



advice and support for older age  
**Independent  
Age**

## Factsheet

# Care home fees and your property

This factsheet explains whether you will need to sell your property to pay care fees if you move into a care home permanently. It outlines alternatives such as deferred payment agreements with your council.

It also provides information on property disregards, bridging loans, care home fee plans and what happens if you own a property with someone else.

Call FREE on **0800 319 6789** Visit **[www.independentage.org](http://www.independentage.org)**

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## **About Independent Age**

Whatever happens as we get older, we all want to remain independent and live life on our own terms. That's why, as well as offering regular friendly contact and a strong campaigning voice, Independent Age can provide you and your family with clear, free and impartial advice on the issues that matter: care and support, money and benefits, health and mobility.

A charity founded over 150 years ago,  
we're independent so you can be.

The information in this factsheet applies to England only.

If you're in Wales, contact Age Cymru  
(0800 022 3444, [agecymru.org.uk](http://agecymru.org.uk))  
for information and advice.

In Scotland, contact Age Scotland  
(0800 12 44 222, [agescotland.org.uk](http://agescotland.org.uk)).

In Northern Ireland, contact Age NI  
(0808 808 7575, [ageni.org](http://ageni.org)).

In this factsheet, you'll find reference to our other free publications. You can order them by calling 0800 319 6789, or by visiting [www.independentage.org/publications](http://www.independentage.org/publications)

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# 1. Terms you might encounter

## **Eligibility**

In the context of social care, your entitlement to receive services based on whether you meet the qualifying criteria.

## **Means testing**

Looking at your finances to work out whether you qualify for financial help from the government or local council. Social care is usually means-tested.

## **Capital**

Wealth in the form of money or items that have a financial value, such as savings, investments and property (buildings and land). These things are sometimes called 'capital assets'.

## **Income**

Money received, especially on a regular basis, such as pensions and benefits.

## **Assets**

Items you own that have a financial value.

## **Self-funder**

A person who is paying for all of their own care themselves (self-funding), rather than getting financial help from the local council.

## **Property disregard**

When the council ignores the value of your home in the financial assessment.

## **Mental capacity**

The ability to make and communicate your own decisions at the time when they need to be made. You might lose mental capacity because of an illness such as dementia, or if you were unconscious, for example. It's possible to have mental capacity at some times and not at others.

## 2. Do I need to sell my property to pay my care home fees?

If you've been assessed by the council and they agree that you need to move into a care home, your contribution to the fees will be means-tested. This means that the council will assess your income and capital (which includes your savings, investments and property) to decide how much you'll have to pay towards your care home fees. For more information about assessments see our factsheet **First steps in getting help with your care needs**.

If you own a property, it's likely that you will have to pay your own care home fees. However, sometimes your property isn't included in the financial assessment. This is known as a property disregard. You may qualify for a property disregard in the short term, to give you time to sell or make other arrangements, or long term, depending on your circumstances. See chapters 4 and 5 for more information.

The financial assessment can be more complicated if your property is jointly owned.

If you don't want to sell, there are other options. This factsheet looks at:

- deferred payment agreements
- bridging loans
- care home fee payment plans
- equity release.

It's important to get independent financial advice if you decide to explore some of these options.

### 3. The financial assessment

If you're considering a move to a care home, you are entitled to a care needs assessment from the adult social services department of your local council. If you haven't had one, you can contact them to request one. For more information, see our factsheet **First steps in getting help with your care needs**.

If the council agrees that a care home would be the best way to meet your needs, they must also carry out a financial assessment to see if you're eligible for help with the fees.

The financial assessment looks at:

- your income, including your pensions and certain benefits
- your capital, including your savings, investments and the value of your home if you own it.

If your income is higher than the care home fees, you'll have to pay all your care home fees yourself.

#### **How your capital is assessed**

If you have capital over £23,250, you'll have to pay all your care home fees until your capital drops below this amount.

If you have capital of less than £14,250, you won't need to use it to pay for your care home fees. However, you'll have to contribute most of your weekly income. You'll be left with at least the Personal Expenses Allowance of £24.90 per week.

If you have capital between £14,250 and £23,250, 'tariff income' is calculated. This is the income that it is assumed your capital gives you. A tariff income of £1 is taken into account as income for every £250 (or part of £250) of capital you have. The amount of tariff income you pay will reduce as your capital reduces.

See our factsheet **Paying care home fees** for more information about the financial assessment.

If you think the council hasn't carried out your financial assessment correctly, you may need advice. Call our Helpline on [0800 319 6789](tel:08003196789) and arrange to speak to an adviser.

### **Top-up fees**

There may also be a top-up fee if you choose to move into a more expensive care home. See our factsheet **Paying care home top-up fees** for more information.

## 4. Will my home be included?

There are different rules depending on the circumstances. If you've been living in the property alone and nobody else owns a share in the property, then the whole of its current market value (minus 10% to cover the costs of selling) can be taken into account.

If your property is jointly owned, only your share can be taken into account in the financial assessment (see chapter 14).

### **When your home isn't included**

The value of your home must not be taken into account if any of the following people lived there as their main or only home before your move to a care home, and they continue to live there:

- your spouse, civil partner or partner
- a close relative who is aged 60 or over
- a close relative who is incapacitated. A person may be treated as incapacitated if they are:
  - receiving Attendance Allowance, Disability Living Allowance, Personal Independence Payment, Incapacity Benefit, Severe Disablement Allowance, Armed Forces Independent Payments, Constant Attendance Allowance or a similar benefit; or
  - not receiving one of these benefits but would satisfy the incapacity criteria for one of them.

This is known as a mandatory property disregard.

## Good to know



If your stay in a care home is temporary, your property may also be disregarded. For more information, call our Helpline (0800 319 6789) and arrange to speak to an adviser.

The council can also agree to ignore the value of your property in other circumstances, as long as you're not deliberately avoiding paying care home fees. This is called a discretionary property disregard.

One example of when the council may agree to do this is if the property is the only home of someone who gave up their own home in order to care for you.

### **Mary and Jane**

Mary has early signs of dementia. She needs a bit of support, but wants to live in her own home. Her best friend Jane agrees to sell her home to move in with Mary. Four years later, Mary needs much more care and, after an assessment, social services agree that she should move into a care home. The council uses its discretion to disregard the value of Mary's property, because it has become Jane's only home.

## Legal advice

If you disagree with the council's decision about whether your property should be included in your financial assessment, you may want to make a complaint to the council, or get legal advice (see chapter 18).

## To do...



See our factsheet **Paying care home fees** for more information about the financial assessment for paying care home fees.

## 5. The 12-week property disregard

If you move into a care home permanently, the council must not include the value of your property in your financial assessment for 12 weeks. This is called a 12-week property disregard.

The 12-week property disregard is designed to give you breathing space to prepare the property for sale or decide whether you want to sell. The disregard will last for 12 weeks or until your property sells if sooner.

The council must also disregard the value of your property for 12 weeks if:

- you are living in a care home, and
- your property, which was previously disregarded, could now be taken into account because of a change in your circumstances. For example:

### **Sue's story**

The property that Sue owned with her husband was not taken into account when she had a financial assessment because her husband still lived there (a mandatory property disregard). Unfortunately, her husband's health deteriorated quickly after Sue moved into the care home, and he ended up needing to move into a care home too.

This meant that there was no longer anyone living in the house, and its value could be taken into account by the council as part of Sue and her husband's contributions towards their care home fees. However, Sue and her husband were entitled to the 12 week property disregard.

The council can also choose to apply the 12-week property disregard if there are other unexpected changes in your circumstances, such as a big fall in share prices, which bring your capital down below £23,250. It's up to the council to decide whether it offers the disregard in situations like this but they must consider all the relevant circumstances of each case.

## How does it work?

If you're still eligible for financial help from the council after they've disregarded your property, the council must enter into a contract with your care home to pay a proportion of the care home fees to them. The contract lasts for a maximum of 12 weeks or until you sell your property (or your share of the property if it is jointly owned), whichever is sooner.

During this time you will pay the council any contribution from your income and capital that you have been assessed as having to pay. This includes most of your income (for example, your State Pension and any Pension Credit) apart from a personal expenses allowance of at least £24.90 a week. Our factsheet **Paying care home fees** has more information about paying care home fees when you are council funded.

## Good to know



If you have a 12-week property disregard, you will effectively be seen as part-funded by the council for those 12 weeks. This means that any Attendance Allowance, care component of Disability Living Allowance (DLA) or daily living component of Personal Independence Payment (PIP) you receive should stop after 28 days. If you still qualify, you can start claiming again after the 12-week disregard.

Contact the relevant helpline if you have a 12-week property disregard and you're receiving any of these benefits – Attendance Allowance ([0800 731 0122](tel:08007310122)), PIP ([0800 917 2222](tel:08009172222)) or DLA ([0800 121 4600](tel:08001214600)).

## **What happens at the end of the 12-week disregard?**

You'll need to plan for the end of the disregard period. After the 12-week period is over, the value of your home will be included in your financial assessment unless you qualify for another type of disregard (see chapter 4).

If you haven't sold your property or you don't want to sell, then you can ask the council for a deferred payment agreement (see chapter 6). If you're having trouble selling, but still wish to sell you could also consider using a deferred payment agreement as a bridging loan (see chapter 11).

## 6. Deferred payment agreements

If you're unable to sell your home or you don't want to sell it within your lifetime, you may be able to get a deferred payment agreement with your council.

The council will pay your care home fees and claim the money back later when your home is sold, either when you move out of the care home or after your death.

A deferred payment agreement is a loan and you will have to pay it back. You will also have to pay interest and administration costs.

Deferred payment agreements are useful for people who:

- choose not to sell their property – for example, because they have a friend or relative still living in the property who is not covered by a mandatory or discretionary property disregard (see chapter 4).
- are having difficulty selling their property.

### Good to know



The council must give you information about a deferred payment and how it works if you ask them or if you are likely to qualify. They should tell you what the advantages and disadvantages might be and how to get independent financial advice.

## 7. Who can have a deferred payment agreement?

The council must offer you a deferred payment agreement if:

- they have assessed your needs and agree that you need to be in a care home
- you have capital of less than £23,250 (not including your home)
- your home is not disregarded.

This includes people who lack mental capacity if they have someone with the appropriate legal authority, such as power of attorney, to represent them.

The council must also offer you a deferred payment agreement if you're arranging your own care even if you haven't had a care needs assessment, as long as you would have been assessed as needing to be in a care home if you had had one.

The council can also choose to offer deferred payment agreements to people who don't meet the eligibility criteria but who they feel might benefit from the arrangement – for example if their capital is close to £23,250.

The council must be sure that they will get the money back, so they will consider each case individually to see if it can go ahead (see chapter 8).

### **Interest and administration charges**

Councils can charge interest on your loan. If they do, they must tell you before you sign an agreement and tell you what the rate is and when it may go up. They can't charge more interest than a national maximum rate, set by the government. They can also charge reasonable administration fees, such as legal fees, valuation costs and ongoing running costs. They

should keep a publicly available list of all administration charges.

You can choose to pay interest and administration charges separately or include them in the total amount being deferred.

## How much can I defer paying?

If there is enough equity in your property, it should be possible for you to defer the full amount of your care costs, including any top-up fees you need to pay to cover a more expensive care home place (see our factsheet **Paying care home top-up fees** for more information). Housing equity is the market value of your home, minus any outstanding mortgage payments or other debts secured against the property.

### Good to know



The council must make sure that the amount you defer doesn't go over your equity limit. This limit is 90% of the value of your property minus any other claims on the property, for example a mortgage.

## 8. Securing a deferred payment agreement

If you qualify for a deferred payment agreement, the council must obtain a valuation of your property and can pass on any reasonable costs of the valuation to you. You may also want to get your own valuation (see chapter 15).

If there is a substantial difference between the two, you should discuss this with the council and try to agree a value. If you disagree, you may wish to make a complaint. See our factsheet **Complaints about care and health services**.

The council must be certain that they will be able to get their money back before they can enter into a deferred payment agreement with you. For this reason, they must be able to get 'first legal mortgage charge' against your property. This gives them the right to have first call on the proceeds of the sale of your property or to take your property if you don't pay back the money you borrowed for your care.

If your property is jointly owned, the council must get the signed consent of all owners to put a legal charge on the property. The other person (or people) must also agree to the property being sold in the future so that the council can reclaim their costs. If they don't, the council can refuse a deferred payment agreement. See chapter 14 for more information about jointly-owned properties.

If these options aren't possible, the council may agree to a deferred payment agreement if they're satisfied that there is some other kind of security which means they're likely to get their money back such as:

- a solicitor's undertaking letter (a 'promise' from the solicitor that the funds would be available at a later date)
- through a guarantor

- if you agree that the council could reclaim their costs from a life assurance policy, or a valuable object you own.

### **Good to know**



When deciding whether to enter into a deferred payment agreement, the council needs to consider your individual circumstances and the impact that agreeing or disagreeing to your request could have on your wellbeing.

## 9. How a deferred payment agreement works

When you and the council have agreed to defer payments, the council must draw up a contract. This must clearly set out all the terms, conditions and information you need so that you are clear about your rights and responsibilities. This includes for example:

- how the maximum limit on the amount being deferred works
- how interest is calculated
- administration charges
- your responsibilities and the council's responsibilities during the agreement
- in what circumstances the council may refuse to defer further fees or end the agreement.

The council should aim to have agreements in place before the end of the 12-week property disregard period, or within 12 weeks of the request being made in other circumstances. You should be given a hard copy of the proposed agreement, and be given time to consider it before signing.

### **During the agreement**

The council must give you a written statement every six months to show all the charges that are being deferred, including the interest. This should also make clear how much equity there is left. The value of your equity can vary over time.

The agreement should be reviewed once a year, or sooner if your care needs change.

Once you've deferred 70% of the value of your property, the council should review the deferred payment agreement and talk to you about whether it's still the best way to meet your care costs.

It's usually a condition of the agreement that you must maintain and insure your home and tell the council if there are any changes to your income or circumstances.

### **Repaying deferred payments**

The money must be repaid if you sell your home, or be repaid by your executor within 90 days of your death unless the council extends this period. Interest charges will still be added during this period.

## 10. Deferred payment agreements: things to consider

If you enter into a deferred payment agreement, your benefits and income may be affected. For example, you may lose your entitlement to Pension Credit or it may be reduced. However, you may be able to claim Attendance Allowance as you will be regarded as a self-funded care home resident – see our factsheet **Disability benefits: Attendance Allowance** for more information.

### Good to know



If you're worried that a deferred payment agreement may affect your entitlement to Pension Credit or benefits, contact our Helpline ([0800 319 6789](tel:08003196789)) and arrange to speak to an adviser.

You may not have to pay full Council Tax if your property remains empty. Speak to your council to ask about a discount.

You'll have to contribute to your care home fees from your income but you're allowed to keep up to £144 per week to spend as you wish – this is called your disposable income allowance. You can put some of this money towards your fees if you wish, to reduce the loan from the council.

When deciding whether to enter a deferred payment agreement, you'll need to consider a number of things. For example:

- your property will still need to be maintained and insured
- you may have to pay the council's legal and other costs up front
- the agreement is a loan – it is not a write-off. You still have to pay your care home fees.

You may wish to let out your property and contribute some of the rental income to reduce the overall amount of the loan. However, rental income is taxable and would also be included in the financial assessment. It may also affect your entitlement to means-tested benefits such as Pension Credit.

Contact our Helpline and arrange to speak to an adviser if you would like general information about deferred payment agreements ([0800 319 6789](tel:08003196789)).

It's also a good idea to get independent financial advice, see Chapter 18.

## 11. Bridging loans

If you want to sell your property but can't sell it within the 12-week property disregard period, perhaps because of a poor housing market, you may want to consider taking out a bridging loan. The loan can be used to pay the care home fees until the property is sold.

Many people use a short-term deferred payment agreement as a bridging loan. This works in a similar way to the traditional deferred payment agreement described above. The agreement is still with the council but instead of the council paying the care home directly, you pay the care home and the council loans you the money in instalments, minus any contribution you make from other sources.

With a bridging loan, the council must still be able to put a first legal charge on your property or may agree to some other form of security – see chapter 8. The council can also charge interest and administration fees.

You may also be able to get a short-term loan from a private company. However, such loans can be expensive as you usually have to pay fees and a high rate of interest on the amount that you're borrowing. It's advisable to get financial advice about these loans. See chapter 18.

## 12. Care home fee payment plans

You might be thinking of buying a long-term care bond or a care fees payment plan to cover the cost of your fees.

The main investment product designed to cover care home fees is an Immediate Care Plan (also known as an Immediate Needs Annuity). This is basically an insurance policy. In return for a set premium, the policy agrees to pay a regular income towards care costs for the rest of the policyholder's life. One option is to secure a loan against the value of your home which is then used to buy an annuity.

The level of premium depends on things such as your age, health, annuity rates and your choice of care home. If you don't need an immediate policy, you can also get Deferred Care Plans to start at a later date.

If the income from the plan is paid directly to the care home, it is tax free. However, bear in mind that you can't cancel the plan once you've taken it out, it may not cover the full costs of your care in future if your needs change and it can affect your entitlement to means-tested benefits.

Annuity rates can vary considerably so you should shop around. It's very important to get independent financial advice to help you decide if an Immediate Care Plan is right for you.

### To do...



You should take independent financial advice to help you decide if an Immediate Care Plan is right for you. Contact the Society of Later Life Advisers (0333 2020 454, [societyoflaterlifeadvisers.co.uk](http://societyoflaterlifeadvisers.co.uk)) or Unbiased (0800 023 6868, [unbiased.co.uk](http://unbiased.co.uk)) to find an accredited adviser in your area. The financial adviser may charge a fee.

## Good to know



All independent financial advisers have to be registered with the Financial Conduct Authority. Paying for long-term care is a specialist area, so make sure your adviser has a CF8 or CeLTCI qualification which shows they understand the care and support system in the UK.

## 13. Equity release

Housing equity is the market value of your home, minus any mortgage or debt. Equity release is a way to free up money from your home without having to sell it. There are two kinds of equity release:

- a lifetime mortgage lets you borrow money against the value of your home, which is paid back when the property is sold or when you die
- a home reversion scheme, which buys a share of your home for a cash payment.

You can receive the money as a lump sum, as a regular payment, or both. There are usually eligibility criteria and conditions.

There are disadvantages to equity release schemes. With a lifetime mortgage, the interest is added to the amount you owe. You will have to pay interest on the interest and that can quickly grow. With a home reversion scheme you will get less than the full market value of your home. Your entitlement to benefits may also be affected.

Equity release schemes are regulated by the Financial Conduct Authority and there are rules about what providers must tell you. If you take out a scheme, make sure it's with an authorised provider. Contact the Equity Release Council for details of member organisations (0300 012 0239, [equityreleasecouncil.com](http://equityreleasecouncil.com)).

Make sure you also get advice from an Independent Financial Adviser (IFA) who specialises in equity release. See chapter 18 for where to go for financial advice.

## 14. What happens if you jointly own a property?

If you own a home with someone else, the financial assessment must take this into account. Only your beneficial interest can be included.

### What is beneficial interest?

You are a legal owner if your name is on the title deeds. You may or may not be entitled to benefit from the future sale of the property.

You are a beneficial owner if you're entitled to benefit financially from the sale of a property. This is known as your beneficial interest. Most people are both legal owners and beneficial owners, but you don't need to have your name on the deeds to have a beneficial interest in a property.

You could have beneficial interest if:

- you contributed to the mortgage or purchase price
- you gave someone money to buy their property under a 'right to buy' scheme
- you paid for repairs or alterations to a property
- you have always owned the property, but now someone else – such as your son or daughter – owns part of it
- you were given a share of a property in a will.

If any of these situations apply to you, it may mean that your share of the property will be taken into account in your financial assessment.

The same disregards (mandatory and discretionary) apply to beneficial interest in a property (see chapters 4 and 5).

If you do have a beneficial interest in a property, the council will have to work out how much it is worth for the financial assessment. The lower the value of your beneficial interest in a property, the less you may have to contribute towards your care home fees.

## 15. How is the value of my share in a property worked out?

Working out the value of your share in a jointly-owned property can seem complicated. The council can't simply value the whole property, divide up the amount and say that is the value of your share. They also have to consider how much someone would pay to become a joint owner instead of you. It's possible that no one would be interested in buying into such an arrangement so your share might have no value. A specialist valuation may be required.

The situation may also be more complicated if the other owners don't agree to you selling your share.

Also, the council shouldn't assume that each joint-owner has an equal share of the property. For example, if you've bought a property with your son and daughter, you could provide evidence that your share may be more or less than a third.

There are many factors that can affect the value of a share in a property (for example, its location). If you need more advice, call our Helpline on [0800 319 6789](tel:08003196789) and arrange to speak to an adviser.

### **Valuing your share in a 'right to buy' property**

If you bought your former council property under the 'right to buy' scheme, the council may be able to take into account the discount that you received on the property when working out your beneficial interest. Every circumstance is different and must be assessed on the facts of the case.

### **If you disagree with the council's valuation**

If the value of a property is disputed, the council should try to get an independent valuation within the 12-week disregard period.

You may also want to get your own valuation. Contact a chartered surveyor registered with the Royal Institution of Chartered Surveyors (RICS) (024 7686 8555, [ricsfirms.com](http://ricsfirms.com)). There may be a charge for this service. Check that they know about the charging regulations for residential accommodation under the Care Act.

If you still disagree, you can seek legal advice via a community care solicitor. You may be able to get free initial legal advice (see chapter 18).

Alternatively, you can use the council's complaints process – see our factsheet **Complaints about care and health services**.

## **16. Should I let another joint owner of the property buy my share?**

If one of the other property owners offers to buy your share, it's a good idea to talk to the council first to make sure they consider the offer acceptable. If they think you sold your share for too little money, they may conclude that you have deliberately tried to avoid paying care home fees. This is known as deprivation of assets (see chapter 17). They can treat this capital as if you still owned it and include it in the financial assessment. You – or the person who bought your share – may have to pay back any money you owe the council.

If the council approves the offer, then the sale price (minus 10% of the value if there are any expenses involved in selling the property) will count towards your financial assessment. If the sale price added to any other capital (such as savings) is over £23,250 (the upper capital limit), then you will have to pay for your care home place yourself.

## 17. Giving away your home: deprivation of assets

If you give away your property deliberately – for example by transferring it to your children or setting up a trust – in order to avoid paying for your care home fees, this is called deprivation of assets. The council can treat it as if you still own the property and include it in the financial assessment.

The council must look at why you gave your property away. There is no time limit to how far back they can go when considering the circumstances. However, they shouldn't assume that you deliberately tried to deprive yourself of assets. There may have been good reasons for transferring the property at the time.

The council should consider whether:

- avoiding charges for your care was a significant motivation
- you knew that you would need care and that you might need to contribute to your care home fees when you gave your property away.

For more information, see our factsheet **Can I avoid paying for care by giving away my assets?** or contact our Helpline (0800 319 6789) to arrange to speak to an adviser.

## 18. Getting further advice

We are not specialist legal or financial advisers. You may want to seek more expert and in-depth advice if necessary.

Legal advice can be expensive. You may want to contact Civil Legal Advice (0345 345 4 345, [gov.uk/civil-legal-advice](http://gov.uk/civil-legal-advice)) to find out whether you would qualify for legal aid. They can also give you details of other organisations or solicitors specialising in community care law or property law if this is needed.

You can also find legal specialists through the Law Society ([solicitors.lawsociety.org.uk](http://solicitors.lawsociety.org.uk), 020 7320 5650).

Make sure you use a solicitor who specialises in the relevant area of law, even if there are none very local to you. Most specialist solicitors are experienced at working from a distance.

You might also be able to get free initial legal advice through a Law Works legal advice clinic ([lawworks.org.uk](http://lawworks.org.uk)), or from the Disability Law Service (020 7791 9800, [dls.org.uk](http://dls.org.uk)).

If you need financial advice, contact the Society of Later Life Advisers (0333 2020 454, [societyoflaterlifeadvisers.co.uk](http://societyoflaterlifeadvisers.co.uk)) or Unbiased (0800 023 6868, [unbiased.co.uk](http://unbiased.co.uk)) to find an accredited adviser in your area. The financial adviser may charge a fee.

If you want to get your own valuation of your property, contact a chartered surveyor registered with the Royal Institution of Chartered Surveyors (RICS) (024 7686 8555, [ricsfirms.com](http://ricsfirms.com)).

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The sources used to create this publication are available on request. Contact us using the details below.

## **Thank you**

Independent Age would like to thank those who shared their experiences as this information was being developed, and those who reviewed the information for us

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