



Local Authority charges for photocopying planning documents

**A Report to the Dáil and Seanad in accordance
with Section 6(7) of the Ombudsman Act 1980**

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Introduction

Public participation in the planning process is an important and valuable element of the planning system. To facilitate the involvement of third parties, planning legislation gives the public the right to inspect and obtain copies of certain types of planning documents. However, the imposition of excessive charges for photocopying such documents can deter members of the public from participating fully. This may not only be unfair to the individuals concerned but it can also undermine public confidence in the openness and transparency of the planning system.

Over the past number of years I have received complaints from members of the public about the level of fees being charged by local authorities/planning authorities for photocopies of extracts from planning files. It has been apparent that there has been inconsistency across local authorities in the amounts being charged for photocopies and I have been concerned that the level of fees being charged by some local authorities appeared to be excessive. Where the procedures for making and processing planning applications is standard throughout the country, it seems to me that charges for copies of planning documents should be relatively uniform across all planning authorities. I highlighted the issue in my first Annual Report in 2003 and have referred to it in most of my subsequent annual reports. As I have continued to receive complaints about excessive charges, I have decided to carry out another review across local authorities and report on my findings.

In accordance with section 6(7) of the Ombudsman Act 1980, I am submitting this Report to each House of the Oireachtas.

Emily O'Reilly
Ombudsman

Background

Legislation

Section 38 of the Planning and Development Act 2000 provides that certain documents relating to planning applications shall be made available for inspection and purchase by members of the public. Section 38 provides:

" Where a planning authority gives its decision in respect of a planning application the following documents shall be made available within three working days for inspection and purchase by members of the public during office hours at the offices of the authority:

- (a) a copy of the planning application and of any particulars, evidence, environmental impact statement, other written study or further information received or obtained by the authority from the applicant in accordance with regulations under this Act;*
- (b) a copy of any submissions or observations in relation to the planning application which have been received by the authority;*
- (c) a copy of any report prepared by or for the authority in relation to the planning application;*
- (d) a copy of the decision of the authority in respect of the planning application and a copy of the notification of the decision given to the applicant; and*
- (e) a copy of any documents relating to a contribution or other matter referred to in section 34(5)."*

The Act provides that the documents be made available for inspection for a period of not less than seven years. The Act also provides that the documentation listed at (a) and (b) i.e. the planning application and associated documents and submissions in relation to the application, shall be made available for inspection and purchase from as soon as may be, after they have been received by the planning authority. The Act does not prescribe fees for copying the relevant documents and the only reference in the Act to the fee to be charged for such a service is contained in section 38(4) which states:

"(4) Copies of the documents under this section shall be made available for purchase on payment of a specified fee not exceeding the reasonable cost of making such a copy."

This Report focuses in essence on the manner in which local authorities have interpreted the phrase 'reasonable cost' in determining the fees to be charged.

Inconsistency in charges

Members of the public have continued to complain to me about the excessive fees being charged by some local authorities for copying planning documents, and in examining the complaints it became apparent that there was no consistency in the level of fees being charged by local authorities. In my Annual Report in 2004, I gave an account of a survey carried out by my Office of 30 local authorities in order to establish the fees being charged. This survey showed that the definition of "reasonable cost" varied quite a lot from one local authority to another, with fees ranging from 10c to €1 per A4 page and some imposing

minimum charges of between €1 and €3. A check with suppliers of commercial photocopying services at that time established that the charge for a copy of an A4 size document ranged from 10c to 15c per copy. The charges imposed by local authorities, when contrasted with charges for copies of records obtained under the Freedom of Information Act 1997, is also noteworthy. Regulations made by the Minister of Finance under section 47 of the Freedom of Information Act 1997 provided, at that time, for maximum charges of 4c per photocopy sheet, 51c per 3½" diskette and €10.16 per CD-ROM.

Role of the Department of the Environment, Heritage & Local Government

In February 2004, my Office wrote to the Department of the Environment, Heritage & Local Government (the Department) regarding the matter of the charges being levied by local authorities. It was pointed out that dealing "fairly with people" means "treating people in similar circumstances in like manner". In the matter of charges for documents on planning files, I took the view that, where appropriate, charges for similar public services across all relevant public bodies, including local authorities, should be relatively uniform. Given the lack of uniformity in relation to the charges being levied by local authorities for copies of documents on planning files, the Department was requested to carry out a review of the charges being imposed and to consider providing clearer guidelines on the calculation of charges in an effort to ensure uniformity of treatment across all local authorities.

My Office drew the Department's attention to the regulations made by the Minister for Finance under the Freedom of Information Act which specify, inter alia, that, in relation to a photocopy of material provided to a member of the public in response to a request under the Freedom of Information Act 1997, an amount of £0.03p (0.4c) should be the rate charged per sheet. It was also pointed out that, as planning documents would normally be available for inspection in the planning office, the time spent on sourcing and retrieval should, in most cases, be minimal and, therefore, the inclusion of staff time for this activity in the calculation of the fees to be charged, would not appear to be reasonable.

The Department undertook its own survey of photocopying charges in planning authorities and the results showed a wide variation in charges. This prompted the Department to issue guidelines on the matter to all planning authorities in August 2005 (Circular Letter PD 4/05 Appendix A). This circular, while not prescriptive in terms of the actual charges to be applied, provides guidance in relation to the interpretation of what constitutes the 'reasonable cost' of making a copy. The Department indicated that it considered that the 'reasonable cost' of making a copy would comprise no more than the cost of the paper and the running cost of the copying machine such as toner, electricity and servicing and the cost of staff time spent in actually photocopying. In addition, the circular requested that planning authorities review their charging policy in light of the Department's advice.

Compliance with Circular Letter PD 4/05

As reported in my Annual Report for 2005, subsequent to the issuing of the Department's Circular Letter in August 2005, my Office carried out a further telephone survey of 30 local authorities in order to establish whether they had revised their charges in light of the guidelines. This survey showed that some local authorities had reduced their fees, others decided that the fees being charged by them were reasonable and made no amendments, and some appeared to be unaware of the Department's guidelines. Significant inconsistencies remained in relation to the level of charges being levied and I continued to receive complaints on the matter. Having indicated in my Annual Report for 2005 my intention to revisit the matter, I decided to do so in 2007.

Survey 2007

In late 2007, my Office carried out a telephone survey of the same 30 local authorities that were surveyed in 2004 to establish the charges currently being levied for planning documents. The authorities chosen represent a broad geographical spread and a mixture of urban and rural authorities and constitute 85% of all city and county councils. The bodies were asked to provide the following information:

- What is the fee for photocopying an A4 page from a planning file?
- Does a minimum charge apply?
- Does a maximum charge apply?
- When were the charges set?
- Copy of the Council's schedule of all fees for photocopying planning documents.

Appendix B sets out the results in detail. The range of charges varies significantly from body to body. Donegal County Council, for example charges no fee where the number of pages being copied is less than five while South Dublin County Council waives the charge where the total fee would not exceed €5 but Galway County Council charges €5 for photocopying a single A4 page.

Comparison of charges for 2004 & 2007

A comparison with the charges levied in 2004 shows that in:

- fifteen local authorities (50%), the charge for an A4 page remained unchanged,
- seven local authorities (23%), the charge decreased,
- eight local authorities (27%), the charge increased,
- one local authority (Laois), the charge increased by 275% - up to 75 cent per page from 20 cent,
- another (Westmeath), the charge decreased by 80%, from €1 to 20 cent.

These comparisons illustrate starkly the significant lack of uniformity that still exists across local authorities in relation to the charges being levied for photocopying planning documents and also the extent to which local authorities appear to differ in their interpretation of the phrase 'reasonable cost' in the Department's Circular Letter of August 2005. The results are set out in more detail at Appendix C.

Minimum charges - the worst offenders

The local authorities shown below set a minimum charge the effect of which can be that a member of the public may pay as much as €5 for a single A4 page.

Body	Minimum Charge
Galway County Council	€5
Kildare County Council	€1
Longford County Council	€1
Roscommon County Council	€1.15
North Tipperary County Council	€3
Waterford County Council	€1

Excessive charges - the worst offenders by reference to the Department's Guidelines

The local authorities shown below charge 50 cent or more per A4 page.

Local Authority	Cost per A4 photocopy
Cavan County Council	50 cent
Clare County Council	60 cent
Dun Laoghaire Rathdown County Council	50 cent (Multiples of 5 pages €1.20)
Galway County Council	€5 for the first page and 50cent per page thereafter
Kerry County Council	50 cent
Laois County Council	75 cent
Limerick County Council	80 cent (No charge for first two pages)
Louth County Council	1-10 pages - €1.05 per page 11+ pages - 55 cent per page
South Dublin County Council	75 cent (Charges less than €5 waived)
South Tipperary County Council	50 cent (Multiples of 5 pages €1.20)
Wexford County Council	50 cent

Maximum Charges - welcome development

Two local authorities also operate a maximum charge. Kerry County Council's maximum charge is €50 while Roscommon County Council's is €0. In addition, according to Cork County Council, it exercises discretion as regards the maximum charge where large files are involved. This practice appears to have been introduced since the last survey was carried out in 2005 and is a very welcome development from a customer service perspective, as it facilitates the public in gaining access to records, particularly copies of large planning files which they may need in order to participate fully in the planning process.

Availability of planning documents online

Another welcome development is the increasing availability of planning documents online. It appears that growing numbers of local authorities are scanning relevant planning records and making them available to members of the public online, without any charges applying. This development means that not only can members of the public obtain the documents for free but they can also access the documents at the time of their choosing and without the need to call to the local authorities offices. It is acknowledged that this service involves a cost for the local authority as the scanning of the documents takes some time, however, where this alternative service is available, it will inevitably lead to a decrease in staff time spent making planning files available for inspection and purchase. The increasing availability of this service is to be applauded and encouraged.

I feel compelled to comment on the feedback that I received from one local authority who sought to justify levying excessive charges for providing photocopies of planning documents on the basis that this acted as an incentive for members of the public to avail of the online service which it provides. Such excessive charges are not in accordance with the provisions of section 38(4) of the Planning and Development Act 2000 and are contrary to the Department's guidance on the matter. In addition, they fail to take account of the fact that members of the public have a statutory right to inspect and obtain copies of relevant planning documents at the offices of the local authority at a reasonable cost, even if the documents are also available online. Not all members of the public have easy access to the internet or are familiar with the use of the internet. In addition, some may simply opt to avail of the inspection and purchase service at the local authority offices which local authorities are required by law to provide. While I consider the availability of the online service a significant and welcome development from a customer service perspective, this cannot be used to justify unreasonable charges for providing photocopies of planning documents.

Determining the 'reasonable cost'

Circular Letter PD 4/05 issued by the Department in 2005 indicated that the 'reasonable cost' of making a copy would comprise no more than the cost of the paper, the running cost of the copying machine such as toner, electricity and servicing and the cost of staff time spent in actually photocopying. This means that the time spent by staff retrieving and re-filing planning files and separating and re-assembling planning files in order to photocopy planning documents ought not be taken into account when calculating the reasonable cost.

A check with three commercial suppliers of photocopying services in Dublin was carried out and revealed that the highest cost for photocopying an A4 page (black & white) was 16 cents - an increase of 1 cent since 2004. Two other companies quoted 5 and 7 cents per page. In order to make a profit, it is clear that commercial companies take into account the running cost of the copying machine such as toner, electricity, servicing and staff time in making a photocopy, when determining the appropriate charge.

Having regard to the Department's guidance in Circular PD 4/05, i.e. that the reasonable cost of making a copy should include only the cost of actually making the copy and should not include the cost of searching for, or retrieving the document in question, it is very difficult to see how charges significantly in excess of the charges levied by commercial companies could be justified.

It is not for my Office to decide what the appropriate charge should be. However, the following example of a complaint that I received against Mayo County Council illustrates the approach that I will take to determining whether local authorities are complying with section 38(4) of the Planning & Development Act 2000 and setting charges which do not exceed the reasonable cost of making copies of the relevant documents.

In 2005, following receipt of a complaint that Mayo County Council was charging €1 per page for copies of planning documents, my Office carried out a forensic evaluation of the charges being levied. The Council said that, in order to determine what the "reasonable cost" of photocopying should be, it analysed the actual cost of producing an A4 photocopy. In summary, the Council calculated its costs for the provision of one A4 photocopy sheet as follows:

1. Time:

(i) File retrieval	5 minutes
(ii) File separation	5 minutes
(iii) Photocopy	10 minutes
(iv) File re-assembly	5 minutes
(v) Re-filing	<u>5 minutes</u>
Total time	30 minutes

The cost for this element, based on a Clerical Officer salary, was estimated at €5.82.

2. Equipment €0.007

3. Paper €0.007

The total actual cost estimated by the Council for producing one A4 photocopy was €5.834.

The Council concluded that the economic cost was not a "reasonable cost" and, accordingly, it said it set the fee at a similar level to adjoining local authorities. In this context, it maintained that the photocopying charge, at €1 per A4 sheet, was reasonable and could not be regarded as excessive.

I did not agree. I concluded, by reference to section 38(1) of the Planning & Development Act 2000, that the cost of file retrieval and re-filing, at 5 minutes each, was not chargeable. In addition, by reference to the Department's Circular, I concluded that the cost for file separation and file re-assembly, at 5 minutes each, was also not chargeable. I had no major difficulty with the Council's cost calculations for equipment and paper usage.

I was particularly concerned that, based on the Council's own estimation of 30 minutes to photocopy an A4 sheet, it was trying to convince me that an employee in Mayo County Council's service could only photocopy 14 pages in a full day - based on a 7-hour day i.e. 30 minutes x 14 photocopies = 7 hours.

Accordingly, I asked the Council to review its charges. In response the Council carried out a review of its photocopying charges and agreed to reduce its charges to €0.10 per A4 sheet, a reduction of 90% on the earlier charge.

Findings

Two main concerns arise from the survey and these are:

1. The inconsistency and spread of charges across local authorities.
2. The excessive charges levied by a large number of local authorities, despite the guidance issued by the Department of the Environment, Heritage and Local Government in August 2005.

The survey results for 2007 would indicate that the Department's Circular Letter PD 4/05 of August 2005 has had little or no impact on the level of charges for photocopying planning documents across the local authorities surveyed, as the following table illustrates:

Response of Local authorities	Comparative percentages
Increased or made no change to charges of 25 cents and over per A4 page	53%
Reduced charges but still exceed 25 cents per A4 page	7%
Reduced charges to less than 25 cent per A4 page	10%
Retained charges at less than 25 cent per A4 page	30%

Based on the survey results, the above figures indicate that 60% of all local authorities may be levying charges for photocopying planning documents above a level that I consider would be difficult to justify.

I call on those local authorities who are overcharging to now review their charges, by reference to the Circular issued by the Department in August 2005 and revise their charges, as others have done. Should this not happen, I may have no option but to investigate the matter further. While I appreciate the independence and autonomy of individual local authorities, I have to take into account that the planning process is a national one, where procedures are generally uniform across all local authorities. In passing, I should also mention that the Freedom of Information Acts 1997 to 2003, apply nationally across all local authorities and other public bodies and, as already stated, provide, by Regulation, for a standard photocopying charge. Given that the national planning process, by law, requires that planning files be made available to the public for a given period, there would not appear to be a justifiable reason for imposing charges greater than the cost of making a copy of planning documents. Should I find it necessary in the future to investigate charges for photocopying planning documents in a particular local authority as a test case, and should I find that its charges cannot be justified, I will be most critical of that local authority, not only for its overcharging but also for its failure to take on board the Department's Circular Letter PD 4/05 and the evidence and comments contained in this Report.

Circular Letter PD 4/05

Charges for Photocopies of Planning documents

A Chara,

The Ombudsman has raised with this Department her concern regarding the level of fees being charged by planning authorities for photocopies of documents relating to planning applications.

On the basis of a survey carried out, the Department has determined that there is a large variation in practices in planning authorities as regards the method of calculation of charges for photocopies of planning documents.

Section 38(4) of the Planning and Development Act, 2000 allows the charging of a fee "not exceeding the reasonable cost of making a copy". While this Department is not in a position to give a legal interpretation of the Act, it is our view that the reasonable cost of making a copy should include only the cost of actually making the copy and should not include the cost of searching for and retrieving the document in question. As the legislation envisages that documentation must be made available for inspection free of charge, it is reasonable to assume that the words "the reasonable cost of making a copy" refer only to the cost of making the copy. Accordingly we consider that a reasonable charge would comprise no more than the cost of the paper and the costs of the copying machine such as toner, electricity, servicing and the cost of staff time spent in actually photocopying. It also follows from this that the charging of a minimum charge of e.g. €2-€5 for one page is not reasonable if this charge exceeds the actual cost of making the copy.

I would ask that planning authorities review their charging policy for copies of planning documents in the light of the foregoing.

Mise, le meas

Marian O'Driscoll
Assistant Principal,
Planning Section

To: Directors of Planning Services, County and City Councils; Town Clerks

Appendix B

Survey of Local Authorities 2007

County Council	Cost per page	Min. Charge	Max. Charge	Date Set
Carlow	A4 - 25 cent A3 - 50 cent A2 - €3 A1 - €8 A0 - €5	No	No	1/1/04
Cavan	A4 - 50 cent A3 - 50 cent A2 - €5 A1- €10	No	No	20/2/07
Clare	A4 - 60 cent Up to 10 pages - €5 max. Up to 20 pages - €10 max. A3 - €1.20 per page A1/A0 - €8 per page	No	No	26/5/04
Cork County Council	A4 - 10 cent A3 drawing - €5 A1/A2 or larger - €10	No	Discretion used where large files involved.	2002
Donegal	A4 - 0-5 pages - No charge A4 - 5+ pages - 20 cent per page A0/A1 Plans - €5 A4/A3 Plans - €1	No	No	1/5/05
Dublin City	A4 -1-30 pages - No charge A4 -31-50 pages - €10 A4 -51- 100 pages - €15 Each additional 100 pages €15 Colour copies €5 each.	No	No	Not known
Dun Laoghaire /Rathdown	A4 - 50 cent per page or €1.20 for 5 pages A0 - €8 A1- €6 A2 - €3.31 A3 - €1	No	No	2001
Fingal	A4 - 25 cent A4 drawings - €2 A3 drawings - €2.50 A2 drawings - €5 A1 drawings or larger - €10	No	No	2002
Galway County Council	A4 single page extract €5 & 50 cent per page thereafter from same file. A3 single page extract €5 and €2 per page from the same file thereafter A1- €7 A0 - €10	€5	No	Not known

County Council	Cost per page	Min. Charge	Max. Charge	Date Set
Kildare	A4 - 15 cent A3 - 30 cent A1, A2 and A0 maps - €5	Yes - €1	No	25/5/06
Kerry	A4 - 50 cent A3 - €1 A0 - €5	No	Yes - €50 per file	Not known
Kilkenny	A4 Black & White - 13 cent A4 Colour - 25 cent A3 Black & White - 26 cent A3 Colour - 40 cent A0/A1/A2 Black & White - €3.80	No	No	6/9/05
Laois	A4 - 75 cent A0 - €10 A1 - €6 A2 - €4 A3 - €1	No	No	2002
Leitrim	A4 Black & White - 15 cent A4 Colour - €1.50 A3 Black & White - 30 cent A3 Colour - €2 A0 Plans - €8 A1 Plans - €5 A2 Plans - €3	No	No	11/3/02
Limerick	A4 - No charge for first two sheets and 80 cent thereafter. A3 - €1.30 A1 - €2.50	No	No	17/11/06
Longford	A4 - €1 for first page and 20 cent per page thereafter. A0 - €10 A3 - €1	Yes - €1	No	2000
Louth	A4 - 1-10 pages - €1.05 per page 11+ pages - 55 cent per page A3 - €5 A1 - €15	No	No	2005
Mayo	A4 Black & White - 10 cent A4 Colour - €1 A3 Black & White - 10 cent A3 Colour - €1.50 A2 or larger - €1.50	No	No	09/7/06
Meath	A4 & A3 text pages - 15 cent per page A0 maps drawings - €10 A1 maps/drawings - €8 A2 maps/drawings - €5 A3/A4 maps/drawings - €3	No	No	13/1/07

County Council	Cost per page	Min. Charge	Max. Charge	Date Set
Monaghan	A4 text - 25 cent per page A4 map - €5 A3 map- €10 A3 map colour - €15 Large map (greater than A3) - €20	No	No	2001
North Tipperary	A4/A3 - €3 minimum and 20 cent per page thereafter. A0 - €5 minimum and €2 per page thereafter	Yes A4 - €3 A3 - €3 A0 - €5	No	29/7/05
Offaly	A4/A3 - 30 cent Copy of map larger than A3 - €10	No	No	31/3/06
Roscommon	A4/A3 - €1.15 for the first page and 15 cent per page thereafter. A0/A1/A2 Black & White - €2 A0/A1/A2 Colour - €5	Yes - €1.15	Yes- €30	3/5/06
Sligo	A4 - 20 cent (Less than 5 pages usually incur no charge) A3 - €2 A2 - €3 A1 - €5	No	No	Not known
South Dublin	A4 - 75 cent A3 - €1 A2 - €4 A1 - €6 A0 - €10 Fee waived where charges are less than €5	Yes- €5 Charges less than €5 waived	No	23/8/07
South Tipperary	A4 Black & White - 50 cent* A4 Colour- €3 A3 Black & White- €1 A3 Colour - €5 A2 - €5 A1- €8 A0 - €10 *A4 multiple of 5 pages - €1.20 per 5 pages	No	No	11/3/02
Waterford	A4 Black & White - 25 cent A4 Colour - €3 A3 Black & White - €1 A3 Colour - €5 A2 Black & White - €5 A2 Colour - €13 A1 Black & White - €8 A1 Colour - €22 A0 Black & White - €10 A0 Colour - €35	Yes - €1	No	2004

County Council	Cost per page	Min. Charge	Max. Charge	Date Set
Westmeath	A4 - 20 cent A3 - 20 cent A2 - €4 A1 - €6 A0 - €9	No	No	22/12/05
Wexford	A4 - 50 cent A3 - 50 cent A2 - €1 A1 - €1.50 A0 - €2	No	No	2005
Wicklow	A4 - 25 cent A3 - 50 cent A2 - €2 A1 - €4 A0 - €7.50	No	No	6 yrs approx.

Comparison of Charges in 2004 & 2007

County Council	Cost per A4 page 2004	Cost per A4 page 2007	Comparison
Carlow	25 cent	25 cent	Same
Cavan	25 cent	50 cent	100% increase
Clare	50 cent	60 cent	20% increase
Cork County Council	€1	10 cent	90% decrease
Donegal	€1	0-5 pages - No charge 5+ pages - 20 cent per page	80% decrease
Dublin City	0-30 pages - No charge 30-50 pages - €6	0 - 30 pages-no charge 31-50 pages- €10 51-100 pages - €15	67% increase
Dun Laoghaire/Rathdown	€1.20 per 5 pages	50 cent per page or €1.20 per 5 pages	Same
Fingal	25 cent per page Minimum charge €1.20	25 cent per page	Same
Galway County Council	€5 for first page and 50 cent per page thereafter from the same file	€5 for first page and 50 cent per page thereafter from the same file	Same
Kildare	15 cent Minimum charge €2	15 cent per page Minimum charge €1	Same
Kerry	€1	50 cent	50% decrease
Kilkenny	13 cent	13 cent	Same
Laois	20 cent	75 cent	275% increase
Leitrim	15 cent	15 cent	Same
Limerick	65 cent Minimum charge €2.50	No charge for first 2 pages and 80 cent per page thereafter	23% increase
Longford	20 cent Minimum charge €1	€1 for the first page and 20 cent per page thereafter	Same
Louth	€1 each for first 10 pages 50 cent each further page	1-10 pages - €1.05 per page 11+ pages - 55 cent per page	5% increase
Mayo	13 cent	10 cent	23% decrease
Meath	€1.20 per 5 pages	15 cent per page	37% decrease
Monaghan	25 cent	25 cent	Same
North Tipperary	20 cent Minimum charge €3	20 cent Minimum Charge €3	Same

County Council	Cost per A4 page 2004	Cost per A4 page 2007	Comparison
Offaly	30 cent	30 cent	Same
Roscommon	10 cent Minimum charge €1	€1.15 for the first page and 15 cent per page thereafter	50% increase
Sligo	10 cent	1-5 pages - No charge 5+ pages - 20 cent per page	100% increase
South Dublin	75 cent	75 cent fee is waived where charges are less than €5	Same
South Tipperary	€1.20 per 5 pages	50 cent Multiples of 5 pages - €1.20 per 5 pages	Same
Waterford	25 cent Minimum charge €1	25 cent Minimum charge €1	Same
Westmeath	€1	20 cent	80% decrease
Wexford	€1	50 cent	50% decrease
Wicklow	25 cent	25 cent	Same



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