

Constable J in Crest Nicholson Regeneration Ltd & Ors v Ardmores Construction Ltd (In Administration) & Ors [2026] EWHC 789 (TCC) has delivered a highly anticipated judgment concerning, among other things, when it will be “just and equitable” to grant a Building Liability Order (BLO) pursuant to Section 130 of the Building Safety Act 2022 (BSA).

This is only the second case to consider the just and equitable test in the context of a BLO, following Jefford J’s judgment in *381 Southwark Park Road RTM Company Ltd & Ors v Click St Andrews Ltd & Anr [2024] EWHC 3179 (TCC)*.

We understand that the Ardmores group intends to appeal the judgment, and we expect industry stakeholders will be following the appeal closely.

Facts

Between 2007 and 2009, Ardmores Construction Ltd (ACL) was engaged by Crest Nicholson Regeneration Ltd (CNR) as the main contractor to design and build Admiralty Quarter in Portsmouth, which is a complex of 19 residential apartment buildings.

Following the tragedy at Grenfell Tower on 14 June 2017, investigations into the external walls of Admiralty Quarter were carried out. Following which, a series of fire safety risks were discovered.

Ultimately, adjudication proceedings were issued against ACL on 29 August 2025 relating to alleged breaches of contract and duties under the Defective Premises Act 1972 (DPA). The adjudicator ordered ACL to pay *circa* £14,928,320.40 (the Award).

Following the adjudication, the current BLO proceedings were commenced against ACL’s associated entities and sought:

- An “anticipatory” BLO in advance of ACL being found in breach of its obligations under section 1 of the Defective Premises Act 1972 by a court.
- An “Adjudication BLO”, which would make ACL’s associated entities jointly and severally liable for the Award.

Key Takeaways

While the judgment touches on many important features of the BSA and should be read in full, if possible, we highlight the following key matters:

- A BLO can be brought even when the primary liable party (the “original body” as defined in section 130(2) of the BSA) has entered insolvency.
- An adjudicator may determine a relevant liability, particularly in the context of DPA liabilities, for the purposes of a BLO. This is important because it is not necessary for a party to become embroiled in lengthy litigation to establish the liability of the original body.
- A BLO can be obtained before, or in “anticipation”, of the underlying relevant liability being established. In the judgment, a BLO was likened to an “indemnity”. A party can therefore bring a BLO application separate from (and in advance of) the underlying proceeding concerned with establishing the original body’s liability. The claimant can then seek to rely on the BLO when the liability proceedings are determined.
- The court considered the scope of the BSA and stated the following: “in the context of Section 130, the emphasis placed on domestic property holders and a nexus with facilitating the actual carrying out of works is misplaced”. We consider this indicates a broader application of a BLO, as compared with a Remediation Order and Remediation Contribution Order (RCO). Please check out the next edition of Building Safety F(ACT)s for further commentary on this point.
- An in-depth analysis was provided on when it may be just and equitable to grant a BLO. While useful, the court emphasised, like with an RCO, much will turn on the facts of each individual case and the court’s discretion when deciding whether to grant a BLO is deliberately broad.
- It was confirmed (again) that claims under the Defective Premises Act 1972 may be pursued in adjudication. This is important as it is not necessary for a party to become embroiled in lengthy litigation to establish a relevant liability on which a BLO may attach.

Practical Considerations

The following practical considerations are important in light of the judgment:

- **Appreciate potential exposure** – Any party who is or may become involved in BSA claims and disputes must ensure they identify and manage potential exposure and liabilities. Such considerations will necessarily extend to future restructuring or acquisitions.
- **Speed** – We anticipate that this judgment may result in a faster resolution of BSA claims (even if on a temporary basis). It is crucial that stakeholders appreciate the options available to them at the outset to ensure they navigate this complex and evolving area of law.
- **Strategy** – Disputes can be expensive and time consuming. It is therefore crucial that stakeholders are proactive in positioning themselves from the outset, to allow them to maximise their potential recovery or defence as against expenditure in both time and cost.

We have an expert team of BSA lawyers who are available to assist with any queries so please do not hesitate to contact us.