee at their meeting of the 14th December 2010 at 4pm.

3. BACKGROUND PAPERS

Copy of the report to Standards Committee of 24 August 2010, together with a copy of the Local Government Ombudsman's Annual Review for Hartlepool 2009/10

4. PROPOSALS

To welcome the Assistant Local Government Ombudsman to the Standards Committee and invite questions further to his talk on the work of the Local Government Ombudsman both in the present and the future.

5. CONTACT OFFICER

A Carman
Legal Services Manager/Solicitor

STANDARDS COMMITTEE

24th August 2010



Report of: Chief Solicitor

Subject: THE LOCAL GOVERNMENT OMBUDSMAN'S
ANNUAL REVIEW 2009/10 – HARTLEPOOL
BOROUGH COUNCIL

1. INTRODUCTION

1.1 The Local Government Ombudsman as established through the Local Government Act, 1974, investigates complaints about local authorities and certain other public bodies and provides advice and guidance on good administrative practice. The involvement of the Local Government Ombudsman is limited to those complaints from members of the public who allege that they have suffered injustice as a result of maladministration. The Regulatory Reform (Collaboration etc between Ombudsmen) Order, 2007, enables the Local Government Ombudsman, the Parliamentary Ombudsman and the Health Service Ombudsman for England to work together collaboratively on cases and issues that have relevance to more than one category of complaint. Further, the Local Government and Public Involvement in Health Act, 2007, increased the jurisdiction of the Ombudsman's Office to incorporate the following;

- A service failure in addition to maladministration.
- A limited power to investigate where an apparent case of maladministration has come to their attention even though no formal complaint has been received.
- Complaints about procurement of goods and services.
- The Ombudsman may also issue a "Statement of Reasons" instead of a formal report if they are satisfied with an authority's proposals to remedy any failures.

- 1.2 The legislation requires the Ombudsman to investigate alleged or apparent “maladministration” or further failures which can include ie delay, incorrect action or failure to take action, failure to follow procedures or the law, misleading or inaccurate statements, inadequate consultation and “broken promises”. It is conceivable during the course of an investigation of a complaint, that an authority agrees to take some remedial action which is considered to be a satisfactory response. Such “local settlement” of cases although allowing a case to be discontinued, also allows the outcome of these cases to be included within the Annual Report of the Local Government Ombudsman’s Office. The Ombudsmen can also publicise their findings and make recommendations to authorities, were a finding of maladministration has been made. However, it is an expectation, that local authorities will use commentary from the Ombudsman’s Office in a “positive way”, as part of the overall corporate quality assurance and performance management processes.

2. ANNUAL REVIEW 2009/10

- 2.1 Attached herewith is the Local Government Ombudsman’s Annual Review relating to Hartlepool Borough Council for the year ended 31st March, 2010. This report with appendices summarises the complaints relating to Hartlepool Borough Council which have been dealt with by the Ombudsman’s Office over the period in question. This Annual Review (together with all other Councils) is published on the Ombudsman’s website www.lgo.org.uk. As Members will note over the period in question the Ombudsman’s Office received a total of 17 enquiries and complaints. Three matters were judged to be premature with 11 complaints being referred for consideration. In total, 10 complaints were determined during the year as outlined within the Annual Review. Of those complaints, one was “closed” as it was not considered to be within the jurisdiction of the Ombudsman’s Office whilst 5 further complaints were not taken further as part of the general discretion available to the Ombudsman not to pursue such matters. In 2 of the remaining cases, there was no evidence of maladministration and the Council agreed to settle 2 remaining complaints in that it was appropriate to offer some form of remedy to the complainant’s satisfaction.
- 2.2 In the Ombudsman’s covering letter to the Council’s Chief Executive Officer, it was noted that training is provided and Members will note, that Council staff engaged in the training entitled “Good Complaint Handling in Social Care and Effective Complaint Handling in Adult Social Care” during the period of this particular Annual Review. In addition, there is an invitation within that correspondence, for the Local Government Ombudsman or one of her senior colleagues to arrange to meet and discuss the Annual Review and any aspects of the Ombudsman’s work, at the invitation of the Borough Council.

4.1 Appendix 1

- 2.3 Members will observe that the Annual Review contains details of “LGO developments” including a new schools complaints service and extended powers relating to adult social care under the Health Act, 2009. In order to assist Members in interpreting the data in Appendix 2 to the Annual Review, there are some notes to assist the interpretation of these statistics (Appendix 1 thereof refers). Members are therefore requested to consider the information appended herewith and to make such recommendations as part of the overall corporate governance of this Council, as they deem appropriate.

3. RECOMMENDATION

For Members to note this report and discuss.

Local Government
OMBUDSMAN

**The Local Government Ombudsman's
Annual Review**

Hartlepool Borough Council

**for the year ended
31 March 2010**

Local Government Ombudsmen (LGOs) provide a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, we aim to get it put right by recommending a suitable remedy. We also use the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

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Section 1: Complaints about Hartlepool Borough Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Hartlepool Borough. I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

There are two appendices to the review: statistical data for 2009/10 and a note to help the interpretation of the statistics.

Enquiries and complaints received

In the year to 31 March 2010 the Commission received a total of 17 enquiries and complaints. In three cases simple advice was given to the complainant but three complaints were judged by our Advice Team to be premature. These complaints were either sent on to you with a request that the matter be put through the Council's own complaints procedure or, alternatively, the complainant was advised to make a formal complaint themselves to the Council. 11 complaints were sent to me for consideration. Of these, three were complaints initially determined by our Advice Team as premature but re-submitted to me by complainants dissatisfied with the way in which the Council had dealt with their complaint. The remaining eight complaints were new complaints.

Complaint outcomes

I determined 10 complaints during the year, a figure which differs from the number of complaints received because of work in hand at the beginning and the end of the year.

Of those complaints determined by me, one was closed on the basis that it was not within my jurisdiction while in five further complaints I exercised the general discretion available to me not to pursue the matter. In two cases I found no evidence of maladministration by the Council sufficient to justify my continued involvement. The Council agreed to settle the remaining two complaints accepting that something had gone wrong and that it was appropriate to provide a remedy of some description for the complainant.

Reports

I issued no public reports against the Council this year.

Local settlements

We will often discontinue enquiries into a complaint when a council takes or agrees to take action that we consider to be a satisfactory response – we call these local settlements. 26.9% of all decisions on complaints in the Ombudsmen's jurisdiction were local settlements. The two complaints which the Council agreed to settle during the year amounts to 22.2% of the total number of complaints I determined and which were within my jurisdiction.

Liaison with the Local Government Ombudsman

I ask all authorities to respond to my enquiries within 28 calendar days. The Council took on average 21.2 days to respond to my enquiries during the year and the Council is to be congratulated for its continued efforts.

I am pleased to note that the Council sent a representative to the Liaison Officer's Seminar held in York this year.

Training in complaint handling

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I am pleased that during 2009/10 we provided training in Good Complaint Handling in Social Care and Effective Complaint Handling in Adult Social Care to staff from your authority....

We have extended the range of courses we provide and I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

I hope this review provides a useful opportunity for you to reflect on how the Council deals with those complaints that residents make to my office. If there are any issues that you wish to discuss, I or one of my senior colleagues would be happy to meet with the Council.

**Mrs A Seex
Local Government Ombudsman
Beverley House
17 Shipton Road
YORK
YO30 5FZ**

June 2010

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments in the LGO and to seek feedback.

New schools complaints service launched

In April 2010 we launched the first pilot phase of a complaints service extending our jurisdiction to consider parent and pupil complaints about state schools in four local authority areas. This power was introduced by the Apprenticeships, Skills, Children and Learning Act 2009.

The first phase involves schools in Barking and Dagenham, Cambridgeshire, Medway and Sefton. The Secretary of State no longer considers complaints about schools in these areas. In September the schools in a further 10 local authority areas are set to join the pilot phase.

We are working closely with colleagues in the pilot areas and their schools, including providing training and information sessions, to shape the design and delivery of the new service. It is intended that by September 2011 our jurisdiction will cover all state schools in England.

A new team in each office now deals with all complaints about children's services and education on behalf of the Ombudsman. Arrangements for cooperation with Ofsted on related work areas have been agreed.

For further information see the new schools pages on our website at www.lgo.org.uk/schools/

Adult social care: new powers from October

The Health Act 2009 extended the Ombudsmen's powers to investigate complaints about privately arranged and funded adult social care. These powers come into effect from 1 October 2010 (or when the Care Quality Commission has re-registered all adult care providers undertaking regulated activity). Provision of care that is arranged by an individual and funded from direct payments comes within this new jurisdiction.

Each Ombudsman has set up a team to deal with all adult social care complaints on their behalf. We expect that many complaints from people who have arranged and funded their care will involve the actions of both the local authority and the care provider. We are developing information-sharing agreements with the Care Quality Commission and with councils in their roles as adult safeguarding leads and service commissioners.

Council first

We introduced our Council first procedure in April last year. With some exceptions, we require complainants to go through all stages of a council's own complaints procedure before we will consider the complaint. It aims to build on the improved handling of complaints by councils.

We are going to research the views of people whose complaints have been referred to councils as premature. We are also still keen to hear from councils about how the procedure is working, particularly on the exception categories. Details of the categories of complaint that are normally treated as exceptions are on our website at www.lgo.org.uk/guide-for-advisers/council-response

Training in complaint handling

Demand for our training in complaint handling has remained high, with 118 courses delivered over the year to 53 different authorities. Our core Effective Complaint Handling course is still the most popular – we ran some of these as open courses for groups of staff from different authorities. These are designed to assist those authorities that wish to train small numbers of staff and give them an opportunity to share ideas and experience with other authorities.

The new Effective Complaint Handling in Adult Social Care course, driven by the introduction of the new statutory complaints arrangements in health and adult social care in April 2009, was also popular. It accounted for just over a third of bookings.

Over the next year we intend to carry out a thorough review of local authority training needs to ensure that the programme continues to deliver learning outcomes that improve complaint handling by councils.

Statements of reasons

Last year we consulted councils on our broad proposals for introducing statements of reasons on the individual decisions of an Ombudsman following the investigation of a complaint. We received very supportive and constructive feedback on the proposals, which aim to provide greater transparency and increase understanding of our work. Since then we have been carrying out more detailed work, including our new powers. We intend to introduce the new arrangements in the near future.

Delivering public value

We hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your authority. We will keep you up to date through LGO Link as each development progresses, but if there is anything you wish to discuss in the meantime please let me know.

Mindful of the current economic climate, financial stringencies and our public accountability, we are determined to continue to increase the efficiency, cost-effectiveness and public value of our work.

Mrs A Seex
Local Government Ombudsman
Beverley House
17 Shipton Road
YORK
YO30 5FZ

June 2010

Appendix 1: Notes to assist interpretation of the statistics 2009/10

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Premature complaints: The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will either refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter, or give advice to the enquirer that their complaint is premature.

Advice given: These are enquiries where the LGO Advice Team has given advice on why the LGO would not be able to consider the complaint, other than the complaint is premature. For example, the complaint may clearly be outside the LGO's jurisdiction.

Forwarded to the investigative team (resubmitted premature and new): These are new cases forwarded to the Investigative Team for further consideration and cases where the complainant has resubmitted their complaint to the LGO after it has been put to the council.

Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2009/10 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2009/10 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the LGO as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the LGO's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the LGO's jurisdiction.

Table 3. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

Table 4. Average local authority response times 2009/10

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

LGO Advice Team

Enquiries and complaints received	Children and family services	Housing	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	0	0	0	2	0	1	3
Advice given	0	0	0	1	0	2	3
Forwarded to investigative team (resubmitted prematures)	0	0	1	0	1	1	3
Forwarded to investigative team (new)	2	3	0	1	2	0	8
Total	2	3	1	4	3	4	17

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	2	0	0	2	5	1	10

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
2008 / 2009	5	21.2
2007 / 2008	8	25.9

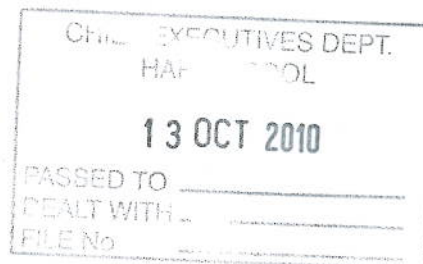
Average local authority resp times 01/04/2009 to 31/03/2010

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20

Local Government OMBUDSMAN

12 October 2010

Mr P Devlin
Chief Solicitor and Monitoring Officer
Chief Executive's Department
Civic Centre
HARTLEPOOL
TS24 8AY



Your Ref: PJD/DM

Our Ref: HBC/RJC/ch

(Please quote our reference when contacting us and, if using email, please put the reference number in the email subject header)

If telephoning contact: Mr Corney's Personal Assistants on 01904 380201

If e-mailing: c.harvey@lgo.org.uk or s.walker@lgo.org.uk

Dear Mr Devlin

The Local Government Ombudsman's Annual Review – Hartlepool Borough Council (for the Year End 2010)

Thank you for your letter of 7 October addressed to Mrs A Seex, Local Government Ombudsman regarding the Annual Review.

Mr Richard Corney, Assistant Ombudsman who is responsible for the team of Investigators who deal with complaints against your Council, would be delighted to attend the Standards Committee meeting on Tuesday 14 December 2010 at 4pm, on behalf of Mrs Seex, to talk about the work of the Local Government Ombudsman both in the present and future.

Mr Corney will travel to Hartlepool by car so it would be helpful if a parking permit/space could be arranged for him.

My contact details are quoted above regarding any further arrangements.

Mr Corney looks forward to meeting you and your colleagues on 14 December.

Yours sincerely

C Harvey (Mrs)
Personal Assistant to Mr R Corney
Assistant Ombudsman

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