

Another needless death

In one of life's sad ironies Ionut Simionica, a young Romanian, was killed on the day of the government's first Construction Safety Summit on 26th February 2001.

Ionut was killed carrying out refurbishment work at St Mary's Church, Bryanston Square, Westminster when a large section from the base of the foundation fell on him. The HSE investigated and subsequently prosecuted Lindsay Barr of Lindsay Barr Associates, David O'Keefe & Co Ltd of south-west London, and sub-contractor Britin Construction Ltd. All were found guilty of health and safety breaches when the case was finally concluded at Southwark Crown Court on 1st February. Fines totalled £95,000 and costs were £60,000.

The court heard that the project involved underpinning a corner of the church. Risk assessments, prepared by structural engineer Barr, did not address the specific activity of underpinning. When the work started, voids containing rotten wood were discovered in the foundations. Britin's foreman brought this to the attention of principle contractor David O'Keefe Ltd. An inspection of sorts was held the next day and Barr advised flooding the voids with concrete. Britin agreed to produce a method statement but this was not done. A few days later Ionut was inside when a new pin was being excavated on the outer wall when the base of the foundation collapsed. The brickwork was interspersed with what HSE later described as 'a matrix of rotting wood'. There was no propping or other support.

Meanwhile, on the same day of the incident that killed Ionut, the movers and shakers of the industry, along with John



CSC protesters outside court.

Prescott, were meeting to express concern about the unacceptable level of death in the industry. And very little else. No stringent new regulatory regime was put in place to prevent the unacceptable deaths. There was talk of a voluntary charter for the big boys in the Major Contractors group and of tough targets coming from the Health and Safety Commission. The Construction Safety Campaign held a small protest outside.

Subsequently most of the Major Contractors have distinguished themselves by refusing to participate even in the mild Worker Advisory Scheme promoted 'in partnership' by the construction trade unions.

There has just been a second Construction Safety Summit. According to safety minister Jane Kennedy the industry deserves to be congratulated on its achievements. Construction union UCATT organised a small protest outside. They pointed out there were 73 deaths on UK

sites in 2003-4 and London had 14 deaths, a 14% increase compared with the previous year.

Four years after the first Summit, Construction Safety Campaign wished to draw attention to the death of Ionut Simionica as it came to Court. They believed that this should have been a manslaughter prosecution. Fair enough you are probably thinking: these companies broke the law and a young man is dead as a consequence. As the case started, however, the judge issued an injunction stating no leaflets on the matter were to be given out within a half mile of Southwark Crown Court.

Without the activities of concerned groups such as CSC there is very little pressure for change within the industry; very little that could be called 'naming and shaming' to force the industry to clean up its act. No imprisonment for those at the top of the industry. And most importantly no justice for those they kill.

Tube PPP damned – it stays (but the boss goes)

Over a period of a few weeks recently the government's private-public-partnership (PPP) of London's underground railway (the Tube) has taken a real, official bashing saying it is unsafe, extremely expensive and not delivering improvements. This has ended not with the end of the Tube PPP but the resignation of the man in charge of Metronet, one of the private sector companies given the task of improving the Tube.

Events started with the publication of the House of Commons Transport Select Committee report in March on tube privatisation. Under the PPP in 2003 Metronet and Tubelines were awarded 30 year contracts worth £17 billion and combined profits of almost £100 million. While spending on the Tube has increased massively these firms have failed to meet most service targets that were lowered from precious benchmarks.

Incidents rise

There has also been an increase in safety incidents since they took over the network's maintenance, with four derailments, and a rise in the number of broken rails. Last year almost 200 signals were passed at danger, up from 150 in 2001-2.

The MP's on the committee were very concerned about the fragmentation of Tube maintenance and up-grading being given to two separate companies, Metronet and Tubelines, and that they are separate from London Underground Limited (LUL) who are in control of the day to day running of the Tube. This could lead to 'inconsistent communication' which could increase risk. They urged London Underground to prevent this.

'Back in House'

Bob Crowe of the tube workers union RMT called for an end to the PPP and for the work to be taken back in-house. He said: 'Report after report into the PPP has delivered the verdict that privatising the Tube infrastructure work has bought nothing but delays, excuses and increasing safety concerns. The committee has

accepted RMT's evidence that fragmentation of the Tube has brought with it a communications breakdown that has undermined safety on what was one of the safest railways in the world.'

Another damning report

After this, another government committee, the Public Accounts Committee announced the Tube PPP had already cost the taxpayer £1 billion. As well as this the report said the bond financing scheme – favoured over PPP by Transport for London (TfL) and London's Mayor – would have saved about £90m per year, although it did say this would have been more risky.

A TfL spokesman said: 'TfL has consistently said that the London Underground PPP deals are an expensive and over complicated way to manage the maintenance and renewal of the Tube. Nothing has yet encouraged TfL to change that view.'

Then on a morning when there were problems on four main tube lines leaving thousands of commuters with massive rush hour delays, London Transport Commissioner Bob Kiley slammed the Tube maintenance companies. He said: 'The rush hour for half of the city was a disaster this morning. That has happened scores of times during the short lives of these contracts – I find that completely unacceptable.' He called the Tube's efficiency and reliability 'embarrassing, if not disgraceful.'

Mayor to act?

Mr. Kiley's outburst was seen by some as a possible link to Mayor Ken Livingstone's comments that if the PPP wasn't working

after two years he would go to the government again on the issue. This after the Mayor's long and bitter battle in the courts with the government about the funding of Tube maintenance, who should carry that work out and how it should be managed.

The issue didn't go away in the press or public eye as in April the London Transport Users Committee (LTUC) called for a review of private maintenance contracts because it said delays 'plagued' lines. On top of this LU said it was demanding a 'marked improvement in performance'.

Resignation

Then came the announcement that the chief executive of Metronet, John Weight, had resigned. Metronet's board said he was stepping down because the board decided the group 'needed to accelerate change' and 'the shareholders felt that we needed someone new to bring about change.'

Brian Cook, chair of LTUC, has written calling for a meeting with LU bosses saying: 'On behalf of the passengers we represent, we think the time has come to ask formally whether the level of disruption is such that Metronet and Tube Lines, the infrastructure companies (infracos), can be said to be in breach of their contracts.'

London's mayor Ken Livingstone said after the resignation: 'Metronet's recent performance has been intolerable. We require a step change improvement. It remains to be seen whether the new management will be able to do what Londoners are entitled to expect.'

General secretary of the Rail, Maritime and Transport union, Bob Crow said: 'The profit-hungry ethics of Jarvis has already led to them being kicked off maintenance contracts on the mainline following disasters like Potter's Bar and Hatfield. It is unbelievable that Jarvis are now being handed control of the Tube. If Tube safety is undermined as a result we will be balloting for industrial action.'



Tube train crash at Camden Town.

The daily grind

Hundreds of passengers were stranded underground for more than an hour on the southbound Jubilee Line in March. Maintenance firm Tube Lines said all power on board the train failed when it was near to Swiss Cottage station. Passengers got off the train by crossing to another in the tunnel. The line stayed closed for three hours after the breakdown.

This is the latest in a long line of breakdowns that have stranded passengers underground, sometimes for many hours in excessive heat without fresh air, refreshments or toilet facilities. On some occasions people have had to be taken to hospital to be treated for heat exhaustion etc. when they have eventually been rescued – particularly in the hot summer heat. Some underground train passenger evacuations have had to be along the track.

Experts have commented there could be a disaster on our hands if things on the

tube don't improve. There have already been several major incidents including the train crashes at Chancery Lane and Camden Town. In February 2003 at least 32 people were injured in the Chancery Lane crash and in October 2003 at Camden seven people were hurt. It was just very good luck that no-one lost their life in either of these incidents. It was very bad luck for those that did receive injuries and for those commuters who had to endure months of disruption to their journeys as well as extra travelling time.

These events have been happening regularly for several years now with less serious breakdowns occurring on a daily basis. Sometimes both the journey to work and the journey home can be disrupted by lines closing temporarily. Some days two or three tube lines can come to a halt at the same time. The Northern Line may be nick-named 'the misery line' but it is unfair to leave out the other lines that fail on a regular basis.

When a line closes, the commuter has to decide which way to gamble. Stay and hope the problem is fixed quickly or

try and find an alternative way to your journey's end. This may well mean finding their way across London using busses, at the same time everyone else is using them. Sometimes this happens not just once a month, or even once a week, sometimes it's every day. The stress of dealing with this and the lengthening of travelling times means workers are enduring a massive burden on top of those they already have, just to earn a living at work.

This is what travelling to work and back home is like for millions of workers, as well as travel for members of the public and overseas visitors, every single day of the week. Never sure when, or if, you'll get to your destination. Stress at work has been the number one concern for workers for many years now. Londoners get the double whammy of stress on the way to and from work as well.

And the cause of all of this – massive under-investment in the tube infrastructure and maintenance programme for far too many years.

'It's mass murder'

A telling quote from a relative of someone killed by asbestos, summing up what many felt at the recent Mesothelioma Summit, called by the British Lung Foundation. Over 100 attended the Summit, held at the BMJ Headquarters on 7th March. It brought together many medical experts to report on the latest developments in treatments for this asbestos cancer, which still has no cure. The Foundation invited and involved all the UK victim groups, giving the day a campaigning edge. The trade union movement was represented by Hugh Robertson, from the TUC, talking about the new Asbestos Regulations.

Dr Helen Clayson, speaking about End of Life Care and her work with mesothelioma patients described many as 'very stoic' about their cancer. She told us however that relatives were not. She believed that for the majority there was 'no closure, and persisting fury and outrage'.

Consultant Robin Rudd told the meeting that the prognosis for any diagnosis of mesothelioma remains dismal. Despite some new developments in radical surgery, which is only suitable for a select number of cases, and in chemotherapy, many talked about medical approaches, for example gene therapy, are a long way from clinical application. In his opinion the new drug Alimpta, which has received a lot of publicity, is an agent with 'useful activity' but not a quantum leap as far as treatments go.

With the new chemotherapies mesotheliomas do shrink, with considerable relief of symptoms, but sadly only for a few months. His colleague Dr

Jeremy Steele, was more upbeat about new developments in the laboratory but very angry about the lack of government funding for medical research in this field. Other countries do a lot better.

The day was not all talk. The British Lung Foundation will be launching a Mesothelioma Charter to campaign for more medical resources; and instituting a Mesothelioma awareness day, probably in February.

Meanwhile the event has spawned a number of similar meetings around the country and, not to be left out, our developing asbestos victim support group in Barking and Dagenham will be holding a public meeting on 18th May in Barking Town Hall.

The main speaker will be Dr Greg Deleuil, of the Asbestos Diseases Society of Australia. We have a lot to learn from Australia. There the rate of asbestos disease is higher than the UK, and there the insurance industry has been

particularly vicious in trying to stop compensation claims. But in Australia the labour movement and asbestos groups have been very militant with some success in resisting these attacks.

The drop-in sessions in Barking have seen a steady stream of asbestos sufferers and families seeking legal advice and support. The incidence of mesothelioma in Inner London has increased by more than 200% since the early 1980s, and in Outer London by more than 240% in the same period. Barking and Dagenham is at the centre of the epidemic. This meeting aims to establish closer links with local GPs and other health professionals throughout the East End of London and Essex. We would appreciate a good attendance to show support from all asbestos campaigners in London Region.

Asbestos support group launches new web site

The Barking and Dagenham Asbestos Victims Support Group will officially launch it's web site at the May meeting mentioned elsewhere on this page – but it is publicly available now for all to use.

This very useful web site gives details of local drop-in sessions for people in Barking and Dagenham who are concerned about the health risks of asbestos with free telephone advice, medical and legal information, help with benefits and asbestos awareness advice.

The reasons for the site are clear and shocking as Barking was the site of the old Cape asbestos factory where many local people would have worked, many of whom have later developed asbestos diseases. The legacy of this and other factories in the area is spelt out here, with this startling statistic: 'If you live in Barking and Dagenham you are more likely to be ill with a long-term disease than anywhere else in London.'

For further information go to:

▲ www.badasbestos.org.uk

ASBESTOS ACTION 2005

Presented by the Barking and Dagenham Asbestos Victim Support Group

Wednesday 18th May, 2005

Council Chamber Barking Town Hall

2pm–4pm followed by drinks

Main Speaker: Dr Greg Deleuil,

Medical Adviser to the Asbestos Diseases Society of Australia.

Other speakers: Tony Whitston, Manchester Asbestos Support Group;
Sally Moore, Leigh Day & Co; Tony Browne, UNISON;
Margaret Sharkey, London Hazards Centre.

Minuscule fine for worker death

North West London based construction company Circleworth Ltd. were fined just £7,500 for causing a worker's death.

Self employed carpenter Edward Smith, 63, was involved on a job to refurbish a semi-detached house in Ainsdale Road, London, W5 when he fell approximately 2.4 metres from the exterior access scaffold on 18 November 2002. No appropriate ladder had been provided to access the scaffold. The ladder that was used on the day of the accident was too short for the purpose (see photo). It is believed that Mr Smith fell whilst trying to access the scaffold. He suffered severe head injuries and died next day.

Circleworth were prosecuted by the Health and Safety Executive (HSE) at London Magistrates Court in March where they pleaded guilty to failing to take care for the health and safety of someone who was not their employee.



HSE investigating inspector Kevin Shorten, said: 'The tragic death of Edward Smith and the grief suffered by his family and friends at the firm, could have been avoided if the company had ensured that the ladder used to access the scaffold was long enough to extend 1m past the landing point and was secured in place. Any contractor or site foreman who reads about this case should make sure they check the ladders in use on their sites.'

In 2003/04 there were 38 fatalities to workers in the construction industry due to falling from a height, an increase of 5 from 2002/03.

Draft corporate manslaughter Bill published – finally

After years of waiting the government has published its draft of the corporate manslaughter Bill, nine years after the Law Commission published its report in 1996 and five years since the Government published its first consultation document in 2000.

While it has been generally greeted as a positive move there are big problems with the bill as it does not cover all types of employer; only gives sanctions against companies, not individuals and the major sanctions can therefore only be financial penalties not imprisonment. This is regarded as the sanction currently missing from the law that would act as a real deterrent.

While the general election is likely to disrupt the progress of the Bill it is a commitment in the Labour Party's election manifesto.

For further information on the draft Bill visit the Centre for Corporate Accountability web site at:

▲ <http://www.corporateaccountability.org/updates/manslaughter/main.htm>

PC faces manslaughter charges over youths pool deaths

PC Danny Phillips, 42, of the London Metropolitan Police's human resources directorate is to face manslaughter charges following the deaths of two school children in July 2002. He also faces charges under the Health and Safety at Work Act.

Gameli Akuklu and William Kadama, both 14, were taking part in the Splash playscheme, run jointly by Barnet Council and the police at the Met's Hendon facilities in North London. They were discovered unconscious underwater in the facility's swimming pool and were pulled out by a lifeguard.

Gameli, a pupil at St Mary's Church of England School in Barnet, was taken to Northwick Park Hospital where he was pronounced dead. William was declared dead several days later at Great Ormond Street Hospital after

doctors decided to switch off his life support machine.

The Crown Prosecution Service had considered bringing charges against eight other people – a police sergeant, two members of police staff, one of whom is now retired, and five other civilian employees but finally recommended that no action be taken against them.

Speaking as the families lawyer, Harriet Territs said: 'The families welcome the fact that there is a public hearing, but they firmly believe you always have to look at the organisations involved, it's not enough to look at the individuals. For them, it's not a justice issue, it's about making sure it doesn't happen again and that has got to start with the organisations. It's a case of whether they, the organisations, should also be held accountable and responsible and really we are just waiting for a decision on that.'

PC Phillips will be tried at the Old Bailey.

Thanks for making the 'Bridge the gap' appeal a success

We would like to thank all of you who sent in donations to help us overcome our recent funding glitch. While we haven't yet managed to replace a large amount of project funding, we are still trying. Your donations helped us to ensure the

continued operation of the Centre through a brief but difficult period when we continued giving advice, help and support to people at work and in the community in the Greater London area. We cannot thank you enough.

2005 – our 21st birthday!

As amazing as it may seem, it's true. The London Hazards Centre is 21 years old this year. Initially funded by the GLC we are still now mainly funded by local government via the Association off London Government (ALG). This funding has allowed us to provide free advice and help to Londoners at work and in the community and to run our

business. Other funders such as the Bridge House Trust, the Community Fund etc. have provided funds for us to run different projects to help the voluntary sector, community organisations etc.

We are hoping to hold a celebration event later this year – so watch this space for details.

Call our telephone advice line – it's free!

The London Hazards Centre operates a free telephone advice line for Londoners, which is there to help people at work, at home and in the community with health and safety issues. We are funded to provide Londoners who would can't afford to pay for professional advice and help with this free service. The Centre strives to ensure the advice we give is of a very high standard and is in language that lay people can understand. Because we are grant funded this means we can give information that is free from the influence of business etc.

We try to give honest, health based advice that takes into account current medical opinion and trends in concerns. The Centre has been at the cutting edge on advice on vast ranges of topics that are considered day-to-day now such as repetition strain injury (RSI), sick building syndrome, asbestos, computer based

work, chemicals and pesticides at work and in the home, stress and many more.

We are asked for advice on straight forward matters and complex ones. Occasionally people ring about things they think are trivial that turn out to be very serious.

Much of the time the hazards of the issues raised on our advice line can be talked though easily but the larger problem is getting something done about it. While the Centre is not an enforcement agency of any kind we do understand how to approach those with a duty to act and those who are expected enforce if there is no action. The Centre has an understanding of how many different agencies work and can help callers with this.

So if you have a health and safety problem and need some advice – give us a call.



COURSE PROGRAMME

The Centre runs one-day courses aimed at trade union safety representatives and voluntary/public sector organisations.

Courses cost £55 per person and are held at the National Association of Teachers in Higher and Further Education building near Kings Cross which is fully accessible.

Our training is activity based and the timetable is from 10am to 4pm.

Our spring/summer programme includes:

- ▲ **Introduction to Workplace Health and Safety Organisation**
Thursday 12th May 2005
- ▲ **Introduction to Risk Assessment**
Thursday 2nd June 2005
- ▲ **Asbestos Awareness in the Workplace**
Tuesday 21st June 2005
- ▲ **Tackling Stress at Work**
Thursday 30th June 2005

Details and booking forms at www.lhc.org.uk or from the Centre advice line 020 7794 5999.

COURSES TO ORDER

We run tailor made courses on a range of health and safety topics for unions, charities, community groups and councils. Contact us to discuss training for your organisation or workplace.

If your organisation needs regular health and safety support we have an annual subscription scheme that provides a discounted daily fee for scheme members.

London Hazards Centre free telephone advice line: 020 7794 5999.

The work at height regulations 2005

Falls from height are the biggest single cause of workplace deaths in incidents and one of the main causes of major injury. In 2003/04 falls from height accounted for 67 fatal accidents at work and nearly 4,000 major injuries. The greater majority of these were predictable and preventable. These regulations apply to all work at height where there is a risk of a fall liable to cause personal injury.

Definitions

Regulation 2

Some definitions listed are:

'work at height' means

- work in any place, including a place at or below ground level;
- obtaining access to or egress from such place while at work, except by a staircase in a permanent workplace, where, if measures required by these Regulations were not taken, a person could fall a distance liable to cause personal injury;

'working platform' means any platform used as a place of work or as a means of access to or egress from a place of work. This includes any scaffold, suspended scaffold, cradle, mobile platform, trestle, gangway, gantry and stairway which is so used;

'access' and 'egress' include ascent and descent;

'fragile surface' means a surface which would be liable to fail if any reasonably foreseeable loading were to be applied to it;

'ladder' includes a fixed ladder and a stepladder.

Responsibilities

Regulation 3

Sets out who has responsibilities and to whom, including the self employed.

Organising and planning

Regulation 4

Every employer shall ensure that work at height is properly planned, appropriately supervised and carried out in a manner which is so far as is reasonably practicable safe, and that its planning includes the selection of work equipment in accordance with regulation 7.

Employers must plan for emergencies and rescue.

Work at height should only occur when weather conditions do not jeopardise the health or safety of persons involved in the work (except where members of the police, fire, ambulance or other emergency services are acting in an emergency).

Competence

Regulation 5

Employers must ensure the competence of anyone involved in organising, planning or supervising work at height and any associated work equipment.

Avoidance of risks from falls at height

Regulation 6

In identifying the measures required by this regulation employers must take account of the requirement to do risk assessments under the Management of Health and Safety at Work Regulations. Employers shall ensure that work is not carried out at height where it is reasonably practicable to carry out the work safely otherwise than at height. Where work is carried out at height, every employer shall take suitable and sufficient measures to prevent, so far as is reasonably practicable, any person falling a distance liable to cause personal injury. If that is not possible steps must be taken to limit the distance and consequences of any potential fall.

Selection of work equipment for work at height

Regulation 7

In selecting work equipment for use in work at height, employers shall give collective protection measures priority over personal protection measures, taking account of:

- the working conditions and the risks to the safety of persons at the place where the work equipment is to be used;
- in the case of work equipment for access and egress, the distance to be negotiated;
- the distance and consequences of a potential fall;
- the duration and frequency of use;
- the need for easy and timely evacuation and rescue in an emergency;
- any additional risk posed by the use, installation or removal of that work equipment or by evacuation and rescue from it; and
- the other provisions of these regulations.

Requirements for particular work equipment

Regulation 8

Requires equipment listed in the schedules attached to the regulations to meet the requirements of those schedules. These include guard rails, toe boards, barriers, working platforms, scaffold, net, fall arrest devices etc.

Fragile surfaces

Regulation 9

Employers must avoid work on fragile surfaces. Where this is not possible suitable and sufficient platforms, coverings etc. must be provided, preventing any overloading of structures and, where necessary, minimising the distance of any potential fall.

Falling objects

Regulation 10

Employers must prevent injury from falling materials or objects. Where this is not reasonably practicable employers must prevent any person from being struck by any falling material or object. Materials or objects must not be thrown or tipped from height if it is liable to cause injury to any person. Materials and objects must be stored to prevent collapse, overturning or unintended movement.

Danger areas

Regulation 11

Employers must prevent people from entering areas where there is a risk of being hit by falling materials etc. This must be done by the use of suitable devices and those areas must be clearly marked.

Inspection of work equipment

Regulation 12

This regulation only applies to work equipment covered by Regulation 8 and Schedules 2 to 6.

This regulation requires inspection of work equipment used in the prevention of falls from height. Different types of equipment are listed with different requirements. Some are listed here. Refer to the regulations for more detail.

Inspection is defined as such visual or more rigorous inspection by a competent person as is appropriate for safety purposes and includes any testing appropriate for those purposes, and 'inspected' shall be construed accordingly.

Employers shall ensure that, where the safety of work equipment depends on how it is installed or assembled, it is not used after installation or assembly in any position unless it has been inspected in that position.

Employers shall ensure that work equipment exposed to conditions causing deterioration which is liable to result in dangerous situations is inspected at suitable intervals and each time that exceptional circumstances which are liable to jeopardise the safety of the work equipment have occurred.

Employers shall ensure that a working platform used for construction work and from which a person could fall 2 metres or more is not used in any position unless it has been inspected in that position or, in the case of a mobile working platform, inspected on the site, within the previous 7 days.

The regulations give details of how they fit with the inspection requirements of the Lifting Operations and Lifting Equipment Regulations 1998.

The regulations give detail of the circumstances for recording inspection details and the keeping of those inspection reports.

Inspection of places of work at height

Regulation 13

On each occasion before use, employers must check each surface, parapet, permanent rail or other such fall protection measure.

Duties of persons at work

Regulation 14

Defects and dangerous activity must be reported to the person in control. Equipment must be used according to the training and instruction given.

Exemptions by HSE

Regulation 15

Details the circumstances under which the Health and Safety Executive are empowered to give exemptions to these regulations.

Schedules

These give more detailed requirements on specific topics.

Schedule 1: Existing places of work and means of access or egress at height.

Schedule 2: Guard rails, toe boards, barriers and similar collective means of protection.

Schedule 3: Working platforms.

Part 1 All working platforms.

Part 2. Scaffolding.

Schedule 4: Collective safeguards for arresting falls.

Schedule 5: Personal fall protection systems.

Schedule 6: Ladders.

Schedule 7: Particulars to be included in a report of inspection.

Further information

Work at Height Regulations 2005 Statutory Instrument. SI 2005/735 Available from the Stationery Office 2005 or free at <http://www.legislation.hms.gov.uk/si/si2005/20050735.htm>

The work at height regulations 2005. A brief Guide. HSE. Available free from HSE books or at <http://www.hse.gov.uk/pubns/indg401.pdf>

Question and Answer Brief for the Construction Industry on the Work at Height Regulations 2005. HSE. Available free from HSE Books or at <http://www.hse.gov.uk/construction/pdf/fallsqa.pdf>

Factsheets online www.lhc.org.uk London advice 020 7794 5999



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