

Health and Social Care Alliance Scotland (the ALLIANCE)

Briefing: COVID-19 Status Certificates ('Vaccine Passports')

18 May 2021



Summary

- Greater clarity is needed around the scope, purpose, and length of a vaccine passport scheme, including what data protection measures would be taken and what controls would be put in place to prevent discriminatory impact on specific population groups.
- Any introduction of a vaccine passport scheme must be carefully considered and planned to ensure it does not perpetuate or exacerbate existing inequalities or infringe people's rights – particularly for disabled people, people living with long term conditions, and unpaid carers. A detailed and robust EQIA and a HRIA on vaccine passports should be carried out and published at the earliest possible opportunity, specifically assessing the impact on intersectional population groups.
- Any vaccine passport scheme should be co-produced with disabled people, people living with long term conditions, unpaid carers, and other seldom heard groups to ensure that lived experience is at the heart of decision making.
- An intersectional, equalities and human rights based approach should inform inclusive and accessible decision making across any potential policy design, data collection, consultation, implementation and evaluation.
- Communication around any proposed vaccine passport scheme must be inclusive and accessible, and third party support and independent advocacy should be offered to people who face language or communication barriers.
- The risks of a fully digital passport scheme should be recognised, and a 'digital choice' approach should be implemented to promote and protect individual rights, health and wellbeing. Digital literacy and access should not be a prerequisite for any vaccine passport scheme.
- Issues around vaccine hesitancy should be recognised, understood and considered sensitively and compassionately. Any vaccine passport scheme should ensure that people who have not been vaccinated – particularly as a result of protected characteristics – are not excluded from community

engagement. The impact of possible exemptions should be carefully considered, and guidance should be issued outlining clear grounds for exemption.

- Greater clarity is required on the scope of vaccine passports and whether they would be required to access public services in Scotland such as health and social care services, social security, education, and public transport.
- Greater clarity, and more robust preventative guidance would be welcome to ensure that employers cannot discriminate against people who cannot – or who choose not to – be vaccinated.
- Third sector health and social care organisations should be fully involved in decision making on the use and design of any vaccine passport scheme. The Scottish Government should also consider providing financial support to third sector organisations to cover any additional costs that a vaccine passport scheme would incur.
- A clear privacy framework should be implemented – and made publicly accessible – outlining how individual data would be used, stored, and accessed.

Introduction

This briefing has been prepared by the Health and Social Care Alliance Scotland (the ALLIANCE) on the potential impact of the introduction of COVID-19 status certificates or 'vaccine passports'. Informed by our members' views and research, it is intended to offer constructive observations and recommendations on how to respect, protect and fulfil the human rights of population groups who may be impacted by the rollout of a vaccine passport scheme.

At the time of writing, the UK Government have begun piloting the use of COVID-19 vaccine passports, and England's NHS app will soon be available to use as a vaccine passport.¹ While the Scottish Government has not formalised any plans for vaccine passports, National Clinical Director Jason Leitch confirmed that a digital system is being considered and all four UK nations are discussing a consistent approach.² A vaccine passport could mean a digital record of whether people have

¹ BBC, 'What is a Covid passport and what are the UK's plans?' (9 May 2021), available at: <https://www.bbc.co.uk/news/explainers-55718553>; BBC, 'Covid: UK clubbers return to Liverpool for trial night' (30 April 2021), available at: <https://www.bbc.co.uk/news/newsbeat-56943652>; BBC 'NHS app ready to become vaccine passport next week' (11 May 2021), available at: <https://www.bbc.co.uk/news/technology-57070185>

² BBC, 'Covid in Scotland', available at: <https://www.bbc.co.uk/news/uk-scotland-56843281>.

been vaccinated, received a booster, recently tested negative, or have natural immunity after being ill with the virus (or combinations of the above).

General concerns

At present, a lack of clear information about the scope, purpose and length of a vaccine passport scheme is fuelling concern and raising questions, particularly for population groups more likely to be disproportionately affected by its introduction. Similarly, more information about how effective a vaccine passport is in preventing COVID-19 would be welcomed.

The ALLIANCE recommends greater clarity on what vaccine passports would be used for, how long they would be in force, what data protection measures would be taken, and what controls and measures are necessary to mitigate any discriminatory impact that they may have on certain population groups.

Equality and human rights considerations

As highlighted by the Equality and Human Rights Commission and the Scottish Human Rights Commission, the issue of vaccine passports raises key questions around individual liberty and other human rights.³

We know that health inequalities impact different population groups disproportionately. Recent research has also highlighted that some population groups have been affected by COVID-19 in different ways, including: disabled people, people with long term conditions, unpaid carers, people with learning/intellectual disabilities, women (including women who are pregnant, breastfeeding, or thinking of becoming pregnant), Black and minority ethnic people, socio-economically disadvantaged people, and younger people.⁴

There is concern that the introduction of vaccine passports would exacerbate existing inequalities. The risk of discriminating against disabled people, people living with long term conditions and unpaid carers should be fully considered, and the right to live independently, and to participate in community, public and cultural life must be adequately respected and upheld. Article 19 of the UN Convention on the Rights of Disabled People sets out the equal right of disabled people to live independently and

³ EHRC, 'EHRC statement on Covid status certification review' (15 April 2021), available at: <https://www.equalityhumanrights.com/en/our-work/news/ehrc-statement-covid-status-certification-review>; SHRC, 'COVID-19 Status Certificate: Human Rights Considerations' (April 2021), available at: https://www.scottishhumanrights.com/media/2176/21_04_28_-covid-certificates-and-human-rights-vfinal.pdf.

⁴ See, for example: <https://www.gov.scot/publications/the-impacts-of-covid-19-on-equality-in-scotland/>; <https://www.nrscotland.gov.uk/files/statistics/covid19/covid-deaths-21-report-week-11.pdf>; <https://www.gov.scot/publications/covid-19-disabled-people-scotland-health-social-economic-harms/>

be included in the community.⁵ Particularly following the shielding policy during the pandemic, and the restrictions it brought to disabled people, people living with long term conditions, and unpaid carers, the rights of these population groups should be prioritised in any proposed vaccine passport scheme.

A broader argument also exists around vaccine passports and personal autonomy. While vaccination is voluntary, there is concern that an obligatory vaccine passport for services and employment would place individuals under undue pressure to get vaccinated, therefore limiting their ability to make any meaningful choice between a range of options.

The ALLIANCE recommends that any proposed vaccine passport scheme must be fundamentally and explicitly equalities and human rights based, and demonstrate how it will respect, protect and fulfil the human rights of all Scottish citizens. The Scottish Government should ensure that a thorough and robust Equality Impact Assessment (EQIA) and a Human Rights Impact Assessment (HRIA) on the impact of introducing vaccine passports in Scotland is carried out at the earliest possible opportunity. These assessments should explicitly address the impact on intersectional population groups.

Including people in decision making and co-production

We appreciate that the work around vaccine passports is fast-moving. However, it is vital that the public – particularly key groups who could be disadvantaged by the introduction of a passport scheme – are meaningfully involved in decision making at all stages. Participation is a right itself and is necessary for the enjoyment of other rights. Putting people at the heart of decision making also makes good ‘business sense’ because it gives decisions greater credibility and promotes sustainable implementation.

The ALLIANCE believes that a vaccine passport scheme should be underpinned by the voices of people with lived experience. As well as protected characteristic groups, this should include ‘seldom heard’ people to ensure that the voices, expertise, and rights of people with lived experience drive policy and practice which will impact them most substantially (for example, unpaid carers, people living in remote/rural locations, people who are digitally excluded). Additionally, policy development should be led by both qualitative and quantitative data, based on disaggregated, inclusive data gathering and intersectional analysis to ensure the

⁵ United Nations, ‘Convention on the Rights of Persons with Disabilities (CRPD)’, Article 19. Available at: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-19-living-independently-and-being-included-in-the-community.html>.

needs and rights of specific population groups are adequately upheld and considered.

We propose that any vaccine passport scheme should be co-produced with disabled people, people living with long term conditions, and unpaid carers. An equality, human rights based and intersectional approach should inform decision making across any potential policy design, data collection, consultation, implementation, and evaluation.

Inclusive communication and accessibility

ALLIANCE members identified people with sensory loss as a key group that might be affected by the introduction of vaccine passports. 'Sensory loss' is an umbrella term used to describe a broad spectrum of individuals, including people who are blind, partially sighted, D/deaf, deafened, Deafblind, or hard of hearing. Individuals with sensory loss may all be affected in slightly different ways, and experience different language or communication barriers.

We heard from our members that lockdown restrictions and easing imposed new barriers for people with sensory loss, including loss of lip reading due to face masks, difficulties navigating public areas under social distancing guidelines, and increased street furniture for outdoor dining blocking access for blind and partially sighted people. These reductions in accessibility must not continue across the wider policy landscape.

Additionally, communication around a vaccine passport scheme should consider the rights and needs of individuals for whom English is an additional language and people with learning/intellectual disabilities. The ALLIANCE heard from a range of people in these population groups about problems understanding the Chief Medical Officer's advice letters on shielding.

Accessible and inclusive communication about any potential vaccine passport scheme should be available in multiple formats, including information about the application process, complaints handling, and other associated procedures. These multiple formats should be published simultaneously with the initial roll-out of information, rather than released several weeks later.

Vaccine passport communications must be inclusive and accessible, including: Community Languages,⁶ BSL, Braille, Moon, Easy Read, clear and

⁶ Community Languages are languages spoken by members of minority groups or communities within a majority language context. Examples in Scotland include: Arabic, Hebrew, Hindu, Makaton, Punjabi, Polish, Urdu. Available at: <https://www.naldic.org.uk/Resources/NALDIC/Initial%20Teacher%20Education/Documents/Whatarecommunitylanguages.pdf>.

large print, audio, video subtitling, telephone, textphone, paper formats. People who face language or communication barriers must be offered adequate support to understand information and requirements related to the vaccine passport scheme. We recommend that any vaccine passport scheme should be tested by people for whom English is an additional language, people with learning/intellectual disabilities, as well as for general understandability prior to launch. The intersectionality between sensory impairments and learning/intellectual disabilities should also be acknowledged and accommodated. Barrier-free access to third party support and independent advocacy should be available if needed to support individuals to access and understand information.

Digital divide

The implications of a digital vaccine passport scheme should be fully considered in terms of widening the existing digital divide. We know that the consequences of digital exclusion are felt across all areas of life, and it is vital that the risks are fully recognised.

The rights and needs of people who are at risk of, or who are currently experiencing, digital exclusion should be prioritised. Many individuals do not have access to the internet and/or other devices, including disabled people, people with long term conditions, unpaid carers, people that live in rural areas, those on low incomes and older people.

Additionally, any digital vaccine passport scheme must acknowledge the specific needs and rights of disabled people, people with long term conditions and unpaid carers; must be available in an accessible format; and cater to the rights and needs of those who use assistive technology. It is critical that any digital barriers that isolate and exclude disabled people, people with long term conditions and unpaid carers are removed to ensure that rights are respected, upheld and fulfilled.

Learning from the ALLIANCE's 'My World My Health' project, highlighted that many people did not want their decision to opt in or out of a digital health and care service to put them at a disadvantage.⁷

The ALLIANCE endorses a 'digital choice' approach to promote and protect the rights, health and wellbeing of people accessing services.⁸ We believe that

⁷ The Health and Social Care Alliance Scotland, 'My World, My Health'. Available at: <https://www.alliance-scotland.org.uk/digital/get-involved/my-world-my-health/>.

⁸ The Health and Social Care Alliance Scotland, 'Equally valued: A manifesto for forward-thinking, far-reaching action in health and social care' (2021), p. 7. Available at: <https://www.alliance-scotland.org.uk/blog/resources/equally-valued-the-alliance-2021-scottish-parliament-election-manifesto/>

an individual's right to choose should not penalise them and recommend that digital literacy and access should not be a prerequisite for any vaccine passport scheme.

Vaccine hesitancy and exemptions

Despite evidence that vaccines are key to reducing COVID-19 infections, some people may still feel less confident about being vaccinated.⁹ Voluntary Health Scotland (VHS) produced a briefing paper on vaccine inclusion and potential inequalities for vulnerable groups.¹⁰ VHS highlighted that certain population groups are more likely to experience vaccine hesitancy, many of whom have already been disproportionately impacted by the COVID-19 pandemic. For example, research has shown that people with severe mental illness have a lower uptake of similar vaccines, such as the influenza vaccine.¹¹ There is concern that low uptake groups may therefore be unduly discriminated against with a rollout of vaccine passports. It is essential that the rollout of a vaccine passport scheme does not further entrench these inequalities.

Until very recently, pregnant women were advised against receiving the vaccine.¹² The JCVI are now advising that all pregnant women should be offered the COVID-19 vaccine at the same time as the rest of the population, based on their age and clinical risk group.¹³ Current guidance from the Royal College of Obstetricians and Gynaecologists (RCOG) states that vaccination in pregnancy is a personal choice and encourages women to discuss options with healthcare professionals.¹⁴ However, conflicting and fast-changing advice has made it difficult for many pregnant women to access specific COVID-19 vaccines.¹⁵ Additionally, a lack of specific data

⁹ E. J. Haas et al., 'Impact and effectiveness of mRNA BNT162b2 vaccine against SARS-CoV-2 infections and COVID-19 cases, hospitalisations, and deaths following a nationwide vaccination campaign in Israel', *The Lancet* (5 May 2021). Available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(21\)00947-8/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(21)00947-8/fulltext). K. Smith et al., 'COVID-19 vaccines, hesitancy and mental health', *Evidence-Based Mental Health*, vol. 24, issue 2 (2021). Available at: <https://ebmh.bmj.com/content/24/2/47>.

¹⁰ Voluntary Health Scotland, 'Vaccine Inclusion: Reducing inequalities one vaccine at a time' (April 2020). Available at: <https://mk0voluntaryheaenrww.kinstacdn.com/wp-content/uploads/2021/04/Final-Report-Vaccine-Inclusion-Reducing-inequalities-one-Vaccine-at-a-time.pdf>.

¹¹ K. Smith et al., 'COVID-19 vaccines, hesitancy and mental health'. Available at: <https://ebmh.bmj.com/content/24/2/47>.

¹² The Guardian, 'Pregnant women in UK given green light to have Covid jab' (16 April 2021). Available at: <https://www.theguardian.com/world/2021/apr/16/pregnant-women-offered-covid-vaccine-uk>.

¹³ RCOG, 'COVID-19 vaccines, pregnancy and breastfeeding' (23 April 2021). Available at: <https://www.rcog.org.uk/en/guidelines-research-services/coronavirus-covid-19-pregnancy-and-womens-health/covid-19-vaccines-and-pregnancy/covid-19-vaccines-pregnancy-and-breastfeeding/>.

¹⁴ *Ibid*.

¹⁵ RCOG, 'Maternity Royal Colleges express concern about access to COVID-19 vaccines for pregnant women, following change in guidance around the Oxford AstraZeneca vaccine' (7 May 2021). Available at: <https://www.rcog.org.uk/en/news/maternity-royal-colleges-express-concern-about->

about vaccination safety means that hesitancy around vaccine uptake is likely to continue for women who are pregnant, breastfeeding, or thinking of becoming pregnant.

Specific concern has been raised around the use of exemptions in relation to pregnant women in employment. There have been proposals that people should be able to discuss reasons for accepted exemptions to vaccine passports with their employers. However, women may not want to inform their employers that they are pregnant until they are legally obliged to do so, either for personal reasons or for fear of being made redundant. This is compounded by the fact that women are already more likely to have been furloughed and made redundant during the pandemic than men, according to analysis by the Trades Union Congress, the Women's Budget Group, and the Fawcett Society.¹⁶

Vaccine hesitancy, and the impact of changing public advice on vaccines for those who are vaccine hesitant, should be recognised, understood, and considered sensitively and compassionately. Any vaccine passport scheme should ensure that people who have not been vaccinated – particularly as a result of protected characteristics – are not excluded from community engagement, public services, or employment. The impact of exemptions should be carefully considered. If a vaccine passport scheme is introduced, guidance should be issued outlining clear grounds for exemption.

Access to health, social care, and other public services

While most of the Scottish population can be identified through GP data to invite them for vaccination, many people will not have been identified as they are not registered with a GP. This is particularly true for people who are experiencing homelessness (which rose in Scotland between 2020-21),¹⁷ or Gypsy/Traveller communities, where the introduction of an obligatory vaccine passport scheme could mean they are further excluded from public life.

The ALLIANCE recommends greater clarity on the scope of vaccine passports and whether they would be required to access public services in Scotland such as health and social care services, social security, education, and public transport, or whether they would be limited to out-bound international travel.

[access-to-covid-19-vaccines-for-pregnant-women-following-change-in-guidance-around-the-oxford-astrazeneca-vaccine/](#).

¹⁶ *The Guardian*, 'Women face significant jobs risk during Covid pandemic, UK analysis finds' (4 May 2021). Available at: <https://www.theguardian.com/world/2021/may/04/women-jobs-risk-covid-pandemic-uk-analysis>.

¹⁷ Centre for Homelessness Impact, 'Homelessness and COVID-19: a comparison of responses in Scotland, Wales, Northern Ireland and England' (10 March 2021). Available at: <https://www.homelessnessimpact.org/post/homelessness-and-covid-19-a-comparison-of-responses-in-scotland-wales-northern-ireland-and-england>.

Access to employment

The introduction of a vaccine passport scheme raises concern about how employers would use vaccine passports as part of workforce planning. This is particularly pertinent in areas of the economy which employ more disabled people and people with long term conditions and in female dominated workforces – such as the health and social care sector.¹⁸

According to analysis by the Department for Health and Social Care, in 2019 disabled people in the UK were most likely to work in health and social care.¹⁹ Disabled people are already twice as likely as non-disabled people to move out of work (and three times less likely to move into work).²⁰ If people's employment becomes contingent on a vaccine passport, then there could be an increase in the employment gap between disabled people and non-disabled people. Any proposed scheme could have a disproportionate impact on people who are unable to be vaccinated, are hesitant about vaccination, or who are waiting to be vaccinated – particularly health and social care workers, disabled people, people living with long term conditions, and unpaid carers.

The voluntary nature of vaccination raises key legal considerations about whether it would be legal for employers to make vaccination a condition for employment. For example, it may give rise to potential discrimination claims on grounds such as disability, sex, and religion or belief. Currently, there is no law to state that people must have the vaccine, even if employers would prefer someone to have it; ACAS guidelines advise employers to support their staff to have the vaccine but not to insist on it.²¹

Greater clarity, and more robust preventative guidance would be welcome to ensure that employers cannot discriminate against people who cannot – or who choose not to – be vaccinated.

¹⁸ NHS Education for Scotland, 'NHS Scotland Workforce: Latest Statistics at 31 March 2020' (2 June 2020). Available at: <https://turasdata.nes.nhs.scot/media/2prjxbg4/2020-06-02-workforce-report.pdf>.

¹⁹ Department of Health and Social Care and Department for Work and Pensions, 'The Employment of Disabled People' (24 March 2020), p. 18. Available at: <https://www.gov.uk/government/statistics/the-employment-of-disabled-people-2019>.

²⁰ Department of Health and Social Care and Department for Work and Pensions, 'The Employment of Disabled People' (24 March 2020), p. 4. Available at: <https://www.gov.uk/government/statistics/the-employment-of-disabled-people-2019>.

²¹ ACAS, 'Getting the coronavirus (COVID-19) vaccine for work'. Available at: <https://www.acas.org.uk/working-safely-coronavirus/getting-the-coronavirus-vaccine-for-work>.

Impact on Scotland's third sector

There is potential for a vaccine passport scheme to negatively impact the ability of stretched third sector health and social care organisations to offer services.²² The introduction of a vaccine passport could create additional administrative and resource costs, particularly for organisations that have already been significantly impacted by the pandemic.²³ 40% of the respondents to the Poverty Alliance survey felt that vaccine passports would have an administrative impact on their work.²⁴ Additionally, some organisations fear that the introduction of a vaccine passport scheme will limit their number of volunteers.

We recommend that third sector health and social care organisations are fully involved in decision making on the use and design of any vaccine passport scheme, drawing on their experience of provision of vital services throughout the pandemic. The Scottish Government should also consider providing financial support to third sector organisations to cover any additional costs that a vaccine passport scheme would incur.

Privacy concerns

To be valuable, a vaccine passport scheme must be resistant to fraud by reliably encoding authentic information (such as a COVID-19 test result) and linking that information securely to an identifiable individual.²⁵ It is therefore likely to include biometric and health data, which are classed as 'special category' data under the GDPR 2018. This data is given more protection than other types of data as it is likely to be more sensitive. Concerns have therefore been raised about the use and storage of this data, and the possible infringement that the introduction of a vaccine passport scheme could have on an individual's right to privacy.

Privacy concerns should also be considered in the context of possible exemptions from a vaccine passport scheme, where people could potentially be obliged to disclose sensitive health and personal information in order to access services and/or employment.

²² OSCR, 'Research shows COVID challenges for Scottish charities' (16 March 2021). Available at: <https://www.oscr.org.uk/blog/2021/march/16/research-shows-covid-challenges-for-scottish-charities/>.

²³ <https://www.alliance-scotland.org.uk/blog/news/alliance-briefing-for-the-valuing-the-third-sector-parliamentary-debate/>

²⁴ The Poverty Alliance, 'Covid Status Certificate Survey Summary Findings' (May 2021), p.7. Available at: <https://www.povertyalliance.org/wp-content/uploads/2021/05/Poverty-Alliance-Covid-status-certificate-survey-summary.pdf>.

²⁵ Nuffield Council on Bioethics, 'COVID-19 antibody testing and "immunity certification"' (18 June 2020). Available at: <https://www.nuffieldbioethics.org/publications/covid-19-antibody-testing-and-immunity-certification>.

A clear privacy framework should be implemented – and made publicly accessible – outlining how individual data would be used, stored, and accessed in a vaccine passport scheme.

Conclusion

Vaccine passports offer the promise of a “return to normal”, where people can move freely within society, travel, and work without the restrictions that have characterised much of the pandemic period, and with minimised risk of contracting or carrying COVID-19. However, ALLIANCE members have highlighted the complexity of the concept in policy and practice. In a poll by Disability Equality Scotland respondents recognised that the proposed scheme could provide reassurance to the public and staff in public settings like pubs and theatres, and for international travel.²⁶ However, there are practical questions to be answered around the scope of any proposed scheme, as well as key ethical, equality and human rights considerations. Research by the Poverty Alliance found that the most common concern for their members was “the potential for [vaccine passports] to be a divisive measure that will reinforce inequalities and create further divisions in society.”²⁷

If any vaccine passport scheme is introduced, it must place human rights and equalities at the forefront of design, development and implementation, with early and sustained engagement with people (including disabled people, people with long term conditions, unpaid carers and other seldom heard population groups) who are most likely to be adversely affected by vaccine passports. Without meaningful co-production and the prioritisation of human rights and equalities, vaccine passports risk entrenching societal inequalities instead of building back better.

About the ALLIANCE

The Health and Social Care Alliance Scotland (the ALLIANCE) is the national third sector intermediary for a range of health and social care organisations. We have a growing membership of over 3,000 national and local third sector organisations, associates in the statutory and private sectors, disabled people, people living with long term conditions and unpaid carers. Many NHS Boards, Health and Social Care Partnerships, Medical Practices, Third Sector Interfaces, Libraries and Access Panels are also members.

The ALLIANCE is a strategic partner of the Scottish Government and has close working relationships, several of which are underpinned by Memorandum of

²⁶ Disability Equality Scotland, ‘Weekly Poll – Vaccine Passports’ (1 March 2021), available at: <https://yoursayondisability.scot/vaccine-passports/>.

²⁷ The Poverty Alliance, ‘Covid status certificate summary findings’ (May 2021), p. 5. Available at: <https://www.povertyalliance.org/wp-content/uploads/2021/05/Poverty-Alliance-Covid-status-certificate-survey-summary.pdf>.

Understanding, with many national NHS Boards, academic institutions and key organisations spanning health, social care, housing and digital technology.

Our vision is for a Scotland where people of all ages who are disabled or living with long term conditions, and unpaid carers, have a strong voice and enjoy their right to live well, as equal and active citizens, free from discrimination, with support and services that put them at the centre.

The ALLIANCE has three core aims; we seek to:

- Ensure people are at the centre, that their voices, expertise and rights drive policy and sit at the heart of design, delivery and improvement of support and services.
- Support transformational change, towards approaches that work with individual and community assets, helping people to stay well, supporting human rights, self management, co-production and independent living.
- Champion and support the third sector as a vital strategic and delivery partner and foster better cross-sector understanding and partnership.

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