SUBMISSION FROM DR. COLIN WATSON Ph.D.

1. I write from the perspective of having communicated over the years with hundreds of Scottish families facing devaluation of their homes by inconsiderate or vindictive High Hedge and other Nuisance Vegetation owners.

2. The rationale is that should a man made structure adversely affect a residence, then it will be subject to planning regulations. Nuisance vegetation should be no different. We have several cases where fences have been refused only to have them replaced by a far worse growing hedges or trees (Gretna Case) or to have hedges and trees planted simply as a vindictive act (Largs Case). After drawing attention to this issue over the entire life of the Scottish Parliament, two Public Petitions and three Consultancies it would be presumptuous of me not to credit MSPs with a comprehensive understanding of this issue although realisation perhaps came late that the reason for the vicious and interminable disputes was the immunity of grower’s of plants from any regulation within private property.

3. My Public Petition of 2006, PE984 demonstrated that the devaluation was caused by factors such as loss of light, loss of asset view and many other problems such as causing gas boilers to become unsafe, loss of T.V. signals cessation of solar heating and many other significant reductions in the value of a home home as a residence. Again MSPs are well aware of constituents suffering such problems.

4. It has been demonstrated that many if not all of these problems are not specific to a definition of a hedge or vegetation species and that therefore any Scottish solution should deal directly with the effect rather than any uncertain definition of a plant. PE984 led through to the collaboration with Fergus Ewing and the Community Safety Unit which drafted the 2009 High Hedges and Other Nuisance Vegetation Consultation. Great effort went into this first SNP session where the Scothedge Team were invited to compile comprehensive “Guidelines” against which the problems could be judged and adjudicated.

5. The main aim was to replicate a planning type process where the reality of a claimed problem was inspected by an impartial third party team. In cases where friendly resolution was not forthcoming, the independent inspection would take over the contentious situation and be empowered to require or to implement a remedial solution. In the main, neighbours are happy to co-habit the residential lands with their neighbours in a reasonable and constructive manner but because the party causing the problem is immune from any sanction, this leaves the door wide open for the long history of interminable disputes which in some 15% of cases require police attendance. The High Hedge or other Vegetation owner can be vindictive without redress. Unfortunately too many people are just happy to take advantage of this.

6. It has frequently been stated that there is no right to light or view in Scotland which presents legislators with a problem should they perceive that this is the fundamental “missing link”. But the approach might simply be to require a duty of care which recognises that loss of light or loss of view adversely affects the
reasonable enjoyment or value of a home and garden within appropriately drawn up guidelines. By making available inspection by an independent body, the “reasonableness” can be judged without requiring the vested interests to confront each other as winners and losers should this not be an equitable option.

7. The Fergus Ewing Antisocial Behaviour study in the last Parliament quite rightly could not find a home in Appendix L for the issue. It was stated by Cathy Jamieson (Justice Minister) previously that this was not an antisocial issue. John Home Robertson (2006) stated that it required greater authority than a Member’s Bill to legislate. There is no desire to make criminals out of hedge and tree growers but rather ensure that they behave reasonably within the interests of neighbouring land dwellers. This is surely a function of Local Government.

8. The trauma faced by residents suddenly finding themselves powerless to maintain their properties and falling into bitter strife with their neighbours should not be underestimated. Nor should it be underestimated just how nasty such disputes can turn and the stresses which they invoke even to the detriment of health. The victim is locked in to a deteriorating situation and very probably cannot even sell to get out.

9. The Scottish Parliament is now dealing with this matter with many MSPs having years of experience of the issue. Personally I have always believed that Holyrood can address the problem without the awful anomalies of the ill thought out anomalies of the Westminster salvaged amendment, to their 2003 Antisocial Behaviour Bill. The failings of this Bill are largely hidden from the terms of the Bill and it might have been helpful to ask victims comments who have been left high and dry by this Bill.

10. My experience of meetings with MSPs has been both enjoyable and constructive and whilst I naively thought Scott Barrie was going to launch his Bill in 2005, it actually required this long gestation period to illuminate the real problem of neighbour immunity from a reasonable duty of care. Although Leylandii are frequently involved they are merely a press icon latched on to by those entering the topic at an inexperienced level. The Third Estate yearns for bloody battle which can certainly come, but that all results from a single vested party in a dispute holding all the cards. The independence of a inspection process playing to sensible rules and without emotional baggage, but having a last resort recourse appears the favourable solution which by its very existence will encourage the unreasonable party to go homeward and think again.

11. Since this is a personal submission, I would like to thank the many MSPs to have offered me good advice over the years and for the helpful and constructive collaboration with Fergus Ewing and his excellent Community Safety Unit Staff over the last Session, when the SNP majority was inhibitably narrow. I have sat through many Public Petition hearings over the last decade and fully appreciated the support and quality of this process.