



# Working through COVID-19: Guidance for Employers



PENINSULA

# Contents

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Introduction .....	1
1. Working through COVID-19 .....	2
2. Work Safely Protocol.....	6
3. Workforce Planning.....	9
How Peninsula can help you.....	13

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# Introduction

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This document is intended to consolidate practical guidance that is available at the time of writing on how to operate during the COVID-19 pandemic and will be updated regularly in line with the latest Government advice and **therefore is a living document and subject to change**. This guide addresses 3 main areas:

- Plan for Working Alongside COVID-19
- Work Safely Protocol
- Workforce Planning

## 1. Working through COVID-19

- An overview of the latest Government measures in place.

## 2. Work Safely Protocol

- An overview of the mandatory protocol as it applies to all workplaces.

## 3. Workforce Planning

1. Potential measures to reduce workforce costs.
2. Financial Supports
3. Managing holidays, sickness and other absences.

## Checklist

- ✓ Check the level of the Framework for Restrictive Measures which applies to your county and business.
- ✓ Follow the Work Safely Protocol to ensure the workplace is COVID-19 secure.
- ✓ Look at your workforce requirements; will you need to reduce salaries or headcount? Check your options.
- ✓ Read our separate guides on [Income & Business Supports](#) and [Varying Terms & Conditions](#).
- ✓ See how Peninsula can help you.

**Disclaimer: This document does not address every possible situation for all organisations and sizes. The information provided relates to a new, untested area of law arising out of extraordinary circumstances. The guidance is being updated regularly and it is important that you speak to our expert HR advisors on the subject. Reliance on any views expressed is specifically excluded.**

# 1. Working through COVID-19

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In addition to full Level 5 protocol, the government announced further restrictions on 6 January.

## **The increased restrictions are:**

- Schools will remain closed until 1 February with teaching conducted online. However, final year Leaving Cert students will be allowed to attend school in person three days a week.
- Special education and specialised settings will continue fully open from 11 January.
- The resumption of the Early Childhood Care and Education (ECCE) programme is delayed until 1 February.
- Childcare to close with exceptions for vulnerable children and children of essential workers.
- Non-essential construction projects will stop at 6.00pm Friday 8 January with limited exceptions.
- Essential retail only. Click and collect from non-essential retail outlets will no longer be permitted after existing orders are fulfilled. Click and deliver will continue
- No travellers from Great Britain or South Africa until 9 Jan. All travellers from those locations after that date must have a negative PCR COVID-19 test result (COVID-19 not detected) within 72 hours prior to arrival

At Level 5, the public health risk means that you will be asked to stay at home, except for travel for work, education or other essential purposes, or to take exercise within 5km of home. There will be no gatherings other than small numbers at funerals and weddings.

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## Framework for Restrictive Measures

Resilience and Recovery 2020-2021: Plan for Living					
Item	Level 1	Level 2	Level 3	Level 4	Level 5
<b>Organised Indoor Gatherings</b>	For most venues, a maximum of 100 patrons can attend. Up to 200 patrons are allowed for larger venues where strict 2 metre seated social distancing and one-way controls for entry and exit can be implemented. For very large purpose built event facilities specific guidance will be developed with the relevant sectors to take account of size and different conditions for larger events.	Up to 50 patrons are permitted and in pods or groups of up to 6 if appropriate, with arrangements to ensure no intermingling of groups.  Up to 100 patrons are permitted for larger venues where strict 2 metre seated social distancing and one-way controls for entry and exit can be implemented.	No organised indoor gatherings should take place.	No organised indoor gatherings should take place.	No organised indoor gatherings should take place.
<b>Organised Outdoor Gatherings</b>	For most venues, a maximum of 200 patrons can attend. Up to 500 patrons can attend outdoor stadia or other fixed outdoor venues with a minimum accredited capacity of 5,000 (with robust protective measures as per sectoral guidance). For very large purpose built event facilities specific guidance will be developed with the relevant sectors to take account of size and different conditions for larger events.	Up to 100 patrons are permitted for the majority of venues.  Up to 200 patrons for outdoor stadia or other fixed outdoor venues with a minimum accredited capacity of 5,000 (with robust protective measures as per sectoral guidance).  For very large purpose built event facilities (for example: stadia, auditoriums, conference or event	Gatherings of up to 15 people can take place.	Gatherings of up to 15 people can take place.	No organised indoor gatherings should take place.
<b>Gyms, leisure centres and swimming pools</b>	These can open with protective measures, taking account of public health advice, including social distancing.	These can open with protective measures, taking account of public health advice, including social distancing.	Open with protective measures, for individual training only.  These can open with protective measures, for individual training only.	Closed	Closed
<b>Museums, galleries and other cultural attractions</b>	Open with protective measures in place (for example: a maximum capacity to allow 2 metres social distancing, one-way traffic withing the venue).	Open with protective measures in place (for example: a maximum capacity to allow 2 metres social distancing, one-way traffic withing the venue).	All venues closed. Libraries will be available for e-services and call and collect.	All venues closed. Online services available	All venues closed. Online services available

## Resilience and Recovery 2020-2021: Plan for Living

Item	Level 1	Level 2	Level 3	Level 4	Level 5
<b>Bars, cafes and restaurants (including hotel restaurants and bars)</b>	Open with protective measures in place. Maximum numbers in restaurants, cafes and bars linked to capacity of the establishment - taking account of public health advice.	Open with protective measures in place (for example: physical distancing, table service only, cleaning regimes, noise controls).	Additional restrictions for indoor dining.	Take away food or delivery. No indoor dining.  Outdoor dining limited to a maximum of 15 patrons.	Take away food or delivery.  Outdoor dining limited to a maximum of 15 patrons.
<b>Wet Pubs</b>	Open with protective measures in place. Maximum numbers in bars linked to capacity of the establishment - taking account of public health advice.	Open with robust protective measures in place.  Maximum numbers linked to capacity of establishment, taking account of public health advice including appropriate social distancing. Individual groups limited to 6 people from no more than 3 households or the prevailing advice on the mixing of households.	Additional restrictions.	Outdoor seating only, limited to a maximum of 15 patrons	Take away food or delivery.
<b>Nightclubs, discos and casinos</b>	Nightclubs, discos and casinos will remain closed	Nightclubs, discos and casinos will remain closed	Nightclubs, discos and casinos will remain closed	Nightclubs, discos and casinos will remain closed	Nightclubs, discos and casinos will remain closed
<b>Hotels &amp; Accommodation</b>	Open with protective measures (for example: staff face coverings, signage, hand sanitiser, regular cleaning of hard surfaces, customer details recorded for contact tracing process).	Open with protective measures (for example: staff face coverings, signage, hand sanitiser, regular cleaning of hard surfaces, customer details recorded for contact tracing process).	Open, but service limited to residents	Open but only for existing guests, and those with essential non-social and non-tourist purposes.	Open only for those with essential non-social and non-tourist purposes
<b>Retail and services (for example: hairdressers, beauticians, barbers)</b>	Face coverings must be worn. Open with protective measures in place.	Face coverings must be worn. Open with protective measures in place.	Face coverings must be worn. Open with protective measures in place.	Face coverings must be worn.  Essential retail and businesses that are primarily outdoors only can remain open. All other retail and personal services	Face coverings must be worn.  Essential retail only. All other retail and personal services closed.
<b>Work</b>	Work from home if possible. You can attend work for specific business requirements and on a staggered attendance basis.	Work from home if possible. If you can work from home, you are advised to only attend work for essential on-site meetings, inductions and training.	Work from home unless absolutely necessary to attend in person.	Only essential or other designated workers should go to work.	Work from home unless it is for working in health, social care or other essential service and cannot be done from home.

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## Resilience and Recovery 2020-2021: Plan for Living

Item	Level 1	Level 2	Level 3	Level 4	Level 5
<b>Schools, early learning and childcare services, adult and higher education</b>	Open with protective measures in place.	Open with protective measures in place.	Schools and creches are open with protective measures.  Further, higher and adult education to escalate all appropriate protective measures and limit congregation as far as possible.	Schools and creches will remain open with protective measures.  Further, higher and adult education moves primarily online with appropriate protective measures in place for essential attendance on site.	Open with protective measures in place.
<b>Transport</b>	Capacity will be limited on public transport based on the public health advice at the time  You should travel during off-peak hours if possible. If possible, you should walk or cycle.	You must wear a face covering if using public transport.  Walk or cycle where possible.  Public transport capacity will be limited to 50%.  Peak hours for essential workers and essential purposes only.	You must wear a face covering if using public transport.  Walk or cycle where possible.  Public transport capacity will be limited to 50%.  Peak hours for essential workers and essential purposes only.	You must wear a face covering if using public transport.  Walk or cycle where possible.  Public transport capacity will be limited to 25%.  Peak hours for essential workers and essential purposes only.	You must wear a face covering if using public transport.  Walk or cycle where possible.  Public transport capacity will be limited to 25%.  Peak hours for essential workers and essential purposes only.
<b>Domestic Travel</b>	No Restrictions	No Restrictions	Stay in your county (or other defined geographical area) apart from work, education and other essential purposes.	Stay in your county (or other defined geographical area) apart from work, education and other essential purposes, if appropriate.	Stay at home. Exercise within 5 kilometres of home.

## 2. Work Safely Protocol

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The Government has underlined the importance of adhering to the Work Safely Protocol. The Government has specified that employees should continue to work from home and avoid public transport. However, many businesses will continue to have an on-site presence and, if so, must ensure that their business is compliant with the mandatory protocol rules.

The Work Safely Protocol contains a combination of mandatory measures, in addition to a number of recommendations, for employers and workers to implement upon returning to work. The document was updated in November 2020 and the latest information includes practical advice on topics where there is now a greater understanding of the virus from when the protocols were first published.

These areas include the management and control of outbreaks, selection of hand sanitisers, wearing of masks, ventilation of workplaces and virus symptoms. For the full text of the Protocol, [click here](#).

### **The following requirements, among others, are included in the Protocol:**

- Develop a COVID-19 business response plan.
- Provide COVID-19 induction training to all workers.
- Appoint at least one “lead worker representative” charged with ensuring that COVID-19 measures are strictly adhered to in their place of work.
- Maintain physical distancing across all work activities.
- Implement thorough and frequent cleaning of frequently touched surfaces in the workplace.
- Implement a “no handshaking” policy.
- Consider workers’ individual risk factors (e.g. older workers, underlying medical conditions).
- Establish a response plan to deal with any suspected case of COVID-19.
- Establish contingency measures to address increased absenteeism.
- Implement measures necessary to reduce the spread of COVID-19.
- Identify a designated isolation area for dealing with COVID-19 cases on site.
- Ensure that appropriate hygiene facilities are in place.

### **Return to Work Form and Employee Induction**

Employers must prepare and issue a pre-return to work form for workers to complete at least three days in advance of employees returning to work. The form should seek confirmation that the worker, to the best of their knowledge, has no symptoms of COVID-19 and also confirm that the worker is not self-isolating or awaiting the results of a COVID-19 test. Pre-return to work induction training is also to be provided to all workers. Employers must also keep a log of contact or group work to facilitate contact tracing and display information on the signs and symptoms of COVID-19.

### **Business Response Plan**

Each employer will need to prepare a Response Plan. It should set out the identity of individuals on the response team, the procedures to be followed when dealing with a suspected case of COVID-19 at work, to include an obligation on employees to immediately notify if they develop any symptoms, and that an isolation area is to be provided. A log should be created of contact/group work to facilitate contact tracing. Employees and other workers must be advised of the log. As part of the Business Response Plan, it is vital that staff are aware of their obligation to report any medical condition/symptoms or use of medication which could affect their safety or the safety of others in the workplace. Staff should be reminded that failure to report such issues could result in disciplinary action.

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## **Mental Health, Hygiene and Physical Distancing**

The Protocol calls on employers to put supports in place for workers who may suffer from anxiety or stress and provide information on available sources of support and advice. Employers need to ensure workers are made aware of and have access to any available Employee Assistance Programmes or Occupational Health Services. It also provides that employers must ensure that appropriate hygiene facilities are in place and make available advice, information, and training on how to perform hand and respiratory hygiene effectively. Relevant posters and information must be displayed in the workplace.

Please contact **Health Assured** for further information on their Employee Assistance Programmes and Occupational Health Services: <https://www.healthassured.org/ie/>

Contact our **24/7 Advice Line** for further information on any of these measures and/or login into [BrightSafe Online](#).

## Reopening Workplace: Flowchart

### 1. BUILDING PREPARATION:

- If the building has been empty during lockdown, ensure that it is safe to enter.
- Ensure fire safety systems are working.
- Ensure HVAS systems are working and are safe.
- Clean the workplace thoroughly.
- Review your normal cleaning regime.
- Ensure your water systems are free from legionella.
- Carry out repairs etc. prior to any employees returning.



### 2. COMMUNICATING WITH EMPLOYEES:

- Ensure you address any employee anxiety through good communication.
- Carry out risk assessments to ensure all risks are considered and effective control measures identified and implemented.
- Outline the precautions being taken to ensure employee health & safety.
- Have a clear procedure and response plan for employees reporting the recognised COVID-19 symptoms.
- Establish two-way communication and encourage employees to report any areas where the precautions are not working.



### 3. CONTROL ACCESS TO THE WORKPLACE:

- Introduce strict control on all access points to the workplace.
- Ensure reception areas have effective social distancing measures.
- Consider shields and barriers where social distancing cannot be achieved.
- Ensure clear signage is in place.
- Provide sanitiser, and personal protective equipment (if required).
- Do not share pens, visitor badges, etc.
- Consider testing / temperature testing on return (if appropriate).



### 4. PHYSICAL DISTANCING:

- Consider a phased-return to work.
- Implement staggered start and finish times.
- Re-design the workplace to ensure workstations are set out 2 metres apart.
- Consider one-way pedestrian systems.
- Provide sufficient signs, notices and floor markings to indicate the social distancing measures.
- Take small meeting rooms out of use.
- Consider screens/barriers where the 2 metre rule cannot be achieved.



### 5. REDUCE CONTAMINATION POINTS:

- Review and increase cleaning regimes and practices.
- Provide sufficient facilities for hand-washing with clear instruction on how to wash hands effectively.
- Ensure social distancing is maintained in food and drink areas - consider single use cups, plates and utensils.
- Ensure there is no sharing of utensils, cups and plates. Wash immediately after use.
- Create comprehensive cleaning regimes for workstations and equipment.



### 6. REVIEW:

- Monitor and review these arrangements on a regular basis, including:
- When Government advice changes.
  - During different phases of lockdown.
  - Ensure there is no sharing of utensils, cups and plates. Wash immediately after use.
  - Create comprehensive cleaning regimes for workstations and equipment.

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## 3. Workforce Planning

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### Reorganisation Options

- Redeploying staff
- Lay-off
- Employment Wage Subsidy scheme
- Short-time

### Redeploying staff

If your employees are agreeable and can be trained to carry out different duties in more viable parts of the business, this should certainly be considered.

### Lay-off

If you think a lack of work is going to be for a temporary period, lay-off is a measure that might be appropriate. Lay-off is used when an employer does not have work for some or all its employees due to a temporary lack of work.

You will need to give employees notice that they are not required to work for a period of time due to the temporary lack of work, for example where all or part of a business is operating at a reduced capacity, or perhaps is not operating at all.

Lay-off may also be applicable in respect of employees who cannot work remotely as their duties can only be carried out at a particular location, and that location is closed. Irish legislation does not state that lay-off is unpaid but it tends to be, unless the employee's contract of employment provides otherwise.

Employers are largely relying on the custom and practice of lay-off being unpaid in Ireland.

### Suspension of Redundancy Claims

The Government also confirmed on September 15<sup>th</sup> that the suspension of redundancy claims by employees who have been laid-off or put on short-time has once again been extended until 31<sup>st</sup> March 2021. Peninsula, in conjunction with Chambers Ireland, has been lobbying the Government on behalf of companies throughout Ireland on this issue since March.

### Employment Wage Subsidy Scheme and Income Supports

The Temporary Wage Subsidy Scheme ceased on August 31<sup>st</sup> and has been replaced by the Employment Wage Subsidy Scheme. The new wage subsidy scheme has different eligibility criteria and pays a reduced subsidy. More details on this scheme can be found in your COVID-19 reopening toolkit by clicking [HERE](#).

Short-time essentially means reducing an employee's regular working hours by less than half. Employees on short-time hours are eligible to apply for the Short-Time Work Support.

You should first review your contracts of employment to establish whether lay-off or short-time may be appropriate.

It may be the case that even where contracts are silent on lay-off or short-time, employers in the circumstances may be permitted to avail of these options.

If none of these options are feasible, you will have to make a decision as to whether the role has been made redundant by the crisis. Redundancy is discussed further below.

Further information on Peninsula services that can support and help your business during this uncertain period can be found at the end of this document.

## Financial Supports

The Employment Wage Subsidy Scheme(EWSS) replaced the Temporary Wage Subsidy Scheme (TWSS) from 1 September 2020. It is expected to continue until 31<sup>st</sup> March 2021. The new scheme will provide a flat rate €203 subsidy per week per employee to businesses who have suffered a minimum of a 30% decline in revenues and will cover seasonal employees and new hires as well as existing staff.

### Amendments to EWSS announced on 19/10/2020

There will be 5 payment rates/bands as follows:

Employee Gross Weekly Wages	Subsidy Payable
Less than € 151.50	Nil
From € 151.50 to € 202.99	€ 203 per week
From € 203 to € 299.99	€ 250 per week
From € 300 to €399.99	€ 300 per week
From € 400 to €1,462	€ 350 per week
More than € 1,462	Nil

### Pandemic Unemployment Payment

The Pandemic Unemployment Payment (PUP) will continue to be paid until 31<sup>st</sup> March 2021, subject to tapering conditions that are linked to the employee's previous income. PUP will also be open to applicants until the end of 2020.

From 16 October 2020 until 31 January 2021 the COVID-19 Pandemic Unemployment Payment will be paid at 4 rates.

- if you earned €400 or more - you will receive €350
- if you earned between €300 and €399.99 per week - the rate of the COVID-19 Pandemic Unemployment Payment is €300 per week
- if you earned between €200 and €299.99 per week - the rate of the COVID-19 Pandemic Unemployment Payment will be €250 per week
- if you earned less than €200 per week - you will receive €203 per week, which is the same as the primary rate of Jobseeker's Benefit

### Other business support measures

- A reduction in the top rate of VAT to 21% which will be in place for six months.
- A waiver of commercial rates to continue until September.
- Cheap loans will be available to businesses with less than 500 employees.
- Supports for apprenticeships will be available. Businesses may be entitled to as much as €3,000 for each extra apprentice they hire.
- A two-year €7,500 JobsPlus subsidy is designed to encourage the recruitment of under-30s who are currently unemployed, or on PUP.

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## Where do I start when making redundancies?

- Firstly, you should seek advice on your obligations under the Redundancy Payments Act.
- You should confirm the cost savings you need to make to continue as a going concern and communicate transparently with employees throughout the process.
- You must then assess each role in the organisation by outlining all responsibilities and identifying the contributions of each role to the organisation.
- These criteria along with other factors will be analysed in making sure that you use a fair selection process when deciding what employees are to be made redundant.
- Remember a dismissal by reason of redundancy can be deemed unfair if the employer is considered to have made an unfair selection.
- If the Workplace Relations Commission is asked to review a redundancy, the first thing that will be examined is the selection of the employee and how it was made.
- Selection criteria must, most importantly, be based on the roles in the company and not on the employee or their performance.
- Redundancy selections must be impersonal, and the criteria examined should be relevant to the crucial needs of the business at that time. Criteria can include factors such as qualifications, skills, and disciplinary records.
- Once the criteria are decided upon, they should be reviewed by another person so that they're not based on the opinion of one person solely.
- Employees must be consulted from the early stages and throughout the process.
- At the first meeting, you should explain that the business is struggling and that pay reductions, reduced hours or redundancies may have to be the next step in order for the business to survive.
- Following the meeting a letter should be given to each employee outlining exactly what was discussed. This ensures all employees are fully aware of the situation.
- Further meetings should be held throughout the process to get feedback from staff and to keep them up to date on company decisions.
- In the case of collective redundancies, consultation must begin at least 30 days before notice of redundancy is given.
- A collective redundancy occurs when the number of employees to be made redundant is as follows:
  - Five employees where 21-49 employees are employed.
  - 10 employees where 50-99 employees are employed.
  - 10% of employees where 100-299 employees are employed.
  - 30 employees where 300 or more employees are employed.

It is worthwhile for companies to have a Redundancy Policy in place outlining the legislation, the statutory consultation obligations, the factors that the company will consider as well as the steps that they will take and the redundancy programme.

A well-designed redundancy programme can include assistance for employees to update their CV, refresh their interview skills and provide advice on job hunting. This can ease the tension in the workplace when the redundancies are announced and provide employees facing redundancy with invaluable job seeking skills.

Employers must remember that redundancies can prove to be a very expensive option if not handled correctly.

We would urge companies to take advice on the matter to ensure that a genuine redundancy situation exists and that the process is implemented correctly and in line with the legislation.

A good handling of the redundancy process is vital not only from a legal point of view but for an employer's reputation, customers, existing workforce, and the public at large.

### **Annual Leave and Childcare**

Many employees have sought to take annual leave to cover childcare responsibilities arising from the closure of schools and crèches. Many employers too are keen to have employees avail of their entitlement to accrued annual leave so that once the crisis passes, they are poised to mobilise the workforce and meet increased demand without having to cater to a large volume of annual leave requests.

Section 20 (1) of the Organisation of Working Time Act provides that the times at which annual leave is granted are determined by the employer. In that regard, the employer should have regard to the opportunities for rest and recreation available to the employee but also the need for the employee to reconcile work and any family responsibilities. In addition, under the legislation the employer is required to consult with the employee or their Trade Union at least one month prior to the taking of leave. In the current climate, however, we are noting an acceptance by employees of measures being taken by their employers to respond to the Covid-19 crisis, and to include the mandatory taking of annual leave.

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# How Peninsula can help you

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## Working through COVID-19: Guidance for Employers

Access instant health & safety and HR advice on how to prepare your business for reopening post-COVID-19. Bookmark the page and check back regularly for further guidance.

<https://www.peninsulagrouplimited.com/ie/covid-19-toolkit/>

## E-learning Sessions

Don't miss out on one of Peninsula's upcoming HR and employment law e-learning sessions which are specifically tailored to the challenges that employers are facing during the COVID-19 pandemic.

<https://www.peninsulagrouplimited.com/media/3734/elearning-schedule-december.pdf>

## BrightSafe Online

BrightSafe Online is the online health & safety system that helps you:

- Make risk assessments easy. Follow step-by-step guides to carry out assessments fast and to HSE standards.
- Forget filing cabinets and paperwork. Store all your policies and documents in one secure place online.
- Access a library of ready-made forms, posters, and logbooks. All designed by our health & safety experts to cover you in any event.
- Log accidents, near misses and evidence online. Spot hazards and the people most at risk, and link supporting photos to each incident report.
- Never miss a health & safety deadline. Assign work to staff and set reminders for important tasks such as formal investigations.

<https://login.peninsula-online.com/SignIn/>

## Mental Health and Wellbeing

Occupational Health and Employee Assistance Programmes are essential tools to effectively manage reopening the workplace and a requirement of the Protocol, to support staff and to add value to your business. For further information please speak to any of our Health & Safety and HR Experts, and visit:

<https://www.healthassured.org/ie/>

## Contact Peninsula today and speak to an expert

Contact our Health & Safety and HR Experts **24 hours a day** on:

- **01 855 5050** (Dublin)
- **021 212 9917** (Cork)
- [info@peninsula-ie.com](mailto:info@peninsula-ie.com)



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