



Firefighters' Pension Scheme Circular

Circular Number:	FPSC 08/2006	Date Issued:	11 April 2006
Action:	For Information and action by Human Resource and Pension Administrators		
Title:	<i>Update on amendments to the Firefighters' Pension Scheme (FPS) and the Firefighters' Compensation Scheme (FCS)</i>		
Issued by:	Martin Hill Local Government and Firefighters' Pensions Division		

Summary:	<p>This circular advises Fire and Rescue Authorities on progress on the changes which are being made to the FPS from 1/6 April 2006 and the new FCS; and gives further guidance on the consequences of the new tax regime for pensions and the new arrangements for ill-health awards.</p> <p>It also gives notice of further workshops on the New Firefighters' Pension Scheme for administrators.</p>
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The Chief Fire Officer	Medical/Occupational health managers
	Active members of the FPS

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1. FPS Amendments – Further guidance

- 1.1 As advised by FPS Circular 06/2006, various amendments to the FPS came into effect from 1st April and 6th April 2006. The amending order is now being finalised and it is expected that it will be made and laid before Parliament by the beginning of May and will come into operation in the latter part of May.
- 1.2 A copy of the latest draft of the order is being placed on our website.

2. Firefighters' Compensation Scheme (FCS)

- 2.1 FPS Circular 06/2006 also set out the new arrangements for injury related benefits in a freestanding FCS. The timing of the proposed scheme order will be the same as that for the amendments to the FPS referred to in section 1 above. HM Revenue and Customs have agreed that there will be no enforcement of unauthorised payment tax charges that might arise on any death or injury compensation payments made during the interim period on the basis that it would be more cost effective to hold off enforcing the charge rather than have to refund the charge once the amending legislation came into force. If the legislation is not enacted so as to have the necessary retrospective effect, the justification for deferral would lapse and the tax charges would then be enforced.
- 2.2 A copy of the latest draft of the order is being placed on our website.

3. New Tax Regime for Pensions:

(i) taking benefits and remaining employed as a firefighter.

- 3.1 It is our understanding of the new tax regime for pensions which came into effect on 6 April that previous rules limiting the opportunities for a person to draw pension and continue in employment have been relaxed. This has prompted enquiries as to whether and how a firefighter can draw pension from the Firefighters' Pension Scheme (FPS) and continue in employment.
- 3.2 Generally, scheme rules must not allow members to take pension benefits before they reach the minimum pension age. In the FPS, the minimum pension age is 50, provided the firefighter is able to reckon at least 25 years' pensionable service. The normal pension age is 55 regardless of length of service.
- 3.3 The rules of the FPS have not been amended and it will still be necessary for a firefighter to retire in order to draw pension benefits. However, the rules of the pension scheme do not prevent the re-employment of a firefighter after retirement. This means that, subject to the rules on minimum pension age and normal pension age being satisfied, a firefighter may now retire, draw pension and any commuted lump sum, and be re-employed immediately.
- 3.4 There are, however, some important points to note:
 - Re-employment is at the discretion of the employing authority;
 - Retirement will constitute a break in service so that membership of the FPS will be terminated;

- Rule K4 makes provision for the abatement of a pension payable under the FPS for any period during which the pensioner is employed as a regular firefighter with a FRA. The ODPM would expect the FRA with responsibility for payment of the pension to exercise their discretion to withdraw the whole or part of the pension on the principle that the annual rate of pay as a firefighter following re-employment plus the annual rate of FPS pension should not exceed the annual rate of pay as a firefighter received immediately prior to retirement; and
- On re-employment, the firefighter could be eligible for membership of the NFPS provided that the person meets the membership criteria, i.e. whose role includes a requirement to engage in firefighting or attendance at other emergencies. Otherwise consideration would need to be given on whether the person was eligible to join the LGPS.

3.5 In the light of the above and in anticipation of an increase in enquiries from FPS members, it is recommended that FRAs should formulate or review policies on re-employment so that there is clarity for firefighters about the approach of the FRA on the matter.

(ii) permitted maximum figure (earnings cap)

3.6 We are advised by HMRC that the permitted maximum figure for the 2006-07 tax year is £108,600.00.

3.7 Before 6th April 2006, section 590C of the Income and Corporation Taxes Act 1988 effectively applied the permitted maximum (or “earnings cap”) to pension schemes. Under HMRC modification regulations, which modify the rules of existing pension schemes for a transitional period ending no later than the end of tax year 2010-11, the effect of the permitted maximum on existing pension schemes is preserved despite the intended repeal of section 590C on 6th April. The regulations will continue to apply the permitted maximum during the transitional period as if section 590C had remained in force.

(iii) lifetime allowance

3.8 If the total amount of benefits due to a person from all registered pension schemes exceeds a “Lifetime Allowance” set by HM Revenue and Customs, tax charges may apply. This means that before a pension under the FPS comes into payment, the Fire and Rescue Authority need a declaration of the scheme member’s entitlement to other benefits. We have prepared the attached notes and declaration form to assist authorities in discharging their responsibilities. Copies will be available on the website.

4. New Ill-Health Award Arrangements

4.1 We have revised the Model Medical Certificates which are available at the Forms section of the firepensions website to reflect the new arrangements.

4.2 We have prepared the attached guidance note on the new arrangements for the information of members of the FPS and you may wish to bring this to the attention of active members of the scheme.

4.3 We are also in the process of preparing guidance for medical practitioners on the new arrangements and this will be issued in due course.

5. New Firefighters' Pension Scheme (NFPS) - financing

- 5.1 At paragraph 3.3 of FPS Circular 07/2006, we said that “During the bridging period, FRA should pay the employer contribution rate applicable to the NFPS (14.2%) for the recruits affected”. Since the circular was issued, we have been asked whether this figure was inclusive of the ill-health charge. It is. The exclusive rate is 11%, with the ill-health charge equal to 3.2%.

6. Workshops

- 6.1 We are planning two further workshops, primarily on the NFPS, for HR and Pension practitioners. These will be held on:

Monday, 15th May at the London FEPS Training Centre, Southwark

Thursday, 1st June at the Manchester FRA Training Centre.

- 6.2 We will be sending out further information shortly but if you would be interested in attending one of these events please e-mail to firepensions@odpm.gsi.gov.uk, marking your e-mail “Workshops”, and we will ensure that you receive information. Places will be limited to about 50 for each workshop.

FIREFIGHTERS' PENSION SCHEMES

Finance Act 2004: Lifetime Allowance Declaration of benefits from all sources

You have been given this Form because a pension under the Firefighters' Pension Schemes ("FPS") is due to come into payment. Please read the accompanying notes, then complete the Form and Declaration as instructed. When completed, the Form should be returned to:

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XX

Personal Details

Surname First name(s)

Employing body

Date of birth National Insurance No.

Date at which payment of FPS pension due ("*due date*")

SECTION A

No other pensions in payment at due date

If the following statement applies to you, tick the box, complete the Declaration beneath, and return the Form as directed above. The other Sections and Declaration on the back page do not apply to you.

At the due date, i.e. the date at which I am entitled to receive payment of benefits from my Fire and Rescue Authority under the Firefighters' Pension Schemes, I will not be receiving any other pension benefits under the Firefighters' Pension Schemes from any other Fire and Rescue Authority, or any other registered pension schemes, and will not have had a transfer of any pension benefits to an overseas arrangement.

DECLARATION

I certify that the statement I give above is correct to the best of my knowledge. If tax becomes payable because the statement is proven to be incorrect then I understand that I will be wholly and personally liable for the tax charge due and any resultant penalty as may be imposed by HM Revenue and Customs.

Signed Date

If you will have other pensions in payment or an overseas transfer at the due date, please complete the following sections as appropriate and sign the Declaration at the end of the Form . . .

SECTION B

Pensions in payment before 6 April 2006

If the following statement applies to you, tick the box and give details. If insufficient room, continue the details on to a separate piece of paper. Complete any other section which applies and sign and date the Declaration at the end of the Form.

I am in receipt of pension benefits that commenced before 6 April 2006.

Details:

	Annual rate of pension in payment (before deduction of any tax) on due date	Annual rate of pension in payment (before deduction of any tax) on 5 April 2006
Pension 1	£	£
Pension 2	£	£
Pension 3	£	£
Pension 4	£	£
Pension 5	£	£

SECTION C

Pensions that will have commenced in payment on or after 6 April 2006 and before the due date

If the following statement applies to you, tick the box and give details. If insufficient room, continue the details on to a separate piece of paper. Complete any other section which applies and sign and date the Declaration at the end of the Form.

I am in receipt of pension benefits that commenced on or after 6 April 2006.

Details:

	Percentage of Lifetime Allowance (at the time that the benefit was taken) that the total benefit taken represents	Date benefit was taken (date of retirement)
Pension 1 %
Pension 2 %
Pension 3 %
Pension 4 %
Pension 5 %

SECTION D

Pensions that will commence in payment on the due date

If the following statement applies to you, tick the box and give details. If insufficient room, continue the details on to a separate piece of paper. Complete any other section which applies and sign and date the Declaration at the end of the Form.

I have other pension benefits that are due to come into payment at the due date.

Details:

	Percentage of Lifetime Allowance that the total benefit taken represents	The benefit will be treated as being paid before or after the FPS benefit due from the Fire and Rescue Authority
Pension 1 %	Before * / After *
Pension 2 %	Before * / After *
Pension 3 %	Before * / After *
Pension 4 %	Before * / After *
Pension 5 %	Before * / After *

* Delete as appropriate

SECTION E

Overseas transfers out on or after 6 April 2006

If the following statement applies to you, tick the box and give details. If insufficient room, continue the details on to a separate piece of paper. Complete any other section which applies and sign and date the Declaration at the end of the Form.

A transfer of my pension benefits has been made (or is due to be made) to an Overseas pension arrangement on or after 6 April 2006 and before the due date.

Details:

	Date of transfer	Amount transferred
Pension 1	£
Pension 2	£
Pension 3	£
Pension 4	£
Pension 5	£

If you have completed Sections B to E, sign the Declaration below. If you have completed Section A, sign the Declaration on page 1 only.

DECLARATION

I certify that the statement(s) I give above and the information I have provided are correct and complete to the best of my knowledge. If tax becomes payable because the statement and information I have given prove to be incorrect then I understand that I will be wholly and personally liable for the tax charge due and any resultant penalty as may be imposed by HM Revenue and Customs.

Signed Date

X FIRE AND RESCUE AUTHORITY

FIREFIGHTERS' PENSION SCHEMES

Finance Act 2004 Lifetime Allowance

Declaration of benefits from all sources

If the total amount of benefits due to a person from all registered pension schemes exceeds a "Lifetime Allowance" set by HM Revenue and Customs, tax charges may apply. Because if this, before the Fire and Rescue Authority can assess your entitlement to benefits under the Firefighters' Pension Scheme, they need you to declare your entitlement to other benefits. These notes accompany a Declaration Form and explain the information required.

April 2006

EXPLANATION OF FORM

The reference to "due date" in these notes and the Declaration Form means the date on which your benefits, in respect of which the Form has been issued, are due to come into payment.

What is a "Lifetime Allowance"?

HM Revenue and Customs ("HMRC") make tax rules with which registered pension schemes must comply. The Firefighters' Pension Schemes 1992 and 2006 are registered pension schemes. This gives Scheme members certain tax concessions. For example, the contributions you pay to the Schemes normally attract tax relief. Also, apart from any Pay As You Earn ("PAYE") income tax that you may be required to pay on instalments of pension, the benefits provided by the Firefighters' Pension Schemes are not normally taxed provided that the total benefits you receive from any registered pension schemes do not exceed a "Lifetime Allowance" set by HMRC. If the value of total benefits does exceed the Lifetime Allowance, the excess will be subject to tax charges. This principle of testing the value of benefits against a Lifetime Allowance was introduced on 6 April 2006 and the Allowance for the following 5 tax years is:

2006/2007	£1.5 million
2007/2008	£1.6 million
2008/2009	£1.65 million
2009/2010	£1.75 million
2010/2011	£1.8 million

As you can see, these are substantial sums. If, on retirement, your pension would be based on 40/60ths of pensionable pay in either of the Firefighters' Pension Schemes and you have no other pension entitlement, then it is probable that the value of your benefits would exceed the Allowance only if your pensionable pay is £112,500 or more.

Why do I have to declare other benefits?

The Fire and Rescue Authority will be able to value and test your Firefighters' Pension Scheme benefits which are now due come into payment but, because HMRC rules require account to be taken of all benefits under the Scheme plus benefits under any other pension schemes which are in payment at the due date, it is necessary for you to declare those other benefits. The Authority can then assess whether or not all the benefits at the due date will exceed the Lifetime Allowance and, if they do, apply tax charges to the pension and/or lump sum to which you are now entitled under the Scheme.

How can I find out the value of other benefits?

After 5 April 2006, whenever benefits come into payment under a registered pension scheme, you will receive a statement from that pension scheme's administrators showing how much of your Lifetime Allowance you have used up. This can be copied to other pension administrators when they ask for information – as in this Form. Because the tax rule was not introduced until 6 April 2006 a statement would not have been issued with benefits paid before this date. Account must be taken of earlier benefits, however, and so you may have to contact the pension administrators of those schemes for a valuation of those benefits for Lifetime Allowance purposes.

When your pending Firefighters' Pension Scheme pension is paid the Fire and Rescue Authority will provide you with a statement of the effect on your Lifetime Allowance. You will be able to show this to other pension administrators if you become entitled to additional benefits after the due date.

I am a higher earner and could have benefits in excess of the Lifetime Allowance. I have a certificate issued by HMRC which protects my benefits before 6 April 2006

X FIRE AND RESCUE AUTHORITY

FIREFIGHTERS' PENSION SCHEME 1992

The Firefighters' Pension Scheme

Ill-health pensions

April 2006

Amended July 2006

ILL-HEALTH PENSIONS

As a member of the Firefighters' Pension Scheme ("FPS") you are covered by the Scheme's ill-health retirement provisions. These notes explain how they work.

Who is eligible for an ill-health pension?

To be eligible for an ill-health pension you must –

- have been a member of the FPS for at least 2 years (or, if less, be entitled to an award under the Compensation Scheme) and be a member at the date of leaving the Fire and Rescue Service, and
- be retired by your Fire and Rescue Authority ("the Authority"), on the grounds that you are permanently disabled, because of infirmity of mind or body, for the performance of the duties of your role.

What is meant by "permanently disabled"?

The permanence of a disablement is tested by whether or not, at the time the question arises, the disablement is likely to continue to normal pension age (age 55). If it is, the disablement is considered permanent. However, as explained later in these notes, if an ill-health pension is paid it will be subject to review and may cease if the recipient is considered no longer to be permanently disabled.

Would I receive payment of an ill-health pension as soon as I retire?

If the Authority award you an ill-health pension on leaving the Fire and Rescue Service it is payable from your first day of retirement.

How much would I get?

This will depend upon –

- your length of pensionable service at the last day of service,
- your average pensionable pay over (normally) the last year of service, and
- whether you are entitled to a lower tier ill-health pension only, or to the addition of a higher tier ill-health pension.

What are these two tiers of pension?

As explained above, you are entitled to an ill-health pension if you are permanently disabled for the performance of the duties of your role. This would be a lower tier ill-health pension.

If it is decided that not only are you permanently disabled for the performance of the duties of your role but also for any other regular employment, you would be entitled to an additional higher tier pension provided you have at least 5 years' pensionable service. "Regular employment" in this context means employment for 30 hours a week on average over a twelve month period.

How is the lower tier ill-health pension calculated?

If you have less than 5 years' pensionable service, the lower tier ill-health pension is calculated in the same way as if it were an age retirement pension, i.e. –

$$1/60 \times \text{pensionable service} \times \text{average pensionable pay}.$$

For example if you had completed 3 years' pensionable service at your last day of service and your average pensionable pay was £27,000, your lower tier ill-health pension would be assessed as –

$$1/60 \times 3 \times £27,000 = £1,350 \text{ a year}.$$

If you have 5 or more years' pensionable service the lower tier ill-health pension is calculated in the same way as a deferred pension.

The formula for this is a bit more complicated. Firstly an assessment is made of the "hypothetical" age retirement pension¹ to which you would have been entitled had you served to age 55 – normal pension age – or to 60 if you are Station Manager B or above. Although your pensionable service is projected in this way, the average pensionable pay is not: it would be that used in any other pension calculation on retirement.

The hypothetical pension is then pro rated to reflect the number of years you have served to date of leaving as a proportion of the years of service you would be able to count at age 55 (or age 60 if you are Station Manager B or above).

Example 1

If your average pensionable pay is £27,000 and you would have managed to complete 30 years' service by normal pension age, the hypothetical age retirement pension would be calculated as –

$$[20/60 + (2 \times 10/60)] \times £27,000 = £18,000 \text{ a year}.$$

Next, account would be taken of your pensionable service at the date of leaving. Let's say it's 25 years. Your lower tier ill-health pension would be –

$$25/30 \times £18,000 = £15,000 \text{ a year}.$$

Example 2

If your average pensionable pay is £27,000 and you would have managed to complete 27 years' service by normal pension age, the hypothetical age retirement pension would be calculated as –

$$[20/60 + (2 \times 7/60)] \times £27,000 = £15,300 \text{ a year}.$$

Next, account would be taken of your pensionable service at the date of leaving. Let's say it's 9 years. Your lower tier ill-health pension would be –

$$9/27 \times £15,300 = £5,100 \text{ a year}.$$

How is the higher tier ill-health pension calculated?

¹ When working out an age retirement pension, each of the first 20 years' pensionable service counts as 1/60 of pensionable pay, each of the following years counts as 2/60ths of pensionable pay. The maximum pension allowed is based on 40/60ths of pensionable pay (i.e. based on 30 years' pensionable service).

The first stage of the calculation includes an enhancement of service. The next stage deducts from the resultant pension an amount equal to the lower tier ill-health pension. The difference will be the higher tier ill-health pension.

The enhancement depends upon how many years of pensionable service you have at retirement. (You must have at least 5 years for the higher tier ill-health pension.) This is illustrated below (where "APP" means average pensionable pay) –

5 or more years, but less than 10 ⇒ each year of service will reckon as:
2/60 x Average Pensionable Pay

10 or more years, but less than 13 ⇒ the formula is based on:
20/60 x Average Pensionable Pay

13 or more years ⇒ the formula is based on:
pensionable service* + 7/60 x Average Pensionable Pay

*each year of service to 20 years = 1/60; each year of service after 20 years = 2/60ths

The resultant pension, however, must not be greater than the age retirement pension that could be achieved at the normal pension age of 55, or age 60 in the case of Station Manager B and above. (And an age retirement pension must not be greater than 40/60ths of average pensionable pay.)

Look back at Examples 1 and 2 on the previous page. How would a higher tier pension be assessed in these two cases?

Example 1

You have 25 years' service. This means that the first stage of the calculation will offer an enhancement of 7/60ths. (Assume this would not exceed what you could have achieved at normal age retirement.) This would give –

$$[7/60 + 20/60 + (2 \times 5/60)] \times \text{£}27,000 = \text{£}16,650 \text{ a year.}$$

Next, your lower tier pension, which was £15,000, is deducted, to give a higher tier pension of –

$$\text{£}16,650 - \text{£}15,000 = \text{£}1,650 \text{ a year}$$

Example 2

You have 9 years' service. This means that the first "enhanced" stage of the calculation will be based on 18/60ths. (Again assume this would not exceed the permitted maximum.)

$$18/60 \times \text{£}27,000 = \text{£}8,100 \text{ a year.}$$

Next, your lower tier ill-health pension, which was £5,100, is deducted to give a higher tier pension of –

$$\text{£}8,100 - \text{£}5,100 = \text{£}3,000 \text{ a year.}$$

If the lower tier pension is deducted, would I be paid both parts?

Yes, you would be paid both parts together but the assessment has to identify how much is to be paid to you as a lower-tier pension and how much as a higher tier pension. This is because they have to be recorded separately by your Authority for review purposes

What if I have worked part-time?

As with other types of benefit payable under the FPS, both the lower and higher tier ill-health pensions would first be calculated on the assumption that you had worked whole-time throughout your career. Then they would be scaled down to reflect your part-time service as a proportion of whole-time service.

How are ill-health pensions reviewed?

If a person has been receiving an ill-health pension for less than 10 years and has not reached age 60, the Authority must review eligibility at such intervals as they think proper.

Where a lower tier ill-health pension is in payment, the Authority will consider whether the person has become capable of carrying out any duty appropriate to the role held immediately before retirement.

Where a higher tier ill-health pension is in payment the Authority will consider not only capability for the duties of the former role in respect of the lower tier ill-health pension but also whether the person is capable of undertaking any regular employment, to test continued eligibility for the higher tier ill-health pension.

In other words the test of disablement on review is similar to that applied on retirement.

What happens following the review of a higher tier ill-health pension?

A higher tier ill-health pension will continue in payment if the Authority decide that a person is still incapable of undertaking any regular employment. However, if the Authority are satisfied that, at the time of review, the person would be capable of regular employment, the higher-tier pension will cease immediately.

What happens following the review of a lower tier ill-health pension?

A lower tier ill-health pension would continue in payment if the Authority decide that a person could not carry out any duty appropriate to the former role. This would apply equally to the person who has never had entitlement to a higher tier ill-health pension and to a person who has had such entitlement. It could be the case, therefore, that a person who is considered capable of regular employment and consequently has the higher tier pension terminated could still continue to receive the lower tier award.

If the Authority decide that the person could carry out any duty of their former role, whether or not the lower tier pension will cease will depend upon whether or not the Authority offer re-employment in such a role. If they do, the lower-tier pension would be terminated (whether or not the person accepts the re-employment); if they do not offer re-employment, the lower tier ill-health pension will continue in payment.

If I accept re-employment, can I rejoin the FPS?

Yes. Although the FPS is now a closed scheme, if your ill-health pension was awarded under the FPS you would have a right to rejoin the Scheme should the ill-health pension cease on review. (Newly appointed firefighters or former firefighters who resume employment in other circumstances would be required to join the New Firefighters' Pension Scheme ("NFPS").) If, on re-employment after ill-health review, you decide you would prefer to be a member of the NFPS you can elect to join and transfer over your FPS rights.

How does an Authority make a decision on medical issues?

The rules of the FPS require that where an Authority have to make certain decisions they must seek the opinion of an independent qualified medical practitioner ("IQMP"), i.e. a medical practitioner who has a certain level of occupational health qualification and who has to certify that he/she –

- has not previously been involved in the case, and
- is not acting as the representative of any party to the case.

The Authority will seek an opinion of an IQMP when deciding if a member of the FPS is entitled to an ill-health pension. They will also seek an IQMP's opinion when reviewing an ill-health pension.

Is my pension lost if it is decided it should stop?

A higher tier ill-health pension would not be re-instated at any time

A lower tier ill-health pension which is terminated takes on the identity of a "deferred" pension. It would be put into payment again at age 60.

What if my health deteriorates?

A higher tier pension cannot resume. Nor can a higher-tier pension commence to be paid at some time in the future if your health deteriorates to the level at which you would have been considered for such an award if you had that level of disability at the time you retired.

The lower-tier award which is terminated becomes a deferred pension and there is a provision for a deferred pension to be paid before age 60 if the person becomes permanently disabled for engaging in firefighting or performing any other duties appropriate to his/her former role. It would be the Authority that would decide whether the deferred pension would come into early payment. Again they would have to seek the opinion of an IQMP before making their decision.

Could I commute an ill-health pension to provide a lump sum?

If you are entitled to a lower tier ill-health pension you can commute up to one quarter of the pension to provide a lump sum. You cannot commute any part of a higher tier ill-health pension.

Will an ill-health pension be "inflation-protected"?

Like other pensions payable under the FPS, both the lower and higher tier ill-health pensions would be increased, normally annually, in line with Pensions Increase Acts or Orders. Pensions Increase does not normally apply until a person reaches age 55 but if a person

retires on health grounds the increases apply, regardless of age, from the first Increase date following retirement.

If I disagree with the Authority's decision do I have a right of appeal?

If the Authority make a decision you disagree with, or if they fail to make a decision, you have a right of appeal.

This applies at the time of retirement and at the time of any review.

If you disagree with the decision of the Authority and you believe the problem lies in the medical opinion, you can appeal against that medical opinion. Your appeal would be heard by a Board of Medical Referees.

If you disagree with a non-medical aspect of the Authority's decision, you can ask the Authority to reconsider and, failing satisfaction, can take your appeal to Crown Court.

Your Authority can give you more information about appeal provisions.

Further information

Further information about how pensions are determined, how ill-health pensions are assessed, and rights of appeal, can be obtained from –

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