



# 2022 LOCAL GOVERNMENT WEEK

**Inculcating a culture of oversight and accountability in local government: the role of the legislative sector**

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**13 SEPTEMBER 2022**



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**Tone at the  
top is  
everything**





There is an absence of democratic accountability and control in every sphere of government and the state. To address this debilitating legacy requires determined action and a deep commitment to transforming our society from a crisis ridden present into something all South Africans can be truly proud of.

— Nelson Mandela —

AZ QUOTES



# INTRODUCTION

**Provide democratic and**

**accountable governance**

**safe and healthy environment**

**Encourage the involvement**

**of communities and**

**community organisations in the**

**objectives of local government**

**Strengthen social and economic development,**

**accountability and oversight**

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Most municipalities are not implementing section 32 of the MFMA correctly or not at all.

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Municipalities internal processes, reporting and control measures do not seem to be effective to mitigate the risk of non-compliance in year. It is the internal audit assisted municipalities identifying and timeously address HF&W expenditure. Probity audits of procurement processes must be introduced since procurement seems to be the largest

## THE CURRENT REALITIES & PROBLEM STATEMENTS



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MPACs' reports are not tabled in council for conclusion and resolution, which resulted in the amounts attributed to UIF&W either static or increasing (inadequate investigations).

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Most municipalities have not established Disciplinary Boards to deal with financial misconduct.

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What actions have been taken to hold relevant officials that were responsible for the transgressions accountable for their actions? The implementation of consequence management has been flagged as an area needing urgent attention – Mayors, MM, CFOs to understand what the amendments to PAA mean.

# THE CURRENT REALITIES & PROBLEM STATEMENTS

The accountability relationship is made possible because of the clear separation between the executive and the legislative authority – a core feature of democratic systems of government (Hedger & Blick, 2008:2)

No separation at local level but the accountability / oversight relationship critical (Structural).  
Relationship between Speaker and Executive Mayor

How do we ensure that we develop from opposition politics to institutional (Council) oversight?

How does the administration assist Council to effectively exercise oversight over themselves?

Resources?

# THE CURRENT REALITIES & PROBLEM STATEMENTS

- It needs to be stressed that the main purpose of the separation of functions at local level is to ensure proper oversight over the executive and administration of the municipality.
- The fact that a municipality may not have been able to implement a separation of powers model does not detract from the obligation to have a fully functional system of municipal oversight.
- The separation of powers is not a prerequisite for a fully functioning system of political oversight in the municipality.
- Good governance** is about **effective leadership** and such leadership is characterised by ethical values of responsibility, accountability, fairness, transparency and should be based on moral duties. (King Report III:10)



# OVERSIGHT AND ACCOUNTABILITY: FINANCIAL INFORMATION – HANG IT IN PUBLIC!!!



**Leadership** findings indicated that most municipal leadership (i.e. Councilors) are not making the contribution to improved audit outcomes that they should be, for one or more of the following reasons:

- Lack of accountability for the audit outcomes;
- Poor prioritization of audit issues;
- Low level of financial and management skills (PARI, 2016).

**Governance and Oversight** in terms of oversight and compliance, the main problem areas that are the following:

- Policy Implementation: Municipalities have policies, but are not implementing them.
- Municipal Public Accounts Committees (MPACs) are generally having no positive impact at all on governance and oversight.
- The Audit Committee is effective in some municipalities, but by no means in all. Shared service audit committees appear to be particularly problematic.
- Internal Audit has the ability to make a significant impact on the overall control environment within local government, but lack of capacity and the failure to prioritise internal audit means that it seldom makes this positive impact (PARI, 2016).





# Council

Executive Mayor / Executive Committee

Mayoral Committee / Mayor, Executive Committee Members

S 79 Ethics/  
Rules

S 79 A  
MPAC

S 80  
(Corporate)

S 80  
(Community  
Services)

S 80  
(Development  
and Planning)

S 80  
(Finances)

- ❑ **Section 151 (2) provides** that in the local sphere of government in South Africa there is no separation of powers but provisions are made for a Council to institute mechanisms for separation of functions.
- ❑ Flowing from the above, it is important therefore to understand that all structures within a municipality are established by and serve at the pleasure of the council.
- ❑ The council delegates and therefore remains answerable.

- Section 160 of Constitution provides that a municipality can determine its own internal procedures;
- Where legislation addresses structures and functions, same must be complied with;
- Local Government: Municipal Structures Act, 1998, provide for municipal structures
- Local Government: Municipal Systems Act, 2000, provides for systems and procedures to be adopted and implemented in the municipality;
- Systems Act required the following:
  - Terms of reference for office bearers, structures and MM (sect 53)
  - System of delegation for office bearers, structures, MM and other officials; (sect 59)
- Aforementioned tools must shape the functioning of the council

# Legislated Provisions Establishment & Appointment of MPACs

- ✓ Municipal Public Accounts Committee (MPAC), is established in line with the provisions of section 79A of the amended Structures Act.
- ✓ The act, section 79A (1), provides that: “A municipal council must establish a committee called the municipal public accounts committee (MPAC)”.
- ✓ The act, in section 79A (2), instructs municipalities that: “The mayor or executive mayor, deputy mayor or executive deputy mayor, any member of the executive committee, any member of the mayoral committee, speaker, whip and municipal officials are not allowed to be members of the municipal public accounts committee”.
- ✓ A Council resolution on the establishment must be clear on all **legislated and delegations (powers & functions) of the MPAC** – To prevent disputes – Any dispute must be referred to Council for a resolution

# Legislated Provisions Establishment & Appointment of MPACs

**The municipal council, is tasked, in section 79A (3), to determine the functions of the municipal public accounts committee (MPAC), which must include the following:**

- (a) Review the Auditor-General's reports, comments of the management committee, the audit committee and make recommendations to the municipal council.
- (b) Review internal audit reports, together with comments from the management committee and the audit committee; and make recommendations to the municipal council.
- (c) Initiate and develop the oversight report on annual reports contemplated in [section 129 of the Local Government: Municipal Finance Management Act \(MFMA\)](#).
- (d) Attend to and make recommendations to the municipal council on [any matter referred](#) to it by the municipal council, executive committee, a committee of the council, a member of this committee, a councillor and the municipal manager.
- (e) [And on its own initiative](#), subject to the [direction of the municipal council](#), investigate, and report to the municipal council on any matter affecting the municipality.

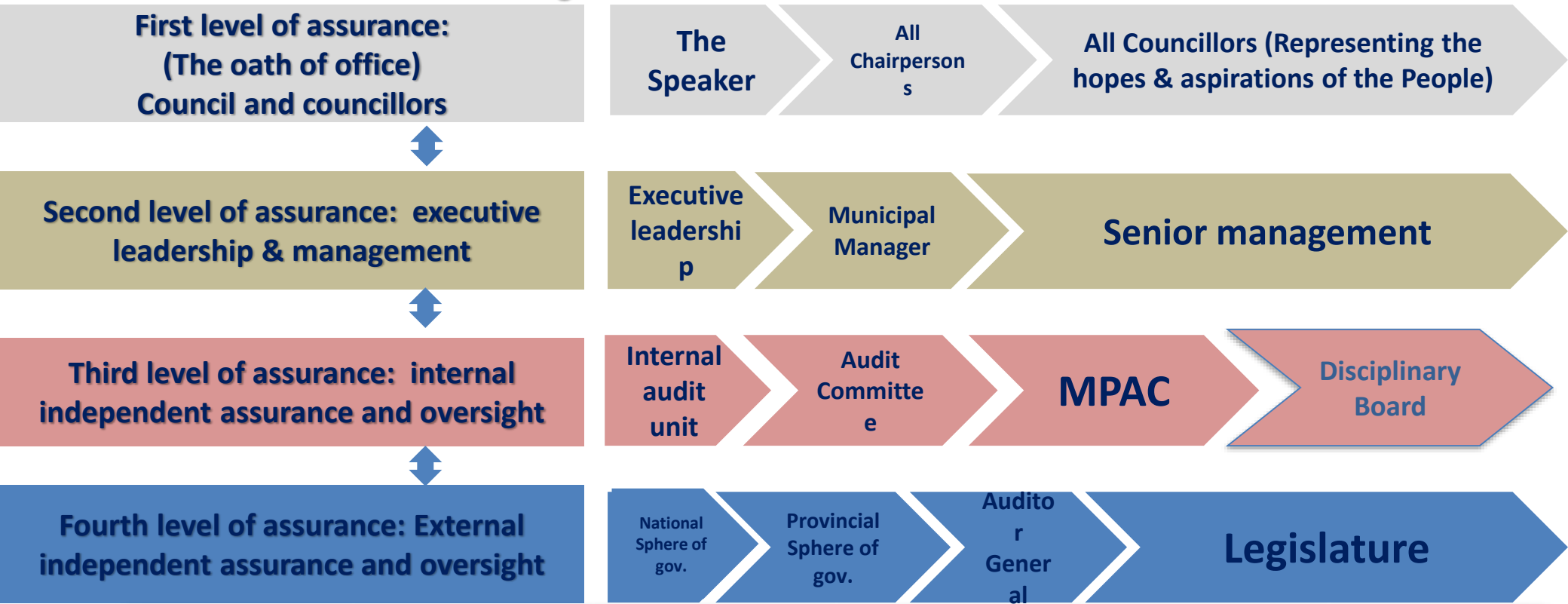


# THE STRATEGIC THRUST OF MPAC AS A COMMITTEE OF COUNCIL

MPACs contribute to governance by providing assurance (on behalf of Council) on various issues pertinent to the Municipality and specifically the administration of the municipality.

MPACs also play a key role in making recommendations to council when matters of financial misconduct is addressed, noting that the regulatory framework for allegations of financial misconduct provides for a Disciplinary Board which is constituted by officials and not councillor.

## It is important for Municipal Councils to ensure effective and efficient Oversight & Assurance Across the Continuum

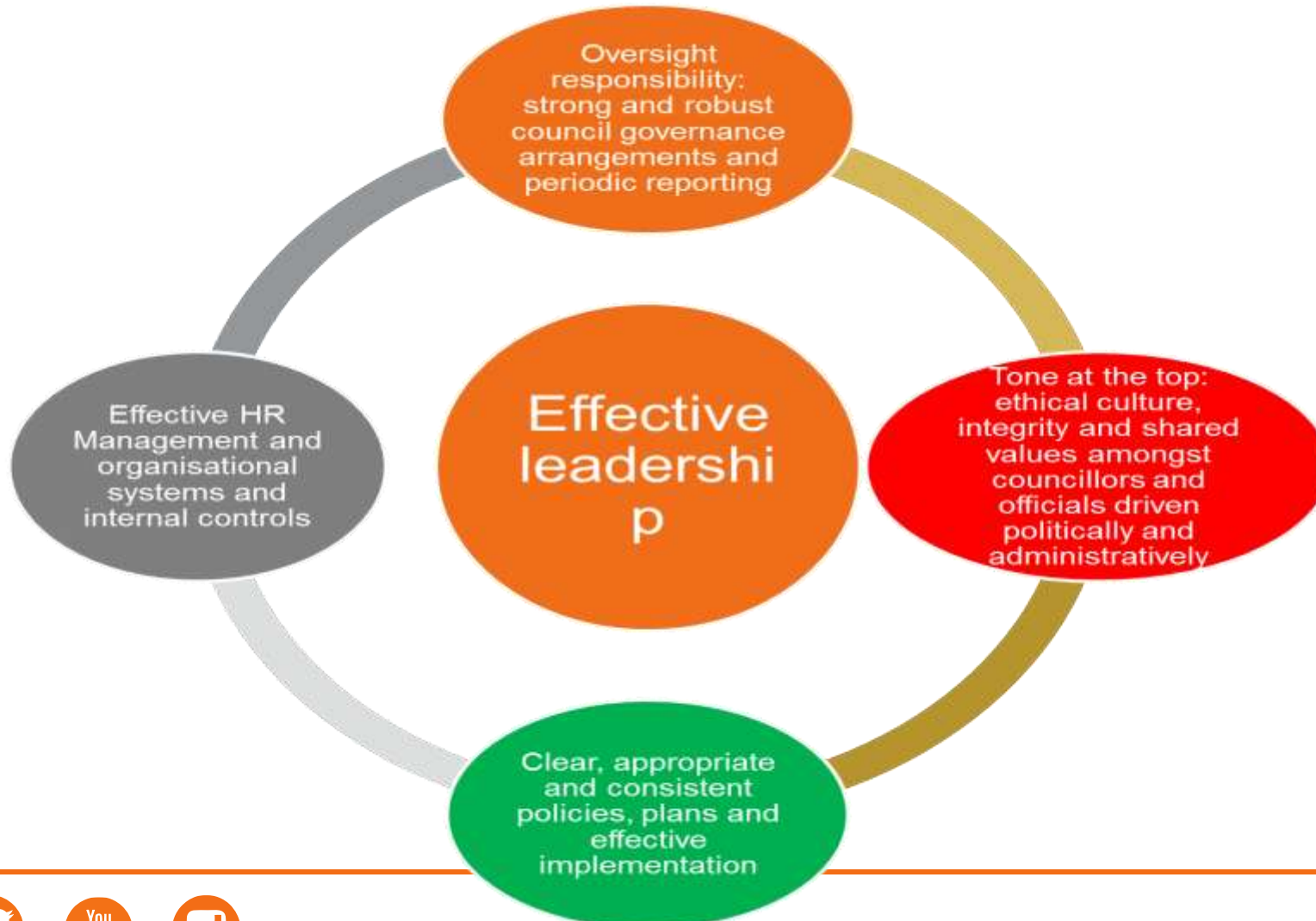


The Council must always take full responsibility for the state of the municipality. It must ensure that reports which are submitted are accurate and are of good quality. It must understand that they reflect the quality of leadership of the municipality but most importantly, the more a municipality is in a bad state, the more the democratic government loses credibility and the more likely it will soon be considered illegitimate by the people

# GOOD GOVERNANCE CHAMPIONS IN LG! PROVISION OF ASSURANCE IS EVERYBODY'S BUSINESS!

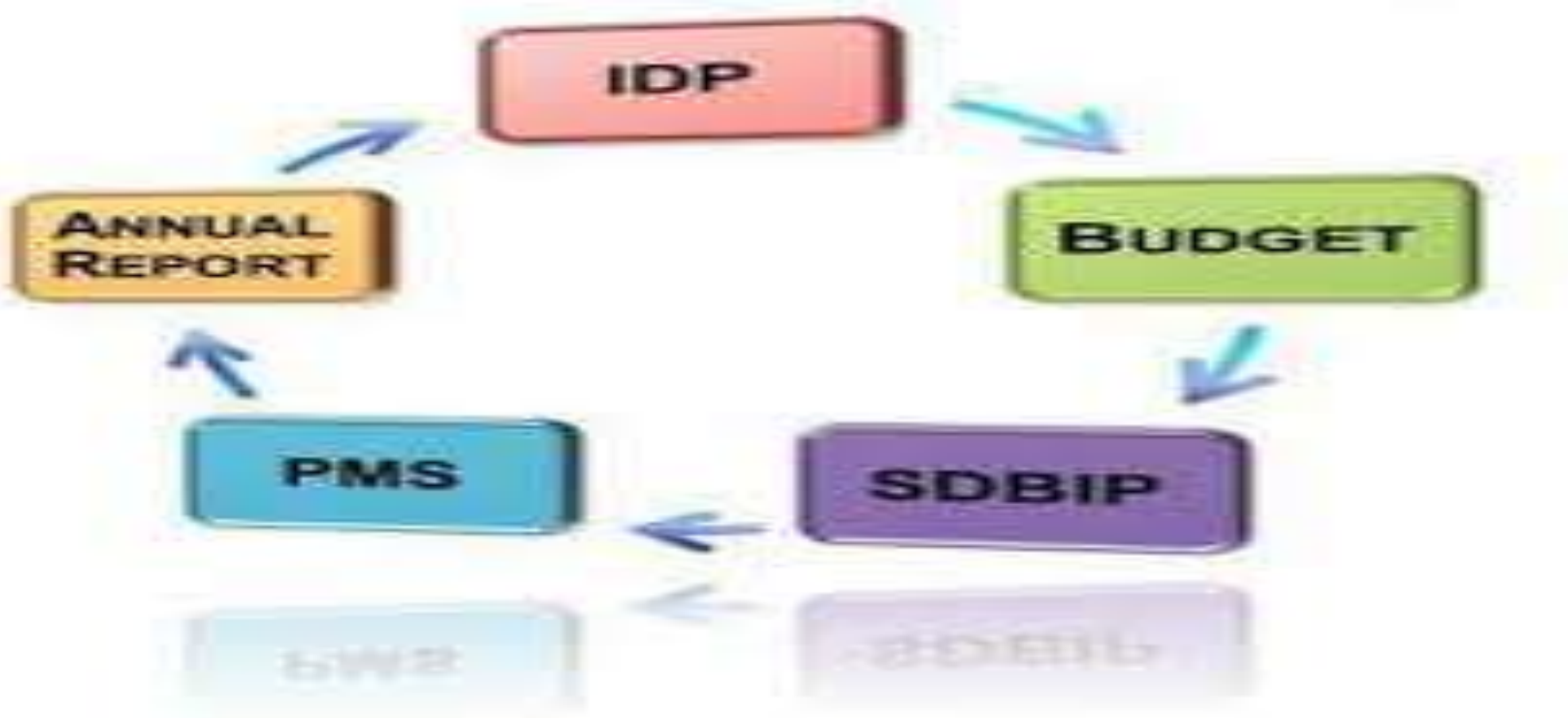


# EFFECTIVE LEADERSHIP





# OVERSIGHT & ACCOUNTABILITY: TYPE OF INFORMATION LIKELY TO BE CONSIDER! FINANCIAL AND PERFORMANCE INFORMATION



- ❑ The success or failure of MPACs hinges on the powers that they are given, and the extent to which the Councils' collective interests dominate the operation of these committees.
- ❑ The capacity to usurp such probing authority remains the critical variable if effective oversight is to ensure administrative and political accountability.
- ❑ This is what informs all efforts by SALGA towards enhancing the ability of municipal councils and its committees to entrench a culture of executive, administrative and political accountability.

# ACCOUNTABILITY BREEDS RESPONSE- ABILITY STEVEN COVEY

" you either make  
yourself accountable  
or you will be made  
accountable by your  
circumstances. "





# Thank you!



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