



Bridgnorth Area Schools' Trust (BAST) Equality Policy

This policy & procedure has been agreed by the following professional associations / trade unions representing School Based Staff

- *National Union of Teachers*
- *National Association of Schoolmasters Union of Women Teachers*
- *Association of Teachers and Lecturers*
- *National Association of Head Teachers*
- *Association of School and College Leaders*
- *Unison*
- *GMB*

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COMMITTEE: Pay, Performance Management and Personnel

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AUTHOR: Human Resources, Shropshire Local Authority

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Adopted by the Board of Bridgnorth Area Schools' Trust

Signed _____
Chair of Trust Board

Dated _____

Signed _____
Executive Headteacher

Dated _____

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Bridgnorth Area Schools' Trust (BAST) Equality Policy

1. Introduction

The Trust is committed to eliminating discrimination and encouraging diversity amongst the workforce. The Equality Act 2010, which consolidated and replaced much of the previous equality legislation forms the basis of this policy. As the employer, the Trustees have a legal duty to provide opportunities for both learning and employment in an environment which is fair and without discrimination.

The equality commitment for the Trust is to ensure that selection for employment, promotion, training or any other benefit will be on the basis of aptitude and ability. Additionally, the disciplinary, grievance and harassment and bullying procedures and policies must all be free from discrimination. All employees with any of the 'protected characteristics' must be treated fairly and with dignity and respect.

The school/academy aims to:

- Create an environment in which individual differences and the contributions of all staff are recognised and valued.
- Provide every employee with a working environment that promotes dignity and respect to all, where employees feel able to challenge behaviour and attitudes which are contrary to the policy.
- Ensure that no form of intimidation, bullying or harassment will be tolerated and cases will be dealt with swiftly and fairly. The Trust's Bullying and Harassment Policy is available to complainants and the Trust's Disciplinary Policy may be instigated against perpetrators.
- Ensure training, development and progression opportunities are available to all staff.
- Review all its employment practices and procedures to ensure fairness.

2. Roles and Responsibilities

It is established in section 1 above that the 'employer' has a legal duty to provide opportunities for both learning and employment in an environment which is fair and without discrimination. However, all staff and volunteers within the Trust are responsible for discouraging examples of discrimination that they observe within the workplace. The Headteacher has overall responsibility for the daily implementation of equality practices and should have due regard to how the school's existing and proposed policies and decisions impact upon equality. Throughout this policy 'Headteacher' will also refer to 'Executive Headteacher' roles. Headteachers should also seek advice and support from HR.

3. Scope

This policy refers to all staff and volunteers within the Trust. The Trust will also have an equality policy which relates to pupils and which is published on external school/ Trust websites.

4. Public Sector Equality Duty

The Public Sector Equality Duty (PSED), introduced under the Equality Act 2010, applies to public sector bodies, including maintained schools and academies as well as to listed local authorities. The legislation states that a listed authority must comply with both a general duty and with specific duties as set out in the Equality Act 2010.

General Duty

The General Equality duty may be described as the duty on a listed public authority, when carrying out its functions, to have due regard to the three equality aims.

The aims for Trust are:

- **To eliminate discrimination, harassment, victimisation** and any other conduct that is prohibited. In relation to pupils, the Trust may seek to meet this aim by monitoring admissions, exclusions, attendance and prejudice related incidents. In respect of staff, schools and academies may seek to meet this by ensuring that there are appropriate employment policies in place,
- **To advance equality of opportunity** between groups/people who share a relevant protected characteristic and groups/people who do not share it, by considering the need to remove or minimise disadvantage, by taking steps to meet different needs, and by encouraging participation when it is disproportionately low.
- **To foster good relations** between groups/people who share a relevant protected characteristic and groups/people who do not share it.

Specific duties

The specific duties support the performance of the general duty, listed authorities (including Academy Trusts) are required to prepare and publish:

- information about workforce diversity and about service user diversity, to show they are complying with the PSED which must be updated annually and
- one or more equality objectives which an authority thinks it should achieve to advance any of the three general duty aims. This should be updated at least every four years with effect from April 2012.

Academy Trusts with fewer than 150 employees do not need to publish information about employees, but should still collate information, for example statistics on the breakdown and distribution of the workforce by age, gender, disability and race, to enable compliance with the general duty.

The Trust will need to gauge number across all schools in the Trust to determine whether it is necessary to publish data collected.

However, information must be published relating to pupils. Schools should nevertheless ensure that individuals can not be identified through the publication of this equality data.

Equality objectives must be specific and measurable. The Trust must publish one or more equality objectives as per the minimum of every four years. This information relevant to the school should be published on the school website.

The Trust as a public body should include the following nine **Protected Characteristics** groupings of people when considering the PSED obligations, Appendix A:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation

The Trust should ensure due regard to the needs of all people in these groups when developing policy and strategy.

It is not appropriate within a school setting that age and marriage and civil partnership information relating to pupils to be required. However, age and marital status and civil partnership information should be recorded in respect of employees.

Decision makers within the Trust must be aware of the duty to have 'due regard' when making decisions or taking action and must assess whether it has implications for people with a particular Protected Characteristic. Equality implications should be considered when policies or decisions are being made, and should be kept under review, for example through the use of standard Equality and Social Inclusion Impact Assessments (Appendix C).

Additionally, it is also unlawful to discriminate on the grounds of trade union membership or non-membership, part time or fixed term contract status and past unrelated convictions. Definitions of the Protected Characters and types of discrimination are shown at Appendix A.

5. How to Resolve Difficulties

The Headteacher is responsible for preventing employees from suffering discrimination in the workplace. Employers are ultimately responsible for any discrimination carried out by their employees, regardless of the employer's knowledge or approval. The Headteacher must also ensure that their staff are not harassed by a third party. It is important therefore that the Headteacher ensures that all staff and volunteers are aware of the policy.

- **Internal issue.**

If an employee complainant raises a grievance because either they are subject to discrimination by a member of staff, or because they have witnessed discrimination directed towards another person by a member of staff, they should be able to access, or request a copy of the Trust's Bullying and Harassment Policy from the Headteacher. The complainant will have the option of pursuing either the informal or formal route.

In cases where an employee's conduct falls short of the required standard, the disciplinary procedure may be invoked. The disciplinary procedure is the means by which rules are observed and standards are maintained. In cases where the misconduct is minor, it may be dealt with through the informal route. However, in cases where the informal route has not had the desired effect or the misconduct is considered too serious, the formal route should be followed. Certain acts such as a serious breach of the Trust's adopted Equality Policy, including any form of unlawful discrimination, victimisation, bullying or harassment of pupils or colleagues may constitute gross misconduct which may lead to dismissal.

- **External issue**

If an employee complainant raises a grievance because either they have been subject to discrimination by a third party, or because they have witnessed discrimination directed towards another person by a third party they should be able to access the Trust's Bullying and Harassment Policy.

Where a third party complainant raises a grievance because either they have been subject to discrimination by an employee, or because a third party has witnessed discrimination directed towards another person by an employee they should access the Schools Complaint Procedure.

6. How to identify and act on Hate Crime

Hate crime is an offence committed against a person or property motivated by the perpetrator's hostility and prejudice towards people because they are seen as being different. By working together Trust schools should try to meet their equality and diversity obligations, particularly in seeking to eliminate discrimination, harassment and victimisation. In addition, working together aims to encourage social inclusion and promotes a resilient and caring society. The Hate Crime Reporting protocol with website links attached at Appendix B. The website links are also shown below.

<https://www.shropshire.gov.uk/crime-and-criminal-justice/report-a-hate-crime/>

<https://www.shropshire.gov.uk/media/1541542/Hate-crime-reporting-form.pdf>

7. Recruiting and Employing People Fairly

The Trust will ensure that we provide equality of opportunity to all in pre-employment and employment.

The Trust/ school :

- Will demonstrate an open and transparent approach to recruitment
- Will ensure that recruitment decisions are made using pre-agreed objective criteria
- Will seek to appoint the most suitable applicant for the job based on merit
- Will ensure the recruitment and selection process conveys a positive image of the school/academy and portrays the school/academy as an employer of choice
- Will demonstrate its commitment to employ, retain and develop the abilities of disabled people, for example through achievement of the 'two ticks' aware by Job Centre Plus.
- Will ensure that the recruitment and selection of staff is conducted in a professional, timely and responsive manner and in compliance with current employment legislation
- Will provide appropriate training, development and support to those involved in recruitment and selection activities in order to ensure the recruitment of employing people is fair and legally compliant.
- Will treat all applicants fairly, equitably and efficiently, with respect and courtesy, aiming to ensuring that the applicant experience is positive, irrespective of the outcome
- Will ensure that if any member of staff involved in the recruitment process is related to, or has a close personal relationship with an applicant then they are not involved in the recruitment process at any point. Including, but not restricted to, restructures, ring-fencing, decisions about post-creation and job description content.
- Will ensure that all documentation relating to applicants will be treated confidentially and kept securely in accordance with the school/academy's Data Protection Policy.
- The Trust should not as a matter of course require job applicants to complete a medical questionnaire as part of the application procedure. Health related questions should only be asked if they are intrinsic to a function of their work, i.e.; ensuring applicants for a PE teaching post have the physical capability to carry out the duties. Additionally, candidates should not be asked about their sickness record until they have been made a conditional offer. Additional advice can be sought from the Trust's HR provider.

8. Training and Development

During training sessions the Trust should identify good equality practice and include guidance around discrimination, harassment or victimisation as appropriate. When selecting candidates to attend training, ensure that selection is free from discrimination. The Trust may also find it helpful to refer to Shropshire Council's equality objectives around training and development in relation to good equality and diversity practices. <https://www.shropshire.gov.uk/equality,-diversity-and-social-inclusion/equality-objectives/>

9. Promotion and Determining Pay

All promotion and pay decisions must be open, transparent and fair. All decisions must be objectively justified. The Local Governing Body (LGB) and Trust Board should follow the Department for Education advice regarding equalities consideration as part of the appraisal and pay determination process. Refer to the Trust's Pay Policy.

<https://www.gov.uk/government/publications/school-teachers-pay-and-conditions-20165>

10. Monitoring and Review Arrangements

The Trust may wish to consider varying their complaints policy with recommendations that it contains a vexation complaints element.

The Trust may wish to consider Shropshire Council's equality objectives including monitoring and review, in order to seek to achieve joint outcomes.

The LGB/ Trust Board will monitor the outcomes and impact of this policy on an annual/bi-annual basis in conjunction with school representatives at an appropriate committee.

This procedure will be reviewed no later than June 2018 by The Trust's HR provider in consultation with Trade Unions.

11. Linked Policies.

| | |
|-------------------------------------------------------------|----------------------------------------------------------------|
| Harassment and Bullying Policy | Managing Attendance |
| Grievance Procedure | Appointment of Staff Code of Practice |
| Maternity Scheme for School Based Staff | Safeguarding guidance |
| Adoption Scheme for School Based Staff | Advertising Guidance Notes |
| Surrogacy Policy | Part Time Teachers Pay and Working time arrangements |
| Flexible Working Policy | KCSiE; DBS Guidance for schools |
| Disciplinary Procedure | Job Sharing Guidelines |
| Appraisal and Capability Procedures | KCSiE: Code of Conduct for staff in schools |
| Parental Leave Policy | Paternity Policy |
| Pay Policies – Leadership, Teachers or Support Staff | KCSiE: Safer Recruitment and Selection Code of Practice |

DEFINITIONS

The Protected Characteristics are as follows:

AGE

Discrimination directed at either 'young' or 'old' is likely to be unfair.

It is important to emphasise that employers are highly vulnerable if they decide not to interview any job candidates who have reached an age which they regard as an appropriate age for retirement. Employers should therefore interview all suitable candidates irrespective of age focusing on their skills and ability to do the job rather than age alone.

Retiring from work

Dismissal

Unless it can be objectively justified it is not permissible to dismiss someone on the grounds of retirement. Older workers (age 55 plus) can voluntarily retire at a time they choose and draw any occupational pension they are entitled to. Older workers may also request flexible retirement from age 55. Employers cannot force employees to retire or set a retirement age. It is advisable for the employee to contact their pension provider for further information regarding pension benefits.

Teachers Pensions <https://www.teacherspensions.co.uk/public/home.aspx>

Local Government pension Scheme <https://www.shropshirecountypensionfund.co.uk/>

Work place discussions

Whatever the age of an employee, discussing their future aims and aspirations can help an employer to identify their training or development needs and provide an opportunity to discuss their future work requirements.

For all employees these discussions may involve the question of where they see themselves in the next few years and how they view their contribution to the organisation. A useful exercise is to ask open questions regarding an employee's aims and plans for the short, medium and long term. Employers may find it useful to hold these discussions as part of their formal appraisal processes.

The outcome of any workplace discussions should be recorded and held for as long as there is a business need for doing so. A copy of the discussion should be given to the employee.

Poor performance

If an employee is performing poorly the employer should discuss this with them to establish a cause. Failure to address any poor performance with an employee because there is an expectation they will retire soon may be discriminatory. Employers should establish a reason for poor performance, setting improvement periods and agreeing what training, development and support would help the employee meet the required expectation.

If levels are not improved and an employer has followed the company's performance procedure they then may decide to dismiss the employee on capability grounds, contact Human Resources for further information.

Is the increase in annual leave based on length of service discriminatory?

No, any increase in benefits during or before the 5th year of service is not discriminatory, the increase in the annual leave is based on loyalty, rather than age.

DISABILITY

It is unlawful to discriminate against workers because of a physical or mental disability or fail to make reasonable adjustments to accommodate a worker with a disability. Under the Equality Act 2010 a person is classified as disabled if they have a physical or mental impairment which has a substantial and long-term effect on their ability to carry out normal day-to-day activities. Day-to-day activities include things such as using a telephone, reading a book or using public transport.

If an employee has a disability that is making it difficult to work, employers should consider what reasonable adjustments they can make in the workplace to help or schedule an interview with the employee to discuss what can be done to support them. This could be as simple as supplying an adequate, ergonomic chair or power-assisted piece of equipment. Reasonable adjustments also include re-deployment to a different type of work if necessary. Further advice may be obtained from the Managing Attendance Policy and Occupational Health.

GENDER REASSIGNMENT

Gender reassignment is a personal, social, and sometimes medical process by which a person's gender presentation (the way they appear to others) is changed. Anyone who proposes to, starts or has completed a process to change his or her gender is protected from discrimination under the Equality Act. An individual does not need to be undergoing medical supervision to be protected. So, for example, a woman who decides to live as a man without undergoing any medical procedures would be covered.

It is discrimination to treat transgender or gender fluid people less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured, or if they were absent for some other reason.

- **Support for individuals undergoing gender transitions** - Discuss with the transgender person how they would prefer information about their transition to be communicated to colleagues. Some transgender people may feel comfortable talking about their transition with colleagues, but others may prefer not to.
- **Confidentiality** - At a point agreed with the individual, all personal records should be changed to reflect the acquired name and gender. Access to personal records which indicate a person's previous gender should be retained only if necessary, and otherwise deleted or destroyed.

Employees should make sure that they consider the following.

- **Telling people about your situation** - Make a list of the people who need to be informed. You may wish to speak to them personally, or may prefer to ask HR or your line manager to communicate with them
- **Medical appointment and absences** - Make sure the employer knows when you will need to take time off work. It is discrimination for your employer to treat you less favourably if you are absent from work for a reason related to gender reassignment than you would be treated if you were absent because you are ill or injured, or if you were absent for some other reason

- **Changing everything into your new identity** - You will need to change your name on your email address, company directories, records and work pass. Speak to the Headteacher at an early stage about how this should be managed.

gires.org.uk

MARRIAGE AND CIVIL PARTNERSHIPS

Gay and lesbian couples are able to get married or register their civil partnership in England, Scotland and Wales, which gives many of the same rights as other married couples.

Same sex couples who marry or register as civil partners have the same rights as other married couples in respect of employment rights.

The Equality Act protects employees who are married or in a civil partnership or marriage against discrimination.

PREGNANCY AND MATERNITY

It is unlawful to discriminate, or treat employees unfavourably because of their pregnancy, or because they have given birth recently, are breastfeeding or on maternity leave.

Discrimination happens when a woman is treated unfavourably because of her pregnancy, pregnancy-related illness or she exercises the right to statutory maternity leave. Ensure that an employee absent from work is notified of any important information, such as restructures, changes to terms and conditions and organisational/management changes within the school.

RACE

It is unlawful for an employer to discriminate against employees because of race which includes colour, nationality, ethnic or national origin.

In very limited circumstances, there are some jobs which can require that the job-holder is of a particular racial group. This is known as an 'occupational requirement'. One example is where the job-holder provides personal welfare services to a limited number of people and those services can most effectively be provided by a person of a particular racial group because of cultural needs and sensitivities.

RELIGION OR BELIEF AND LACK OF RELIGION OR BELIEF

There is no specific list that sets out what religion or belief discrimination is. The law defines it as any religion, religious or philosophical belief. This includes all major religions, as well as less widely practised ones.

To be protected under the Equality Act, a philosophical belief must:

- be genuinely held
- be a belief and not an opinion or viewpoint, based on the present state of information available
- be a belief as to a weighty and substantial aspect of human life and behaviour
- attain a certain level of cogency, seriousness, cohesion and importance
- be worthy of respect in a democratic society, compatible with human dignity and not conflict with the fundamental rights of others.

Humanism and atheism are examples of philosophical beliefs.

Workers are also protected against discrimination if they do not hold a particular (or any) religion or belief.

Employers do not have to give workers time off or facilities for religious observance, but they should try to accommodate them whenever possible. For example, if a worker needs a prayer room and there is a suitable room available then a worker could be

allowed to use it, providing it does not disrupt others or affect their ability to carry out their work properly.

Many employers find that being sensitive to the cultural and religious needs of their employees makes good business sense. This can mean making provisions for:

- flexible working
- religious holidays and time off to observe festivals and ceremonies
- prayer rooms with appropriate hygiene facilities
- dietary requirements in staff canteens and restaurants
- dress requirements.

Any schools with a religious character within the Trust may apply religious criteria in recruitment, remuneration and promotion. .

SEX

It is unlawful to discriminate against workers because of their sex, e.g. paying women less than men for carrying out the same role. In very limited circumstances, there are some jobs which can require that the job-holder is a man or a woman. This is known as an 'occupational requirement'. The list of occupational requirements is restricted and very rare.

SEXUAL ORIENTATION

An employer should protect employees from discrimination on grounds of the sexual orientation.

Sexual orientation is defined as:

- orientation towards people of the same sex
- orientation towards people of the opposite sex
- orientation towards people of the same sex and the opposite sex

ADDITIONAL PROTECTIONS APPLY TO THE FOLLOWING:

Equal Pay

An employer must give equal treatment in the terms and conditions of their employment contract if staff are employed on

- Like work – which is the same or broadly similar
- Work rated as equivalent under job evaluation
- Work found to be of equal value

Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 aim to ensure employees on a fixed term contract are treated no less favourable than compared to permanent employees.

Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 should receive the same rate of pay as an equivalent full time member of staff, they should not be excluded from training and should receive holiday pay pro rata to an equivalent full time employee.

Rehabilitation of Offenders Act 1974, many ex-offenders are given certain employment rights if their convictions become 'spent'. The DBS Code of Practice and the Rehabilitation of Offenders Act states that employers are not allowed to discriminate against employees with a criminal background and must treat applicants fairly. Recruitment decisions should therefore be based on if the criminal information presented is relevant to the job the applicant will be carrying out.

Trade Union Membership. In accordance with the Trade Union and Labour Relations (Consolidation) Act 1992 protection from discrimination either because of membership or non-membership of a trade union.

TYPES OF DISCRIMINATION

Direct discrimination

Direct discrimination occurs if an employer treats a person less favourably on the grounds of a person's protected characteristic compared to a person who does not have that protected characteristic. There may be rare instances during recruitment where a genuine occupational requirement is acceptable, but this should be discussed with the HR Business Partner.

Direct discrimination - associative discrimination

Associative discrimination is direct discrimination against someone because of their association with another person who possesses a protected characteristic.

Direct discrimination - perceived discrimination

Perceived discrimination is direct discrimination against a person because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic but is perceived by others to do so.

Indirect discrimination

Indirect discrimination is where a criterion or practice is applied to everyone, but particularly disadvantages people who share a protected characteristic.

Harassment

Harassment is a behaviour deemed offensive by the recipient and occurs when, for a reason which relates to a protected characteristic another person engages in unwanted conduct which may be physical, verbal or non-verbal and which violates the person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person. It is the effect of the conduct rather than the perpetrators intentions that define whether it constitutes harassment. Employees can raise a complaint against behaviour that they find offensive even if it is not directed at them. Complainants need not possess the relevant protected characteristics themselves. Employees are also protected from harassment because of perception and association.

Victimisation

Victimisation has a specific meaning in discrimination law. It does not just mean singling someone out. Victimisation makes it unlawful for one person to treat another less favourably than others because they made or supported a discrimination complaint or raised a discrimination grievance or because they are suspected of doing so.

An employee is not protected if they have maliciously made or supported an untrue complaint. However it is sufficient if the employee believes that the victim has done, or intends to do any of the things listed above.

SHROPSHIRE COUNCIL HATE CRIME REPORTING PROTOCOL.

The recommended protocol to follow when dealing with reports of racist or other hate crime incidents is as follows:

1. The procedure

In principle, the procedure for investigating accusations of racist or other hate crime incidents should be similar to the procedure which is used for dealing with complaints. For example, all reports of incidents should be handled courteously, helpfully and promptly. Hate crime is an offence where the victim, or any other person, perceives it to be motivated by prejudice or hate" - borne out of the Stephen Lawrence enquiry.

2. Timescales

Timescales for responding to an incident are the same as those for complaints:

- an acknowledgement or final response is sent within 5 working days
- a reply is sent within 20 working days, or the person reporting the incident is given an explanation of the delay

However, whereas it might be appropriate for some complaints to be dealt with informally, all reports of racist or other hate crime incidents should be dealt with on a formal basis.

3. Responsibilities

The person who sees, or is first made aware of, the incident should record the details, including the name, telephone number and address of the person reporting the incident. This person should report the incident at once to their Headteacher.

The Headteacher will have overall responsibility for the investigation of the incident and will decide who should lead this. It is also the responsibility of the Headteacher to inform the Police when necessary.

4. Referencing

In order to ensure that incidents are not double counted, the Headteacher should allocate a reference number to the incident - incorporating:

- an incremental reference number indicating total number of incidents within the school
- the month and year

For example: School Name, Ref no. 1, Feb 2016

5. Complainant is unsatisfied with response

If the complainant is not satisfied with the response then, as with complaints, this can be reviewed by the Governing Body to ensure that an appropriate investigation has been carried out.

6. Reports via the website

Incidents which are reported on the Shropshire Council website will be passed on to the Diversity Officer in the first instance, who will then forward them to the appropriate Headteacher.

If a report is received via the Shropshire Council Website from an employee regarding the behaviour of another employee, this will be treated within the **grievance procedure** guidelines.

<https://www.shropshire.gov.uk/crime-and-criminal-justice/report-a-hate-crime/>

<https://www.shropshire.gov.uk/media/1541542/Hate-crime-reporting-form.pdf>

FURTHER REFERENCE.

Shropshire Council

<https://www.shropshire.gov.uk/equality,-diversity-and-social-inclusion/>

Gov.uk

<https://www.gov.uk/guidance/equality-act-2010-guidance>

Equality and Human Rights Commission EHRC

www.equalityhumanrights.com/

The Equality Act 2010 and Schools

<https://www.gov.uk/government/.../equality-act-2010-advice-for-schools>

Equality and Social Inclusion Impact Assessments

<https://www.shropshire.gov.uk/media/1457869/Shropshire-guidance-and-evidence-template.pdf>

Hate Crime

<https://www.shropshire.gov.uk/crime-and-criminal-justice/report-a-hate-crime/>

<https://www.shropshire.gov.uk/media/1541542/Hate-crime-reporting-form.pdf>

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