

Gender pay gap reporting

A TUC guide for trade union activists

One

What are the gender pay gap regulations?

From April 2018, public, private and voluntary sector organisations with 250 or more employees must publish information about the gender pay gap in their organisation. They will have to do this each year.

This guide covers:

- What the gender pay gap is, what causes it and how it differs from equal pay
- An overview of the new gender pay gap reporting regulations
- How to negotiate using the new gender pay gap reporting regulations
- Useful links and further information

Key points

- New gender pay gap reporting Regulations will provide accessible information about the gender pay gaps in organisations with **250 or more employees**.
- The new Regulations require **all** employers with 250 or more employees to report on their gender pay gap. Employers must report on six key metrics in line with a statutory calculation, meaning gender pay gap reports will be standardised.

- Employers with 250 or more employees must report on their gender pay gap on an annual basis.
- This information must be published on the employer's own website and on a government website.
- The gender pay gap Regulations are not the same as an equal pay audit, so they won't require employers to identify where women are doing work of equal value to men, but not being paid the same.
- The Regulations will not require employers to publish a narrative report explaining the gender pay gap or require them to take action to narrow the gender pay gap in their organisation. This is a good opportunity to negotiate to ensure that employers publish a narrative and an action plan to improve the effectiveness of the Regulations.
- The data published will give you a better picture of the gender pay gap in your organisation. Many unions plan to use this information to negotiate action plans with employers to close the gender pay gap.
- Tackling the gender pay gap is not a new role for union reps and officers. Trade unions have been at the forefront of equal pay campaigns and tackling the gender pay gap for many years. The latest [TUC Equality Audit](#) provides some

great examples of union campaigns and collective bargaining which have led to the gender pay gap being narrowed.

- You may already negotiate policies and procedures with employers which have led to the gender pay gap being narrowed. But the new Regulations should provide you with more useful information. This greater transparency will give you an additional tool to negotiate policies and agreements which aim to close the pay gap.

What is the gender pay gap?

The gender pay gap is a term that is used a lot but is not always well understood.

The gender pay gap is the difference in average pay between all men and all women in a workforce.

Analysing the pay gap between men and women makes it possible to see that, in general, women earn only a proportion of what men earn. The gender pay gap that most people know about is the difference in the average hourly earnings of male and female full-time employees in the UK labour market. The trade union movement has traditionally used the mean average whereas the Office for National Statistics (ONS) tends to prioritise the median. The official statistics relating to average earnings are released annually by the ONS and are known as ASHE (Annual Survey of Hours and Earnings).

- The full-time gender pay gap is calculated by dividing the average (mean) hourly earnings of female full-time employees by

the average (mean) hourly earnings of male full-time employees, showing this as a percentage and subtracting the figure from 100 per cent.

- The part-time gender pay gap is calculated by dividing the average (mean) hourly earnings of female part-time employees by the average (mean) hourly earnings of male full-time employees, showing this as a percentage and again subtracting the figure from 100 per cent.

The gender pay gap vs equal pay

The gender pay gap is not the same as unequal pay. The cause is not simply employers choosing to pay women less than male colleagues doing work of equal value (although direct discrimination like this can certainly be one of the causes). The gender pay gap is the result of several factors, all of which unions can help to address.

The gender pay gap and equal pay meet in the workplace. Whereas the national figures (ASHE) highlight the difference in the average hourly earnings of male and female full-time employees regardless of what jobs they do, at workplace level it's possible to see where men and women are doing equal work. You can then determine whether or not women are getting equal pay for the same work.

However, the data published under the Regulations will not necessarily flag up incidents of unequal pay in the workplace. To determine whether women are getting paid less for work of equal value, unions should work with the employer to conduct equal pay audits. Further negotiating tips

can be found later in this guide. If unions are struggling to have conversations with employers about equal pay, the gender pay gap reporting legislation is a good opportunity to get equal pay onto the bargaining agenda.

It is important for employers to comply with the Regulations and to take further steps to tackle the gender pay gap and unequal pay. Employees will have greater access to information about the gender pay gap in their organisations due to the new Regulations. For employers to recruit and retain female employees they will have to take steps to address the gender pay gap. Employers will need to consider their reputation if they don't take the issue of equal pay seriously.

Trade unions are in the perfect position to build this argument and work with employers to tackle the gender pay gap.

What are the causes of the gender pay gap?

There are many reasons why the gender pay gap exists. Some of the factors are rooted in the workplace, such as pay systems, promotion and training opportunities and in some cases, direct discrimination. Other reasons are linked to the workplace but rooted in society's expectations of a woman's role in the home, at work, and in wider society. This includes the division of labour in the home and the career paths that girls and boys are encouraged to pursue. It is important to consider these different factors when preparing for negotiations around the gender pay gap in your workplace.

High risk pay systems and job evaluation

The gender pay gap is affected by the way pay is set, both collectively and individually, or in combination. For example, a collectively agreed base rate may be topped up by individually determined performance related pay. Generally speaking, the simpler the pay system, the less likely there is to be a gender pay gap, and the easier it will be to determine its causes.

Work done by women tends to be less visible and job evaluation schemes may undervalue the types of work and skills often associated with women's work. A famous example of this is the sewing machinists at Ford Dagenham who successfully argued that their work was just as skilled as higher paid male colleagues working in car manufacturing. Unions can develop effective job evaluation schemes with employers to ensure an employee's full range of skills is taken into account.

Occupational segregation

The undervaluing of women's work is closely linked to occupational segregation: women working in sectors almost exclusively with women, and men working in sectors with men. In the UK, while women tend to cluster in the '5 Cs' – cleaning, catering, caring, cashiering and clerical work – men occupy a much wider range of jobs.

Occupational segregation can be both horizontal and vertical.

Horizontal segregation is where a workforce or groups of workers within a workforce are made up mostly of one sex. For example, care workers are predominantly female in the UK.

Vertical segregation is where men hold the better paid posts. For example, in a bank, clerical workers and cashiers tend to be women and high paid executives tend to be men.

By encouraging employers to open up traditionally male-dominated roles to women and by widening access to apprenticeships in male-dominated sectors, unions can help to narrow the gender pay gap.

Motherhood and caring responsibilities

The unequal sharing of family responsibilities, such as the day-to-day care of children and relatives, coupled with a lack of flexible working arrangements often found in higher paid roles, depresses women's rates of pay and means that they are overrepresented in low paid, casual and part-time work.

Research carried out by the TUC found that the gender pay gap widens when women become mothers. There is a gap of 2.6 per cent in hourly pay, excluding overtime, between full-time men and women in their 20s; this widens to 5.3 per cent for women in their 30s and reaches 17.5 per cent for women in their 40s. This shows there is a "motherhood pay penalty" for women who become mothers. One in twelve women took a cut in pay when returning to work

after maternity leave. The hourly wages of women who return to paid work after maternity leave decrease, on average, 2% for each year that they have not been in employment.¹

Unions can help to decrease the pay penalty for motherhood by ensuring that employers offer a wide range of flexible working arrangements at all levels in the organisation, to men as well as to women. Unions can help by:

- negotiating enhanced shared parental leave and pay
- monitoring the training and development opportunities, bonuses and promotions within a company
- bargaining for better family friendly rights, for example, paid parental leave, phased return from maternity leave, enhanced maternity, paternity and Shared Parental Pay (ShPP) packages, job shares

These types of policies can help prevent part-time workers, those with caring responsibilities and women returners from being penalised by helping them to achieve a better work life balance.

¹ <https://www.ifs.org.uk/publications/8429>

Two

Understanding the new reporting Regulations

What are employers required to do?

The new Regulations require employers with 250 or more employees to publish data on their pay gaps on an easily searchable and accessible company website as well as on a government sponsored website. Voluntary and private sector organisations will have to publish the information alongside a signed, written statement confirming that the information is accurate.

What information will they have to publish?

Employers must publish information on six key gender pay gap metrics. The method for calculating these metrics is set out in the legislation, meaning that all reports should be standardised and easier to compare.

The gender pay calculations only include the pay for "full time relevant employees". This means only employees on full pay will be included in the calculations. Employees on reduced pay rates such as sick pay or maternity pay will not be factored into the calculations. However, these employees will still be

taken into account when considering whether an employer has 250 or more employees.

The six key metrics are:

1. Gender pay gap as the mean average

The employer will have to add up all the hourly rates of pay for male employees and divide by the number of male employees. This is figure "A". They will then have to do the same for the female employees in their organisation. This is figure "B". Let's say figure "A" is £16 and figure "B" is £14. The calculation set out in the legislation is:

$$\frac{(A - B)}{A} \times 100$$

This calculation results in a positive percentage figure of 12.5%. This means there is a gender pay gap with women receiving, as a mean average, 12.5% less than men.

2. Gender pay gap as a median average

The employer must list all of the hourly pay rates for men from highest to lowest. If there is an odd number of results, the median average is the middle number of this list. If there is an even number of results, the median will be the mean of the two middle numbers. This is figure "A". They will then have to do the same for all the female employees in their organisation. This is figure "B". Let's say figure "A" is £17.50 and figure "B" is £12.50. The calculation set out in the legislation is:

$$\frac{(A - B)}{A} \times 100$$

This calculation results in a positive percentage figure of 28.6%. The means there is a gender pay gap with women receiving, as a median average, 28.6% less than men.

3. Average bonus gender pay gap as a mean average

The mean bonus gap is the difference between the mean bonus paid to male employees and that paid to female employees.

The employer must add all the bonus pay paid to men over a 12 month period ending with the snapshot date. Then divide this by the number of male employees. This is figure "A". The employer should repeat this step for female employees. This is figure

▣ WHAT DO THE MEDIAN AND THE MEAN AVERAGES SHOW US?

The median may be a better indicator of the most typical average wage, if wage rates have an outlier. An outlier could be that a company has some significantly higher salaries that differ greatly from the other salaries in the organisation. This would skew the mean average salary, so the median average might be a better indicator.

However, the reason why unions have traditionally preferred the mean measure of the gender pay gap is that the majority of high earners are men and therefore these outliers are relevant to the overall pay gap picture. It is also worth noting that European countries use the mean average, so it enables us to make international comparisons.

"B". The calculation set out in the legislation is:

$$\frac{(A - B)}{A} \times 100$$

Let's say that figure "A" is £36,000. And figure "B" is £10,000. This means that there is a mean bonus gender pay gap of 72%.

4. Average bonus gender pay gap as a median average

The median bonus gap is the difference between the median bonus paid to male employees and that paid to female employees.

The employer must list all the bonus pay paid to men over a 12 month period ending with the snapshot date and find the midpoint. This is figure "A". The employer should repeat this step for female employees. This is figure "B".

The calculation set out in the legislation is:

$$\frac{(A - B)}{A} \times 100$$

Let's say that figure A is £2500. And that figure B is £1750. This means that there is a median bonus gender pay gap of 30%.

5. Proportion of males receiving a bonus payment and proportion of females receiving a bonus payment

The employer must publish the proportion of male and female employees who received a bonus payment over a period of 12 months, ending with the snapshot date. The calculation shown below, for example, is the number of male employees paid a bonus; "A", divided by the total number of male employees; "B", multiplied by 100. The employer will then need to repeat this calculation for female employees. The employer will then report a percentage for both male and female employees receiving

a bonus which can then be directly compared.

$$\frac{A}{B} \times 100$$

6. The proportion of males and females in each quartile pay band

Firstly, the employer must determine the hourly rate of pay for each male and female full-pay relevant employee and then rank those employees in order from lowest paid to highest paid (both male and female employees in one list). They then have to divide this list into four equal sections. The employer will then have to show the proportion of male and female employees in each quartile. To do this, the employer must identify the number of male employees in each quartile band. Let's call this figure "A". They then divide figure "A" by the number of male employees in each quartile band, figure "B", and then multiply this figure by 100. This will reveal the proportion of male employees in one quartile. Repeat this for the other three quartiles. Then repeat the calculations for female employees in each quartile. This will produce a percentage for both male and female employees in each quartile band which can then be directly compared.

$$\frac{A}{B} \times 100$$

How is hourly pay calculated?

The calculations above all require hourly pay rates to be used for the gender pay gap calculations. Add together all the amounts of ordinary pay and bonus pay paid to the employee during the relevant pay period.

The pay period relates to how often an employee will be paid. So if an employee is paid monthly, then the pay period is one month. Details of what counts as "ordinary" and "bonus" pay is outlined below.

The legislation states that a month is treated as having 30.44 days and a year is treated as having 365.25 days.

Let's say that a person receives a yearly bonus of £5000 but is paid monthly. To calculate how much of that bonus is attributable to the monthly pay period, the calculation is as follows:

$$(\pounds 5000/365.25)*30.44=\pounds 416.70$$

The yearly bonus payment must be divided by 365.25 then multiplied by 30.44 to reach the bonus amount attributable to the monthly pay period.

Multiply this figure by 7 then divide by the number of days in the relevant pay period. So if an employee is paid monthly, the multiplier would be 7/30.44.

Divide this figure by the number of hours in a working week.

The number of working hours will normally be outlined in a person's contract of employment.

Where the employee does not have typical working hours, the employer should look at the average number of working hours worked over previous weeks. This is calculated by looking at preceding weeks where an employee has worked. The employer must start from the last week of the current pay period. They must add up all the hours worked over the preceding 12 weeks, *where hours have been worked*.

Where no hours have been worked in a week, that week will be discounted from the calculation. So, for example, if an employee hasn't undertaken any hours for four weeks in the preceding 12-week period then the employer must look back at further weeks where hours have been worked.

What makes up 'ordinary pay'?

The amount of an employee's ordinary pay or bonus pay is to be calculated before deductions made at source (for example, deductions in relation to income tax).

When doing the calculations for the key indicators above (1, 2 and 6) the following forms of pay should be taken into account:

- Basic pay
- Allowances such as London living allowances, recruitment and retention allowances and car allowances
- Pay for piecework

- Leave pay (Annual Leave, Maternity Leave, Paternity Leave, Adoption Leave, Parental Leave, Shared Parental Leave)
- Shift premium pay

What is not included?

- Overtime pay
- Redundancy or termination pay
- Pay in lieu of leave
- Benefits in kind
- Salary sacrifice schemes such as childcare services and health plans

What makes up bonus pay?

- Money, vouchers, securities, security options, interests in securities
- Payment linked to profit sharing, productivity bonus, PRP, incentive or commission pay

What information isn't included?

There is no requirement for employers to publish a narrative explaining the reasons for any gender pay gap in their organisations. There is no requirement for an employer to publish an action plan outlining how they intend to narrow the gender pay gap.

Government guidance and ACAS guidance (see links in section four) advise that employers should publish a narrative report to explain some of the reasons behind the gender pay gap.

This inherent weakness in the Regulations emphasises the important role that trade union representatives and officers play through using collective bargaining to work with employers to build upon the minimum standards set out in the Regulations.

Which employers must report?

The Regulations will apply to all organisations with 250 or more employees.

It is estimated that the Regulations will affect approximately 7,960 employers who employ 34% of the workforce, which is roughly 11.3m people.

To determine whether an organisation has 250 or more employees, they will be required to take a "snapshot" of the workforce on a specific date. In the private sector this will take place on 5th April each year. In the public sector this will take place on 31st March each year. If the snapshot reveals that an organisation has 250 or more employees, they will have to publish information about the gender pay gap in their organisation within the following year.

Organisations within scope must publish their gender pay reports by the 30th March (in the public sector) and by the fourth April (in the private sector) the next year following the "snapshot" date.

In companies with a group structure, each legal entity will need to publish information relating to the gender pay gap.

Schedule 2 of the legislation relating to the public sector reporting requirements includes a useful list of organisations within scope. Please see section four of the guide for further information.

Who counts as an employee?

The Regulations create two categories of people who have to be taken into account in gender pay gap reporting: relevant employees, and relevant full-pay employees.

The number of “relevant employees” determines whether an employer will fall within the scope of the Regulations.

For the purposes of gender pay gap reporting, the definition of who counts as an employee is defined in The Equality Act 2010. This is known as an ‘extended’ definition which includes:

- employees (those with a contract of employment)
- apprentices, seasonal, temporary or casual employees, zero-hours workers
- some self-employed people (where they have to personally perform the work)

Agency workers will not form part of the headcount of the organisation where they are on assignment. They will be included as relevant employees of the agency that provides them to the organisation.

There is no qualifying period for employees, so the duration of their employment is irrelevant for the purposes of these Regulations.

The number of “full pay relevant employees” will determine which employees pay should be taken into account for the statutory calculations against the six key metrics. Only employees on full pay will be taken into account for the gender pay gap calculations. For example, the hourly rate of pay for an employee on reduced pay during sick or maternity leave will not factor in the calculations. But employees on reduced pay will still count towards the headcount of an employer when determining whether they fall within the scope of the Regulations.

How often must the report be published?

Organisations with 250 or more employees must publish information on the gender pay gap on an annual basis.

What does the employer have to do with the information?

The information on the six metrics relating to the gender pay gap must:

- be published on the employer’s website in a way which is accessible to employees and the public
- remain on the website for three years from the date of publication
- be published on the government website

For private sector and voluntary organisations, the information must be published alongside a written statement from a senior official from the organisation confirming the information is accurate.

What happens if employers fail to publish the data?

There are no penalties for non-compliance with the new gender pay gap reporting Regulations. The fact that data will be published on websites and accessible to the public may have a positive effect on employers who do not wish to appear as if they have something to hide by not publishing the data.

Will the government evaluate the effectiveness of the Regulations?

There will be a government review of the Regulations within five years.

Three

Union bargaining tips

Unions should put the gender pay gap and equal pay on the bargaining agenda. Equal pay is not only about ensuring equality in the workplace: it's also about getting decent pay and conditions.

Despite the weaknesses in the Regulations, they will provide you and your union with information that will be useful in negotiations with your employer.

Regardless of whether your employer is covered by the new gender pay gap Regulations or not, there are lots of ways that union reps can work to close the gender pay gap.

Checklist for unions

Gender pay gap Regulations:

- Even if your employer doesn't fall within the scope of the Regulations (if they have

fewer than 250 employees) you can still work with your employer to publish

information about the gender pay gap in their organisations and then take steps to address the causes of the gap.

- Work with your employer to publish a narrative report to accompany the published data which explains the reasons for the gender pay gap in the organisation.
- Help your employer to develop an action plan which will address the root causes of the gender pay gap in the organisation.
- Encourage your employer to go further than the Regulations and report on additional metrics. Ask for the different gender pay gaps by workforce, by pay grade, job description, in starting salaries, using both the median and the mean, and also to measure the full-time and part-time gaps separately. Employers can do this even if they aren't covered by the new gender pay gap reporting Regulations. This will help unions and the employer to better spot what is causing the gender pay gap in the organisation.
- You can negotiate with your employer to report on other pay gaps in their organisations such as the ethnicity pay gap.

Tackling breaches of equal pay and the gender pay gap:

- Get to know the Equality Act 2010 Code of Practice on Equal Pay and check that

employers are also fully aware of the Code.

- Encourage pay transparency. Talk about pay with members; share information and experiences with colleagues from other unions; ask the employer to share gender disaggregated pay data with you; get the employer to publish as much information as possible about how pay, and about how pay is determined; and use union surveys and the disclosure tools – Trade Union and Labour Relations Act, the Freedom of Information Act – to help with this.
- Survey your members, develop a plan of action to challenge pay discrimination through negotiation, and make sure employers know what your objectives are.
- Provide learning and development for reps and any others who might be able to influence the structure of a pay system or the outcome of pay negotiations.
- Get involved in gender neutral job evaluation. Unions should be fully involved in the design, implementation, appeal and review processes of any job evaluation scheme. Unions should also ensure that anyone involved in the design or implementation of a job evaluation scheme is properly trained.
- Get your employer to do an equal pay audit and make sure they act on the findings. Unions should be fully involved in the design, implementation, and monitoring of the outcomes of an equal pay audit. For maximum benefit, audits should be carried out regularly, for example, every three years.
- Get your employer to carry out equality impact assessments of any proposed pay or employment policy changes.
- Negotiate improved maternity and parental leave arrangements with your employer. This helps women to stay in employment, maintain their earning power and makes it easier for parental responsibilities to be shared, lessening the pay penalty for motherhood.
- Get your employer to open up flexible working to both men and women at all levels in the organisation. This helps women to maintain their earning power and facilitates the sharing of the day to day responsibility for looking after children between both parents.
- You could encourage your employer to advertise all jobs as flexible, part-time or a job share at all levels in their organisation, unless there is a strong business case not to.
- You could negotiate with your employer to improve the policies which can help mums and dads in the workplace. For example, by negotiating for parental leave and time off for dependants to be paid.
- You could persuade employers to tackle occupational segregation. For instance, many unions have campaigned on issues relating to occupational segregation in their sector. For example, Prospect Union has a Charter for Women in STEM (Science, Technology, Engineering and Mathematics) and has worked with organisations such as WISE (Women in

Science and Engineering) to make the case to employers to recruit and retain more women in STEM.

- Ask your employer for recruitment statistics and whether job vacancies are being filled by women. It's worth looking at whether women apply to be promoted in equal numbers and, if they do, why they were not promoted in equal numbers. This could be addressed by identifying barriers or creating women's networks or mentoring schemes.
- Speak to your employer about the apprenticeship levy and their apprentice recruitment strategy. If the employer has 250 or more employees it is likely that they will also be paying this levy. Work with your employer to make sure that women are equally represented in apprenticeships and that they have equal access to the well paid, higher level apprenticeships. You could work with them to develop a recruitment strategy to support this.

increase or minimum cash increase, whichever is the greatest amount. This will help the lowest paid, who are disproportionately women.

- You may want to consider negotiating a pay increase which rolls up the lower grades, if they are disproportionately occupied by women. For example, grades 1-4 would be merged into one new pay grade.

It's important to consult with the membership before any decisions are taken about which pay strategy to adopt.

Pay bargaining strategies:

- Negotiate with your employer to pay employees the real Living Wage as a minimum. This will help the lowest paid, who are disproportionately women. The real Living Wage standard accreditation process means that the rate has to be paid to contractors on site, so it will benefit contract cleaners and catering staff as well as direct employees.
- You could negotiate a pay settlement which includes a flat rate percentage

▣ WHAT DOES A GOOD PAY SYSTEM LOOK LIKE?

The Equality and Human Rights Commission (EHRC) has produced a checklist listing the characteristics of a good pay system. A good pay system:

- **Is transparent.** While employees should be able to understand how each element of their pay packet contributes to their total earnings in any given period, this doesn't mean that everyone has to know everyone else's exact salary and benefits.
- **Covers all employees.** Having a different system for staff above a certain grade, or in particular roles, reduces transparency and invites cross-boundary claims.
- **Is simple.** The simpler the structure, the easier it will be to understand and administer, and the more likely it is to be transparent and objective.
- **Is based on an objective evaluation of job demands.** The law recognises an analytical job evaluation scheme as the best basis for evaluating jobs.
- **Monitors salaries on entry to the organisation and on transfer or promotion.** A policy of matching previous salary is a sure way of importing pay discrimination from someone else's pay system. If a previous salary is matched, there should be a process for ensuring the newcomer lives up to their promise, and that other candidates can be brought up to the same salary level within a reasonable period of time.
- **Monitors progression rates.** If men are progressing more quickly to the top of a pay scale than women are, a pay gap will open up, increasing the risk of unequal pay.
- **Places limits on local managerial discretion over pay.** Managerial discretion often applies to performance related elements of pay, and, where it exists, its effects should be monitored to ensure that one of group of employees is not being favoured over another – full-timers over part-timers, for example, or white men over black women.
- **Is subject to regular checks to ensure that each element of the pay system is still doing what it was intended to do.** Bonuses should fluctuate with performance, and not become a fixed and permanent addition to salary.
- **Ensures that women and men absent on maternity or parental leave get what they are entitled to** such as pay rises or bonuses.
- **Ensures that the pay system as a whole is regularly reviewed** to check that it is still fit for purpose. This is essential if there have been mergers, or the introduction of contracting out or contracting in.
- Ensures that all changes to the way in which pay is determined are **equality impact assessed.**

Four

Further reading and resources

[Advisory, Conciliation and Arbitration Service \(ACAS\) guidance on the gender pay gap](#)

[Equality and Human Rights Commissions \(EHRC\) guidance on the gender pay gap](#)

[The Chartered Institute of Personnel and Development \(CIPD\) guidance on the Regulations](#)

[Equal Pay portal](#)

[The Equality Act 2010 \(Gender Pay Gap Information\) Regulations 2017](#) apply to private and voluntary sector organisations with 250 or more employees.

[The Equality Act 2010 \(Specific Duties and Public Authorities\) Regulations 2017](#) apply to public bodies with 250 or more employees.

[Government Gender Pay Gap website](#) (explanatory)

[Government reporting website](#)

Find out more

For more information about the TUC's equalities work, go to:
www.tuc.org.uk/research-analysis/equality

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