JUSTICE 2 COMMITTEE

Wednesday 17 April 2002
(*Morning*)

Session 1

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CONTENTS

Wednesday 17 April 2002

JUSTICE 2 COMMITTEE

† 13th Meeting 2002, Session 1

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Bill Aitken (Glasgow) (Con)

COMMITTEE MEMBERS

*Scott Barrie (Dunfermline West) (Lab)
Mr Duncan Hamilton (Highlands and Islands) (SNP)
*George Lyon (Argyll and Bute) (LD)
*Mr Alasdair Morrison (Western Isles) (Lab)
*Stewart Stevenson (Banff and Buchan) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Des McNulty (Clydebank and Milngavie) (Lab)
Dr Richard Simpson (Deputy Minister for Justice)

CLERK TO THE COMMITTEE

Gillian Baxendine

SENIOR ASSISTANT CLERK

Fiona Groves

ASSISTANT CLERK

Richard Hough

LOCATION

The Chamber

† 12th Meeting 2002, Session 1—joint meeting with Justice 1 Committee.

Scottish Parliament

Justice 2 Committee

Wednesday 17 April 2002

(*Morning*)

[THE CONVENER *opened the meeting at 11:31*]

The Convener (Pauline McNeill): As we are quorate, we will begin. I welcome everyone to the Justice 2 Committee's 13th meeting in 2002. I have received no apologies for the meeting, but I received apologies from Alasdair Morrison for the joint meeting with the Justice 1 Committee.

Item in Private

The Convener: Do members agree that, on 24 April, we will discuss in private lines of questioning for evidence in our inquiry on the Crown Office and Procurator Fiscal Service?

Members *indicated agreement*.

Petition

Asbestos (PE336)

The Convener: Petition PE336 has become a regular feature of our agendas. Members will recall that, at our meeting on 27 March, we agreed to consider at today's meeting the evidence and the next steps. Considerable attention has been paid to the petition and I am grateful for committee members' input on the subject. We receive many petitions, but this petition is of the highest priority. If possible, we should focus on where we wish to go with it

Members have received helpful papers on the petition. I ask them to note a slight correction to paragraph 5 of the clerk's note, which should say that Lord Coulsfield decided against recommending a high degree of judicial case management.

The note shows that the petition raises many detailed issues. We will discuss the matter, but I suggest that, in the interests of speeding any action that the committee wishes to be taken, we might wish to prioritise the issues that Frank Maguire highlighted—the failings of the Scottish pleadings system and the need for more judicial intervention.

When we questioned Frank Maguire, I tried to find out what one action ought to be taken now. We know that several things need to be done, particularly in relation to Frank Maguire's proposed bill on the Fairchild decision. Other issues, such as the lack of a jury, have been raised and the Association of Personal Injury Lawyers has written to us about the time bar.

All those issues are important, but I suggest that we focus on whether the framework of the commercial court rules could be used, which I understand would require an act of sederunt. I am not clear about what that means. I am not sure in whose power producing such an act would be, or whether we have any power to do anything. Unless we have an explanation to the contrary, it seems that that is the path we should pursue, as it would cut down the opportunity for a defender to delay proceedings and give irrelevant answers.

Bill Aitken (Glasgow) (Con): There are a number of ways in which we could approach the difficulty, but they all have their downside. We must seek to implement changes as speedily and effectively as possible. Having given the matter considerable thought—we are all agreed that it is important—the only way in which we can take expedient action is through an act of sederunt. We need to establish the procedures for doing that and to obtain legal confirmation from those who are better qualified than we are that that is the

appropriate way forward. The bill proposed by Frank Maguire would be of value, but only in some cases. We are seeking to ensure that all such cases are resolved with greater expediency than at present.

I recommend strongly that we address the issue through an act of sederunt, because that could bring about a comparatively early resolution.

The Convener: I welcome Des McNulty to the meeting.

Stewart Stevenson (Banff and Buchan) (SNP): I add my support to everything that Bill Aitken has said. I, too, have considered the issue in depth—although with less background knowledge—and I think that an act of sederunt is the appropriate and most straightforward course of action.

Des McNulty (Clydebank and Milngavie) (Lab): I support the line that the committee seems to be taking. I would like there to be an arrangement analogous to that of the commercial courts, so that cases get similar priority, similar time scales apply and there is a similar system of judicial management. Those are the main objectives that I have in mind.

In the context of any correspondence with the judicial authorities, it might be useful to indicate that the committee is minded to move along the lines of introducing an act of sederunt, with the objective of meeting speedier time scales. That might spark some reaction on the authorities' side, which might be helpful to some of the complainants in asbestos cases. I am happy with that as long as it takes things forward. The complainants have waited a long time and many of them do not have a long time left, because of the onset of the disease. We have a responsibility to ensure that the legal system has no barriers to prevent them from accessing the money that is there for them.

Stewart Stevenson: We appear to be of one mind on this, so I wonder whether we can find a way of communicating to the insurance companies our determination to deal with the issue, if necessary by proceeding with an act of sederunt. Perhaps the clerks can help us with that. The insurance companies are advising the defenders and, from what we have heard so far, the insurance companies are the source of the difficulties. If we can communicate our determination, the companies might have an opportunity, in early course, to put their own house in order. There would be no harm in our doing so. Perhaps, with the threat of legislation hanging over them, the companies will see their way to taking early action.

Bill Aitken: I think that it could be assumed, without our having to communicate with the companies directly, that they will shortly be aware of this decision.

Stewart Stevenson: Yes, but the point that I am making is that we should be seen to be communicating actively with the companies. Doing so, rather than relying on their reading the record of our proceedings, would send a clear message.

The Convener: Point taken. I will ask the clerks to give us some guidance on what Stewart Stevenson's suggestion of an act of sederunt would entail.

Gillian Baxendine (Clerk): Acts of sederunt are matters for the Court of Session Rules Council, which the Lord President chairs. It would be for that council to decide whether amendments were to be proposed. We would therefore need to continue approaching the Lord President as we have been doing. The committee itself could not directly initiate the process.

The Convener: Do members agree with the suggestion that has been made on the action to be taken on this petition? I will go on to talk about the next steps, but I am keen for members to decide on their priorities.

Bill Aitken: I agree absolutely with the suggestion. There is clear consensus on the way that we want to proceed. We appreciate that the final decision will not be ours and will rest with the Court of Session. However, I feel that the court would acknowledge our concerns and am optimistic that it would take our ideas on board.

The Convener: Do members wish to hear from other parties? I would have thought that we might want to hear from the relevant person who deals with Court of Session rules. I am not clear about who would be the person to ask, but if members agree we could investigate.

George Lyon (Argyll and Bute) (LD): Have we had any unofficial contact with the rules council on what the attitude might be if we were to push for certain measures to be taken? Given that the decision is outwith our control, have we had any indication whether the council would be receptive?

The Convener: We have had a lot of correspondence with the Lord President. We wanted to clarify Lord Coulsfield's recommendations. We took some time to match up those recommendations with the issues that are raised in the petition—members received a full report on that in their previous set of papers.

We have been trying to find our way through a complex issue and find out what would be the point of making the suggested change. The decision we have come to is that, having heard from the petitioner, and having read the paperwork on how the commercial court works, that suggestion would be the best model.

Obviously, we would have to hear another point of view. As Bill Aitken rightly said, it is a matter not for the committee but for the court. We can only give a strongly worded view of what we think should happen. As I said at the beginning, Lord Coulsfield's report did not recommend anything specific.

George Lyon: The reason I ask is that we must have some indication of why the court has not already gone down that road, given that we have been considering the issue for the past few months.

11:45

The Convener: I can only presume that that is because there has been movement. That fact must be acknowledged, as well as the fact that Lord Mackay of Drumadoon has been appointed to consider that type of case. That was, in part, a response to the on-going debate.

The debate has been broad because the petition has raised other issues and there are also other issues in Lord Coulsfield's report. For example, there is the question of pursuers' offers. There is also the question of the Fairchild case, which is worrying because case law might not be helpful there, and there is a suggestion that new legislation to assist us with that might be needed. There is also the question of jury trials.

We are trying to get the petitioner to focus on the biggest stumbling block, which seems to be the written pleadings system. That is what we are trying to address.

Gillian Baxendine: All that we know about the case management issue is that it was considered by Lord Coulsfield. The report took the view that the time and effort required would be disproportionate to the benefit. It might just increase the burdens of the procedure. However, we have not pursued that point specifically with the Lord President because there was a wide range of questions. We could go back and ask some more questions.

The Convener: As I mentioned, there are other issues on which we need to make progress. We know what we want to do on written pleadings, so we can consider suggestions for calling witnesses on that subject.

It might be helpful if someone was willing to volunteer to work with me or to be a reporter on some of the other issues, so that we can ensure that we make progress on all outstanding matters. What about the deputy convener?

Bill Aitken: Okay. No doubt the *Official Report* will record the applause.

Stewart Stevenson: I will bring my hand out from under the desk.

The Convener: Thank you, Bill. You will be rewarded, I am sure.

Do members have anything else to say about the petition?

Des McNulty: The issue has been discussed for a considerable period of time in correspondence between the committee and the Lord Justice Clerk or the other judicial authorities about how it wants to progress. There is a strong sense of urgency among victim groups and victim representatives. They did not get the opportunity to speak at the last meeting when Frank Maguire gave evidence on the legal issues on their behalf.

There is a sense that those people have been continually frustrated by the courts and by successive developments within the insurance industry and the operation of defendants of such cases. It would be welcome if the committee was to maintain a focus on the urgency of trying to get a rapid solution. Those people would appreciate that, and it would be appropriate in the context of the time that they have had to wait.

The Convener: I assure you that that is what the committee has done from the beginning. I cannot emphasise that strongly enough. Of all the petitions that we have received, this one has been given the highest priority. We are very aware of the frustrations of the people concerned. That is why we have focused on how we may be able to do the most good. Now that the committee has agreed on what it wants to do, we will make progress.

In the course of taking evidence and getting more information, do members wish to hear from any of the defenders?

Members *indicated agreement.*

Bill Aitken: Might the proper approach be to contact the Association of British Insurers?

The Convener: There seems to be no dissent from that, so we will see whether we can get someone to address us on the issue.

I thank Des McNulty for attending the meeting.

Subordinate Legislation

Police Grant (Scotland) Order 2002 (SSI 2002/116)

The Convener: Under agenda item 3 we have two pieces of subordinate legislation to deal with, the first of which is the Police Grant (Scotland) Order 2002. I refer members to paper J2/02/13/2, which gives background information on the order. If members have no comments, the order can simply be noted.

Stewart Stevenson: I realise that Richard Simpson may not have come prepared to answer it, but I have a question that I would like to ask.

My question relates to the handling of the 2.5 per cent retention, which, in essence, rolls 2.5 per cent of one year's budget over into the next year's budget. It does so quite arbitrarily and I would be interested to know the history of the process. I wonder whether the process is appropriate, given the way in which end-year flexibility is now dealt with.

The Convener: My understanding is that we would not ask the minister to answer questions on this type of instrument. However, we can of course compile a report. Is that correct?

Gillian Baxendine: We could write to ask for clarification on that specific point.

Stewart Stevenson: My question is not intended to be obstructive; it comes from a genuine desire to find out whether, given the way in which EYF is now operated, a locked-in and arbitrarily fixed proportion should be treated as it is treated. That is all that there is to the question. In other respects, I am perfectly content with the instrument—and I do not wish to hold it back just because I have not yet had the answer to the question.

Bill Aitken: Stewart Stevenson raises a valid point, but the easiest way to deal with it would be through correspondence.

Stewart Stevenson: I think that that is what we will do, because I am not seeking to hold the order back.

The Convener: I am happy for the committee to write for clarification because I am very much in favour of investigating issues that arise; the last thing that we should do is simply to nod things through. If issues arise, we should be sure that we are clear about them.

Perhaps the clerks could clarify another point. In the Police Grant (Scotland) Order 2002, issues arise over why some figures have increased and others have not increased. I presume that such issues will be dealt with through the budget process and not through consideration of this statutory instrument.

Gillian Baxendine: They can be dealt with in either way, although they are certainly relevant to the budget process.

The Convener: Bearing in mind Stewart Stevenson's comments, is the committee happy to note the order?

Members *indicated agreement.*

Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2002 (SSI 2002/107)

The Convener: The second instrument before us is the Prisons and Young Offenders Institutions (Scotland) Amendment Rules 2002. I refer members to paper J2/02/13/3, which sets out the background.

In addition to that paper, members will have received this morning additional information from the Scottish Executive on the development and implementation of the prisoner supervision system. There is a lot in the regulations and—who knows—perhaps it is all for the greater good. I am not happy that we received the note this morning when I have been going through my papers for the past couple of days. The instrument is important, and I am not entirely clear where the need for the rules has come from, although the note explains in some detail what they are all about.

We should have had a note explaining precisely why the category of prisoners is being changed from the one that we understand to a new category. I am sure that there are good reasons, but I do not understand why we do not have a note explaining why the change has come about.

Stewart Stevenson: My understanding is that the change in category is an attempt to differentiate between the risks associated with a prisoner while he or she is in custody and the risks that might apply while the prisoner is outwith the prison—either attending hospital, court or of his or her own volition. That is fair enough.

However, I did not find out that information from the document in front of me, but through other means. I therefore share the convener's discomfort about the way in which the rules have been presented to the committee. Although I do not wish to impede the progress of the rules, that point should be made to the minister.

Bill Aitken: There is no real need to deal with the matter today. Once again, we are being hit with documentation at the last moment without time to absorb the information. I suggest that the matter is continued and we should correspond

with the Scottish Executive to obtain the further information that we require to make a determination on the matter.

Stewart Stevenson: I will not disagree fundamentally with Bill Aitken, except to observe that the rules came into force on 1 April.

The Convener: The committee is required to make a recommendation to Parliament by 22 April.

Stewart Stevenson: That is next week.

Bill Aitken: That is highly unsatisfactory.

The Convener: Although the rules do not seem to be particularly controversial, I want to be meticulous and understand the reasons for the rules. It is only by understanding those reasons that we, as the lead committee with a bit of expertise, can make any proper comment that Parliament might want to hear. It is our job to scrutinise the rules.

We have made the same comment in previous meetings—we are unhappy about having to recommend regulations that have either been laid before or about which we do not have enough information. That situation does not seem to change.

Scott Barrie (Dunfermline West) (Lab): I appreciate that the committee is discussing the issue at the moment. However, I understand from the note from the clerks that the rules can be annulled until 1 May. Why then does the motion have to be laid before 22 April? It is open to anyone else to lay the motion—it does not have to be a member of the committee. Any member of the Parliament can lay a motion and then we would have to discuss it.

Gillian Baxendine: We have been given until 22 April to report on the rules. That is to allow time for the business bureau to consider the matter and for any motion to be put before Parliament if necessary. That is why we are asked to report ahead of 1 May.

Stewart Stevenson: I need clarification, because I cannot recall the details. Was that timetable included in the business bureau motion that allocated the instrument to the committee? Has the Parliament—including the committee—bound its hands on the timetable?

Gillian Baxendine: Yes.

Stewart Stevenson: Perhaps the most mischievous of us should hasten to the chamber office with an appropriate motion.

The Convener: If we are happy to note the rules, the least we can do is recommend that Parliament writes to the Executive and say that we are unhappy that we did not have a proper chance to get our heads around the rules and what they are about. I would be happy to go further by saying that this is the last occasion on which we will be prepared to accept such a situation and that the change for which we have asked repeatedly should be made.

Bill Aitken: There is no excuse for the situation. I accept that there was a recess for Easter, but the matter should have been put before the committee much earlier. If the situation were a one-off, I would be prepared to show some indulgence, but this committee and other committees have, in effect, been asked consistently to rubber-stamp legislation at the last moment.

I do not think that the rules are contentious, but I do not know for sure. I am unhappy about the way in which matters have been dealt with. It is almost as if an attempt has been made to railroad through the rules. I am not anxious to make waves over legislation that is probably fairly innocuous, so I will accept the rules, but if we confront similar situations again, I will not be prepared to support the instruments involved.

12:00

The Convener: Is anyone otherwise minded?

Stewart Stevenson: It is some months since I heard about the issue as part of activities in my constituency, and not in Parliament, so the delay was unnecessary. I understand that the rules will improve conditions for some category A prisoners who are regarded as low risk when in prison. However, the Parliament might wish to know that. I know about the issue by accident. I understand that the change is important and will affect the regime in prisons for some of our most dangerous prisoners.

The Convener: I will summarise the consensus that the committee has reached. We are unhappy with the situation. Although there seems no reason not to recommend the rules, the committee—apart from Stewart Stevenson—does not entirely understand why the change is necessary. We have been presented with an explanation on the morning when we must consider the instrument, which does not allow us to scrutinise the explanation or the instrument properly. The least that we can do is write a strongly worded letter to the Executive saying that this is the last time that we will accept such treatment. Is that agreed?

Members *indicated agreement*.

The Convener: If the committee is so minded, we could make that official by including a comment about that in our report.

Local Government Covenant

The Convener: Agenda item 4 is the draft covenant between local government and the Scottish Parliament. I refer members to paper J2/02/13/4, which is a note by the clerk on the draft covenant. Do members wish to comment on the covenant, which is essentially a concordat between the Parliament and local government? It seems fairly straightforward and good.

Bill Aitken: The covenant seems perfectly innocent and anodyne.

The Convener: Will I pass to the Local Government Committee the comments that we have read the covenant, that we do not wish to make changes, that we think that the agreement is good, in principle, and that it is a good indication of our intention to work closely with and recognise the role of local government, or words to that effect?

Members *indicated agreement*.

The Convener: Agenda item 5 is the draft Police Act 1997 (Enhanced Criminal Record Certificates) (Protection of Vulnerable Adults) (Scotland) Regulations 2002. The minister will not be available to discuss the regulations until 12:30, so we will have to take a break. We will reconvene at 12:25, so that we are ready for the minister.

12:04

Meeting suspended.

12:32

On resuming—

Subordinate Legislation

Police Act 1997 (Enhanced Criminal Record Certificates) (Protection of Vulnerable Adults) (Scotland) Regulations 2002 (draft)

The Convener: I reopen the meeting, and thank everyone for their patience. We are now dealing with item 5, which is also on subordinate legislation, namely the draft Police Act 1997 (Enhanced Criminal Record Certificates) (Protection of Vulnerable Adults) (Scotland) Regulations 2002. I welcome the Deputy Minister for Justice, Richard Simpson, and his officials to the meeting. I ask the minister to speak to and move motion S1M-2934.

The Deputy Minister for Justice (Dr Richard Simpson): I thank members for their patience and apologise for being a couple of minutes late.

The draft regulations that are before us are an important part of a wider package of measures that we have been putting in place under part V of the Police Act 1997. Taken together, the measures will allow wider access than has hitherto been available to information about criminal convictions and to other criminal record information that might have a material bearing on a person's suitability for employment in certain posts or positions, either paid or unpaid. The measures place special emphasis on the protection of children and vulnerable adults, and are designed to enhance public safety and to help employers and voluntary organisations in Scotland to make safer recruitment decisions.

As the committee is aware, part V of the 1997 act provides for three types of certificate. The first is the criminal conviction certificate, which will show criminal convictions other than those that are spent or expired under the Rehabilitation of Offenders Act 1974. The second is the criminal record certificate, which records any convictions, including those that are spent, and any cautions from England and Wales. The third is the enhanced criminal record certificate, which records all convictions and any information that a chief constable considers might be relevant for the purpose for which the certificate is required—in other words for considering the suitability of an applicant for certain types of employment or position—and that can be disclosed on the certificate without harming the interests of the prevention or detection of crime.

The certificates will be issued on behalf of ministers in Scotland by Disclosure Scotland, which is a unit within the Scottish Criminal Record Office.

The enhanced criminal record certificate, or the enhanced disclosure, as it will be known, is available for those who care for children and young people up to the age of 18. We also want the enhanced disclosure to be available to those who work with vulnerable adults. The 1997 act left several detailed matters to be prescribed later in regulations. One of those is the issue that is before the committee today, which is the definition of positions involving work with vulnerable adults for purposes of enhanced disclosures.

It is appropriate that the highest level of check should be reserved for those at greatest risk. People who have disabilities would not, we believe, be categorised as vulnerable solely because they have a disability. As a result, the draft regulations, which are the result of a widespread consultation, seek to strike a balance that will ensure that those who are at particular risk will be afforded the greater protection that enhanced disclosure will provide. The regulations relate to people who are receiving specified services and who, because of their disability or condition, are heavily dependent on others, and to those whose ability to communicate is seriously impaired or who would have difficulty in protecting themselves. It is our clear view that such people require and deserve added protection.

Jim Wallace also pointed out that it is important to bear it in mind that a criminal record should not automatically be taken to mean that a person is unsuitable. The information that is released under the disclosure scheme needs to be handled sensitively and carefully. Furthermore, implementation of disclosure measures should not be seen as suggesting that all those in, or seeking, positions that would give them access to children and vulnerable adults would seek to abuse those people. The vast majority of people in such positions are, of course, responsible and dedicated people whose primary concern is the well-being of the young people and adults in their charge. However, we must accept that some people, albeit a small minority, will seek to exploit the vulnerability of the people they look after.

The extension of the enhanced certificate to those who care for vulnerable adults is therefore important and I ask the committee to approve the draft regulations.

I move,

That the Justice 2 Committee recommends that the draft Police Act 1997 (Enhanced Criminal Record Certificates) (Protection of Vulnerable Adults) (Scotland) Regulations 2002 be approved.

The Convener: Thank you very much. Under the usual procedure, we should now move into a period of debate that can last up to 90 minutes. However, in the past we have tended just to raise questions with the minister, who has helpfully answered them. I do not imagine that the committee will want to take up 90 minutes.

Mr Alasdair Morrison (Western Isles) (Lab): I agree to the motion.

Stewart Stevenson: I have one or two points that I hope will not delay us too long. Do the regulations change voluntary organisations' liabilities? If such organisations are held to be better informed about volunteers and employees, will that create new liabilities and therefore mean new costs for them? Similarly, on liability, will the minister confirm that the public services will retain liability for the reliability and completeness of the information that is provided?

Secondly, on a related matter, to what extent will the change increase or decrease the costs that are associated with the operation of the voluntary organisations that make use of the certificates? Finally, I understand—this may not be correct or complete—that there is some differentiation planned between those who currently have access to certificates and those who will in future require certificates. I would welcome an assurance that any such difference will be eliminated and that a level playing field will be provided for all organisations that require access to criminal record certificates.

Dr Simpson: I will need to consult on that last issue.

I understand that there are two aspects to liability. Is Mr Stevenson talking about the liability that follows on from receipt of the information or about whether an organisation applied appropriately for the information in the first place?

Stewart Stevenson: The former.

Dr Simpson: Thank you for that clarification. My first impressions were correct. As confidentiality is involved, it is important to stress that it is the individual who makes the application to obtain the certificate. Organisations that hold information as a result of applications that have been made must use the information appropriately, or they will be liable. That applies to public services and voluntary organisations.

On the second question on costs, we have arranged for Volunteer Development Scotland to assist voluntary organisations in dealing with the matter. Otherwise, as many as 44,000 organisations might have been required to register individually. In the first instance, we have given about £1 million to VDS to handle the cost side centrally. That means that there should not be a

cost to voluntary organisations.

On the third question, we do not believe that there is any difference. The point that was raised should not apply.

Stewart Stevenson: Thank you.

Bill Aitken: The minister dealt with the question of cautions by the English police. My question is for information only—there is nothing tricky in it. Will those cautions be administered after an admission of guilt?

Dr Simpson: Yes.

Bill Aitken: That is all that I was looking for.

The Convener: I seek clarification about a matter that the Association of Scottish Colleges raised with me, which I should raise with you because there is confusion, which you might be able to clarify. The Association of Scottish Colleges has asked the committee to challenge the regulations on the basis that its students will not be exempt from the fees that are charged by Disclosure Scotland. That point might take us outwith the scope of the regulations, but I wonder whether you could clarify, on the record, whether the association is confused about the matter. Anything the minister might have to say on the subject would be helpful.

Dr Simpson: The convener rightly says that the question is outwith the subject that is being discussed today, but I am happy to deal with it. We are aware of the matter and have received correspondence on it. We will consider the position of students on placement, what problems might arise and whether the regulations would create a difficulty for such placements.

I know that social work students, for example, will go out on placements and work with adults who are covered by the regulations. Such students would need to be covered by the regulations—in fact, they would eventually need to be covered anyway, so the regulations anticipate what will happen to them when they qualify. Nevertheless, we understand that costs could be involved earlier than they might expect. The standard cost will be £13.60 which, although is not high, is an added burden for a student. Therefore, we will consider the position. That is a slightly long-winded answer, but we are considering the issue.

12:45

The Convener: That answer is helpful. I have an interest in the matter. As a constituency MSP, I represent a number of students and am concerned that costs will be passed on to students. I would like to think that someone is considering the possibility that an extra burden will be placed on students on placements. I thank you for your answer.

I have a question about which I am not particularly vexed—it is a point of interest and might relate to the originating legislation. I wonder whether you can help me. I notice that the age that is used in the instrument is 18 years. Where does that come from? Was it chosen for the purposes of this legislation? Will you give us some insight into that?

Dr Simpson: I have just received confirmation of my suspicions that the age of a child is defined differently in different pieces of legislation. There is no uniform age. I think that it was felt appropriate to choose age 18 as the break point for this legislation because it involves protection. We decided to go for the broad group and the higher age rather than try to separate out vulnerable people at the age of 16.

The Convener: So age 18 was felt to be appropriate for this legislation, but would not necessarily be appropriate in every circumstance.

Dr Simpson: The age is not uniform.

The Convener: As there are no other questions, would you like to wind up on the motion, minister?

Dr Simpson: I thank the committee for giving me time to speak about the regulations, which are important, and I hope that we have dealt with the committee's questions. The issue has been addressed appropriately for the enhancement of protection and security of vulnerable adults in our community, which is worth while. I am pleased that we have reached the point at which we can present the regulations to the committee and I hope that members will accept that the regulations are appropriate and can be implemented.

The Convener: I see that Alasdair Morrison agrees with the minister, but I must put the question formally to the committee. The question is, that motion S1M-2934, as printed on the agenda, be agreed to. Are we agreed?

Motion agreed to.

That the Justice 2 Committee recommends that the draft Police Act 1997 (Enhanced Criminal Record Certificates) (Protection of Vulnerable Adults) (Scotland) Regulations 2002 be approved.

The Convener: I thank the minister.

The committee is now required to report to the Parliament, because the instrument is subject to affirmative procedure. The report need only be short. We will summarise the main points and the minister's answers. Members can approve the report by e-mail, but they know what will be in it.

I remind members that the next meeting of the Justice 2 Committee will be on Wednesday 24 April when we will hear evidence in respect of the Crown Office and Procurator Fiscal Service inquiry from the Lord Advocate and the Solicitor General.

Members still have to hear about the arrangements for the next meeting on the budget. It will be helpful if members check their e-mail for clarification. I thank members for their patience.

Meeting closed at 12:48.

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