FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/00DA/HPO/2025/0601**
Property	**:**	**FLAT 1, 1 CRANBROOK AVENUE, LEEDS, LS11 7AX**
Applicant	**:**	**MOHAMMED ABID ZAMAN**
Respondent	**:**	**LEEDS CITY COUNCIL**
Type of Application	**:**	**Application for costs, paragraph 13(1)(b) Property Chamber Rules 2013**
Tribunal Members	**:**	**Tribunal Judge A Davies** **Tribunal Member J Jacobs**
Date of Decision	**:**	**6 February 2026**

DECISION

---

1. The application for costs is refused.

2. The Respondent shall refund to the Applicant the application and hearing fees in the sum of £337.

REASONS

1. At a hearing on 8 October 2025 the Applicant obtained an order quashing the Prohibition Order served on him by the Respondent in respect of Flat 1, 1 Cranbrook Avenue, Leeds ("Flat 1"). On 23 October 2025 he applied for an order for costs

pursuant to Rule 13(1)(b) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 ("Rule 13(1)(b"). The costs claimed are £22,430.

2. Following a stay to allow for applications for leave to appeal, the Respondent submitted a response to the costs application on 15 January 2026. This decision has been made by the Tribunal on the papers, neither party having requested a further hearing.

THE LAW

3. Rule 13(1)(b) reads:
"The Tribunal may make an order in respect of costs only –
if a person has acted unreasonably in bringing, defending or conducting proceedings."

4. The method by which the tribunal should apply Rule 13(1)(b) was set out by the Upper Tribunal in *Willow Court Management Company (1985) Ltd v Alexander [2016] UKUT 290 (LC)*. The question to be asked is "is there a reasonable explanation for the conduct complained of", or "would a reasonable person in the position of the party have conducted themselves in the manner complained of?" The Tribunal must assess whether the conduct complained of is objectively unreasonable according to this test. If the conduct is unreasonable, the tribunal must decide whether, taking account of all relevant factors, it will use its discretion to make a costs order. If an award of costs is considered appropriate, the tribunal must exercise its discretion again to determine the amount of costs to be awarded. The Upper Tribunal added "Rule 13(1)(a) and (b) should both be reserved for the clearest cases and…in every case it will be for the party claiming costs to satisfy the burden of demonstrating that the other party's conduct has been unreasonable."

5. The guidance given in Willow Court was approved by the Court of Appeal in *Lea v Ilfracombe Management Company Ltd [2024] EWCA CIV 1241*, where the court stressed that a finding of unreasonableness must be "a matter of objective fact" (paragraph 35 of Lord Justice Coulson's judgement).

THE APPLICATION

6. The application relates to the Respondent's decision to oppose an appeal against the Prohibition Order. The Applicant raises the following points in support of his claim that this decision, or the Respondent's conduct of the case, was unreasonable:

   (a) the decision to oppose the application created "needless litigation" and required him to spend time "conducting important research to defend the respondent's unreasonable actions", together with loss of business and money spent on improvement works;

   (b) the Respondent failed to take into account previous actions and representations made on behalf of Leeds City Council by, among others, Mr Bukowski, which encouraged the Applicant to let and to continue letting Flat 1 as a dwelling;

   (c) evidence of that encouragement was omitted from the Respondent's hearing bundle;

   (d) the Respondent relied on an HHSRS assessment that incorrectly identified Flat 1 as a self-contained unit; and

   (e) the Respondent did not take into account the fact that Flat 1 had been occupied for 25 years without harm to the tenant.

7. Ultimately, the Applicant says "Such selective disclosure and tactical omission of known evidence constitute abuse of process under Ekweozoh v Redbridge LBC (2022)..... the Council's legal team knew, or ought to have known, that the enforcement case was unsustainable and that its own officers' communications contradicted the narrative advanced in evidence".

THE RESPONDENT'S REPLY

8. In reply the Respondent says that having determined that a Category 1 hazard existed at Flat 1, it "was entitled to defend its decision to take said enforcement action and has done so in a perfectly reasonable and appropriate manner". The Tribunal's (obiter) finding, it says, that a Hazard Awareness Notice would have been an

appropriate method of enforcement, means that "there can be no suggestion that the Respondent's case was so weak as to suggest that it was unreasonable, improper or negligent for the Respondent to continue defending it".

DETERMINATION

9. Costs do not follow the event in this tribunal. A party's belief that it has an arguable case, and its decision to pursue that case at a hearing, is not a ground for making a costs order unless the party acted unreasonably in making that decision and/or in the conduct of the case. Considering objectively each of the Applicant's points in turn, the Tribunal finds as follows:

(a) The Housing Act 2004 allows for an appeal against HHSRS enforcement action. In the event of an appeal, each party may be expected to incur time and costs in preparing its case. Incurring costs as a consequence of a disagreement properly brought before the Tribunal is not in itself a ground for claiming them back from the other party.

(b) The Applicant understood from his engagement with other officers of the Respondent over a number of years that letting Flat 1 was acceptable to them. Nevertheless, once Mr Frost of the Respondent's Private Sector Housing team had measured Flat 1 and determined (on recalculation) that the floor space was 14.4m^2, he was justified in carrying out an HHSRS assessment and taking such action as the Respondent deemed to be appropriate in order to protect any occupant from a perceived hazard. Nothing said or done earlier on behalf of the Respondent should have deflected Mr Frost from pursuing the matter as he did. The Applicant has not shown that the Respondent was unreasonable in taking the decision to oppose his appeal against the Prohibition Order despite the history of discussions relating to 1 Cranbrook Avenue, or Flat 1.

(c) The Respondent may have considered that any evidence relating to statements previously made by Mr Bukowski were irrelevant to the issue before the Tribunal. If the Applicant believed that such evidence would assist his case, it was open to him to produce Mr Bukowski as a witness. The Respondent's failure to include Mr Bukowski's correspondence in its hearing bundle is not

unreasonable conduct justifying a costs order under Rule 13(1)(b).

(d) The Tribunal found that the comparison property relied upon by Mr Frost, which was a self-contained flat, was too dissimilar to Flat 1 to justify Mr Frost's HHSRS assessment. The Respondent clearly believed that the comparison was a good one and that a Prohibition Order was warranted by the hazard. That belief led the Respondent's legal advisers to make applications for leave to appeal against the quashing of the Prohibition Order both to this Tribunal and to the Upper Tribunal. Objectively, although the Tribunal reached a different conclusion, the Respondent did not act unreasonably in opposing the appeal and arguing their case at a hearing in order to obtain a determination under the appeal provisions of the Housing Act 2004.

(e) The Respondent was not required to consider it a deciding factor, that Flat 1 had been occupied by a single tenant for over 20 years with no apparent harmful effect. It was not unreasonable for the Respondent to object to the appeal despite this history of occupation, if indeed the Respondent was aware of it.

10. *Ekweozoh v London Borough of Redbridge [2021] UKUT 180 (LC)* is a case relating to the methodology adopted by a tribunal on an appeal against a financial penalty. It is not an abuse of process case or relevant to this costs determination.

11. The Applicant criticises the Respondent's legal team, and specifically counsel, for the way in which the Respondent's case was prepared and conducted. The Tribunal finds that his criticism is not justified, and that there was nothing unreasonable in the Respondent's conduct.

12. As the Applicant has not satisfied the Tribunal that the Respondent acted unreasonably in defending or conducting its case, the Tribunal is not required to consider whether to exercise its discretion to award costs under Rule 13(1)(b). However the Tribunal considers that, the appeal against the Prohibition Order having been justified by the result, the Respondent shall reimburse the application and hearing fees paid by the Applicant, totalling £337. This order is made under Rule 13(2) of the Tribunal's Procedure Rules.