



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Standards, Procedures and Public Appointments Committee

**Thursday 29 September 2022**

**Session 6**



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**STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE**  
**18<sup>th</sup> Meeting 2022, Session 6**

**CONVENER**

\*Martin Whitfield (South Scotland) (Lab)

**DEPUTY CONVENER**

\*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

**COMMITTEE MEMBERS**

\*Edward Mountain (Highlands and Islands) (Con)

Collette Stevenson (East Kilbride) (SNP)

\*Alexander Stewart (Mid Scotland and Fife) (Con)

\*attended

**CLERK TO THE COMMITTEE**

Katy Orr

**LOCATION**

The Sir Alexander Fleming Room (CR3)



## Scottish Parliament

### Standards, Procedures and Public Appointments Committee

Thursday 29 September 2022

[The Convener opened the meeting at 09:30]

#### Decision on Taking Business in Private

**The Convener (Martin Whitfield):** Good morning. I welcome everyone to the 18th meeting in 2022 of the Standards, Procedures and Public Appointments Committee. I have received apologies from Collette Stevenson, who is unwell today.

Agenda item 1 is a decision on whether to take agenda item 3 in private. Do members agree to take that item in private?

**Members indicated agreement.**

## Correspondence (Proxy Voting)

09:30

**The Convener:** Agenda item 2 is about proxy voting, which the committee has been looking at for a long time. We have now received correspondence from the Parliamentary Bureau and the Scottish parliamentary Labour Party in relation to proxy voting.

Today, I would like us to have our final discussions on where we stand on proxy voting, in the hope that, in the near future, we can propose a temporary scheme, which we can invite members to take on for a period of time. As I said, we have received two letters from interested parties—one from the parliamentary Labour Party, which seems very much in support of proxy voting, and a longer letter from the Parliamentary Bureau. Are there any comments before we start? After any comments, I think that we should work through the letters so that we can delve into some of the questions that we will need to resolve before coming up with a scheme.

**Edward Mountain (Highlands and Islands) (Con):** I find unhelpful the suggestion in the letter from the Parliamentary Bureau that pairing might be used as an alternative to short-term proxy voting. Last year, when I was paired for a good proportion of time, I felt that my vote did not count. If a member wants to exercise their vote, I do not think that pairing is an acceptable option, because the member is there to represent their constituency and it is unhelpful if they cannot vote and are only paired. That is why we came to look at proxy voting in the first place. I think that that suggestion from the bureau is unhelpful and I hope that the committee will consider it irrelevant to the proposal that we are putting forward.

**Alexander Stewart (Mid Scotland and Fife) (Con):** I acknowledge and understand the importance of the issue, because it has been raised in the past and there is no doubt that there are views about it across the chamber and the bureau. The fact that we are looking at the possibility of creating a pilot is encouraging, because that will give us the opportunity to look at the criteria for and the duration and flexibility of the whole process. I am glad that we have got this far, although I acknowledge that there is still some way to go to try and meet people's views and opinions in the middle.

As a starter for 10, I think that we are going in the right direction and that proxy voting will enhance and support MSPs as we go forward. I am sure that there will be different views and opinions about all of that, but I think that the consensus at the end of the day will mean that we

will end up with a proxy voting system of some kind that will support individuals who need it, and I am content to see that progress.

**Bob Doris (Glasgow Maryhill and Springburn) (SNP):** Edward Mountain raised an interesting point, because there is also a discussion around how we define “illness” in the first place, as well as “short-term illness”. The Parliamentary Bureau makes a reasonable point in relation to proxy voting not being brought in for a day here or there, but as a planned approach to supporting members to exercise their democratic vote by using a colleague as a proxy in the Parliament. With a pre-planned or predicted absence, it is reasonable to assume that a person might not necessarily be absent for four weeks or so, and it seems perfectly reasonable for a proxy to be put in place. The idea of having a proxy for months is too unwieldy.

We also need to think about fluctuating health conditions that mean that, due to illness, someone is unlikely to be able to effectively perform all their parliamentary duties. However, people have good days and bad days, so I think that, when someone agrees a proxy, they should be able to take back ownership of their vote from time to time, when they feel that they can. There might be a particular debate that they have a specific interest in and for which want to make every effort to be there, whether remotely or otherwise, and cast their vote.

I think that proxies have to be a two-way process, where a member is not just giving up their vote for a set period of time. There should be a mix. Of course, how we codify that is the challenge, convener, but I think that a member who has been given a proxy for a period of months should be able to cast their vote in a specific debate if it is particularly important to them and they feel able to do so.

**The Convener:** That is very helpful. Thank you.

Let us deal with the pairing question first. A pairing is an agreement between political parties rather than individual MSPs. For MSPs, the role of a proxy is much more personal; it is about choosing someone you trust to exercise your vote.

It is interesting that the bureau acknowledges the fact that proxy voting would be far more transparent than pairing, which appears on no record anywhere. To echo what Edward Mountain said, pairing arrangements are all made in private, behind the scenes. The important element from a constituent’s point of view is whether the MSP who represents them has cast a vote on their behalf. In proxy voting, you can see that and it remains on the record for ever.

I whole-heartedly agree with Alexander Stewart about the support that exists across the chamber for the principle of proxy voting but, as always, it is

about the detail; people chop and change, and they may wear different hats at different times.

I agree with Bob Doris that one of the significant areas where there are challenges in getting universal acceptance is in relation to illness. I do not think that it is for a proxy scheme to define “illness”. The people who ask to use the facility of a proxy will be MSPs, who are bound by the code of conduct and by the responsibility that they have to themselves, their constituents and this Parliament. I have a great deal of confidence that MSPs in this parliamentary session will exercise that responsibility properly, but there would be nothing wrong with the scheme highlighting and reminding members of the importance of voting, because, of all the actions that take place in the Parliament, casting your vote is the one that makes the most difference.

I agree with the point about the length of time. The drafting of the scheme will happen behind the scenes, with the clerks, and I agree that that part will no doubt be a challenge. However, the scheme needs to be flexible and it needs to sit within a structure of understanding, so that both the person who wishes to exercise a proxy vote—to approach another member to ask them to be their proxy—and the person who accepts the proxy vote know what the expectations are around that.

We have had a bit of a discussion about length of time in relation to illnesses. I wonder whether it would be easier to understand if we did not define the level of illness that would allow someone to cast a proxy vote but said that if a member feels that they have a serious illness and cannot cast their vote, they should be able to exercise a proxy vote with the consent of the Presiding Officer. Would that be satisfactory?

**Alexander Stewart:** Yes, convener—I think that that would satisfy some of the elements in relation to having some clarity around a definition.

We do not anticipate that a large number of individuals will fall into that category. Only a minority of MSPs will require that facility. Whether that is for a short time or a longer time will depend on the circumstances that they find themselves in. I believe that it is important to get clarity, and the Presiding Officer will have a role to play in ensuring that such a scheme is managed effectively.

**Bob Doris:** In relation to the definition of “illness”, I am fine if the member feels that they have a serious illness; I am just conscious of members’ right to privacy in relation to their health. It could be that a member has a mental health issue or an underlying health condition that, for privacy and dignity reasons, no one else is aware

of. It could be a life-threatening or life-shortening condition.

I am a little bit nervous about how we protect members. For example, a mental health condition would not mean that the member would have to stay at home and do nothing. They would still be allowed to try as best they could to get on with their life. There is a challenge with the public perception of how we support members who have a serious illness to get on with their lives as best they can, even if it is understandable that they will not be able to be at their work for a period.

**The Convener:** That is why I mentioned it both in the debate and previously. The issue is with events that mean that an MSP needs to step away from being an MSP for whatever reasons. Those reasons should never be made public. The MSP would approach the Presiding Officer, who is an MSP and whom we elected. The final decision should rest with the Presiding Officer—not in the role of a doctor or counsellor but simply in the role of Presiding Officer—if an MSP goes to her and explains that they would like to exercise a proxy vote for whatever reason.

MSPs are expected to keep high standards and they set themselves high standards. There should be no need for medical notes or additional doctors. That would be to treat the situation entirely wrongly. We have a duty of care to members, as we have to everyone, which extends to trusting what they say about their health.

**Edward Mountain:** I agree with Bob Doris on that. I took my oath remotely because I could not come into the Parliament. I had a discussion with the then Presiding Officer about that beforehand. He was aware of the situation but no one else knew about it. We need somehow to get across to members the point that the Presiding Officer has a pastoral duty to MSPs and that they should have the confidence to speak to her.

**The Convener:** Absolutely. Perhaps reminders of the Presiding Officer's role and responsibilities, which are always helpful, would form part of the guidance for the scheme.

Another matter that has come up is that there seems to be strong agreement that periods of maternity and paternity leave should be covered by proxy voting. That is common sense. It is where proxy voting in relation to public affairs started.

There is some disagreement about the period of time that should be covered but, following on from what Edward Mountain said, that is a discussion for the member to have with the Presiding Officer. It is wrong to set an arbitrary period that cannot be extended. There is nothing wrong with having guidance about the period of time, but we need to respect the fact that people are individuals and circumstances affect individuals differently. If we

cannot be flexible enough to do that, I would be disappointed.

The other area that has been discussed—rightly so—is adoption. In essence, a member is taking a new person into their family. That would be expected to be covered. Obviously, sadly, bereavement also needs to be covered, albeit that it is a sensitive issue and flexibility is needed in dealing with it.

Are we content for those areas to be covered for the trial period, at least?

**Bob Doris:** I note that the correspondence that we have says:

“the Bureau was broadly agreed that mirroring statutory parental leave arrangements would be appropriate.”

We have to go beyond that. I could be wrong, but I think that statutory parental leave for fathers is two weeks. There is still a gender bias through inequality in society, but I hope that, in the Parliament, there would be an expectation that fathers should strive as much as possible to be equal partners in parenting their children. Two weeks might just not cut it. That is another example in which someone might want to use their proxy sparingly but, because of family circumstances, they might need to use it.

09:45

It is the same for mums. They are not ill; they are a new parent, and new parents are trying to balance everything out. There is a need for flexibility. However, if we are going to put a time period on parental leave, it should not be the statutory parental leave period—not for fathers, anyway.

**The Convener:** I agree, and I am conscious that, if a male MSP wanted to take maternity leave—in the way that it can be shared, now—that block of two weeks for parental leave may cause problems. That is why I am relatively comfortable about allowing flexibility, with guidance, because I genuinely do not believe that any of this session's MSPs would try to abuse that in any way, shape or form.

On what you said about those first two weeks, Bob, it is crucially important that, when a new child comes into the world, both parents, where they are available, play absolutely every part in making sure that that is as easy as possible for each other.

**Bob Doris:** It is worth noting that MSPs will also have that conversation with their parliamentary parties. Discussion has to take place within parliamentary groups, and agreement reached there. However, a proxy vote is different; it is an individual arrangement between an MSP and the Presiding Officer.

Perhaps I used the wrong expression when I spoke about “parental leave”. A lot of new parents—myself included—want that leave in order to devote themselves completely to their children. Others want a balance. There will be days on which they wish to make alternative arrangements to allow them to be more actively involved in the life of the Parliament. Sometimes, that will not be possible. I echo your comments about flexibility, convener. Every case is individual; everyone has their own home circumstances.

**The Convener:** Yes. Thankfully, at this stage, because of the hybrid nature of the Parliament and remote voting, there are a number of ways in which a member can exercise their vote. Proxy voting is about a very small number of members, as Alexander Stewart said; however, having that discussion, and having their vote cast and recorded as they want, is a very important facility.

Does anyone want to raise anything else from the letters?

**Edward Mountain:** I noticed something in the letter from the Parliamentary Bureau. I know that it is not going to happen, but I am a great one for making preparations in case a thing does happen. The bureau talks about the possibility of a proxy vote being incorrectly used and about whether we ought to have some sanction for that. I believe that that will never happen. However, if it does, that will be a serious breach of standards of conduct. If possible, I would like the clerks to think about whether that is covered by the “Code of Conduct for Members of the Scottish Parliament”. Personally, I think that we ought to write something in there to say that a breach of the use of the proxy will make a member fall foul of section whatever-it-is in the standing orders. I have not looked it up—I apologise.

**The Convener:** If the relationship between the person who grants the proxy and the person who casts it was abused in that way—albeit never to prejudge a situation—the requirement in the code of conduct not to be discourteous or disrespectful would seem to apply fully fairly and squarely. The relationship between the person who holds the proxy and the one who has granted it has to be based on trust. That is one of the fundamental principles of the Parliament. I imagine that there would be comeback, probably in many forms.

Similarly, in situations both in this session and in previous sessions where a vote has been cast in the wrong way, it has always been available to a member to put their intent on the record, through a point of order. Obviously, that does not change the count of the vote at the time, because of the need for certainty.

**Edward Mountain:** We could say that the committee believes that that part of the code of

conduct would be breached if the person knowingly did that.

**The Convener:** Yes.

**Bob Doris:** That draws attention to the responsibility on the person who casts a proxy vote. They will have a responsibility not only to cast it as directed. There are situations in which business in this place changes quite quickly as events change, and there will be times when the fact that someone has asked someone else to be their proxy puts time constraints and burdens on that person to keep the relationship with the person for whom they are voting going and to make sure that it is not a case of out of sight, out of mind, and that they do not assume, “I know how my colleague would have voted, so I’ll cast it that way.”

Therefore, when we draw up guidance or rules and regulations on the matter, perhaps we should say something about the responsibility of the person who casts a proxy vote, because it could be a burden on them time-wise to make sure that, on appropriate occasions, they check with the person for whom they are casting the proxy vote that they have accurately gathered their views on how they wish to vote.

I think that the issue of whether someone should be able to have a proxy vote for more than one person is also worth considering. Although nothing has been put in place to prevent it, ideally it would not happen, because we would not want there to be a perception of block voting. I do not think that that would be the perception, but although there might be nothing to preclude one person holding more than one proxy, it might not be ideal.

**The Convener:** It is interesting that you make those two points at the same time. We know that, with stage 3 amendments, there will not be time to pop out and have lengthy phone calls about how to exercise a proxy vote. The responsibility is based on a relationship of trust.

In relation to how many proxies members can hold and whether they are doing the right thing by holding more than one, we heard very strong evidence that proxy voting must not be used to create a block vote, which has happened in other Parliaments. I do not think that we heard any evidence in support of block voting. Indeed, some people who were able to vote in that way were adamant that they did not want to have the ability to exercise a block vote. I agree on that.

Mention has been made of people not being able to have a proxy vote for more than two members. Given the current set-up of the parties and the fact that there are no independent members in Parliament in this session, that would work for all the parties. Certainly for the trial period, two seems to be a sensible number. It



might be the case that someone who holds two proxies says that it is just too hard and that it should be possible to hold only one. We can look at that at the end of the session.

**Alexander Stewart:** In its letter, the bureau also discusses the practical operation of the digital voting system which, as we know, we have had difficulties with in the past. It was said to be “robust”, but that was not always the case. There might be an opportunity for the digital system to be developed in such a way that it could enable proxy voting to be incorporated. The fact that that is being looked at is to be welcomed, because that would provide a bit more trust in the system.

The digital voting system has a part to play in how the process will progress.

**The Convener:** That is helpful. The committee has strongly backed iterative change with regard to the development of hybrid meetings, and it would be helpful if the trial were to incorporate something that could be looked at in that regard as matters progress.

**Edward Mountain:** The final issue is the operation of proxy voting. You might want to lead off on that, convener. I would be interested to hear your views on the mechanics of how it would work. I am sorry—I have reversed things. After hearing from you, I will be able to give my views.

**The Convener:** I know that discussions have taken place about that. The simplest procedure that I have heard discussed is that, during a vote, the person who holds a proxy vote will cast their own vote. Once the voting period is over but before the votes are counted, they will pop up to make a point of order, in which they will point out to the Presiding Officer that they hold a proxy vote and will say how they want to exercise it. Having previously ruminated on a million and one ways in which it could work, when somebody suggested that procedure, it seemed so simple, because that is what we do now if any of the technology should fail during the voting period. Therefore, not only are people in the chamber used to it, but it confirms separately, on the record, how the proxy was exercised. For the purposes of the trial, that is a relatively straightforward, simple way to do it.

**Edward Mountain:** In my mind, for a normal decision time, that absolutely works. However, when we have the complicated procedure of a stage 3 debate, in which we could have amendment after amendment, it might be useful for members to have a duty to forewarn the Presiding Officer—or the person in the chair—that they will have a proxy vote. We need to work out a way that means that members do not have to pop up every 30 seconds after every vote to make a point of order. I do not know the answer to how we do that, but it is a matter of courtesy that, at some

stage, for each vote, the member who holds the proxy should remind the Presiding Officer that they hold the proxy for that individual.

**The Convener:** I certainly think that that is helpful and, of course, having, in essence, granted the proxy in the first place, the Presiding Officer will be aware of that.

I hear what you say about stage 3 proceedings but, despite the chaos that sometimes ensues when we have problems with the voting apps—even in the chamber, if members happen to be in one of those down spots—a very small number of points of order are made, even during stage 3 proceedings, so I am not sure that it is a massive inconvenience.

**Edward Mountain:** Convener, I accept take your point, although I dispute that there is ever chaos in the Parliament.

**Bob Doris:** I am maybe being slightly flippant about a serious and important subject, but there is some new technology involved, which is called pen and paper. If there has to be a trail, heaven forfend that an MSP could not have relevant voting slips to pass to the Presiding Officer as and when they are required. If there are 100 amendments, 100 points of order can add quite a lot of time on to business in an afternoon. It is not for us to decide on that this morning but, sometimes, old technology can work just as well.

**The Convener:** That is interesting. I mean no disrespect, but I have never envisaged the proxy voting happening just in the chamber. I was thinking of people who, at present, are joining through BlueJeans and making their point of order afterwards. How strange that is. There is a change or difference of experience in this place.

**Bob Doris:** Yes, absolutely.

**The Convener:** I agree and I think that we need to look at that and possibly discuss it further. People talk with dread about such situations, because of the various planning bills and traffic regulations in the past. Are there any further comments about the letter or are we happy for the trial to be not less than 12 months? I think that we need to have enough data to decide how we go forward. We are talking about the eligibility for a proxy vote including maternity, paternity and bereavement leave. Are we happy with the phrase “serious illness”? Do we want just “illness”?

**Edward Mountain:** I think that “illness” is sufficient, because it puts the expectation on to the members to explain to themselves that it is a serious illness, rather than having to explain to anyone else.

**The Convener:** Okay.

**Bob Doris:** I am sorry for prolonging the conversation but, with regard to parental leave, we do not know members' personal circumstances. Members could become foster carers or adoptive parents for the first time, so would "parental" be a catch-all term for that?

**The Convener:** I agree with you about the use of any statutory definition of time in relation to holding a proxy vote for parental leave. I wonder whether it comes to how long the proxy should exist for. Are we looking at a period of time? It could be that, once a member has a proxy, all proxies last for the same period, albeit with flexibility on an individual basis, which we have talked about, as well as the opportunity for it to be extended—subject to the consent of the PO, who grants the right for the proxy in the chamber. Bob, would that give you more comfort than trying to define it into a statutory—

10:00

**Bob Doris:** I apologise, convener. Perhaps I did not take my point articulately enough. You said "maternity" and "paternity", so I wanted to make sure that eligibility covers all forms of family relationships—not just the birth of a child but a situation in which a member becomes a foster carer or adoptive parent for the first time.

**The Convener:** That was my mistake. Absolutely, I think that eligibility should cover that situation. I also think that we should mention that it should cover bereavement. Again, those situations do not require members to take up a proxy vote, but there would be an opportunity to do so if they wish.

Should the proxy last for four weeks, with the option for that to be extended? Should the flexibility of that be a matter for discussion between the member and the Presiding Officer?

**Edward Mountain:** I like to feel that the relationship between each member and the Presiding Officer should be such that members have the confidence to speak about that to the Presiding Officer. An initial four-week period for the proxy, which can be extended if the member speaks to the Presiding Officer again, allows the Presiding Officer to exercise their pastoral care of the individual. I really believe that that is important and I also think that it is important for the member to continue to feel engaged and wanted by the Parliament. I am keen on a four-week period, but it should not be limited. For example, maternity leave is 26 weeks, and members can extend that by another 26 weeks to 52 weeks if they have been employed for a certain amount of time beforehand. I do not believe that the proxy vote should be limited in that way. We should trust the Presiding Officer and the members to behave in a

way that is appropriate, and I am sure that they will.

**The Convener:** As you said, we should ensure that that engagement continues. Are we content with that?

*Members indicated agreement.*

**The Convener:** The verification process—or, in other words, how the proxy vote happens—really needs to be discussed with the Presiding Officer's office as well, but we are content that the Presiding Officer should grant the proxy, albeit that an administrative process will sit underneath that.

**Edward Mountain:** Absolutely.

**The Convener:** Excellent. I think that we are content that the person who grants the proxy should, as appropriate, be able to take back the vote for specific instances and that the scheme should be flexible in order to show that. With regard to the transparency, again, I am content with the fact that the Parliament will be aware that a proxy vote has been cast through the process of the member casting it, rather than anything more public than that happening beforehand. Obviously, the member might choose to explain what is happening, but I do not think that we need more than that. In relation to the application, I certainly do not think that we need anything other than the conversation between the member and the Presiding Officer. Are we content with that?

*Members indicated agreement.*

**The Convener:** As we have discussed, the last issue comes back to what happens when it goes wrong. There is a very high onus of trust and honesty on people when they become an MSP. I am quite taken by the suggestions from Edward and Bob to include something in the guidance to remind members of the high level of expectation on them and the fact that, when one member holds a proxy, the relationship of trust between two people goes above and beyond the role of the individual MSP.

**Bob Doris:** Yes, absolutely, convener. When I made my comment, it was not about trust—I hope that that is implied. However, yes, let us put something more formal about that in the guidance. My comment was more about reminding MSPs who hold the proxy vote about their responsibilities to stay in contact and have that on-going relationship with the person whose proxy they hold. Edward said that the Presiding Officer should make sure that people who are away from this place for a period of time do not feel forgotten and that on-going support is offered. The person who holds the proxy also has an important role to play in that.

**The Convener:** There may well be a role for the committee or for Parliament, if and when the trial

period starts, to give members the opportunity to ask questions about that and investigate it so that they both understand the obligation and see an opportunity that may make some situations easier for them to deal with.

**Alexander Stewart:** The dialogue must be there. We have already said that trust is vital. Communication between the member, the proxy and the Presiding Officer is also vital to ensure that everyone is aware of what their roles and responsibilities are and that everyone is being looked after. That is important, too.

**Bob Doris:** During the chamber debate that we had last week, I spoke about further consultation with members on proxy voting. I am not sure that I made it clear in the chamber, but I mean that there should be further consultation following a review of how the temporary rule change has worked, rather than that there should be another period of consultation before we make that move. I think that that is the situation. I want to be clear about that in my own head.

If that is the case, I wonder whether we should offer members the opportunity to give feedback on how it is going. That need not quite be in real time, but a year is quite a long time before we start engaging with MSPs about how that has or has not worked. I think that we should start to do some consultation work after a period of time, almost as an interim review.

I am conscious that, during the debate in the chamber, I spoke about further consultation with members. I am sure that members are keen to see the change happen, but we must ensure that we are taking all members with us and doing that as clearly and openly as possible.

**The Convener:** I think that that is very helpful. The procedure would be a temporary rule change, which would sit next to a short report from this committee that would go to the chamber to be voted on before the trial period would begin. I am slightly concerned that any member who wants to exercise a proxy might fear that the committee would be there the minute they choose to exercise it, watching them and asking how it is going.

**Bob Doris:** That is a fair point.

**The Convener:** I think that you are right that, during the trial period, the committee would welcome the evidence and opinions that come out and the views that members have. In that way, when the committee comes to review whether to continue the temporary rule change, that can be taken into account. We will need some flexibility, because we have no evidence about how it will work. It has never been done and I do not want to frighten away any members who may wish to exercise a proxy vote out of fear of the committee hugging their shoulders to see how it is going.

**Bob Doris:** That is a point well made.

**Edward Mountain:** It would also be helpful if the clerks could keep a record for the first year of the number of times that proxies are used. That would inform decisions about how to do that. I know it will be difficult to get that record retrospectively; it would be easy to do so at the time.

**The Convener:** A watching brief might be sensible. There might be some enthusiasm the first time it happens. We will wait and see.

I thank the committee for that discussion and thank those who have been watching. I now close the public part of the meeting.

10:08

*Meeting continued in private until 10:49.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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