Dear Ms Gibson,

Thank you for the opportunity to respond to consultation *Making Justice Work - Courts Reform (Scotland) Bill.*

A global organisation, the Royal Institution of Chartered Surveyors (RICS) is the principal body representing professionals employed in the land, property and construction sectors. In Scotland, the Institution represents over 11,000 members comprising chartered surveyors (MRICS or FRICS), Associate surveyors (AssocRICS), trainees and students. Our members practise in sixteen land, property and construction markets and are employed in private practice, central and local government, public agencies, academic institutions, business organisations and non-governmental organisations.

As part of its Royal Charter, RICS has a commitment to provide advice to the government[s] of the day, and in doing so has an obligation to bear in mind the public interest as well as the interests of its members. RICS Scotland is therefore in a unique position to provide a balanced, apolitical perspective on issues of importance to the land, property and construction sectors.

RICS Scotland is primarily interested in the two questions within *Chapter 7: Alternative Dispute Resolution.* To ascertain a response that is reflective of the views of the RICS Scotland membership, this consultation paper was sent to members of the RICS Scotland Dispute Resolution Service Panels and their views are contained within our response.

RICS Scotland would welcome the opportunity to discuss any aspect of its submission further with the Scottish Government.

Our respondent information form and response can be found below.

Kind regards,

Ysella Jago
DRS Executive – RICS Scotland

T: 0131 240 0832
E: yjago@rics.org
www.rics.org/drsscotland
CHAPTER 7: THE PROPOSALS: Alternative Dispute Resolution

Q36. Do you think that ADR should be promoted by means of court rules?

Yes ☒ No ☐

RICS Scotland believes that effective disposal of disputes by alternate means requires support of the courts.

If the issue in dispute is a technical point rather than a legal one, the courts may not be best placed to address this. The additional time to understand and interpret cases where the dispute is of a technical nature is likely to have cost implications. Encouraging greater use of dispute resolvers who are not only experienced and qualified in ADR but who are also practitioners and experts in the subject matter of the dispute has the potential to (a) ensure pragmatic outcomes for parties based on practical experience of the market, and (b) reduce the time and expense to parties otherwise pursuing resolution through court or tribunal action.

Parties to a contractual dispute will often find themselves going down the court route to resolve a dispute by default because no provision has been made in the contract for ADR. Promotion of ADR through court rules will provide for such cases and open up an alternate means to resolve the dispute.

Q37. What impact do you think these proposals will have on you or your organisation?

RICS is of the view that ADR has a valuable role to play in the resolution/disposal of disputes relating to land, property and the built environment in Scotland. If ADR were promoted through court rules, the benefit to parties would be the opportunity to obtain a quicker more cost effective resolution to their dispute. There would also be a benefit to the courts as time will be freed to deal with disputes that are not suited to resolution through alternate means. The benefit to RICS members is twofold: their clients would have a more expedient resolution to their disputes, and those members qualified in ADR will potentially see an increase in the volume of instructions.

The Royal Institution of Chartered Surveyors (RICS) is the largest independent dispute resolution provider in Scotland for property and construction disputes. The reputation of RICS and the professional standards of its members is widely recognised, and the RICS is routinely named as the independent appointment body for disputes of a property or construction nature.

As qualified dispute resolvers with a professional and commercial understanding of property matters, RICS members are well placed to determine disputes fairly, accurately, independently, timeously and cost effectively. Promotion of ADR through court rules may result in increased applications to the RICS for the appointment of a third party dispute resolver where parties have been unable to agree this themselves.