

Asylum Support Appeals Project Annual Report 2004 - 05



ASAP

ASYLUM
SUPPORT
APPEALS
PROJECT

Charity no: 1105625
Company no: 04763838

Legal and administrative information

Status - Asylum Support Appeals Project (ASAP) is a charitable company limited by guarantee, incorporated on 14 May 2003 and registered as a charity on 25 August 2004. ASAP was established under a Memorandum of Association which established the objects and powers of the charitable company and is governed under its Articles of Association.

Registered office and operation address - Cornerstone House, 14 Willis Road, Croydon CR0 2XX

Banker - Barclays Bank Plc., 128 Moorgate, London EC2M 6SX

Management Committee

Sue Willman (Chair)	Pierce Glynn Solicitors
Noeleen Adams (Treasurer)	The Law Centres Federation
Stefanie Borkum (Secretary)	The Evelyn Oldfield Unit
Bushra Baig	Redbridge Refugee Forum
Lillian Brown	adviceUK
Nancy Fancott	Hammersmith and Fulham Community Law Centre
Duduzile Moyo	Redbridge Refugee Forum (resigned in Nov 04)
Sian Roath	adviceUK (resigned in Mar 05)
Roudabeh Shafie	Hammersmith and Fulham Refugee Forum
Hugo Tristram	Inter Agency Partnership (previously Refugee Council)
Alice Webb	Asylum Aid

History of Asylum Support Appeals Project

In 1999, the UK government decided to revolutionise asylum-seekers' housing and support by establishing the National Asylum Support Service (NASS). Under this new scheme, asylum seekers who require accommodation now face compulsory dispersal to the regions outside London and receive financial support which is set at 70% of income support. Currently, around 54,000 asylum seekers are supported by NASS. In London, 13,000 receive support from NASS with 12,000 receiving cash-only support.

While there is a right of appeal to the Asylum Support Adjudicators where support has been refused or withdrawn by NASS, no public funding is available for legal representation for asylum seekers at these hearings. As a result many appellants attend their hearings unrepresented and unadvised, leaving them unable to defend themselves adequately against possible destitution and homelessness.

In 2000, concerned law practitioners, advice agencies and voluntary organisations started lobbying the Legal Service Commission for proper funding. When this was unsuccessful, they then constituted themselves as a registered charity in 2004, became trustees of the charity and started seeking funding to set up a voluntary organisation, Asylum Support Appeals Project, to fill this gap. Among them, these trustees have expertise in asylum support law and advice, knowledge of working with asylum seekers and refugee community organisations, setting up new projects, and above all, share commitment to safeguarding the rights of this most vulnerable group of individuals in the UK today - asylum seekers.

After five years of dedicated hard work by the trustees, ASAP formally launched itself as an independent voluntary organisation in June 2005 with the help of generous funding from the Big Lottery Fund and others.

ASAP trustees ... share commitment to safeguarding the rights of this most vulnerable group of individuals in the UK today - asylum seekers.

CHAIR'S REPORT*

At the start of the financial year ASAP consisted of a small management committee energetically making grant applications and little else. By the end of the year we had an established duty representation scheme, an office and three members of staff. How did we manage it?

In summer of 2004, thanks to a grant from the Helen Tetlow Memorial Fund, with barristers agreeing to represent for free and co-ordination by Nancy Fancott of Hammer-smith and Fulham Community Law Centre, we were able to offer representation to asylum-seekers who'd been refused housing and support, one day a week at the Asylum Support Adjudicators tribunal in Croydon. Please see page 11 of this report for the names of 30 barristers and chambers who have helped at the duty scheme and which we hope to continue. Early in 2005 we heard the news we'd been waiting for from the Big Lottery Fund - they would fund us. Our chief fundraisers Stefanie Borkum of Advice UK (and now of Evelyn Oldfield Unit) and Noeleen Adams of the Law Centres Federation then managed to get the second part of our funding from the City Parochial Foundation. We also had a grant from Garden Court Chambers.

It was all hands down to speedily recruit a team of workers who could represent destitute asylum seekers, provide telephone advice to agencies and pass on their knowledge through training. With extra help from barrister Adrian Berry we managed to appoint Eiri Ohtani, an experienced co-ordinator and two committed legal advisers, Gerry Hickey and Lisa Woodall. In just a few months, the team has managed to represent about 50 asylum-seekers who would otherwise have been unrepresented. Of course our small organisation can't represent everyone and that's why we have a programme of training to Refugee Community Organisations and offer guidance to advice agencies and refugee organisations who have phoned our advice line.

ASAP has been established at a time when it is more important than ever that asylum-seekers have access to representation. After a quiet period, the Asylum Support Adjudicators have been besieged by NASS policy initiatives from starting to withdraw section 4 support from 5000 Iraqis who the Home Office considers should return to Iraq, to implementing section 9 which cuts off support to families who refuse to leave the UK voluntarily. The statistics in this report showing a higher chance of success for those we represent than those who are unrepresented speak for themselves. And the Adjudicators have noted an improvement in the quality of decision-making due to the impact of ASAP.

The committee (please see a list of members on page 2) is grateful for all the support we have had in the past year to help us protect the interests of people whose rights are few and decreasing. In the year ahead we will be working towards ensuring that every asylum-seeker facing destitution has adequate representation.

Sue Willman

Chair, Asylum Support Appeals Project

* Although this report focuses on our financial year from April 04 to March 05, we have also included later events to bring it up to date 1st November 2005

CO-ORDINATOR'S REPORT 2004/05 part 1

Since so much has happened to ASAP since April 2004, we have decided to report our progress in two sections. The first section covers the "pre-launch" period of April '04 to March '05 and the second section covers the "post-launch" period from April 05 to present (November 2005) in which ASAP started operating officially as an independent voluntary organisation.

Pre-launch period up to March 2005

In July 2004, soon after ASAP registered itself as a charity organisation, the ASAP pro bono duty scheme started operating on a weekly basis at the Asylum Support Adjudicators in Croydon. This was the start of an eagerly waited project to provide free, competent legal representation to asylum seekers appealing against NASS decisions to terminate or withhold support. We were certain that there was a dire need for this type of service - after all, because of unavailability of the Legal Aid very few legal practitioners and advice agencies were prepared to represent asylum seekers at their asylum support hearings. The question was how to do this.

From the very start, we were very fortunate to receive support from a number of sources. Initial help came from the Helen Tetlow Memorial Fund whose grant allowed us to pay for the cost of interpreters to interview the appellants. Over 30 barristers volunteered to participate in this duty scheme for free. The Asylum Support Adjudicators provided us with a room and telephone lines once a week so that the barristers could interview appellants. Nancy Fancott of Hammersmith and Fulham Community Law Centre, whose work is supported by Association of London Government, agreed to take on the task of co-ordinating the duty scheme, giving it a shape and structure it needed.

Quite often, the participating barristers performed an almost impossible task of preparing a case for representation within 15 minutes of meeting the appellants for the first time using a telephone interpreter. And they won their cases as well!

During the period of July '04 to March '05, a total of 58 appellants, who had otherwise no access to legal advice and would have had to represent themselves, were assisted pro bono by legal professionals during their hearings. 80% of these appellants were non-English speakers, coming from 20 different language groups. 16% of these cases we assisted were allowed, 37% were remitted and 47% were dismissed, meaning 53% of these appellants did not lose support. Statistics show that only about 27% of those appellants who had no representation (including those who did not receive any help with preparation only) manage to have their cases allowed or remitted back to NASS. It is evident that competent legal advice and representation can reduce destitution and homelessness amongst asylum seekers who are appealing against NASS decisions.

We were also pleased to receive positive feedback from the Adjudicators themselves, who commented that ASAP's involvement produced an improvement in the quality of decision-making. However, 58 was undoubtedly a small number compared to the total number of cases which were decided by the Asylum Support Adjudicators – totals of 2093 and 1521 appeals were received in the years 2003 and 2004 respectively.

We knew there was an urgent need to increase expertise in this area of law so that more asylum seekers would be assisted with their NASS appeals. To make it happen, we needed more financial help.

In January 2005, the Big Lottery Fund responded positively to our ambitious funding proposal to turn this idea into a reality. This would enable us to expand our work significantly by employing staff members who would run a twice-weekly duty scheme at the Asylum Support Adjudicators, a telephone Advice Line and training courses on asylum support issues for Refugee Community Organisations and other advice agencies. As the end of the year 2004/05 approached, we were busy recruiting staff members, getting ready for the real beginning of the project.



ASAP Project Launch Event 29 June 2005

ASAP was officially launched on 29 June 2005 at Friends Meeting House in Croydon. The event was attended by representatives from advice agencies, Refugee Community Organisations and the voluntary sector, as well as those who supported us through our Pro Bono Duty Scheme. Speaking at the launch were Claude Moraes MEP, Mulat Haregot, Chair of Hammersmith and Fulham Refugee Forum and Sebha Storey, Chief Asylum Support Adjudicator. Following a lively panel discussion on asylum and asylum support issues, we enjoyed Andean music and great food.



“ Statistics show that represented appellants, which for ASA purposes includes those who have received assistance with preparation only, are 50% more likely to succeed at their appeal than an unrepresented appellant”
- Sebha Storey, Chief Asylum Support Adjudicator (pictured above)



CO-ORDINATOR'S REPORT 04/05 part 2

When we started in early June '05 with an empty room with three new computers still in boxes, achieving our mission of 'reducing destitution amongst asylum seekers by increasing expertise in asylum support issues' seemed rather challenging. However six months on, we now have an established bi-weekly Duty Scheme at the ASA, many regular users of Advice Line and have already provided training to 25 advisors from 20 organisations. In the next few weeks, we will be running two more workshops and one three-day training course.

Our two dedicated Legal Advisors, Gerry Hickey and Lisa Woodall, have done a fantastic job of mastering NASS appeal representation skills in under two months, representing a number of cutting edge test cases, building up positive working relationships with Advice Line users who previously had no one to turn to for guidance and passing on their expertise to other advisors who can now give better advice to asylum seekers about their asylum support appeal issues. They deserve praise for their courage and hard work.

In normal circumstances, it would not have been possible to build up the profile of an entirely new organisation so quickly. ASAP's success owes much to the unconditional support we have received from the community of organisations and individuals who have been working undeterred in the asylum field for many years. They accepted us with open arms and generously promoted our work, for which we are very grateful. This includes those barristers who continue to help us with our Pro Bono Duty Scheme and provide us with a lot of encouragement.

This support was vital to keep our morale up, because NASS did not wait for us to be ready to deal with their new "initiatives". As soon as we started, we were plunged into the controversial section 9 pilot cases which threatened to make failed asylum seeking parents destitute and separated from their children if they do not take reasonable steps to leave the UK. Soon after that, the announcement from the Home Office that there was now "a safe return route to Iraq" prompted a review of section 4 support for thousands of Iraqi / Kurdish failed asylum seekers resulting in a huge increase in the number of section 4 discontinuance cases at the ASA. We do not know what will be next but whatever it is, we need to be able to act quickly and advise others.

However, what really keeps us going is the stories of those vulnerable individuals whose lives are caught up in asylum support appeals. Many appellants at the ASA display signs of mental and health deterioration probably due to weeks, months and sometimes years of poverty and distress. The prospect of facing a court hearing seems to exacerbate their condition even further - sometimes adjournments are necessary so that the appellants can compose themselves before the hearings can continue. After all, who wouldn't find court hearings daunting? Although space does not allow for their full stories to be told, you can see two case studies on page 7 for information.

Individuals appealing against NASS decisions are faced with the possibility of destitution and homelessness and so need to be treated with dignity and professionalism. We aim to ensure that as many asylum seekers as possible are able to exercise their rights to legal advice and representation and we look forward to reporting our progress in more details in our next Annual Report.

Recently, one of the Adjudicators told us that she has started receiving a number of appeal notices in which appellants request that their hearing be scheduled on days when ASAP is running a Duty Scheme so that we could assist them. It was nice to know that our work was appreciated. This made us smile but also sit up at the same time – obviously there is still a huge unmet demand out there for our work.

Eiri Ohtani, ASAP Co-ordinator

CASE STUDY 1

Mr K was an asylum seeker from a Middle Eastern country. He slept rough for more than two years, including a three-month stay at one of the airports, after which he was arrested and warned not to return to the airport, before his appeal was allowed by the Asylum Support Adjudicator where he was represented by the ASAP.

His asylum claim was rejected in summer 2003 and his solicitors submitted fresh representations in mid 2004 together with fresh evidence to support his claim. However, until early 2005 Mr K was never informed of the existence of section 4 support to which he was entitled to because of this fresh representations.

He was initially wrongly advised by one of the advice agencies that all those who qualify for section 4 support must take reasonable steps to leave the country. Terrified of returning to his country of origin where his father was recently arrested in his stead, Mr K decided not to apply for section 4 support and to continue sleeping rough, relying on handouts from friends, churches and other voluntary organisations and occasionally sleeping on the floor of those who provided him temporary accommodation lasting for a few days at a time. Many months afterwards, another agency correctly advised him that he should be entitled to section 4 support because of his fresh representations.

In 2005 ten weeks after he applied for section 4 support, NASS refused to award Mr K any support because they did not believe that he was destitute. When the ASAP intervened Mr K was feeling unwell and extremely distressed and frustrated. He was also under medication for his stress and anxiety, as well as suffering from a dental infection and pain.

During the hearing, the ASAP successfully argued that there was enough evidence to prove Mr K's destitution and helped Mr K argue that he was entitled to section 4 support. The Adjudicator allowed the appeal and he is now provided with section 4 support from NASS.

75% of the appellants assisted by the ASAP had no fixed address and were sleeping rough and / or relying on an informal network of friends and community organisations who provide occasional accommodation and food.

CASE STUDY 2

Ms L was a failed asylum seeker from Africa. A year after she arrived in the UK to claim asylum she discovered that she was HIV positive. She kept this secret from the family who took her in on an emergency basis. The family was expecting a baby and Ms L noticed that she was not welcome any more. Despite many attempts, she could find no one who could provide her somewhere to stay.

At the same time Ms L was finding it increasingly difficult to store her medication safely away from the family's small child with whom she was sharing a room and was very worried that the child might swallow her medication by mistake. She was given £10 by the Social Services which was not enough to buy her three nutritious meals a day to sustain her energy levels. Sometimes she skipped her medication when it was not possible to take it in private. Her health was deteriorating with a decreasing CD4 count and loss of appetite. She also started suffering from severe headaches which resulted in daily nose bleeding, for which her doctor said she needed a CT scan.

Ms L's immigration solicitor, who was preparing to make fresh representations, helped her apply for section 4 support from NASS because she was unfit to travel in the meantime. Ms L's application was turned down because NASS did not accept the medical evidence she submitted and claimed that she should take reasonable steps to leave the country because she was fit enough to do so.

The ASAP helped Ms L explain the significance of her doctor's letter to the Adjudicator during the hearing and argue that she was indeed unfit to travel at the moment. The Adjudicator accepted this argument and allowed Ms L's appeal.

Nearly 70% of the appellants assisted by the ASAP were suffering from physical and or mental health problems.

Report of the Management Committee for the period ended 31 March 2005

The Management Committee presents its report and the financial statements for the period ended 31 March 2005.

Activities

The company is a charity and its main objects are:

1. The relief of poverty, suffering and distress among individuals seeking asylum and support in the United Kingdom and in particular, but not limited to, the provision of legal advice and representation and other assistance
2. The advancement of education through the provision of training to persons to enable them to give legal advice and representation and other assistance to the individuals who are in needs
2. The promotion of such other purposes being exclusively charitable according to the law of England and Wales as the Trustees may from time to time determine

To achieve these objects, the charity operates a number of activities. The main activities for the year 2004 - 05 are summarised in the Co-ordinator's report on page 4 and 5 of this Annual Report.

Results

The company was dormant from the date of incorporation to 1st April 2004. The net incoming resources and resources expended based on status are as follows:

	25 Aug 04 to 31 Mar 05	1 Apr 04 to 31 Mar 05
	Charity	Company
	£	£
Status – Registered as		
Total Incoming resources	10,000	14,000
Total Resources Expended	3,981	4,764

Responsibilities of the management committee

Company law requires the Management Committee to prepare financial statements for each financial year which give a true and fair view of the state of the affairs of the charitable company as at the balance sheet date and of its incoming resources and application of resources, including income and expenditure, for the financial year. In preparing those financial statements, the Management Committee should follow best practice and:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent; and
- prepare the financial statements on the going concern basis unless it is inappropriate to assume that the company will continue on that basis.

The Management Committee is responsible for maintaining proper accounting records which disclose with reasonable accuracy at any time the financial position of the charitable company and to enable them to ensure that the financial statements comply with the Companies Act 1985. The Management Committee is also responsible for safeguarding the assets of the charitable company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

Members of the management committee

Members of the Management Committee, who are directors for the purpose of company law and trustees for the purpose of charity law, who served during the year and up to the date of this report are set out on page 2. Members of the charitable company guarantee to contribute an amount not exceeding £10 to the assets of the charitable company in the event of winding up. The total number of such guarantees at 31 March 2005 was 3.

Small Entity Special Provisions

This report has been prepared in accordance with the Statement of Recommended Practice - Accounting and Reporting by Charities and in accordance with the special provisions of Part VII of the Companies Act 1985 relating to small entities.

Approved by the management committee on 16 November 2005 and signed on its behalf by:

Sue Willman
Chair

Statement of Financial Activities (including Income and Expenditure Account for the period ended 31 March 2005

	Notes	Unrestricted Funds £	Restricted Funds £	Total Funds £
Incoming resources				
Activities to further the charity's objects:				
Grants	2	-	14,000	14,000
Investment income and interest		-	-	-
Total incoming resources		-	<u>14,000</u>	<u>14,000</u>
Resources expended				
<i>Costs of generating funds</i>				
Interpreters fees		-	2,018	2,018
Recruitment costs		-	2,497	2,497
Publicity, printing and marketing		-	249	249
Total resources expended		-	<u>4,764</u>	<u>4,764</u>
Net income for the year		-	<u>9,236</u>	<u>9,236</u>

Balance Sheet as at 31 March 2005

	Notes 1	£	£
Current assets			
Cash at bank and in hand		<u>9,236</u>	
		9,236	
Creditors: amounts falling due within one year		-	
Net current assets			<u>9,236</u>
Net assets			<u>9,236</u>
Unrestricted funds			
General funds			-
Restricted funds			<u>9,236</u>
Total funds			<u>9,236</u>

Asylum Support Appeals Project would like to thank Maroof Adeoye, the Community Accountant at Croydon Voluntary Action, for kindly preparing these accounts.

Treasurer's Report

Statement of Financial Activities for the period ended 31 March 2005 and Balance Sheet as at 31 March 2005 are presented on page 9 of this Annual Report. Please also see the notes below for more information. We are grateful to all our funders who generously supported our work in the year 2004 - 05.

The Director is satisfied that the company is entitled to exemption under section 249A(1) of the Companies Act 1985 and that no member or members have requested an audit pursuant to section 249B(2) of the Act.

The Director acknowledge her responsibilities for:

1. Ensuring that the company keeps a proper accounting records which comply with section 221 of the Companies Act 1985; and
2. Preparing accounts which give a true and fair view of the state of the company as at the end of the financial period and of its profit and loss for the financial period in accordance with the requirements of Section 226 of the Companies Act 1985, and which otherwise comply with the requirements of this act relating to accounts, so far as applicable to the company.

The accounts have been prepared in accordance with the special provisions of part VII of the Companies Act 1985 relating to small companies and the Financial Reporting Standard for Smaller Entities (effective March 1999).

Approved by the management committee on 16 November 2005 and signed on its behalf by:

Noeleen Adams
Treasurer

Notes forming part of the financial statements for the period ended 31 March 2005

1. Accounting policies

(a) The financial statements have been prepared under the historical cost convention, and in accordance with the Financial Reporting Standard for Smaller Entities (effective March 2000), the Companies Act 1985 and follow the recommendations in *Accounting and Reporting by Charities: Statement of Recommended Practice* issued in October 2000.

(b) Voluntary income is received by way of donations and gifts and is included in full in the Statement of Financial Activities when receivable. The value of services provided by volunteers has not been included.

(c) Grants, including grants for the purchase of fixed assets where applicable, are recognised in full in the Statement of Financial Activities in the year in which they are receivable.

(d) Incoming resources from investments is included when receivable.

(e) Resources expended are recognised in the period in which they are incurred and allocated to the particular activity where the cost relates directly to that activity.

(f) Unrestricted funds are donations and other incoming resources receivable or generated for the objects of the charity without further specified purpose and are available as general funds.

(g) Designated funds are unrestricted funds earmarked by the management committee for particular purposes.

(h) Restricted funds are to be used for specific purposes as laid down by the donor. Expenditure which meets these criteria is charged to the fund, together with a fair allocation of management and support costs.

2. Incoming resources from activities to further the charity's objects

	Unrestricted £	Restricted £	Total £
Helen Tetlow Fund	-	4,000	4,000
Community Fund	-	10,000	10,000
Total grants and contracts	-	14,000	14,000

3. Taxation

The charitable company is exempt from corporation tax on its charitable activities.

ACKNOWLEDGEMENTS

ASAP would not have been able to achieve what it has achieved without the generous help and financial support of numerous organisations and individuals. We would like to take this opportunity to say a big thank-you to them.

Funders

Big Lottery Fund, City Parochial Foundation, Helen Tetlow Memorial Fund, Garden Court Chambers* and London Legal Support Trust* (* - financial support received in / from 2005/06)*

ASAP Duty Scheme members

6 King's Bench Walk: *Adrian Berry, Ranjiv Khubber, Nicola Braganza, Yinka Adedeji, Alexis Slatter*

College of Law Pro Bono Scheme: *Wendy Pettifer and the students who took part in the Duty Scheme*

Doughty Street Chambers: *Kate Markus, Tracey Bloom, Simon Cox, Robert Latham, Mark Henderson, Alasdair MacKenzie, Mai-Ling Savage, Jamie Burton, Heather Williams, Paul Bowen, Steve Cragg, Martin Westgate, John Nicholson*

Eight King's Bench Walk Chambers: *Edward Fitzpatrick, Kevin Gannon*

Garden Court Chambers: *Jan Luba QC, Desmond Rutledge, Nadine Finch, Nicola Rogers, Adrian Marshall-Williams, John Beckley, Lois Kawa-Walker, Rajeev Thacker, Ronan Toal, Adam Straw, Mark Symes*

Tooks Chambers: *Judith Farbey*

Supporters

Advice UK, Association of London Government (ALG), Asylum Aid, Asylum Support Adjudicators, Syd Bolton, Cornerstone House (Eamon Durkan), Croydon Voluntary Action (Claudia Demuth and Maroof Adeoye), Evelyn Oldfield Unit, Hammersmith and Fulham Refugee Forum (Mulat Tadesse Haregot), Hammersmith and Fulham Law Centre, Housing and Immigration Group (HIG), Immigration Law Practitioners' Association (Susan Rowlands), Law Centres Federation, Law Society (Stella Groves), Sue Lukes, Claude Moraes MEP, Pierce Glynn Solicitors, Redbridge Refugee Forum, Refugee Council, Wandsworth & Merton Law Centre (Bob Nightingale), David Rhys Jones (Medical Foundation) and Julia Osmond, Eva Chrysostomou, Marcia Abrahams, Sandra Hesketh (Southwark Law Centre) and everyone else who walked for us and sponsored us on 18 April 2005 as a part of London Legal Support Trust Sponsored Walk

And thank you to all our members and everyone else who helped us!

ASAP Advice Line 020 8684 5972

ASAP is supported by:

Helen Tetlow Memorial Fund
London Legal Support Trust
Garden Court Chambers
City Parochial Foundation

Supported by



If you are advising asylum seekers about their asylum support problems and need help, you can always call our Advice Line. Our Advice Line is open:

Mon 2pm to 4pm

Tue 10am to 12:30pm, 2pm to 4pm

Wed 10am to 12:30pm

Thu 2pm to 4pm

Fri CLOSED

Our legal advisors are available to answer your queries and help you help your clients. Occasionally we might be able to represent your clients at the hearing in Croydon. **Please note that we do not provide immigration advice.**

ASAP believes that all asylum seekers have a right to competent, free legal advice and representation on asylum support issues. We run an Advice Line, a duty scheme at the Asylum Support Adjudicator and training courses for refugee community organisations. Please contact us if you need more information:

Eiri Ohtani - Co-ordinator

Eiri@asaproject.org.uk, 020 8684 5873

Gerry Hickey - Legal Advice, Representation and Training

Gerry@asaproject.org.uk, 020 8684 5874

Lisa Woodall - Legal Advice, Representation and Training

Lisa@asaproject.org.uk, 020 8684 5875

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