What We Heard Accessibility Legislation In Partnership with: • Disability Policy Office, Department of Children, Seniors and Social Development Provincial Advisory Council on the Inclusion of Persons with Disabilities • The Coalition of Persons with Disabilities Newfoundland and Labrador

December 3, 2019



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Message from the Minister



In January and February 2019, the Department of Children, Seniors and Social Development, through the Disability Policy Office, embarked on a public engagement process, in partnership with the Coalition of Persons with Disabilities NL and the Provincial Advisory Council for the Inclusion of Persons with Disabilities. This process was to help inform the development of "made in Newfoundland and Labrador" accessibility legislation. We are pleased to release the What We Heard document that summarizes what we heard and will help us create new accessibility legislation.

I am proud that this was the most accessible consultation process for the Government of Newfoundland and Labrador to date. Throughout the consultation process—held in Happy Valley-Goose Bay, Corner Brook, Gander, St. John's and online—we had strong support and engagement from leaders in the community of persons with disabilities, individuals with disabilities and various stakeholders from public and private sectors. These sessions were made accessible through real-time captioning, American Sign Language, FM system and having alternate formats ready and in-person for on demand use. Additionally, participants were able to submit feedback by written or video submissions including, emailing, texting, faxing and calling including video relay services.

Throughout the province, Newfoundlanders and Labradorians shared their personal stories and experiences - their challenges, successes, hopes and aspirations for accessibility legislation. This open dialogue has informed the Provincial Government on barriers faced by persons with disabilities and how these can be removed. This will help guide the development of new provincial accessibility legislation.

This engagement process was a very important step towards our goal of a truly inclusive Newfoundland and Labrador. The contributions that people made throughout the process will certainly guide the department as we work with our partners to develop accessibility legislation.

Thank you for being a part of this very important process.

Honourable Lisa Dempster

Im June

Minister of Children, Seniors and Social Development

Minister Responsible for the Status of Persons with Disabilities

Overview

The Government of Newfoundland and Labrador is committed to working with advocacy and community groups to develop new provincial accessibility legislation. The purpose of the proposed accessibility legislation is to prevent and remove barriers and make a more inclusive province. This requires establishing long-term and proactive approaches to address accessibility issues.

The Engagement Process

In 2018, Disability Policy Office (DPO), a division of the Department of Children, Seniors and Social Development (CSSD), created a planning committee with the Public Engagement and Planning (PEP) Division and the Coalition of Persons with Disabilities Newfoundland and Labrador (The Coalition). The planning committee engaged with the public, stakeholders, and consulted with the Provincial Advisory Council for the Inclusion of Persons with Disabilities (Advisory Council).

The planning committee developed the engagement process and a discussion guide, which was available in print, braille, various accessible digital versions and through an American Sign Language (ASL) interpretation video with audio. The engageNL website posted an overview of the engagement process and the discussion guide so that members of the public could provide feedback. A series of consultations sessions and an online webinar were held that focused on the questions in the discussion guide. Disability-related supports were available to ensure sessions were inclusive, such as real-time captioning and sign language interpretation. Individuals also participated by email, phone, text message and postal mail.

Sessions were held in January and February 2019, with two sessions taking place in each community of Gander, Happy Valley-Goose Bay, Corner Brook and St. John's. The afternoon sessions were for invited stakeholders and the evening sessions were open to the public. There was also an online engagement session that followed the same format and agenda of the in-person engagement sessions.

Following the engagement process, there was an Accessibility Symposium Workshop (Symposium Workshop) in St. John's on February 28, 2019 with in person and online participation. Sixty-five stakeholders participated in this event. The Symposium Workshop reviewed accessibility legislation in other jurisdictions, and included a keynote speaker and panelists with experience and expertise in accessibility legislation. The speakers presented on experiences from other Canadian provinces, national considerations and practices of accessibility legislation. In addition, a report back was provided of what we have heard to date from the in-person, online and written feedback through the engagement process.

The Symposium Workshop included an afternoon discussion on whether or not disability should be defined in the accessibility legislation. The enforcement of the legislation, community engagement in the development of standards and community's insight on the timing to proceed with the proposed accessibility legislation was also discussed.

What We Heard

In total, a combination of 219 individuals and organizations participated in the engagement process. There were:

- 26 written submissions
- 6 telephone, email and text message submissions
- 6 participants online for the public engagement session (January 30, 2019)
- 102 participants attended the in-person targeted stakeholder sessions;
 - Corner Brook (January 24, 2019) 15 participants
 - Happy Valley-Goose Bay (January 29, 2019) 7 participants
 - St. John's (February 5, 2019) 66 participants
 - Gander (February 7, 2019) 14 participants
- 79 participants attended the in-person public sessions:
 - Corner Brook (January 24, 2019) 13 participants
 - Happy Valley-Goose Bay (January 29, 2019) 6 participants
 - St. John's (February 5, 2019) 58 participants
 - Gander (February 7, 2019) 2 participants.

All feedback submitted by the deadline of March 6, 2019, has been reflected. Participants in the engagement sessions followed the discussion guide and provided input on:

- Principles for the proposed legislation's foundation
- · Accessibility barriers identified
- Other barriers and feedback for development and ongoing feedback of the proposed legislation

Principles

The discussion guide defined the following principles: accessible, barrier-free, citizenship, diversity, equity, human rights, shared responsibility and universal design.

Participants were supportive of all of the suggested principles. Feedback also indicated that the principles in any new accessibility legislation should reflect the **United Nations Convention on the Rights of Persons with Disabilities** (Convention) and principles should be clearly stated.

Participants suggested the additional principles of:

Accountability - The need for government to monitor, evaluate and enforce new legislation.

Inclusion - Some participants also identified inclusion as a stand-alone principle. Inclusion as a principle is often an extension of other principles. The end goal of the accessibility legislation should be inclusion for all.

Personal Choice and Control - The need for individuals to exercise choice in all areas of their life and to avoid outdated practices of decision-making that impacts their rights.

Communication - Ensure all communications are clear so that information being shared is accessible and understandable. This includes timely communication that is transparent, available in sign languages and accessible through the use of assistive technology.

Collaboration – Stakeholders need to work together – this includes governments, municipalities, communities, businesses, etc. Silos need to be eliminated in order to increase accessibility.

Quality of Life —Quality of life should not solely be about meeting basics needs. Individuals live independently regardless of disability.

It is important that the principles are clear, specific and positive so that they are understood by everyone. Principles also need to apply to all disabilities. This will ensure that the legislation will consider people and not just their abilities and that it will reflect forward thinking on prevention of barriers instead of reacting when barriers happen.

Accessibility Barriers

Accessibility barriers are anything in the environment that prevents a person from participating in day-to-day activities or in public opportunities. Identifying barriers enhances what is needed in the development of standards. The discussion guide listed barriers to accessibility with examples. These barriers were not listed in any specific order. Submissions and responses provided feedback on the barriers to accessibility.

1. Built Environment Barriers

Participants wanted to make sure it is clear that barriers that exist in the built environment are not only experienced by people who have physical disabilities, but by everyone across the lifespan. Universal design was emphasized by participants as an important tool to removing barriers in the built environment. Participants' input included:

- All public buildings need to be accessible with no exemptions
- There is a need for more than minimum codes and enforcement; being 'up-to-code' does not always mean accessible
- Lack of regular maintenance and signage impacts accessibility
- Equitable emergency safety measures need to be implemented
- Universal design must be considered at the start

2. Communication Barriers

Communication barriers was frequently mentioned and highlighted as an often unrecognized barrier. Participants discussed how communication barriers exist most often for individuals who use alternate formats, such as real-time captioning and/or sign language interpretation. Communication barriers exist and often overlap with other identified barriers.

Feedback included:

- Barriers are encountered when text messaging is not a provided accessible option for communication
- Information, including safety information, must be available in multiple formats
- Public buildings should provide audio and captioning systems to communicate important information to individuals who experience communication barriers

3. Barriers to Education

Barriers to education were repeatedly linked with other barriers, including attitudes and the built environment. Participants shared that:

- Students experience long wait times for supports (i.e., alternate formats
 of print/text) even though it was felt that administrators are aware of
 supports needed in advance of the school year
- Lack of assistive technology provided to students before, during and after the K-12 system
- Students must have access to assistive technology through their life span and not be taken away when they transition out of the K-12 system
- Assessments must be wide-ranging, timely and performed by an expert.
 Receiving an assessment should not itself be a barrier
- Use universal design in learning as a tool to address barriers in education
- Supports are necessary for effective transitions from secondary school into the post-secondary system and work
- Physical barriers to schools contribute to barriers to education
- Students who are Deaf experience barriers in learning from the lack of ASL interpretation and instruction, as well as from social isolation from their peers and teachers in the current inclusive education system
- Re-open the School for the Deaf to promote deaf culture and have tools and choices in learning sign languages
- Educators lack the resources and knowledge to provide supports for some students

4. Barriers to Employment

Barriers to employment were noted as having very significant and negative consequences on individual's lives and participation in society often linking these barriers to others. Identified barriers to employment include:

- Employers are not providing accommodation for employees, including current staff, new hires and potential employees, who have disabilities because of the fear of the cost of accommodation in a workplace
- Other barriers increase barriers to employment, including barriers to education, transportation and attitudes
- Screening processes, including job descriptions, unnecessarily exclude people who have disabilities and do not account for accommodation
- Employment programs often keep people with disabilities in entry level positions
- Fear on the part of employers in following standard human resource (HR) practices, including setting work expectations, create barriers for advancement
- Supported employment was discussed as a currently successful means to realize equitable employment opportunities

5. Barriers in Transportation

Transportation is important for accessibility and inclusion. There is a lack of accessible public transportation across the province. Specific barriers were:

- The lack of audible stop announcements poses a communication barrier in transportation
- The lack of considerations from a cross-disability perspective in accessible transportation
- The path of travel to bus stops are not accessible
- Rural accessible transportation is limited, expensive or non-existent
- Inappropriate use of accessible parking spaces and lack of enforcement
- Regulations for accessibility in various forms of transportation lack clarity and enforcement

- Lack of equitable policies and procedures for persons with disabilities on provincial ferries
- Inequitable access to transportation can create other barriers (i.e. if a person does not have access to transportation they can have barriers to access education or employment)

6. Barriers in Access to Services and Service Delivery

Lack of access to services and service delivery barriers are often connected to other barriers: attitudinal, physical, communication barriers and barriers within systems and policies. Examples provided include:

- Services at the Miller Centre must provide peer support and access to current assistive devices and technologies
- Lack of access to ASL interpretation for legal, banking and other services across the province is a significant barrier for the Deaf community
- Rehabilitation services to support independence and lifestyle choices are needed
- Lack of information on supports in medical care i.e. finding a family doctor
- The facilities where services are located are often not accessible from a cross-disability approach
- Health care, education and other government staff are frequently not aware of available resources and are unable to assist individuals with disabilities to navigate system
- Programs are too restrictive and do not ensure equity in personal choice
- Services and programs are not inclusive of all disabilities, including people who have brain injuries
- Having a cut-off for programs, services and treatments once individuals reach 65 years of age creates unnecessary barriers
- Asset/income testing should be removed from program eligibility because it creates barriers to accessing services and resources
- Any barrier that is removed increases people's independence and choice

7. Barriers to Supported Decision Making

Participants noted there must be an option for individuals and their families to collaborate and coordinate resources with government and communities to best serve an individual's need. Participants suggested a shared responsibility approach as a potential solution to address barriers in decision making and legal capacity. The approach includes:

- Supporting persons with disabilities to live in their own homes in the community
- It is a priority for participants specifically because of aging caregivers
- It ensures people with disabilities have the right supports to plan for their future and live in community. This is especially true for aging individuals, families and caregivers

Additional Feedback on Barriers:

Participants provided insight on other barriers such as:

- Everyday life participation i.e. political life, sports, recreation, leisure and other interconnected barriers
- Attitudinal barriers happen when individuals assume to know a person's abilities and needs, or make assumptions without facts. This can present as a lack of respect
- Lack of access to assistive technology in public spaces. Assistive technology can be financially inaccessible for many persons with disabilities
- Evacuation plans, safety and emergency preparedness planning and maintenance of public buildings do not include equitable safety measures for persons with disabilities
- Financial barriers to accessing supports are experienced by persons with disabilities who are of low income or who live in poverty
- Programs and supports are income-tested and can be too specific to certain disabilities
- People with disabilities who are on limited income have little access to participating in recreation and leisure

- Government policies often do not consider all aspects of a person's circumstances. Some policies create disincentives to work, i.e., removing needed benefits and supports to working people even when individuals are not making enough money to meet their needs. This affects their independence
- Government policies may create expectations that individuals will rely on family and friends for needed supports
- The public procurement process should follow accessibility standards. There must be requirements to prevent new barriers in new purchases and remove existing barriers in outdated infrastructure
- Access to housing must be individually focused and support independent living. The use of universal design is a way to ensure access to housing across the lifespan. Specific barriers to housing include:
 - Removing the medical care focus when supporting the transition from pediatric care to adult care
 - ii. Limited number of affordable and accessible housing options
 - iii. Attitudinal barriers from landlords
 - iv. Limited availability of accessible low-cost housing
 - v. Alternate care homes give financial controls to agencies instead of individuals
- Recreation is seen as a 'nice to have' for persons with disabilities and not a priority. There is a lack of access to recreation through the built environment, transportation to and from, financial barriers and attitudinal barriers. A lack of access to Para sport and assistive technologies to participate in sports and leisure was identified
- Services and supports are not consistently available outside the greater St. John's metropolitan area. Services are not consistent across regional health authorities. In addition, those living in rural and remote communities identified a greater need for accessible travel to access the limited services available

Feedback from Symposium Workshop

During the Symposium Workshop participants were asked a series of questions in order to expand on information received during the consultations.

These questions included:

- Should legislation have a definition of disability? Why or why not?
- Keeping in mind the shared responsibility of government, private sector and community partners, as well as rural/urban differences, what does legislation need to have to ensure a shared-responsibility approach to enforcement?
- What are the priority areas for the development of standards?
- How should government ensure ongoing community engagement in the development of standards?
- How often should legislation and standards be reviewed?

Definition of Disability

As part of the Symposium Workshop, the planning committee asked whether legislation should contain a definition of disability. There was no firm consensus from the group at the Symposium Workshop on whether or not to include a definition of disability. There was a general agreement that having a definition of disability that uses medical language, such as disease and treatments, must be avoided.

Identified advantages of including a definition in the legislation:

- Can help create clear standards that solve identified barriers appropriately. If we can name it, it is more tangible to solve it
- A definition is important especially when there are human rights appeals and complaints
- We need a definition in order to have enforcement and give teeth to the standards
- A definition should follow already existing definitions provided in the Convention and the Accessible Canada Act

Identified disadvantages of including a definition in the legislation are:

- Once a definition is made, it will limit the legislation and can be hard to update or change
- A strict definition could turn into a culture of negative beliefs very quickly in small communities
- A specific definition could create new barriers and exclusion

A Shared Responsibility Approach to Enforcement

During the Symposium Workshop, participants gave feedback on how to ensure a shared responsibility approach to enforce the proposed legislation. Some participants thought that the enforcement is only a government responsibility. Others suggested a shared responsibility between various stakeholders that could provide creative solutions to address a range of needs and demographics across the province.

Additional comments provided by participants include:

- Legislation needs to have a shared responsibility approach
- Legislation must be enforced by government
- Shared responsibility is a way to create inclusion from a collaborative approach
- Specific roles need to be defined and put in place to enforce the legislation. This could include strategic plans and accessibility plans
- It is important to have innovative ideas and answers from all communities, for example, ensuring there is no limit on community population sizes because the province has a large range of rural communities
- Community needs to play a role in communicating on what the legislation should do
- Provide an accessibly plan template to outline required responsibilities
- Defined roles and responsibilities for accountability should be included within the legislation
- The Department of Education should provide yearly reports as a mechanism of enforcement to show what complaints they have

received and how they have been resolved. This will provide accountability

Priority Areas for Standards

Enabling legislation would allow for the development of standards. In no particular order, participants identified the following priority areas for the development of standards:

- Customer service
- Universal design
- Access to justice
- Accessibility accommodations during incarceration
- Education
- Deaf culture
- Standards recognizing sign languages (ASL, LSQ, ISL)
- Accessible procurement
- Transportation
- Information and communication
- Assistive technology
- Design of public spaces
- Human resource-based education and;
- Sensitivity training

Developing and Reviewing Standards

Participants were asked their thoughts on how government should develop and review standards. The feedback provided included:

- There should be more consultations for the development and review of standards
- It is important to finalize the legislation immediately
- Legislation and standards should be reviewed regularly and be an ongoing process
- The review process should be every three to five years

Community Engagement and Communication

There was a strong message that government must continue to engage with individuals with lived experience throughout the consultation, design, development, implementation and evaluation stages. Individuals echoed

the importance that ongoing feedback must be accessible and be promoted through proper communication channels, and that opportunities are provided for ongoing feedback on the proposed legislation and standards to support its effectiveness. Participants identified the following areas of engagement and communication:

- In-person meetings, mail-outs, online opportunities, ASL, text messaging and the use of social media with a dedicated government staff to monitor and address questions
- Plain and clear language must be used and no jargon and abbreviations
- Government website must be user friendly and accessible to ensure communication on legislation and ongoing feedback is accessible
- There must be transparency of the whole process
- Community groups need to be fully engaged within their own communities to circulate information to their members and public
- Engagement should be promoted through the Minister's Office, members' offices and Indigenous governments and organizations including Nunatsiavut, NunatuKavut and the Innu Nation

Mechanisms for Accountability

Participants expressed a strong need to ensure accountability and ways to ensure ongoing progress. Suggestions included:

- Create a position of the Accessibility Advocate (similar to the Child and Youth Advocate)
- Form a separate entity within Government to manage feedback on the legislation, standards and complaints of enforcement
- Have the Disability Policy Office as a separate entity from the Department of Children, Seniors and Social Development to strengthen its role horizontally across government as a centre of expertise
- Make sure there is a requirement to review the proposed legislation regularly

- Create Municipal Accessibility Advisory Committees with reporting structures
- Increase public awareness and confidence by having reports by the Auditor General (or similar figure)
- Consider creating an ombudsman position to investigate complaints
- Have more engagement opportunities with the public
- Incorporate the role of champion/ambassador and the promotion of accessibility legislation as part of the Disability Policy Office

Role of Provincial Advisory Council for the Inclusion of Persons with Disabilities

Council's mandate is to advise the Minister Responsible on disability-related issues. Within their mandate, Council can ensure accountability in the development and review of legislation. One method suggested by various participants is to establish committees which would report to Council on development of the standards. Council and community can effectively share information across the province by a network i.e. Network of Disability Organizations.

The Inclusion of All Voices

Every voice needs to be included in the ongoing feedback: youth, Indigenous governments, organizations, cultural groups, all age ranges, genders and minorities in order to recognize the connected and varying experiences with all disabilities.

All voices from people who have disabilities must be valued and included in legislation and ongoing feedback. The Deaf community shared valuable insight on lack of available services for people who are Deaf. Examples include, but are not limited to, lack of sign language interpretation in government public announcements, services, resources and the lack of support for students who are Deaf.

Next Steps

While many participants indicated government should move forward with legislation as soon as possible, there was confusion about what "enabling legislation" means and how the legislation and resulting standards would work. Participants indicated a need to clarify how the **Human Rights Act** and accessibility legislation would interact. There was also a lack of understanding about how the provincial legislation would relate to the new federal accessibility legislation. With the advice and help of the Advisory Council, information documents are being finalized to explain and provide clarity around these issues. Following this, the Office of Legislative Council, Department of Justice and Public Safety, will draft a bill in consultation with DPO.

Acknowledgements

We would like to thank everyone who participated in this engagement process. Sharing your time with us—bringing your wealth of knowledge and personal experience to a public event—and sharing openly and with purpose has made a great impact. Public participation in shaping legislation will move us forward to a province that is accessible for all.

Glossary of Terms

Accessible

A general term used to describe something that can be easily accessed or used by people with disabilities.

Alternate Formats

An alternate format enables access by a person who experiences communication barriers. Common alternate formats include: electronic; large print; MP3; Braille; CD/DVD; descriptive video; signed video; onscreen text / e-text; and clear language. A tactile diagram or pictograms may also be a component of an accessible format.

Assistive Technology (AT)

Assistive technology is also known as assistive devices, or adaptive technology. Assistive technology makes environments more accessible by decreasing barriers. Assistive technology includes a range of devices, equipment and software such as mobility devices like wheelchairs, magnifying devices, visual alarms, hearing aids and speech software.

American Sign Language (ASL)

American Sign Language (ASL) is a visual language with unique vocabulary, grammar, syntax and social rules of use. Meaning is conveyed through signs that are composed of specific hand shapes, palm orientation, movement and location of the hands and signals on the face and body.

Assistive Listening Devices (ALD) or Hearing Assistive Technology (HAT)

Used by persons who are hard of hearing, this technology works by having the speaker wear a microphone that wirelessly transmits their voice to a receiver, worn by the listener which then sends the audio directly to the individuals hearing aid or headset.

Barrier

A barrier is anything that prevents people with disabilities from participating on an equal basis as others. There are many kinds of barriers and these can be physical, attitudinal, systemic or technological.

Braille

Braille is a series of raised dots that can be read by touch, usually fingertips and used by persons who are blind or have partial vision.

Citizenship

The ability of individuals to exercise and claim full rights and responsibilities in society.

Clear or Plain Language

Clear Language refers to a set of principles that focuses on the needs of the reader. It presents information in a logical order using familiar, everyday words and expressions. It avoids jargon and uses a minimum of technical language. Clear language principles cover sentence length, sentence structure and the use of headings, fonts and white space. Choosing words that are of common usage and familiar to the culture of the reader will make information more accessible.

Clear Print

Clear print is a design approach that considers the needs of people who are partially sighted, or people with cognitive disabilities or low literacy. Basic design elements, such as font style, type size, contrast, page navigation, words, graphics and white space follow simple structures. Clear print should be considered in all forms of written communication including flyers, notices, newsletters, pamphlets, application forms and websites.

Communication Access Real-time Translation (CART)

CART is the instant translation of the spoken word into text using a stenotype machine, notebook computer and real-time software. The text appears on a computer monitor or other display and is primarily used by people who are Deaf, hard-of-hearing, or have cochlear implants.

Disability-related Accommodation/Supports

Any technical aid or device, personal support or disability-related support or other accommodations a person may require to participate in society. This can include, but is not limited to: accessible meeting rooms; accessible formats of information such as Braille and clear language; mobility supports to enable a person to attend a meeting; and decision-making supporters that enable a person's intention and will to be communicated.

Disability

The United Nations Convention on the Rights of Persons with Disabilities does not define disability but rather describes it as "...an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and active participation in society on an equal basis with others."

Inclusion

Inclusion is meaningful participation in all aspects of society with access to services and opportunities for persons with disabilities equal to that of people without disabilities; this requires active removal of barriers and provisions of disability-related supports.

Intersectionality

Individual human experiences are affected by overlapping parts of identity and the situations we are in and our lives. Everyone has multiple components that make up who they are. These include gender identity, race, ethnicity, religion, age and disability.

Universal Design (UD)

Universal design is the design of products and environments to be usable by all people, to the greatest extent possible, without adaptation or specialized design. Universal design principles can be applied to any product, environment or communications, including built environment, websites and education curricula.

Way-Finding

Way-finding is the process of using spatial and environmental information to find one's way in the built environment. Way-finding is used by persons who are blind or partially sighted.

Web Content Accessibility Guidelines (WCAG) 2.0

WCAG version 2.0 are internationally recognized standards that define how to make Web content accessible to people with disabilities, including making websites accessible for people who use screen reader software. These guidelines improve usability for all users.

Appendix A: Symposium Workshop Presenters

- The Keynote Speaker, Alfred Spencer, Director of Outreach and Strategic Initiatives from the Accessibility Directorate of Ontario, presented on The Art of the Possible sharing best practices and learning from Ontario's 20 year journey to accessibility
- Rob Lattanzio, Executive Director, ARCH Disability Law Centre, presented on the community's input into the federal Accessible Canada Act
- John Wyndels, Senior Policy Analyst, Disability Issues Office, from the Province of Manitoba presented on the different accountability mechanisms for their legislation including Manitoba's Advisory Council and how Manitoba's legislation defined disability
- David LePage, Managing Partner of Buy Social Canada, presented on how social procurement can impact on accessibility and social change in promoting inclusion
- Kim White, a Disability Rights Advocate and General Manager of the Community Centre Alliance spoke of her experiences in this province, as they relate to how legislation could make positive change for persons with disabilities, and how a "Nothing About Us, Without Us" framework needs to continue to guide this work

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