

**GCE**

**Law**

**H018/01: The legal system and criminal law**

AS Level

**Mark Scheme for June 2024**

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This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.

All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

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## MARKING INSTRUCTIONS

### PREPARATION FOR MARKING RM ASSESSOR

1. Make sure that you have accessed and completed the relevant training packages for on-screen marking: *RM Assessor Online Training*; *OCR Essential Guide to Marking*.
2. Make sure that you have read and understood the mark scheme and the question paper for this unit. These are posted on the RM Cambridge Assessment Support Portal <http://www.rm.com/support/ca>
3. Log-in to RM Assessor and mark the **required number** of practice responses (“scripts”) and the **number of required** standardisation responses.

YOU MUST MARK 10 PRACTICE AND 10 STANDARDISATION RESPONSES BEFORE YOU CAN BE APPROVED TO MARK LIVE SCRIPTS.

### MARKING

1. Mark strictly to the mark scheme.
2. Marks awarded must relate directly to the marking criteria.
3. The schedule of dates is very important. It is essential that you meet the RM Assessor 50% and 100% (traditional 40% Batch 1 and 100% Batch 2) deadlines. If you experience problems, you must contact your Team Leader (Supervisor) without delay.
4. If you are in any doubt about applying the mark scheme, consult your Team Leader by telephone or the RM Assessor messaging system, or by email.
5. **Crossed Out Responses**

Where a candidate has crossed out a response and provided a clear alternative then the crossed out response is not marked. Where no alternative response has been provided, examiners may give candidates the benefit of the doubt and mark the crossed out response where legible.

#### **Rubric Error Responses – Optional Questions**

Where candidates have a choice of question across a whole paper or a whole section and have provided more answers than required, then all responses are marked and the highest mark allowable within the rubric is given. Enter a mark for each question answered into RM assessor, which will select the highest mark from those awarded. (*The underlying assumption is that the candidate has penalised themselves by attempting more questions than necessary in the time allowed.*)

**Multiple Choice Question Responses**

When a multiple choice question has only a single, correct response and a candidate provides two responses (even if one of these responses is correct), then no mark should be awarded (as it is not possible to determine which was the first response selected by the candidate).

*When a question requires candidates to select more than one option/multiple options, then local marking arrangements need to ensure consistency of approach.*

**Contradictory Responses**

When a candidate provides contradictory responses, then no mark should be awarded, even if one of the answers is correct.

**Short Answer Questions** (requiring only a list by way of a response, usually worth only **one mark per response**)

Where candidates are required to provide a set number of short answer responses then only the set number of responses should be marked. The response space should be marked from left to right on each line and then line by line until the required number of responses have been considered. The remaining responses should not then be marked. Examiners will have to apply judgement as to whether a 'second response' on a line is a development of the 'first response', rather than a separate, discrete response. *(The underlying assumption is that the candidate is attempting to hedge their bets and therefore getting undue benefit rather than engaging with the question and giving the most relevant/correct responses.)*

**Short Answer Questions** (requiring a more developed response, worth **two or more marks**)

If the candidates are required to provide a description of, say, three items or factors and four items or factors are provided, then mark on a similar basis – that is downwards (as it is unlikely in this situation that a candidate will provide more than one response in each section of the response space.)

**Longer Answer Questions** (requiring a developed response)

Where candidates have provided two (or more) responses to a medium or high tariff question which only required a single (developed) response and not crossed out the first response, then only the first response should be marked. Examiners will need to apply professional judgement as to whether the second (or a subsequent) response is a 'new start' or simply a poorly expressed continuation of the first response.

6. Always check the pages (and additional objects if present) at the end of the response in case any answers have been continued there. If the candidate has continued an answer there, then add a tick to confirm that the work has been seen.
7. Award No Response (NR) if:
  - there is nothing written in the answer space

Award Zero '0' if:




- anything is written in the answer space and is not worthy of credit (this includes text and symbols).

Team Leaders must confirm the correct use of the NR button with their markers before live marking commences and should check this when reviewing scripts.

8. The RM Assessor **comments box** is used by your team leader to explain the marking of the practice responses. Please refer to these comments when checking your practice responses. **Do not use the comments box for any other reason.**  
If you have any questions or comments for your team leader, use the phone, the RM Assessor messaging system, or e-mail.
9. Assistant Examiners will send a brief report on the performance of candidates to their Team Leader (Supervisor) via email by the end of the marking period. The report should contain notes on particular strengths displayed as well as common errors or weaknesses. Constructive criticism of the question paper/mark scheme is also appreciated.
10. For answers marked by levels of response:
- a. **To determine the level** – start at the highest level and work down until you reach the level that matches the answer
  - b. **To determine the mark within the level**, consider the following:

Descriptor	Award mark
On the borderline of this level and the one below	At bottom of level
Consistently meets the criteria for this level	At top of level

**11. Annotations**

Annotation	Meaning
	Not Relevant or no response or response achieves no credit
<b>P</b>	Point
<b>DEV</b>	Developed point
<b>E</b>	Developed point extended
<b>APP</b>	Applied Point
<b>SEEN</b>	Acknowledgment of response
<b>REP</b>	Repeat
<b>NAQ</b>	Not answering question
<b>BP</b>	Blank page
	Correct
	The highlight tool may also be used to draw attention to a word or phrase which means that the statement or reasoning is inaccurate

Answer	Marks	Guidance
<p><b>1</b> Describe the different types of custodial sentences.</p> <p>Answers <b>may</b> include the following:</p> <p>Sentencing Act 2020</p> <ul style="list-style-type: none"> <li>● Mandatory life sentence <ul style="list-style-type: none"> <li>○ Only sentence for murder.</li> <li>○ Minimum tariff set by judge.</li> <li>○ When offender convicted of a second very serious sexual or violent crime</li> <li>○ Minimum term 12 years, maximum term whole life tariff</li> </ul> </li> <li>● Discretionary life sentence <ul style="list-style-type: none"> <li>○ Imposed for serious offences e.g., manslaughter and robbery.</li> <li>○ Judge has discretion in sentencing.</li> </ul> </li> <li>● Fixed-term sentences <ul style="list-style-type: none"> <li>○ Maximum length of sentence set by statute</li> <li>○ Set number of months or years to serve</li> <li>○ Prisoner released on licence after they have served half of the sentence.</li> </ul> </li> <li>● Extended determinate sentence: <ul style="list-style-type: none"> <li>○ If the offender is guilty of a violent, sexual or terrorism offence</li> <li>○ Offender is likely to commit further offences and a serious risk to the public</li> </ul> </li> <li>● Minimum sentence, for example: <ul style="list-style-type: none"> <li>○ Minimum 7 years for third Class A drug offence</li> <li>○ Minimum 3 years for third domestic burglary offence</li> </ul> </li> </ul>	<p><b>8</b></p> <p><b>AO1</b></p>	<p><b>Use Levels of Response criteria</b></p> <p><b>Level 4 (7-8 marks)</b> Excellent knowledge and understanding of the English Legal System, rules and principles. The response is accurate, fully developed and detailed.</p> <p><b>Level 3 (5-6 marks)</b> Good knowledge and understanding of the English legal system, rules and principles. The response is detailed, but not fully developed in places.</p> <p><b>Level 2 (3-4 marks)</b> Basic knowledge and understanding of the English legal system, rules and principles. The response may lack detail in places and is partially developed.</p> <p><b>Level 1 (1-2 marks)</b> Limited knowledge and understanding of the English legal system, rules and principles. The response will have minimal detail.</p> <p><b>Level 0 (0 marks)</b> No response or no response worthy of credit.</p>

Answer		Marks	Guidance
	<ul style="list-style-type: none"><li>• Suspended sentence<ul style="list-style-type: none"><li>○ Prison sentence not served</li><li>○ Minimum 14 days - Maximum 2 years</li></ul></li></ul> <p>A range of sentences must be described.</p> <p>Credit any other relevant point(s).</p>		



Answer	Marks	Guidance
<p><b>2 Explain how solicitors are regulated.</b></p> <p>Answers <b>may</b> include the following:</p> <ul style="list-style-type: none"> <li>Regulated by the Solicitors Regulation Authority (SRA). Authority to fine, reprimand, require further training or refer to SDT.</li> <li>Deals with complaints of misconduct. Examples of misconduct include, for example:             <ul style="list-style-type: none"> <li>Failing to meet the required standards</li> <li>Breaking the SRA rules</li> <li>Theft from client</li> <li>Abandoned Firm</li> </ul> </li> <li>Serious professional misconduct addressed by the Solicitors Disciplinary Tribunal. The Tribunal may:             <ul style="list-style-type: none"> <li>reprimand the solicitor.</li> <li>suspend from practice.</li> <li>strike off roll.</li> </ul> </li> <li>Legal Services Act 2007 set up the Office for Legal Complaints and the Legal Ombudsman.             <ul style="list-style-type: none"> <li>Role is to investigate how the firm/solicitor/regulatory body (SRA) investigated the complaint.</li> <li>Legal Ombudsman has the power to:                 <ul style="list-style-type: none"> <li>ask the solicitor to apologise to the client.</li> <li>give back any documents the client might need, put things right if more work can correct what went wrong.</li> <li>refund or reduce the legal fees, or</li> <li>pay compensation.</li> </ul> </li> </ul> </li> </ul> <p>Credit any other relevant point(s).</p>	<p><b>8</b></p> <p><b>AO1</b></p>	<p><b>Use Levels of Response criteria</b></p> <p><b>Level 4 (7-8 marks)</b> Excellent knowledge and understanding of the English Legal System, rules and principles. The response is accurate, fully developed and detailed.</p> <p><b>Level 3 (5-6 marks)</b> Good knowledge and understanding of the English legal system, rules and principles. The response is detailed, but not fully developed in places.</p> <p><b>Level 2 (3-4 marks)</b> Basic knowledge and understanding of the English legal system, rules and principles. The response may lack detail in places and is partially developed.</p> <p><b>Level 1 (1-2 marks)</b> Limited knowledge and understanding of the English legal system, rules and principles. The response will have minimal detail.</p> <p><b>Level 0 (0 marks)</b> No response or no response worthy of credit.</p>

Answer		Marks	Guidance
3	<p><b>Describe the role of judges in civil cases.</b></p> <p>Answers <b>may</b> include the following:</p> <ul style="list-style-type: none"> <li>• Preside over the court.</li> <li>• Hear cases of first instance and appeals.</li> <li>• Ensure cases are carried out in a fair and unbiased way.</li> <li>• Allocate cases to correct track.</li> <li>• Deal with pre-trial matters including: <ul style="list-style-type: none"> <li>○ case management</li> <li>○ timetables/ limits</li> <li>○ paperwork including disclosure.</li> </ul> </li> <li>• Consider issues of the admissibility of evidence.</li> <li>• Listen to the evidence from all parties.</li> <li>• Decide the facts and how the law applies.</li> <li>• Make the decision and state the remedy.</li> <li>• They hear appeals against the finding of liability or about the remedy.</li> </ul> <p>Credit any other relevant point(s).</p>	8 AO1	<p><b>Use Levels of Response criteria</b></p> <p><b>Level 4 (7-8 marks)</b> Excellent knowledge and understanding of the English Legal System, rules and principles. The response is accurate, fully developed and detailed.</p> <p><b>Level 3 (5-6 marks)</b> Good knowledge and understanding of the English legal system, rules and principles. The response is detailed, but not fully developed in places.</p> <p><b>Level 2 (3-4 marks)</b> Basic knowledge and understanding of the English legal system, rules and principles. The response may lack detail in places and is partially developed.</p> <p><b>Level 1 (1-2 marks)</b> Limited knowledge and understanding of the English legal system, rules and principles. The response will have minimal detail.</p> <p><b>Level 0 (0 marks)</b> No response or no response worthy of credit.</p>

Answer	Marks	Guidance
<p><b>4</b>     <b>Discuss the benefits of using arbitration to solve a civil dispute.</b></p> <p>Answers <b>may</b> include the following:</p> <ul style="list-style-type: none"> <li>• Flexible: The parties can decide the time and place of the hearing to suit their needs and working commitments</li> <li>• Faster: Arbitration is faster than using the courts</li> <li>• Cost: Arbitration usually costs less than using the courts. Legal representation is not usually required, and the hearings tend to be faster than court.</li> <li>• Privacy: Hearings are held in private saving the publicity of court and bad feeling is more likely to be avoided between the parties</li> <li>• Decision: There is a guaranteed outcome - a binding decision will be made.</li> <li>• Enforcement: In the event that the losing party does not comply with the decision the court will enforce</li> <li>• Experts: Parties choose their arbitrator(s) and where necessary can appoint a technical expert. This saves time and money as there may be no requirement for expert witnesses.</li> <li>• Appeal: The opportunity to appeal is limited but an award can be challenged if there is a serious irregularity in the proceedings or on a point of law.</li> </ul> <p>Credit any other relevant point(s).</p>	<p><b>8</b> <b>AO3</b> <b>1b</b></p>	<p><b>Use Levels of Response criteria</b></p> <p><b>Level 4 (7-8 marks)</b> Excellent analysis and evaluation of a wide range of legal concepts. The response is wide ranging and has a well sustained focus on the question. The key points are fully discussed and fully developed.</p> <p><b>Level 3 (5-6 marks)</b> Good analysis and evaluation of a range of legal concepts. The response has a mainly consistent focus on the question. Most of the key points are discussed and well developed.</p> <p><b>Level 2 (3-4 marks)</b> Basic analysis and evaluation of legal concepts. The response is partially focused on the question. Some of the key points are discussed and partially developed.</p> <p><b>Level 1 (1-2 marks)</b> Limited analysis of legal concepts. The response has limited focus on the question. Discussion of any key points is minimal.</p> <p><b>Level 0 (0 marks)</b> No response or no response worthy of credit.</p>

Answer		Marks	Guidance
5	<p>Explain what is meant by <i>novus actus interveniens</i> in relation to causation in criminal law. Do not refer to the scenario.</p> <p>Answers <b>may</b> include the following:</p> <ul style="list-style-type: none"> <li>• Requirement of <i>actus reus</i> and causation</li> <li>• There must be a link between the unlawful act or omission and the consequence/injury</li> <li>• A novus actus interveniens is a new act that breaks the chain of causation</li> <li>• A break in the chain of causation will release the defendant from responsibility for the ultimate consequence/injury</li> <li>• There are a variety of separate tests which apply to different situations: act of a third party, e.g. <i>Page</i>; poor medical treatment, e.g. <i>Smith, Cheshire</i>; victim's own act, e.g. <i>Roberts</i>; or egg-shell skull rule, e.g. <i>Hayward, Blaue</i> etc.</li> </ul> <p>Credit any other relevant point(s).</p>	8 AO1	<p><b>Use levels of response criteria</b></p> <p><b>Level 4 (7–8 marks)</b></p> <ul style="list-style-type: none"> <li>• Excellent knowledge and understanding of the English legal system, rules and principles.</li> <li>• The response is accurate, fully developed and detailed. There will be excellent citation of fully relevant statutes and case law.</li> </ul> <p><b>Level 3 (5–6 marks)</b></p> <ul style="list-style-type: none"> <li>• Good knowledge and understanding of the English legal system, rules and principles.</li> <li>• The response is detailed, but not fully developed in places. There will be good citation of mostly relevant statutes and case law.</li> </ul> <p><b>Level 2 (3–4 marks)</b></p> <ul style="list-style-type: none"> <li>• Basic knowledge and understanding of the English legal system, rules and principles.</li> <li>• The response may lack detail in places and is partially developed. There will be some reference to statutes and case law.</li> </ul> <p><b>Level 1 (1–2 marks)</b></p> <ul style="list-style-type: none"> <li>• Limited knowledge and understanding of the English legal system, rules and principles.</li> <li>• The response will have minimal detail. Citation of statutes and case law is limited.</li> </ul> <p><b>Level 0 (0 marks)</b> No response or no response worthy of credit.</p>

Answer	Marks	Guidance
<p><b>6</b> Advise how the law relating to non-fatal offences against the person will apply to Beth.</p> <p>Answers <b>may</b> include the following:</p> <p>In the case of Beth scalding Ivan's leg with hot coffee</p> <ul style="list-style-type: none"> <li>• When she causes him to spill the coffee she indirectly inflicts unlawful force.</li> <li>• The scald injury suffered by Ivan is likely to interfere with his health or comfort therefore satisfies the requirement for ABH.</li> <li>• There is evidence that Beth acted intentionally because she has decided to make the car swerve, or at the least she is reckless that he will spill the coffee.</li> <li>• Therefore there is MR for the battery and no additional MR is needed for the ABH</li> <li>• Therefore Beth is guilty of S47 ABH</li> </ul> <p>In the case of Beth deliberately slamming on the brakes</p> <ul style="list-style-type: none"> <li>• The skull fracture is GBH because there is serious bodily harm involving broken bones.</li> <li>• The fracture is caused by slamming on the brakes and his head hitting the windscreen, this would satisfy the actus reus for S18.</li> <li>• There is intention because Beth has made a decision to brake suddenly</li> </ul>	<p><b>8</b> <b>AO2</b> <b>1a/1b</b></p>	<p><b>Use Levels of Response criteria</b></p> <p><b>Level 4 (7–8 marks)</b></p> <ul style="list-style-type: none"> <li>• Excellent application of legal rules to a given scenario.</li> <li>• Excellent presentation of a legal argument which is accurate, fully developed and detailed. Fully appropriate legal terminology is used.</li> </ul> <p><b>Level 3 (5–6 marks)</b></p> <ul style="list-style-type: none"> <li>• Good application of legal rules to a given scenario.</li> <li>• Good presentation of a legal argument which is detailed but not fully developed in places. Appropriate legal terminology is used.</li> </ul> <p><b>Level 2 (3–4 marks)</b></p> <ul style="list-style-type: none"> <li>• Basic application of legal rules to a given scenario.</li> <li>• Basic presentation of a legal argument which may lack detail in places and is partially developed. Some appropriate legal terminology is used.</li> </ul> <p><b>Level 1 (1–2 marks)</b></p> <ul style="list-style-type: none"> <li>• Limited application of legal rules to a given scenario.</li> <li>• Limited presentation of a legal argument which has minimal detail and is unstructured and/or unclear. Minimal legal terminology is used.</li> </ul> <p><b>Level 0 (0 marks)</b> No response or no response worthy of credit.</p>

	<ul style="list-style-type: none"><li>• She has decided to hurt Ivan seriously which satisfies the MR for S18</li><li>• Beth would be guilty of S18</li></ul> <p>Credit any other relevant point(s).</p>		
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Answer	Marks	Guidance
<p><b>7</b> Advise how the law relating to non-fatal offences against the person will apply to Charlie.</p> <p>Answers <b>may</b> include the following:</p> <p>In the case of Charlie grabbing Beth's hand</p> <ul style="list-style-type: none"> <li>• When Charlie grabs Beth's hand he applies unlawful force.</li> <li>• When Charlie touches her there is direct physical force</li> <li>• He deliberately takes the decision to leave his car and grab her which would be enough evidence of intention</li> <li>• Charlie would be guilty of battery</li> </ul> <p>In the case of Charlie tripping up Beth</p> <ul style="list-style-type: none"> <li>• The deep cut on Beth's knee could be a wound or GBH.</li> <li>• This would satisfy the actus reus for S18 or s20.</li> <li>• As he deliberately trips Beth over this provides some evidence of intention. However, at the very least it is reckless.</li> <li>• It is unlikely that Charlie intends serious harm but some harm is likely to be foreseen which would be enough for a s20 conviction.</li> <li>• Charlie would be guilty of s20</li> </ul> <p>Credit any other relevant point(s).</p>	<p><b>8</b> <b>AO2</b> <b>1a/1b</b></p>	<p><b>Use Levels of Response criteria</b></p> <p><b>Level 4 (7–8 marks)</b></p> <ul style="list-style-type: none"> <li>• Excellent application of legal rules to a given scenario.</li> <li>• Excellent presentation of a legal argument which is accurate, fully developed and detailed. Fully appropriate legal terminology is used.</li> </ul> <p><b>Level 3 (5–6 marks)</b></p> <ul style="list-style-type: none"> <li>• Good application of legal rules to a given scenario.</li> <li>• Good presentation of a legal argument which is detailed but not fully developed in places. Appropriate legal terminology is used.</li> </ul> <p><b>Level 2 (3–4 marks)</b></p> <ul style="list-style-type: none"> <li>• Basic application of legal rules to a given scenario.</li> <li>• Basic presentation of a legal argument which may lack detail in places and is partially developed. Some appropriate legal terminology is used.</li> </ul> <p><b>Level 1 (1–2 marks)</b></p> <ul style="list-style-type: none"> <li>• Limited application of legal rules to a given scenario.</li> <li>• Limited presentation of a legal argument which has minimal detail and is unstructured and/or unclear. Minimal legal terminology is used.</li> </ul> <p><b>Level 0 (0 marks)</b> No response or no response worthy of credit.</p>

Answer	Marks	Guidance
<p><b>8*</b> Discuss the problems with the offence of common assault and the extent to which the offence is just or unjust.</p> <p>Candidates <b>may</b> develop the following points:</p> <ul style="list-style-type: none"> <li>As assault and battery are both covered by 'common assault' this may cause some confusion about the meaning of the offence.</li> <li>No statutory definition of assault and battery allows a wide interpretation.</li> <li>Heavy reliance on case law development for definition.</li> <li>Assault could be committed by words alone or words could negate the assault which may lead to confusion</li> <li>Assault depends on the victim's apprehension which may seem unfair.</li> <li>Battery requires the merest application of unlawful force to another person i.e., a touching</li> <li>Definition requires 'force' not 'violence' perhaps blurring a criminal action</li> <li>Can be a battery even where there is no threat of violence e.g., a slap on the back or an unrequited handshake!</li> </ul>	<p><b>8</b> <b>AO3</b> <b>1a</b></p>	<p><b>Use Levels of Response criteria</b></p> <p><b>Level 4 (7–8 marks)</b></p> <ul style="list-style-type: none"> <li>Excellent analysis and evaluation of a wide range of legal rules and principles.</li> <li>The response is wide ranging and has a well sustained focus on the question.</li> <li>The key points are fully discussed and fully developed to reach a valid conclusion.</li> </ul> <p><i>There is a well-developed line of reasoning which is clear and logically structured. The information presented is relevant and substantiated.</i></p> <p><b>Level 3 (5–6 marks)</b></p> <ul style="list-style-type: none"> <li>Good analysis and evaluation of a range of legal rules and principles.</li> <li>The response has a mainly consistent focus on the question.</li> <li>Most of the key points are well discussed and well developed to reach a valid conclusion.</li> </ul> <p><i>There is a line of reasoning presented with some structure. The information presented is in the most-part relevant and supported by some evidence.</i></p> <p><b>Level 2 (3–4 marks)</b></p> <ul style="list-style-type: none"> <li>Basic analysis and evaluation of legal rules and principles.</li> <li>The response is partially focused on the question.</li> <li>Some of the key points are discussed and partially developed to reach a basic conclusion.</li> </ul> <p><i>The information has some relevance and is presented with a basic structure. The information is supported by basic evidence.</i></p>



<ul style="list-style-type: none"> <li>• Close boundary overlap with definition of s.47 OAPA 1861 – when does assault or battery become ABH?</li> <li>• Battery can be caused indirectly which appears to overstate the definition e.g., setting a trap or blocking a door</li> <li>• Plans to codify and update the law have not been implemented but re-drawing the definitions and sentences would make the law easier to understand/more morally acceptable in the 21st century</li> <li>• A new definition could better reflect issues connected to both physical and mental health and the acceptability of indiscriminate 'touching'</li> <li>• Better defined offences and sentencing would give the criminal justice system greater credibility as it would have a clearer moral basis.</li> </ul> <p>Credit any other relevant point(s).</p>	<p><b>Level 1 (1–2 marks)</b></p> <ul style="list-style-type: none"> <li>• Limited analysis of legal rules and/or principles.</li> <li>• The response has limited focus on the question.</li> <li>• Discussion of any key points is minimal.</li> </ul> <p><i>The information is limited and communicated in an unstructured way. The information is supported by limited evidence and the relationship to the evidence may not be clear.</i></p> <p><b>Level 0 (0 marks)</b> No response or no response worthy of credit.</p>
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