

Disabled children, child protection systems and the Children Act 1989.

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Previous research, summarised by Westcott and Cross (1996), and work by those such as Marchant and Page (1992) and Kennedy (1996), suggested that disabled children are particularly vulnerable to abuse but that a number of factors get in the way of protecting disabled children from abuse. Recent research, commissioned by The Who Cares? Trust, confirms that current child protection systems are not addressing the particular needs of disabled children (Morris, 1998a, 1998b).

The research looked at the implementation of the Children Act 1989 as it applies to disabled children across three local authority areas - a London Borough, a County Council and a City Council. The project also visited with 30 disabled young people who had spent most of their childhood away from home, and used a variety of research methods to ascertain their experiences and opinions. This article discusses the findings relating to the operation of child protection systems within the case study areas and the

young people's experiences of abuse, also drawing on experiences of 10 young disabled people included in an earlier piece of work (Morris, 1995). The findings relating to the implementation of Children Act regulations concerning short-term and long-term placements are also summarised.

Social services departments have very little statistical information about their child protection work with disabled children

While there was a recognition within each of the case study areas that disabled children are probably more vulnerable to abuse than non-disabled children, they were yet treated as largely invisible within the child protection systems. This is particularly illustrated by the lack of information about how many disabled children were on the Child Protection Registers. The Department of Health does not require social services departments to record 'disability' - i.e. impairment (or race or gender), and none of the case study areas recorded how many children were disabled when they collated child protection statistics.

City and London Borough had made some attempts to *record* information about the numbers of disabled children subject to child protection investigations but in each case the information was incomplete and of limited use. Ironically, only County - which does not formally attempt to

collect any such information - was able, for the purposes of this research project, to provide a complete picture of the number and proportion of disabled children on the Child Protection Register (and these figures are discussed below).

The inadequacy of the information available from London Borough and City Council was due to:

- failure to establish a common definition of 'disability' (i.e. impairment)
- failure to ensure that information was consistently recorded
- failure to include children considered to have 'mild to moderate learning difficulties' within specialist disability services (the consequences of which are discussed below).

In London Borough, a Child Protection Conference Debriefing sheet asks for disabled children or adults in the family to be identified. However, there is no guidance on what is meant by 'disabled' for those filling in the Debriefing Sheets and, when the Senior Administrative Officer attempted to collate this information (at the request of this research project), she discovered that 'there is a discrepancy between the system which is used to record the data and the debriefing form on which the data is recorded'.

She also stated that 'over the last couple of years the data which has been recorded at one point in time has not been the same at another point in time. This has been due to a number of changes in the systems we operate.' The Debriefing Sheet also requested that it be recorded where a child had a Statement of Special Educational Need as a result of learning difficulty. However, although this would have enabled an identification of children with learning difficulties who were the subject of child protection investigations, the Senior Administrative Officer said that this information 'is not recorded any longer'.

When she looked at what information was available she found that a total of 9 disabled children had been put on the Child Protection Register over a period of two and a half years. She said 'I have to admit the figures are quite surprising...[and] I feel that this is probably not a very real indicator.' There were at that point in time only 2 disabled children on the Child Protection Register out of a total of 217 children.

In City, the Children with Disabilities Team will take child protection referrals for children with 'severe and profound disabilities'. Children who have 'mild to moderate' impairments will be referred to the appropriate Area Team. During 1996/7 there was a total of 69 child protection referrals to

City's Children with Disabilities Team; 20 Child Protection Conferences were held and 12 children were placed on the Child Protection Register. However, this is the only source of information about disabled children subject to child protection investigations. Other disabled children who do not come within the Children with Disabilities Team's eligibility criteria will have been referred to Area Teams and there is no way of identifying them within City's information system on child protection.

From information available from one case study area, it would appear that disabled children are much more likely to experience abuse than non-disabled children

As mentioned above, County Council had no system for recording whether a child subject to child protection investigation was disabled. Nevertheless, the Principal Officer for Children and Families was able to provide a list of children on the Child Protection Register who were known by the social work teams to have a physical/sensory impairment and/or learning difficulty. It was then possible to compare disabled and nondisabled children on the Child Protection Register and this analysis is presented in Table 1.

Table 1: Nondisabled and disabled children on the Child Protection

Register in County - by gender¹

	Boys		Girls	
	Non-disabled	Disabled	Non-disabled	Disabled
Totals	158	16	158	18
Per '000 children ²	2.2	9.5	2.3	15

Prevalence rates have been calculated on the basis of per 1,000 children whereas the Department of Health statistics calculate the rate of registration per 10,000 children. As there are only 2,886 disabled children in County (using the Census data on residents in households with limiting long-term illness), this seemed a more sensible way to present the data.

These figures should be treated with caution. They relate to the situation in

¹ This table and the following ones do not include the 10 unborn children placed on the CP Register in County.

² Using 1991 Local Base Statistics Table 6: ages 0-17 (not including disabled children in communal establishments as gender breakdown is not given for these totals).

one local authority area at one specific point in time; and they do not reflect a generally agreed definition of physical or sensory impairment, or learning difficulty but rather each social worker's own understanding of the terms. A more detailed look at the recording of whether a child was disabled or not found that one Area Team reported larger numbers than other Area Teams.

It was felt that this Team recorded children with mild to moderate learning difficulties as disabled, whereas the other Teams only recorded those who had significant learning and/or physical/sensory impairments. Depending on the definition of disability used, therefore, these figures could be seen as an over-estimate of the numbers of disabled children on the Child Protection Register, or an under-estimate.

A straightforward interpretation of the data presented in Table 1 indicates that disabled boys are over four times more likely than non-disabled boys to be placed on the Child Protection Register in County, while disabled girls are almost seven times more likely than non-disabled girls. Another way of looking at it is that, while disabled children only make up 2% of the population aged 0-17 in County, they account for 10% of the children on the Child Protection Register.

Social services officers in County were surprised that so many children on

the Child Protection Register were identified as disabled, partly because there have been strong messages in recent years that abuse experienced by disabled children has been under-reported and often unrecognised. Nevertheless, this over-representation of disabled children amongst those *within* the child protection system (that is, whose experiences are recognised and reported) would seem to be borne out by previous research. Westcott and Cross analysed 8 studies which looked at the numbers of disabled children amongst children whose experiences of abuse had been recognised by professionals. In 7 of these studies, disabled children were found to be over-represented and in fact the levels of over-representation were all greater than that found in County in this research project (Westcott and Cross, 1996, p.38). Unfortunately, these studies were either American or Australian and we do not have similar research relating to child protection systems in Britain.

Another under-researched issue concerns the extent to which children who have been abused acquire physical/sensory/intellectual impairments as a result of the abuse, or whose existing impairments become more significant. Again, however, there was no data available within the case study areas which would have enabled an exploration of this issue.

Inadequate statistics result in a significant underestimation of the experience of abuse amongst disabled children

As already mentioned, information comparable with that from County was not available from City or London Borough. Table 2 shows how incomplete information on child protection and disabled children in City and London Borough provides a startlingly different picture to that in County.

This comparison illustrates the importance of social services departments collecting comprehensive and accurate statistical information concerning child protection work with disabled children. If reliance was placed on the incomplete information available we are likely to underestimate the experience of abuse amongst disabled children. Accurate information is also needed to inform the development of child protection procedures which meet the needs of disabled children.

Table 2: Disabled children on the Child Protection Register in each case study area

	London Borough	County Council	City
Number of disabled children	2	34	12

on CP Register

Disabled children on CP	1	10	1.1
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Register as % of total

children on Register

Disabled children on CP	1.3	13	1.8
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Register per '000 disabled

children

It would appear that disabled children experience a different pattern of types of abuse in comparison with nondisabled children

Table 3 illustrates that amongst the disabled children on the Child Protection Register in County, a higher proportion were registered under the categories of neglect and emotional abuse than was the case for nondisabled children. Fifty percent of disabled boys and 50% of disabled girls on the Register were registered under the two categories of neglect and emotional abuse, compared to 40% of nondisabled boys and 35% of nondisabled girls.

Table 3: Nondisabled and disabled children on the Child Protection

Register in County: by child abuse categories

Percentages

Category	Boys		Girls	
	Non-disabled	Disabled	Non-disabled	Disabled
Neglect	22	44	19	22
Physical	33	19	30	6
Sexual	15	13	25	33
Emotional	18	6	16	28
More than one category	12	19	9	11
N =	158	16	158	18

This table also seems to show a different pattern of abuse experienced by disabled boys and disabled girls. Disabled boys were more likely to be recorded as experiencing neglect or physical abuse than disabled girls, and

disabled girls were more likely to be recorded as experiencing sexual or emotional abuse than disabled boys. These differences may reflect reality, or - particularly in the case of the different rates of emotional abuse and neglect - they may reflect a gender bias in the way different types of abuse are recognised. Disabled boys' experiences may be more likely to be recorded as neglect and disabled girls' experiences may be more likely to be recorded as emotional abuse. We do not know whether this is the case, however, because there has not been sufficient attention paid to the way the child protection system responds to disabled children's experiences.

Information concerning child protection referrals in City would seem to indicate that *referrals* involving disabled children are even more likely than registrations to concern neglect and emotional abuse and that these two categories of referrals may be less likely to result in children being placed on the Child Protection Register. Amongst the child protection referrals to City's Children with Disabilities Team, 52% concerned neglect and 28% emotional abuse (accounting for 80% of the total referred). On the other hand, amongst disabled children on the Child Protection Register, only 40% concerned neglect and/or emotional abuse. However, we need more accurate and comprehensive data concerning these and other aspects of the child protection system as it responds to disabled children's experience

of abuse.

Current child protection systems do not address the particular needs of disabled children.

Across the case study areas, there was a general lack of attention paid to child protection issues and disabled children. While there were social services officers in each of the case study areas who firmly believed that this was an important issue, they were all struggling with the fact that current child protection systems do not address the particular needs of disabled children. A Principal Officer's report in City stated, for example, that 'Current child protection procedures appear to be insensitive to the needs of the disabled child'.

London Borough has a Joint Child Investigation Team (with the police) which takes on any cases which look as if they will result in a prosecution. According to the Children's Commissioning Manager 'there is very little understanding of disability issues in the Child Protection Team.' The social work teams deal with 'the less serious cases' but a number of social workers expressed the fear that disabled children's experiences of abuse were not being recognised or acted upon. Generally, there was a feeling within London Borough that further work needs to be done about child

abuse and disabled children.

Analysis of both case study material and that relating to the experiences of disabled young people included in the research and in earlier work (Morris, 1995) highlighted two particular issues concerning the protection of disabled children and young people experiencing abuse.

1. Sometimes an experience of abuse is not recognised by social services workers and other professionals

Two young women, whose 'life stories' are included in *Gone Missing?*, described experiences of abuse which were not recognised by the professionals involved in their lives. One was Suba, who had been rejected by her mother at birth and experienced emotional and physical abuse throughout her childhood. She felt that she was sent away to boarding school for social, as well as for educational, reasons. As an adult she feels angry that the professionals who were in contact with her did not confront the abuse she experienced, but instead saw sending her away to school as a solution.

They knew I was in grave physical danger as a baby and they knew that things weren't right throughout my childhood but they

didn't have the guts to do anything.

Instead of seeing her situation in child protection terms, she was sent away to boarding school and when it became clear that she continued to experience neglect and physical abuse during the holidays, various arrangements were made so that she did not go home but stayed at school, or in adult residential establishments, or went on special holidays organised for disabled children.

Another young woman was Laura who, using a typetalker, described her experience. She said:

I spent a lot of my childhood in and out of hospital, in and out of children's homes, for one reason and another. I had a lot of operations when I was younger, on my legs - it was supposed to help me walk better and I did used to walk but I don't now. Seems a bit of a waste of time now. I also had speech therapy but then, when I went to a day centre when I was 20 or something, I got this machine which I can use to talk, or print things out. It's much better.

I can't remember why I first went into a children's home but later on it was because my mum couldn't cope. The home I first went to didn't have any other disabled children but the one I went to when I was 13 did. There were children with mental handicaps as well as physically handicapped.

I can remember being hit at my first home. That was bad because my dad used to hit me as well. I thought, well one place is as bad as another. He was horrid to my mum as well. I think they knew, social services, but I don't know what they did about it. My mum used to ask them to take me in.

I came here when I was 18. They had a meeting with my mum and dad and asked me about my future. I didn't know what was on the cards. They said, there's this new place we're opening up for young people. They turned out not to be so young. There's just me and this other girl, the others are older - I think they all came from a home that had been closed down.

The abuse which Laura experienced can be named as:

- Physical abuse
- Operations to be made more normal
- Denial of communication
- Segregation and exclusion - which has continued into adulthood.

However, neither Laura nor any of the adults responsible for her welfare (who included a large number of health and social services professionals) identified her experience as abusive.

During the course of the research on the implementation of the Children Act across three local authority areas, some social workers expressed a concern about situations which, if it were a non-disabled child involved, would be clearly recognised as raising child protection concerns, but were not so recognised because they involved a disabled child. This was sometimes because, as one social worker put it, it was thought 'parents have enough to put up with'. This kind of perspective can be made more likely by the tendency of the primary focus of the relationship to be with the parent rather than the disabled child. Ironically, the philosophy of working in partnership with parents is more advanced in work with parents of disabled children than it is with parents of non-disabled children but this in itself is sometimes associated with a failure to focus on the child's needs

and experiences.

The Manager of the Children with Disabilities Team in City talked about people's reluctance to identify child protection issues. He said ' We often get a situation where a worker is asking for respite for a child really to deal with a child protection issue, for example, a child being locked for days in their bedroom.' Examples were also given by workers in County where parental rejection of a child was not seen as a child protection issue. One Disability Team Manager talked about instances where 'behaviour by parents is bordering on emotional abuse but it's difficult to identify when it's serious enough to warrant a child protection referral.'

Of course sometimes it may be important not to name behaviour as rejection - for the sake of the child. Furthermore, family support rather than removal of the child from their family is clearly required in most of these situations. Nevertheless, there were circumstances where the only response to a child's experience of abuse was to set up a short-term placement under the guise of giving their parents 'respite'. It is unclear whether this is always in the best interests of the child.

2. Communication

We know that the criminal justice system denies justice to adults who do not use ordinary speech to communicate, or who have cognitive impairments (Westcott and Cross, 1996, pp. 118-123). A disabled child may not even get to the stage of being able to communicate an experience of abuse. The majority of disabled children in contact with social services have significant communication needs, yet social workers rarely have specialist training to help them. Only 27% of the children on the caseload of the Children with Disabilities Team in one of the case study areas used speech to communicate while another 25% used limited speech. Amongst a sample of another case study area's specialist Team's caseload the percentage with speech was even lower (7%), while 14% had limited speech. In about 3 out of 10 cases allocated to each Team, social workers were of the opinion that the child's communication and/or cognitive impairment prohibited communication at all.

Social workers themselves identified that they needed training and support. 'I paid to do a Makaton course myself' said one, 'I wanted to do a more advanced course but the department wouldn't fund it.' Another social worker talked about a workshop she had been to some years ago where 'there was someone, a psychologist I think it was, who was absolutely brilliant at telling you how you could interpret body language and the

sounds that some children make. That's the kind of thing we need, and we need help with doing it.'

Amongst the City Team's caseload, 43 cases out of 136 (32%) were reported by the social workers concerned as having been allocated because of child protection concerns. Most of these children did not communicate using ordinary speech and social workers would have required considerable skills and experience to enable them to disclose abuse.

In London Borough , an inter-agency procedure states that the 'onus is on social workers to overcome communication barriers' and specifically refers to disabled children. However, there had not been any resources identified to enable social workers to fulfill this requirement: as one senior child protection worker put it, 'A lot is theory rather than practice'.

The Team Manager in City referred to situations where there had been difficulties with police reaction to the Team's identification of child protection issues - a common initial response is that there has been no disclosure on the part of the child because the child did not use speech to communicate.

An enormous amount of work needs to be done to address communication barriers experienced by disabled children and young people. The visits with 30 young disabled people, which formed one part of the recent research project, found that many of them:

- did not have access to a communication system which suited their needs
- did not have routine access to people who understood the ways they communicated
- did not have access to independent facilitators.

This is a denial of a basic human right and it makes disabled children and young people both more vulnerable to abuse and less likely to be able to disclose it.

A general lack of protection

The Children Act intended to extend the same levels of protection to disabled children as to non-disabled children. To this end, when a social services department arranges for a disabled child to be cared for outside their home, for any period of more than 24 hours, the child is entitled to a care plan and regular reviews of the care arranged. The Guidance and

Regulations issued under the Children Act were intended to address the poor practice which had been identified during the 1980s concerning the placement of disabled children in respite services (see, for example, Robinson and Stalker, 1989, 1993).

However, the research found that there was a widespread failure to accord disabled children the entitlement to care plans and reviews of placements, partly because of a lack of recognition that disabled children in 'respite care' were 'accommodated' and 'looked after'. There was also sometimes a failure to accord the protection of Children Act regulations to disabled children who were in long-term placements. The final section of this article provides a summary of this part of the research.

There was some misunderstanding and confusion about how the Children Act regulations on care plans and reviews applied to children placed in respite care services.

This was evident at both senior management level and amongst social workers. There was:

- a 'mindset' within the social services departments which treated disabled children and looked after children as if these were two mutually exclusive categories. The structure of the department (i.e.

whether there were specialist Children with Disabilities Teams, whether generic child care teams dealt with disabled children, or whether Disability Teams dealt with children as well as adults) seemed to make no difference.

- misunderstandings about how the regulations on short-term placements apply to disabled children. Many disabled children whose parents receive respite care were not recognised as 'accommodated' and 'looked after'. This meant that care plans and reviews were not carried out.

For example, the Manager of a residential unit run by a voluntary organisation reported that none of the users of her service received statutory reviews from the social services department (although social services were involved in funding all the placements). She said 'Social services say they are not accommodated and therefore don't come under review regulations.'

There was a lack of information about how many disabled children are spending time away from home in order to give their parents a break, and in what kind of service provision

None of the case study areas had easily accessible comprehensive information on disabled children who were accommodated on a short term basis. City Council was the only case study area to keep a register of disabled children accommodated in short term placements but this only covered placements in residential units and did not include those with Link carers (i.e. short term family placements).

In County and London Borough, there were a number of possible sources of information but no Divisional or Departmental collation of statistics on disabled children accommodated on short term placements, either with family based carers or in residential settings. A senior manager in London Borough said, 'At the moment there are several sources of information, some more accurate than others.'

There was evidence of reviews of short-term placements being overdue in a significant number of cases.

Only one of the case study areas had even a partial database which would make monitoring of reviews possible. This was City Council who appointed a Review Clerk to the Children with Disabilities Team who compiled a database of children accommodated on long term and short term placements (but not including those placed with family based carers).

Before she started there was no monitoring system for reviews of short-term placements for disabled children and she had to construct a database by going through over 800 files. She was hampered by the fact that the form used by City to record when a care episode begins was often not completed. A number of workers in this authority (and in the other two authorities) were of the opinion that 'care episodes for disabled children are not taken seriously.'

In September 1996, out of a total of 159 children from City who experienced short term residential placements, in the case of 141 children their reviews were overdue. Only thirty-three of these children had an allocated social worker. Of the 18 children whose reviews were not overdue, 16 had an allocated social worker.

There was often very little social work input with children whose parents use respite care services

Generally the picture across the case study areas was one of very little continuing contact between social workers and disabled children using respite care services. Many parents accessing respite care services do so on a 'duty' or 'direct access' basis and they or their child do not have an allocated social worker.

An inter-agency (health and social services) Panel in London Borough provided a source of funding for out of borough residential respite care for children with complex needs yet few of these children had an allocated social worker. The Chair of the Inter-Agency Panel stated 'with the way things currently work, there is no social work being done with the family or child.'

A residential service (run by a health trust) within County, which provides both long-term placements and short breaks, reported that only one of the 31 users has a social worker. The Manager commented 'We're told this is because they're in NHS accommodation. We have difficulty getting community care assessments for them when they grow older and need other services.'

There was little evidence of disabled children's 'wishes and feelings' being 'ascertained'

The decision-making process of City's Resources Panel was analysed over a six month period. In only 12 out of a total of 66 cases presented to the Panel had the social worker attempted to find out the child's views. In at least 5 cases, the social worker had not even seen the child. Typically, the

section of the form headed 'Child's view' was left blank or the social worker made comments such as, 'She is unable to verbally communicate and therefore her view is not available'; 'It is not possible to know what his views are owing to his level of disability.' There were a number of occasions when the child was already spending some time in a residential unit but in only one instance did the social worker observe him there in order to find out whether he was happy.

Sometimes social workers recorded that the child was too young to state a view: However, parents were also relied on to represent the views of older children when the social worker felt that the level of impairment prohibited communication between themselves and the child: 'She is unable to express her viewpoint. Her mother says she can tell she enjoys going to [residential respite unit] from her body movements.'

Papers presented to a Resource Panel in County were also analysed. Of 24 cases submitted, in 11 instances the social worker wrote 'Not applicable' in the section headed 'Child's perception of need' and in another 9 cases the section was left blank. In one case, the social worker had written 'No communication but appears to dislike change', while in another she had written 'Although T is very verbal he doesn't perceive himself to be any

different from his brother. I observed this when I spent time both at home and in T's class.' In the remaining 2 cases no assessment form was presented.

Children who have communication impairments make up a majority of those disabled children in contact with social services departments, yet social workers are rarely provided with training and resources to enable them to carry out their statutory duty to 'ascertain' disabled children's 'wishes and feelings'.

Some disabled children were spending time away from home in short term placements without any knowledge or involvement of the social services authority

Across the case study areas, there was evidence of children spending time in hospices and other health-based facilities without any input from social services in the general planning of their care. The health trust facilities in City and County reported that few of the children who used their services had allocated social workers. One of the consequences of this is that there is little planning or co-ordination of the various forms of care which a child may be receiving. This was an issue highlighted by the Manager of the hospice used by parents of disabled children in City. He said, 'We do worry

about some of the children we provide respite for. We're quite worried that we're part of a much wider network of respite and the question is raised for us about how much time do these children actually spend at home? We seem to be alongside other units offering respite to some children. We have conversations sometimes with other units about, 'if you can offer this weekend then we'll offer the next'. If children are at school all day and then getting respite every other weekend or every weekend, they are spending little time at home.'

Even when social services departments are not funding short-term placements, there is still a requirement (under Section 62 of the Children Act) for social services to visit such children 'from time to time, in the interests of their welfare'. There was little evidence in any of the three case study areas of this duty being carried out. It also proved very difficult to track down who received notifications, required under Sections 86 and 87 of the Act, of children accommodated in residential or nursing homes, or in educational establishments for a period of more than three months. None of the case study areas was able to provide details of how many notifications had been made or of what happened as a result of any notifications.

Some disabled children on long-term placements were not being accorded the protection of the Children Act

To summarise the findings here:

- There was a lack of information about disabled children accommodated on a long-term basis
- Sometimes there was a failure to recognise disabled children placed in long-term foster care or residential care as accommodated and looked after
- Disabled children on long-term placements were more likely to be in residential placements than in foster placements, and less likely to be the subject of care orders, than non-disabled children
- There was evidence of reviews of long-term placements being overdue, which in some cases meant that they were not being done at all. In the only case study area which kept a record of when reviews were due, reviews were overdue for 60% of foster placements, 86% of those placed in residential units, and 78% of those in residential schools.
- Some disabled children were accommodated on a long-term basis in education and health care settings but there was a lack of information about how many and their circumstances.

Conclusion

The failure to accord many disabled children the protection which the Children Act was intended to provide is particularly worrying in the context of one of the other findings of the research project, namely that two of the three case study areas were placing significant numbers of disabled children under the age of 10 in residential short-term placements and in residential schools.

Child protection systems and the placement of disabled children in short-term or long-term placements are usually treated as two separate functions of social services departments in terms of the division of social work roles, policies and procedures, and strategic and planning functions. However, care plans and regular reviews of short-term and long-term placements can be important methods of protecting disabled children from abusive experiences, especially if attention is paid to the requirement to 'ascertain' the child's 'wishes and feelings'. Yet evidence from this research indicates that there is commonly a failure to fulfill the statutory obligations which the Children Act created, particularly in relation to short-term placements.

Child protection policies and procedures are intended to offer protection to all children, regardless of gender, race or impairment. However, unless

specific attention is paid, by those devising and implementing child protection systems, to the particular experiences and particular needs of disabled children, they will continue to remain invisible within child protection systems. It will therefore remain unlikely that disabled children will be accorded the full protection from abuse which is so needed.

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