

Rural or urban regeneration

Supplementary guidance for charities that seek to advance citizenship or community development through promoting **rural or urban regeneration**



The Charity Commission for Northern Ireland

The Charity Commission for Northern Ireland is the regulator of charities in Northern Ireland, a non-departmental public body sponsored by the Department for Communities.

Our vision

To deliver in partnership with other key stakeholders in the charitable sector "a dynamic and well governed charities sector in which the public has confidence, underpinned by the Commission's effective delivery of its regulatory role."

Further information about our aims and activities is available on our website www.charitycommissionni.org.uk

Equality

The Charity Commission for Northern Ireland is committed to equality and diversity in all that we do.

Accessibility

The Commission's website has been designed to W3C standards of accessibility and includes a number of features to enhance accessibility for a wide range of individuals. These include colour contrast and resize options. Materials may be made available in alternative formats on request. If you have any accessibility requirements please contact us.

Online or in print

If you are viewing this document online, you will be able to navigate your way around by clicking on links either within the contents page or text.

We have produced a glossary that provides further information, definitions and descriptions of some key terms. The words in **bold green type** indicate words that are found in the glossary towards the end of this document. If you are reading the document online you can click on the word and it will link you to the definition in the glossary. The words in *blue italics* indicate other guidance or databases. Please check our website www.charitycommissionni.org.uk to make sure you're using the latest versions of forms and guidance.

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Section 1: Overview

This document is intended to supplement information in the public benefit supporting document *The advancement of citizenship or community development* and should be read alongside it. The advancement of citizenship or community development covers a broad range of purposes aimed at supporting social and community infrastructure. This is part of a suite of guidance on public benefit. *The public benefit requirement* is statutory guidance which sets out what is meant by public benefit, and must be read by all charity trustees.

This document provides guidance for organisations that seek to achieve the advancement of citizenship or community development specifically through rural or urban regeneration. The guidance is being provided because there may be particular issues that such organisations need to consider and address at the point of registration to demonstrate that they are established for public benefit.

You may also wish to refer to guidance the Charity Commission for Northern Ireland (the Commission) has produced on:

- Running your charity which deals with operating your organisation for the public benefit
- Registering as a charity in Northern Ireland which explains the online charity registration process
- Purposes and public benefit toolkit which helps you to assess your organisation's purposes and draft a public benefit statement.

Section 2: About this guidance

What does this guidance cover?

This document supplements guidance already available in *The advancement of citizenship or community development* supporting document. Specifically, it covers:

Section 3: What is meant by rural or urban regeneration? Section 4: Applying the principles of public benefit to organisations promoting rural or urban regeneration.

What does this guidance not cover?

Charities are also subject to other legislation and, in some cases, other regulation. For example, **charitable companies** also have to comply with the requirements of company law. More information is available from Companies House. You should not rely on this guidance to provide a full description of legal matters affecting your organisation, nor is the guidance a substitute for advice from your own professional advisers.

Who does this guidance apply to?

This guidance applies to **charity trustees** of rural or urban regeneration organisations. Charity trustees may also be referred to by other terms, such as members of management committees, or directors of charitable companies. The guidance may also be helpful for anyone acting on behalf of a charity, for example, a **helper group**, a solicitor, accountant, agent or adviser. Charity beneficiaries, service users and members of the public may also find this guidance useful.

What are legal requirements and best practice?

In this guidance, where we use the word 'must' we are referring to a specific legal or regulatory requirement. We use the word 'should' for what we regard as good practice, but where there is no specific legal

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requirement. Charity trustees should follow the good practice guidance unless there is good reason not to do so.

Charity legislation

References in this document to 'the Charities Act' are to the **Charities Act (Northern Ireland) 2008**.

Key terms

The following are some key terms that it will be useful to understand when reading this guidance. They, and other terms, are also listed in a glossary at the end of this document.

Charitable purpose: This is defined by section 2 of the Charities Act (Northern Ireland) 2008 as one that falls under one or more of the list of 12 descriptions of purposes set out in section 2(2) of the Charities Act and is for the public benefit. To be a charity, an organisation must have purposes which are exclusively charitable in law.

Private benefit: There is private benefit where an individual or an organisation gains from their involvement with a charity. In some cases it may be proper for such a benefit to arise; in some cases not. Charities can provide private benefit so long as the benefit is incidental, that is, it directly contributes towards achieving the charity's purposes and/or is a necessary result or by-product of carrying out those purposes. An example of a private benefit that is incidental is where there is an increase in profits to local businesses as a result of charitable regeneration projects, which is a necessary by-product of those projects being carried out.

Public benefit requirement: This is the legal requirement that the purposes of an organisation must be for the public benefit if it is to be registered as a charity in Northern Ireland. By law, charity trustees must have regard to the Commission's *Public benefit requirement* statutory guidance.

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Section 3: What is meant by rural or urban regeneration?

The Charities Act sets out 12 descriptions of charitable purposes. One of these is the advancement of citizenship or community development. Rural or urban regeneration is a specific **purpose** within this description.

Rural or urban regeneration refers to the repair or renewal of physical, social or economic infrastructure in areas of social or economic deprivation and the assistance of people who are disadvantaged because of their social or economic circumstances.

To be a charity, an organisation with a purpose to promote rural or urban regeneration must be established for the public benefit in an area of economic, physical or social deprivation. An area of economic, physical or social deprivation can be local, regional, national, international or a combination of these.

It is important that objective criteria are used to identify an area as economically, physically or socially deprived and, as such, in charitable need. Below is a list of the types of objective indicators which may be used to identify these areas. These include, but are not limited to:

- unemployment levels
- lack of public services
- income levels within an area
- official statistics relating to levels of crimes
- proportion of a population in receipt of government benefits
- official statistics relating to measures of deprivation, for example, those produced by the Northern Ireland Statistics & Research Agency (NISRA)
- extent and frequency of transport links within the area.

Organisations established to promote rural or urban regeneration are usually established to do some, or all, of the following:

- Provide housing for those in need and help to improve housing standards generally in an area of deprivation where poor housing or lack of housing is a problem
- Help unemployed people to find employment
- Provide education, training and re-training opportunities and work experience, especially for people who are unemployed
- Provide financial or technical assistance or advice to new businesses or existing businesses where it would lead to training and employment opportunities for unemployed people
- Provide land and buildings on favourable terms to businesses in order to create training and employment opportunities for unemployed people
- Provide, repair and renew roads and accessibility to main transport routes
- Provide, repair and renew recreational facilities
- Preserve buildings which are of historic or architectural importance
- Provide public amenities.

It is important to note that there are different types of organisations that may be established to promote rural or urban regeneration, for example:

- charities which act as front line bodies and directly undertake the different aspects of a regeneration project
- charities which act as coordinating bodies conducting regeneration projects but contracting other agencies to carry out distinct elements of the project.

It is important that, regardless of whether the charity does the work directly or sub-contracts it, the charity has overall control of the activities to ensure that the planned regeneration is achieved.

3.1 Are there any specific registration requirements for charities established to promote rural or urban regeneration?

An organisation established to promote rural or urban regeneration is subject to the same registration requirements as any other

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organisation and will have its application assessed against the same criteria.

In order to be registered as a charity, the organisation will need to demonstrate that it has **exclusively charitable** purposes, that is, each of its purposes fits under one or more descriptions of purpose set out in the Charities Act and is for the **public benefit**.

The key issue for organisations established to promote rural or urban regeneration is ensuring they address each of the elements of public benefit which can require more extensive evidence in particular areas, for example:

- Referring to criteria which demonstrate that the beneficiaries are from an area that is in need of regeneration
- Setting out how the benefits of each of the organisation's purposes will help to address this need
- Identifying and setting appropriate criteria in order to assess how well an organisation has met its purposes.
- Accounting for any private benefit that may result to individuals or companies as a result of the regeneration.

Only if the purposes of the organisation are unclear will the Commission look at its **activities** for help in understanding the purposes. This is the case with a registration application from any organisation and it is likely that, in such a case, the purpose may need to be amended to make explicit what the organisation is set up to achieve.

3.2 Drafting or assessing purposes for an organisation promoting rural or urban regeneration

It is essential that an organisation's purposes are clear to all its trustees, beneficiaries, funders and donors, as well as the general public. If an organisation is registered as a charity, its purposes will be published on the online register of charities along with other information. If an organisation's purposes are not clear, this may result in its application for registration being delayed or rejected.

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In addition, if its purposes are not clear, an organisation's trustees may find that they unintentionally deviate from the purposes when setting the activites of the organisation. For example, when a charity is looking for funds, if trustees are not clear about the charity's purposes they may apply for funding for projects that are inconsistent with those purposes. Charity trustees who allow this to happen will be in breach of trust.

For an organisation seeking to promote rural or urban regeneration, particular care should be taken in drafting a purpose that is clear and unambiguous. Often the words used to express regeneration purposes are capable of different meanings depending on the context in which they are used. For example, words and phrases such as 'improving' or 'sustainable development' can be subjective in their meaning. Regeneration organisations should express the purpose for which they are established in language that has enough certainty to avoid confusion or multiple interpretations.

For further information, and guidance on drafting or assessing purposes, refer to the *Purposes and public benefit toolkit*.

3.2.1 Model purpose

Below is a model regeneration purpose that includes a large number of sub-clauses. This is intended as a guide only. It is unlikely that an organisation will find that every sub-clause is relevant to it. Equally, an organisation may draft clear purposes, that are exclusively charitable, without using the model purpose below.

"The promotion, for the benefit of the public, of rural or urban regeneration in areas of economic, physical and social deprivation (and in particular [specify area]) by all or any of the following means:

- (a) the relief of financial hardship
- (b) the relief of unemployment
- (c) the advancement of education, training or retraining, particularly among unemployed people, and providing unemployed people with work experience

- (d) the provision of financial assistance, technical assistance or business advice or consultancy in order to provide training and employment opportunities for unemployed people in cases of financial or other charitable need through help: (i) in setting up their own business, or (ii) to existing businesses
- (e) the creation of training and employment opportunities by the provision of workspace, buildings, and/or land for use on favourable terms:
- (f) the provision of housing for those who are in conditions of need and the improvement of housing in the public sector or in charitable ownership provided that such power shall not extend to relieving any local authorities or other bodies of a statutory duty to provide or improve housing
- (g) the repairing, renewing or provision of public amenities
- (h) the preservation of buildings or sites of historic or architectural importance
- (i) the provision of recreational facilities for the public at large or those who by reason of their youth, age, ill-health or disability, financial hardship or social and economic circumstances, have need of such facilities
- (j) the protection or conservation of the environment
- (k) the provision of public health facilities and childcare
- (I) the promotion of public safety and prevention of crime
- (m) such other means as may from time to time be determined subject to the prior written consent of the Charity Commission for Northern Ireland."

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Section 4: Applying the principles of public benefit to rural or urban regeneration

Set out below are examples of how the public benefit requirement may apply to an organisation with the purpose of promoting rural or urban regeneration.

The advancement of citizenship and community development, which includes the promotion of rural or urban regeneration, is a relatively new charitable purpose and, as such, has not been tested by the courts. However, we can look at how charity law deals with the way public benefit is demonstrated in similar cases to see how the principles of public benefit are likely to apply. The guidance below is not, therefore, a full interpretation of the law in every set of circumstances.

It is important to note that there are different types of organisation that may be established to promote rural or urban regeneration. How these organisations identify the public benefit flowing from their purposes is likely to differ.

4.1 Identifying your beneficiaries

In order to be charitable, an organisation concerned with the promotion of rural or urban regeneration must have purposes that would benefit the public or a section of the public. It is likely that the beneficiaries would primarily be those people living and/or working in the area of economic, physical or social deprivation which the charity seeks to regenerate.

For example, the beneficiaries of an organisation established to promote urban regeneration in an area of high unemployment would be unemployed people living in the area. Official government statistics relating to unemployment may be used as evidence of economic deprivation within the area.

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Below are some examples of the beneficiaries of an organisation established to advance rural or urban regeneration. It is important to note that providing a service to an individual or business does not mean that that individual or business is necessarily the beneficiary.

- Where an organisation provides workspace, buildings or land with a view to reducing unemployment:
 - An organisation seeks to benefit the unemployed by getting them into work. The unemployed in the area are its beneficiaries. It provides workspace and may specify that prospective tenants must be currently unemployed in order to benefit from the workspace. In this case, the tenants may be the beneficiaries of the organisation. Alternatively, tenants may be employed but
 - a) intending to leave their job and set up a business which will create employment opportunities or
 - b) be running a business that they intend to expand thereby creating new jobs and/or training opportunities.

There should, however, be an element of direct assistance to the unemployed as the beneficiaries of the organisation.

Providing financial, technical, or business advice or consultancy:
 Again, the beneficiaries are unemployed people in an area of high
 unemployment. Advice or consultancy services may be provided
 directly to beneficiaries, or, to employers or small companies in
 the area who want to expand and thereby create training and
 employment opportunities for the unemployed.

4.2 Identifying your benefits

Benefits must be clear and flow from the purposes. Examples of benefits that may flow from a rural or urban regeneration purpose include, but are not limited to:

- increased employment opportunities in a particular area
- better health and well-being amongst beneficiaries arising from being employed
- an increase in skills levels within a particular area

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- a reduction in crime rates
- an increase in the number of people in an area attaining useful qualifications
- greater political stability and social cohesion as a consequence of more people finding employment.

Benefits must be related to purposes and appropriate to those purposes. For example, if an organisation established to promote rural regeneration carried out activities to educate young people about the benefits of keeping fit, however beneficial this was, it would not necessarily be in furtherance of the charity's purposes and the benefits would not flow from the charity's purposes. Unless it was part of a job-related training course, this activity would be more suitable for an organisation established for the promotion of health.

4.3 Demonstrating the benefits

The benefit must be capable of being demonstrated, for example, through a survey, feedback from beneficiaries or government statistics. Ways in which organisations established to promote rural or urban regeneration could demonstrate the benefits flowing from their purposes include, but are not limited to:

- official government statistics, for example, the NISRA multiple deprivation measure
- through a survey of the residents in the area
- independent evaluation of a specific regeneration programme.

4.4 Purposes must be beneficial, not harmful

A purpose must be beneficial, not harmful. This means that any risk of harm must be outweighed by the benefits which arise from the purpose. A regeneration organisation would have to demonstrate how it assessed any potential risk of harm and how this risk could be mitigated.

For example, a proposed regeneration project may carry the risk of causing pollution which, in turn, could cause harm to local residents.

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The risk is mitigated through carrying out an environmental impact assessment and using the results of the assessment to mitigate pollution. The assessment would need to find that, overall, the benefits outweigh the potential harm.

4.5 Private benefit must be incidental

Regeneration projects may provide a likelihood of private benefit to business and property owners in an area that is being regenerated. Any private benefit must, however, be necessary to achieving the purposes of the organisation and no more than incidental to it. It is particularly important that organisations established for rural or urban regeneration can account for any private benefit that may flow from the purposes of the organisation.

- An example of private benefit that is likely to be acceptable:
 A regeneration organisation has a purpose to regenerate rundown buildings of historical interest and open them for educational purposes. This may lead to an increase in tourism and benefit local hospitality providers. This is an incidental by-product of the purpose, not a purpose in itself, and is likely to be acceptable.
- An example of private benefit that is not likely to be acceptable: Another regeneration organisation has a purpose to regenerate a specific building in order to establish a community regeneration hub. However, the building is owned by a local landlord and the organisation's lease on the building is limited to 15 years with no opportunity for renewal. The private benefit to the landlord is not likely to be assessed as an incidental by-product of the purpose and is not likely to be acceptable. This is because, with such a short lease, the landlord would stand to reap the benefits of the organisation's work when taking back the improved building.

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Glossary

Term	Definition
Activities	We use this term when talking about what organisations do in order to carry out their purposes.
Beneficiaries	A legal term for a person, group of people or an entity (like a charity) eligible to benefit or receive assets from a charity's work. The beneficiary group of a charity will be defined in the charity's governing document. Beneficiaries may sometimes be called clients or service users.
Charitable company	This is a charity which is formed and registered under the Companies Act 2006 or a charity that was already established under previous companies legislation. It is registered with Companies House. Its governing document is its articles of association and it has its own legal identity. It must be established for exclusively charitable purposes.
Charitable purpose	 This is defined by section 2 of the Charities Act (Northern Ireland) 2008 as one that: falls under one or more of the list of 12 descriptions of purposes set out in section 2(2) of the Charities Act; and is for the public benefit. To be a charity, an organisation must have purposes which are exclusively charitable in law.
Charities Act (Northern Ireland) 2008	The Charities Act (Northern Ireland) 2008 is the main piece of legislation establishing the Charity Commission for Northern Ireland, setting out its functions and powers. References to 'the Charities Act' are to the Charities Act (Northern Ireland) 2008. The full content of the 2008 Charities Act can be found at www.legislation.gov.uk
	Not all of the sections of the Charities Act are in

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Term Charity trustees

Definition

operation yet. Details of those sections that are in operation are available on the Commission's website www.charitycommissionni.org.uk

These are the people who are legally responsible for the control and management of the administration of the charity. In the charity's governing document they may be called trustees, managing trustees, committee members, governors or directors or they may be referred to by some other title.

Some people are disqualified by law from acting as charity trustees. These disqualifications are set out in the Charities Act and broadly include but are not limited to anyone who:

- has been convicted of an offence involving deception or dishonesty, unless the conviction is a spent conviction under the Rehabilitation of Offenders (NI) Order 1978
- is an undischarged bankrupt or has made an arrangement with creditors
- has previously been removed as a trustee by the Commission or by the courts
- is subject to disqualification under company legislation.

To be a charity, an organisation must have purposes which are exclusively charitable in law. That means that each purpose must:

Exclusively charitable

- fall under one or more of the 12 descriptions of purposes set out in section 2(2) of the Charities Act; and
- be for the public benefit.

Even if all but one of an organisation's purposes are charitable, it would not be considered to have exclusively charitable purposes and would not be registered as a charity. Further information can be found in the Commission's Public benefit requirement statutory guidance.

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Term	Definition
Helper groups	A number of groups and umbrella organisations have volunteered to provide support to individual organisations. This support will vary depending on the ability and remit of each helper group and can range from providing access to a scanner or the internet to providing guidance where resources and time permit. See our website for more information www.charitycommissionni.org.uk
Private benefit	There is private benefit where an individual or an organisation gains from their involvement with a charity. In some cases it may be proper for such a benefit to arise; in some cases not. Charities can provide private benefit so long as the benefit is incidental, ie it directly contributes towards achieving the charity's purposes and/or is a necessary result or by-product of carrying out those purposes. An example of a private benefit would be where there is an increase in profits to local businesses as a result of charitable regeneration projects which is a necessary by-product of those projects being carried out.
Public benefit requirement	This is the legal requirement that the purposes of an organisation must be for the public benefit if it is to be registered as a charity in Northern Ireland. By law, charity trustees must have regard to the Commission's Public benefit requirement statutory guidance.

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Useful contacts

There are many resources that charity trustees can use to help them carry out their duties. This is not a definitive list of all the sources of information available. We would encourage trustees to make use of the wide range of organisations that can help them run their charity as effectively as possible.

Charity
Commission for
England and Wales
(CCEW)

PO Box 211 Bootle L20 7VX

Telephone: 0300 066 9197

Website:

www.gov.uk/government/organisations/charity-

commission

Companies House

Second Floor The Linenhall

32-38 Linenhall Street

Belfast

Northern Ireland

BT2 8BG

Telephone: 0303 1234 500

Website: www.companieshouse.gov.uk

Department for Communities

4th Floor

Nine Lanyon Place

Lanyon Quay

Belfast BT1 3LP

Telephone: 028 9082 9424

Website: www.communities-ni.gov.uk

Department for the Economy

Adelaide House

39-49 Adelaide Street

Belfast BT2 8FD

Telephone: 028 9052 9900

Website: www.economy-ni.gov.uk

HM Revenue and Customs (HMRC)

HM Revenue & Customs

Charities, Savings and International 2

HM Revenue and Customs

BX9 1BU

United Kingdom

Telephone: 0300 123 1073

Website: www.hmrc.gov.uk/charities

Northern Ireland Statistics and Research Agency (NISRA) 2-14 Castle Street

Belfast BT1 1SA

Telephone: 028 9034 8112 Website: www.nisra.gov.uk

Northern Ireland Council for Voluntary Action (NICVA) 61 Duncairn Gardens

Belfast BT15 2GB

Telephone: 028 9087 7777 Website: www.nicva.org

Volunteer Now

129 Ormeau Road

Belfast Co Antrim BT7 1SH

Telephone: 028 9023 2020

Website: www.volunteernow.co.uk/

Useful links and guidance

Charity essentials - view all guidance produced by the Charity Commission for Northern Ireland

Code of good governance

Purposes and public benefit toolkit

Registration support

Running your charity - guidance

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If you disagree with our decision

If you disagree with one of our decisions, we would like to reconsider it ourselves in the first instance. Our decision review procedure offers a genuine opportunity for our decisions to be looked at afresh. If you ask us to review a decision, where possible we will refer the matter to someone who did not make the original decision. You can also seek a review from the Charity Tribunal.

If you are dissatisfied with our service

The Commission is committed to delivering a quality service at all times. However, we know that sometimes things can go wrong. If you are dissatisfied with the service you have received, we would like to hear from you, and have a procedure that you can use. You will find further information on these processes in our guidance, *Making a complaint about our services*, which is on our website www.charitycommissionni.org.uk

Freedom of information and data protection

Data Protection

The Charity Commission for Northern Ireland is responsible for registering, regulating and reporting on the charity sector in Northern Ireland. As the charity regulator, we are lawfully required to collect and process personal data in order to achieve our statutory objectives, functions and general duties.

Any personal data you give us will be held securely and in accordance with data protection rules and principles. Your personal details will be treated as private and confidential, and will only be retained for as long as is necessary in line with our *retention policy*. The information will be safeguarded and will not be disclosed to anyone not connected to the Commission unless:

- you have agreed to its release,
- the Commission is legally bound to disclose the information
- the Commission regards disclosure as necessary in order to properly carry out its statutory functions

The Commission may also disclose information or personal data to other relevant public authorities where it is lawful to do so and where, for the purposes of national security, law enforcement, or other issues of overriding public interest, such disclosure is necessary.

We will ensure that any disclosure made for this purpose is lawful, fair, considers your right to privacy and is made only to serve the Commission's statutory objectives as a regulator.

When you provide the Commission with information used to carry out its functions, you are obliged to comply with section 25 of the *Charities Act (Northern Ireland) 2008* which means that it is an offence to provide information which is false or misleading. In respect of your personal data we expect any data which you give us to be truthful, accurate and up-to-date.

For further information, you may wish to read the Commission's *Privacy notice* which details what to expect when the Commission

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collects and processes personal information, including your rights in relation to that processing if we hold your information.

Freedom of Information

The Freedom of Information Act 2000 gives members of the public the right to know about and request information that we hold. This includes information received from third parties. If information is requested under the Freedom of Information Act we will release it, unless there are relevant exemptions. We may choose to consult with you first. If you think that information you are providing may be exempt from release if requested, please let us know.

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Further information on our activities is available from:

Charity Commission for Northern Ireland 257 Lough Road Lurgan Craigavon BT66 6NQ

www.charitycommissionni.org.uk

Email: admin@charitycommissionni.org.uk

Tel: 028 3832 0220 Fax: 028 3832 5943

Textphone: 028 3834 7639

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