

29 NOVEMBER 2021

**ECO LOCAL AUTHORITY FLEXIBLE ELIGIBILITY ENERGY
COMPANY OBLIGATION (“ECOFLEX”)**

REPORT OF THE CARDIFF CAPITAL REGION DIRECTOR

AGENDA ITEM 8

Reason for this Report

1. The purpose of this report is to:
 - (1) inform members of the options to maximise the eligibility and funding that exists for the region around the Energy Company Obligation (“ECO”) and Local Authority Flexible Eligibility Energy Company Obligation (“ECOFLEX”);
 - (2) seek approval to establish an ECO Working Group with all local authorities to enhance the delivery of ECO programmes and agree a CCR joint Flexible Eligibility ‘Statement of Intent for delivery of ECO Flex;
 - (3) seek approval to scope a regional delivery vehicle for delivery of ECO and ECO Flex for commencement on 1st April 2022;
 - (4) Seek approval to proceed with market testing in order to select an energy company partner/s for commencement on 1st April 2022.

Background

2. The Cardiff Capital Region (“CCR”) has committed to a carbon neutral economy and has embraced a range of initiatives to inform the wider Energy Vision for the region. With support from the Welsh Government Energy Service, it has been possible to quantify the scale and impact of tackling a domestic retrofit programme.
3. The Baseline Energy Assessment sets out the current energy use and generation in the region:

- CCR has the lowest number of renewable heat installations with just 0.2% of homes having a heat pump or biomass boiler;
 - 90% of homes are connected to the gas network, the highest of any Welsh region and above the GB average;
 - approximately 27,000 homes (~4%) are currently fuelled by oil, LPG, coal or other solid fuels;
 - the average EPC rating is D and the region has the highest average energy efficiency ratings in Wales, with 75% of homes rated as EPC band D or above.
4. Achieving our energy vision for Cardiff Capital Region to meet Welsh Government targets, and to be on track for net zero by 2050, Cardiff Capital Region needs to reduce emissions from its energy system by 55% by 2035, split by sector as this requires a 51%.
 5. The energy vision scenario modelling assumes a significant shift away from business as usual across these three sectors by 2035. The assumptions of the modelled future vision include:
 - 154,000 homes improved from EPC band G, F and E to D, C and B;
 - over 140,000 heat pumps installed;
 - 42,000 suitable houses accurately fitted with internal or external wall insulation;
 - over 185,000 other insulation measures in homes;
 - 112,000 homes currently heated by fossil fuels to move to low carbon heating;
 - replacing heating systems in oil, LPG and solid fuel heated homes prioritised;
 - no new gas connections for homes from 2025.
 6. The number of homes in the EPC bands A-C needs to increase by 280,822 homes by 2035. The region is currently at 6% ~ 4,000 homes in the most energy efficient banding, so clearly there is some considerable way to go.
 7. The CCR energy modelling data assumes a certain level of BAU retrofit happening over the next 14 years, which will support 23k jobs and deliver £4.8bn investment, with £1.7bn GVA. However if we enhance this retrofit programme with a deliberate and targeted investment, leveraging in the ECO funding, then the region could be looking at an extra 12,000 jobs and at least £2.7bn extra investment and an additional £0.62bn GVA. This activity would be on installing energy efficiency measures such as wall insulation, roof and floor insulation and new double-glazing and low carbon domestic heat measures.

Energy Company Obligation (Phase 3) (“ECO”) - What is the ECO Scheme?

8. ECO is a UK government initiative aimed at reducing household energy bills and carbon emissions through the installation of home energy efficiency measures such as loft insulation, wall insulation and replacement boilers.
9. There is no government ‘pot’ of money available. Instead, ECO is an obligation upon energy providers to carry out energy efficiency improvements for both

customers/non-customers. Each energy supplier has different thresholds to meet and therefore the scale of the works each provider may undertake varies.

10. The current ECO 3 Scheme runs until March 2022 and places obligations upon the largest energy providers (those with more than 150,000 customers) to support those customers most in need by delivering energy efficiency measures within their homes.
11. ECO 4 is £1bn programme and is available from April 2022 to April 2023. £500M of the total budget will be assigned to ECO FLEX.
12. ECO obligation is getting more difficult to invest as the schemes advance, meaning that any Authority or region that creates a focus for investment and a pathway to projects will attract the ECO funding more readily.
13. The data does not exist to advise on how many homes have received ECO funding in CCR since the energy companies work independently with installers to meet their ECO retrofit obligations. There is more ability to direct investment under ECO FLEX (see below). The ambition here is to attract both ECO and ECO FLEX to the region.
14. OFGEM managed the ECO scheme on behalf of the Department for Business Energy and Industrial Strategy (“BEIS”) and sets annual targets for the completion of home-improvement projects; where OFGEM determines that energy providers have failed to deliver against their targeted number of schemes, companies have previously been fined and mandated to ensure that schemes are completed.
15. The ECO places an obligation upon providers to deliver a Home Heating Cost Reduction by promoting the installation of measures that lead to customer savings on energy bills such as heating improvements and insulation. The ultimate aim of the scheme is to require the energy companies to support the most vulnerable customers to heat their homes more efficiently.

Household Eligibility Requirements:

16. Customers must either own their own home or have their landlord’s permission for the works and satisfy one of the following requirements:
 - i. Core Group Warm Home energy Customers (Pensioners already receiving the £140 energy rebate);
 - ii. Social housing tenant with an EPC rating of D-G;
 - iii. In receipt of government benefits identified as being eligible;
 - iv. Additionally, an infill mechanism exists whereby if 66% of eligible households received insulation or district heating, adjacent properties can also receive such measures without having to satisfy the eligibility criteria.

Local Authority Eligibility:

17. Given that the ECO scheme is only available through energy providers, it is not available to the CCR or the constituent local authorities to deliver home energy efficiency improvements. However, a further scheme, the ECOFLEX exists

through which local authorities can exercise some influence / control and collaboration with the energy providers to improve housing efficiency.

Local Authority Flexible Eligibility (“LA FLEX”) - ECO FLEX Fund - What is the ECOFLEX scheme?

18. The ECOFLEX scheme provides a further opportunity for the CCR to encourage its constituent authorities to collaborate alongside the energy providers to deliver home energy efficiency improvements and ultimately reduce carbon emissions.
19. The ECOFLEX scheme enables energy providers to meet up to 25% of their obligated ECO households by carrying out works within local authority identified properties.
20. Local Authorities are required to follow the BEIS guidance. ECOFLEX provides local authorities with the further flexibility under the Electricity and Gas (Energy Company Obligation) Order 2018 to provide for declarations in respect of additional low-income households who do not necessarily meet the nationally-set ECO eligibility.
21. To participate in the ECOFLEX scheme, local authorities must publish a Flexible Eligibility ‘Statement of Intent’, which identifies an income threshold, cost or vulnerability criteria at a local level, ensuring that funding reaches those communities that are often least engaged with the energy market. Once households are identified, the declaration confirms the eligibility against the statement of intent’s criteria.
22. Local authorities must ensure that through ECOFLEX they target the following households:
 - living in low income households with high energy costs; or
 - living in low-income households that are vulnerable to the effects of a cold home.
23. The statement of intent sets out the local authority’s methodology for identifying households meeting the eligibility criteria under ECOFLEX
24. The declaration is the statement in writing which demonstrates that the local authority has been consulted on the installation of energy efficiency measures within a property meeting the eligibility criteria under ECOFLEX. A declaration can only be signed-off by a local authority official. Declarations will be eligible for 18 months but those made after 1 October 2020 will be valid until March 2022. This means that if CCR would like to take advantage of ECO FLEX 4 then a new regional statement of intent needs to be drafted before April 2022. Local authorities will not be required to reassess properties if there was a change of tenancy between the date of declaration and the commencement of a project.
25. The flexibility of ECOFLEX only extends to the eligibility aspect of the ECOFLEX scheme. All other rules remain the same as the wider ECO scheme.

The ECOFLEX Process:

26. The local authority publishes its statement of intent in the relevant format (as set out in the BEIS guidance) setting out who will be targeted by the scheme, any delegation between authorities (e.g. region wide approach), the governance of the scheme and referral routes to the authority;
27. The local authority works with partner agencies (e.g. health bodies and charities) to identify households in addition to using their own internal data and energy provider data to identify people;
28. The local authority provides a declaration to the energy provider confirming an eligible individual's personal details and reason for eligibility;
29. The energy provider carries out the work and notifies OFGEM of its completion.

How can the CCR deploy the ECOFLEX scheme?

30. BEIS identifies that there are a number of potential delivery models that could be adopted under the ECOFLEX and determines that it will be up to energy providers or the local authorities to agree the model for their area. BEIS actively encourages local authorities and energy providers to establish robust partnerships with a strong understanding of mutual roles and responsibilities.
31. Local authority statements of intent and declarations must be provided to OFGEM on request but generally BEIS identifies that energy providers and local authorities are encouraged to establish their own working relationships; there are no formal processes implemented by BEIS or OFGEM and the parties are free to begin processes with each other, as long as in doing so, no regulatory breach occurs.
32. BEIS advises that local authorities should make clear to their residents that the inclusion of a household in a declaration does not guarantee a measure will be installed by an energy supplier and decisions may depend on a number of individual factors.
33. It is possible to construct a process whereby the CCR could set out its own 'statement of intent' style strategic energy policy which sets the policy direction for the delivery of ECOFLEX at a Capital-region level. Legally, however, it would then fall to the constituent local authorities to consider the CCR policy and prepare their own Statements of Intent – this ought to be manageable and note the comments below on delegation.
34. The CCR could likely have a partnership arrangement with a number of energy suppliers through which the local authorities could require the performance of their statements of intent, to maximise access to the available funds.
35. The CCR may then appoint a private-sector partner to collaborate alongside (or create a dedicated team of LA staff ?) in order to identify those within the community that are most in need of support measures and work to ensure that the scheme is delivered.

36. A local authority declaration will usually only be made where there are specific schemes planned and the local authority has a delivery partner identified. The declaration decision process remains at the sole discretion of the local authority. The private sector partner is often appointed to assist the local authority in identifying households who could benefit from the scheme, deal with enquiries, undertake assessments of eligibility and deliver the installation.

Delegation

37. A local authority can provide declarations for households not within its administrative area under certain circumstances. For example, this includes where a local authority delegates some functions to another or where the authority providing the service is best placed to make a determination on whether a household meets the eligibility criteria. The delegation and sharing of responsibility may be appropriate within the CCR where authorities could collaborate to deliver the ECOFLEX scheme.
38. All LAs who are either delegating powers, or in receipt of delegated powers, must sign the statement of intent to confirm agreement. In addition, the declaration template requires a local authority to record that it is making a declaration on behalf of another authority.
39. The potential sharing of personal data, and requirements under the General Data Protection Regulations (“GDPR”) should also be considered.

Delivery

40. The following process sets out the timeline of the process once a provider is on board:
- i. The Council identifies an individual requiring support or the individual householder considers themselves eligible for support so completes the application form.
 - ii. The Council’s partner verifies the request against the scope of the Council’s local declaration.
 - iii. Once approved, the application is then passed onto the relevant energy provider who will assess the property via a whole-house survey to determine the eligibility and nature of the works required.
 - iv. If the property is considered suitable, the energy company will commission the work to deliver the scheme.
41. The enhanced flexibility of ECOFLEX has enabled a number of councils including: Cardiff City Council, Croydon Council, Pembrokeshire County Council and Birmingham City Council to declare Statements of Intent and set out requirements for determining the ECO scheme at a local level. As such, the eligibility requirements vary between each authority and their respective Statements of Intent. Furthermore, Croydon’s approach enables other public-sector partners to make household referrals to the Council to ensure that vulnerable customers are captured by the scheme.
42. Cardiff City Council’s current Statement of Intent specifically limits the scheme to its partner, YES Energy Solutions, for the Rent Smart Wales Warm Homes Fund Project, which is a pilot of the ECOFLEX Scheme within Cardiff.

Additional Energy Schemes:

43. **Rent Smart Wales Fund:** Distributes 'Warm Homes Funding' to help landlords and tenants install central heating in rental properties.
44. The fund has been established by National Grid and targets inefficient private-sector rental properties.
45. **Nest Wales:** Nest is the Welsh Assembly Government's fuel poverty scheme partnered with British Gas. The programme is designed to make private sector housing warmer and healthier by offering free home improvements to help people heat their homes more efficiently. Improvements can include: loft and cavity wall insulation, solid wall insulation, draught proofing, boiler replacement. To qualify, individuals must be a private home-owner or tenant, have an energy efficiency rating of F or G and in receipt of means tested benefits
46. **Local Authority Delivery Scheme:** This is another local-authority led scheme but it is only available to Local Authorities within England.

Reason for Recommendations

47. The ECOFLEX scheme provides a further opportunity for the CCR to encourage its constituent authorities to collaborate alongside the energy providers to deliver home energy efficiency improvements and ultimately reduce carbon emissions.

Financial Implications

48. The report does not identify any additional financial implications for the Cardiff Capital Region Joint Committee. Any future costs as a result of projects taken forward will need to be managed within existing individual local authority budgets.

Legal Implications

49. The following legal issues should be considered when examining the ECOFLEX scheme. However, depending on the structure of the partnership, it is likely that such issues should not be a concern for the CCR's delivery of the ECOFLEX scheme.
50. It should be made clear that where a collaboration agreement has been entered into with the energy suppliers, such collaboration is open to further partnering with eligible energy companies and neither the CCR nor its constituent authorities are tied legally to any singular supplier.

Procurement

51. Any partnership arrangement with an energy supplier under ECOFLEX would likely fall outside the scope of the Public Contracts Regulations 2015 on the basis that no goods, works or services are being procured by the local authority in exchange for financial consideration. The local authority is simply acting as an enabler / facilitator at a local level to allow the energy providers to deliver upon their legal obligations as required by BEIS (and the energy provider would drawdown the funding direct from BEIS).

Subsidy/State Aid

52. The partnering of local authorities and, more broadly, the CCR with energy providers to deliver the ECOFLEX scheme would likely fall outside the scope of the state aid/subsidy legislation.
53. State aid requires that aid has been granted through state resources, favouring certain undertakings, distorting competition and affecting trade between the UK/EU.
54. Although BEIS identifies assistance to energy companies investing in environmental projects as a 'less obvious' form of state aid, in the ECOFLEX scheme the CCR local authorities are not providing any 'aid' to the energy providers (i.e. the energy providers are receiving funding directly from BEIS and it is therefore for BEIS to ensure it is not providing any aid rather than CCR).
55. It is also arguable that there is no 'advantage being incurred' by the energy providers as a result of the ECOFLEX scheme as regardless of the local authority's partnership the energy company is still legally obligated by OFGEM to deliver a fixed number of home energy improvements regardless of the location.

Data Protection

56. Local authorities will need to comply with GDPR for any personal information they pass on to energy providers. For example, authorities will need to obtain the consent of the householder before matching them with an energy provider who is to carry out the works and sharing information such as their address and reason for eligibility.
57. The local authority must keep accurate records of householder consent and establish clear lines of communication and accurate data flows with suppliers and installers in order that decisions, and evidence, is clearly recorded and maintained.

Well-Being of Future Generations (Wales) Act 2015

58. In developing the Plan and in considering its endorsement regard should be had, amongst other matters, to:
 - a) the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards;
 - b) public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are: a. age; b. gender reassignment; c. sex; d. race – including ethnic or national origin, colour or nationality; e. disability; f. pregnancy and maternity;

g. marriage and civil partnership; h. sexual orientation; i. religion or belief – including lack of belief, and;

- c) the Well-being of Future Generations (Wales) Act 2015. The Well-being of Future Generations (Wales) Act 2015 ('the Act') is about improving the social, economic, environmental and cultural well-being of Wales. The Act places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language and is globally responsible. In discharging their respective duties under the Act, each public body listed in the Act (which includes the Councils comprising the CCRC) must set and published wellbeing objectives. These objectives will show how each public body will work to achieve the vision for Wales set out in the national wellbeing goals. When exercising its functions, the Regional Cabinet should consider how the proposed decision will contribute towards meeting the wellbeing objectives set by each Council and in so doing achieve the national wellbeing goals. The wellbeing duty also requires the Councils to act in accordance with a 'sustainable development principle'. This principle requires the Councils to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

Put simply, this means that Regional Cabinet must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, Regional Cabinet must:

- look to the long term;
- focus on prevention by understanding the root causes of problems;
- deliver an integrated approach to achieving the 7 national well-being goals;
- work in collaboration with others to find shared sustainable solutions;
- involve people from all sections of the community in the decisions which affect them.

59. Regional Cabinet must be satisfied that the proposed decision accords with the principles above. To assist Regional Cabinet to consider the duties under the Act in respect of the decision sought, an assessment has been undertaken, which is attached at Appendix 1.

Equality Act 2010

60. In considering this matter, regard should be had, amongst other matters, to the Councils' duties under the Equality Act 2010. Pursuant to these legal duties the Regional Cabinet must in making decisions have due regard to the need to (1) eliminate unlawful discrimination (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are:

- age;
- gender reassignment;
- sex;
- race – including ethnic or national origin, colour or nationality;

- disability;
- pregnancy and maternity;
- marriage and civil partnership;
- sexual orientation;
- religion or belief – including lack of belief.

RECOMMENDATIONS

61. It is recommended that the Cardiff Capital Region Joint Cabinet:

- (1) approval to establish an ECO Working Group with all local authorities to enhance the delivery of ECO programmes and agree a CCR joint Flexible Eligibility 'Statement of Intent for delivery of ECO Flex;
- (2) approval to scope a regional delivery vehicle for delivery of ECO and ECO Flex for commencement on 1st April 2022;
- (3) approval to proceed with market testing in order to select an energy company partner/s for commencement on 1st April 2022.

Kellie Beirne
Director, Cardiff Capital Region
29 November 2021

Appendices

Appendix 1 Well-being of Future Generations Assessment

Future Generations Assessment Evaluation

(includes Equalities and Sustainability Impact Assessments)

<p>Name of the Officer completing the evaluation:</p> <p>Kellie Beirne</p> <p>Phone no: 07826 919286 E-mail: kellie.beirne@cardiff.gov.uk</p>	<p>Please give a brief description of the aims of the proposal</p> <p>Establish a joint statement of intent for access to ECO Flex funding for a domestic retrofit programme</p>
<p>Proposal: ECO Flex Scheme</p>	<p>Date Future Generations Evaluation form completed: 29 November 2021</p>

1. Does your proposal deliver any of the well-being goals below? Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal.

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
<p>A prosperous Wales Efficient use of resources, skilled, educated people, generates wealth, provides jobs</p>	<p>The ECO Flex scheme will provide energy benefits to domestic property, whilst safeguard local jobs and growing regional income.</p>	<p>The project has been informed by stakeholder engagement and analysis of issues independently informed by data, evidence and insights.</p>
<p>A resilient Wales Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)</p>	<p>The report goes to the heart of the sustainability and resilience mandate.</p>	<p>More work needs to be done to show sustainability and economic growth are not mutually exclusive and CCR has the opportunity to demonstrate this.</p>

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
A healthier Wales People's physical and mental wellbeing is maximized and health impacts are understood	Direct impact in terms of health, wellbeing and environmental benefits as a result of retrofit energy improvements	Climate crisis is causing worry and concern. More work will be needed in future to understand the link between anxiety and mental health and the state of the environment.
A Wales of cohesive communities Communities are attractive, viable, safe and well connected	Safeguarding environment and world is key to ensuring communities and future generations can thrive	ROI assessments need social and environmental dimension and 'clean growth' aims to be more clearly understood. Work ongoing with Prof Max Munday to draw this out as part of wider approach to alternative economic intelligence.
A globally responsible Wales Taking account of impact on global well-being when considering local social, economic and environmental wellbeing	The report is a demonstration of a CCR-wide responsibility to the planet	
A Wales of vibrant culture and thriving Welsh language Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation	Our City Deal is uniquely Welsh – but pitches towards being world leading in areas of competitive strength. This enables a strong reflection on our rich culture and heritage which is drawn from our natural environment and resources.	
A more equal Wales People can fulfil their potential no matter what their background or circumstances	The environment and climate crisis is a leveler – we are all responsible – we can all make a difference.	

2. How has your proposal embedded and prioritized the sustainable governance principles in its development?

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p>Long Term</p> <p>Balancing short term need with long term and planning for the future</p>	<p>This is both a short, medium and long term goal and a golden thread running through all projects and programmes.</p>	<p>Continued work on data/ evidence and generating in equal measure, insight and foresight.</p>
 <p>Collaboration</p> <p>Working together with other partners to deliver objectives</p>	<p>The report sets out the different partners and sectors engaged in this work and the challenge process is about collective endeavor- civil society, business, HE, public services and community sectors.</p>	<p>More work to develop, align and promote shared purpose on this agenda.</p>
 <p>Involvement</p> <p>Involving those with an interest and seeking their views</p>	<p>The report sets out the different partners and sectors engaged in this work</p>	<p>Further work to do with communities to gauge the extent of fuel poverty in the region</p>
 <p>Prevention</p> <p>Putting resources into preventing problems occurring or getting worse</p>	<p>Report and ensuing statement of Intent should create conditions for this to happen</p>	
 <p>Integration</p> <p>Considering impact on all wellbeing goals together and on other bodies</p>	<p>This will be undertaken on a case by case basis through the new assessment process.</p>	

3. Are your proposals going to affect any people or groups of people with protected characteristics? Please explain the impact, the evidence you have used and any action you are taking below.

Protected Characteristics	Describe any positive impacts your proposal has on the protected characteristic	Describe any negative impacts your proposal has on the protected characteristic	What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?
Age	As with all those categories below – the impacts will relate to specific retrofit interventions that are deployed as part of the programme	None arising at this time.	
Disability	As above	As above	
Gender reassignment	As above	As above	
Marriage or civil partnership	As above	As above	
Pregnancy or maternity	As above	As above	
Race	As above	As above	
Religion or Belief	As above	As above	
Sex	As above	As above	
Sexual Orientation	As above	As above	
Welsh Language	As above	As above	

4. Safeguarding & Corporate Parenting. Are your proposals going to affect either of these responsibilities?

	Describe any positive impacts your proposal has on safeguarding and corporate parenting	Describe any negative impacts your proposal has on safeguarding and corporate parenting	What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts?
Safeguarding	Not directly relevant –however, building the future economy in a sustainable way should have a profoundly positive impact on ability to safeguard the future of our residents	None	None
Corporate Parenting	Not directly relevant – however building strength in the economy should create opportunities for all of the young people entrusted in our care – in particular in safeguarding the environment for their futures.	None	None

5. What evidence and data has informed the development of your proposal?

- CCR Energy Strategy – Baseline Data and Energy Modelling
- Data provided by EON

6. SUMMARY: As a result of completing this form, what are the main positive and negative impacts of your proposal, how have they informed/changed the development of the proposal so far and what will you be doing in future?

As above, the main implications will be in the delivery of this work.

7. MONITORING: The impacts of this proposal will need to be monitored and reviewed. Please specify the date at which you will evaluate the impact, and where you will report the results of the review.

The impacts of this proposal will be evaluated on:	Quarterly 2021/22 and beyond
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