FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**MAN/32UD/BSB/2025/0002**
Property	**:**	**One The Brayford, Brayford Wharf N, Lincoln, LN1 1BN**
Applicant	**:**	**City of Lincoln Council**
Representative	**:**	**Mr Fisher (Counsel)**
Respondent	**:**	**Plantview Limited**
Representative	**:**	**Mr Bates KC (Counsel)**
Type of Application	**:**	**Remediation Contribution Order -s.124 of the Building Safety Act 2022**
Tribunal Judge	**:**	**Judge S. Westby** **Judge J. Hadley**
Date of Hearing	**:**	**12 May 2026**

DECISION

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DECISION

1) The direct costs of providing temporary accommodation are costs of a kind described in section 124(2A)(c) of the Building Safety Act 2022.

2) The staff overtime costs do not fall within the definition of "temporary accommodation costs" in section 124(5) and are not costs of a kind described in section 124(2A)(c) of the Building Safety Act 2022.

3) The legal costs do not fall within the definition of "temporary accommodation costs" in section 124(5) and are not costs of a kind described in section 124(2A)(c) of the Building Safety Act 2022.

4) The fact that the Applicant has incurred, or will incur, the relevant costs pursuant to its statutory duties as a local housing authority does not preclude the recovery under section 124 of the Building Safety Act 2022.

REASONS

Background

1. This application is brought by the City of Lincoln Council ("the Applicant") for a remediation contribution order ("RCO") pursuant to section 124 of the Building Safety Act ("the 2022 Act"). The Respondent is Plantview Limited, the current freeholder of a mixed-use building known as One The Brayford, Brayford Wharf North, Lincoln ("the Property").

2. The Property comprises residential flats held on long leases, together with commercial premises at ground floor level. The residential units were occupied by long leaseholders and, in some instances sub-tenants of those leaseholders.

3. On 25 April 2025, Lincolnshire Fire and Rescue Service ("LFRS") served a prohibition notice under Article 31 of the Regulatory Reform (Fire Safety) Order 2005. The notice provided that the premises

   "…must not be used for sleeping or resting on a permanent and/or temporary basis. Access is permitted for remedial works and collection of belongings (under the supervision and agreement of the responsible person) only."

4. The prohibition notice was issued following the identification of fire safety deficiencies at the Property. It is not disputed by the parties that those deficiencies constitute "relevant defects" within the meaning of the 2022 Act, although the Respondent disputes their severity and maintains that the Property was safe for occupation.

5. Following the issuance of the prohibition notice, a number of residents left the Property over the period 25 to 29 April 2025. The Applicant contends that this amounted to a decant of the building. The Respondent disputes that characterisation, asserting that residents were not legally required to leave and that some remained in occupation.

6. In response to the displacement of residents, the Applicant arranged and funded emergency accommodation over the weekend of 25 to 29 April 2025. It subsequently secured further temporary accommodation, including hotel accommodation and other short-term housing, for those who had left the Property. The Applicant paid the costs of that accommodation directly.

7. The Applicant's position is that the initial provision of accommodation was undertaken pursuant to its powers under the Civil Contingencies Act 2004. It contends that it thereafter acted pursuant to its duties under the Housing Act 1996 to secure accommodation for persons who were homeless.

8. The costs which the Applicant seeks to recover comprise:
   (i) Direct costs of re-housing residents; and
   (ii) associated staff overtime and legal costs said to have been incurred in connection with the re-housing exercise.

9. Although the prohibition notice was appealed by the Respondent, it was not determined by a Court or Tribunal as, on or about 1 October 2025, LFRS withdrew the notice.

10. By directions dated 25 September 2025, the Tribunal identified two preliminary issues in this matter, namely:
    (i) whether the costs the Applicant is seeking to recover are costs of a kind described in section 124(2A)(c) of the 2022 Act; and
    (ii) if so, whether the fact that those costs have been (or are to be) incurred pursuant to the Applicant's statutory duties as a local housing authority prevents the Applicant recovering them by means of a RCO.

The Law

11. Section 124 of the 2022 Act states as follows:

    "*124 Remediation contribution orders*

    (1) The First-tier Tribunal may, on the application of an interested person, make a remediation contribution order in relation to a relevant building if it considers it just and equitable to do so.
    (2) "Remediation contribution order", in relation to a relevant building, means an order requiring a specified body corporate or partnership to make payments to a specified person, for the purpose of meeting costs incurred or to be incurred on remedying, or otherwise in connection with, relevant defects (or specified relevant defects) relating to the relevant building.
    (2A) The following descriptions of costs, among others, fall within subsection (2) –
    (a) costs incurred or to be incurred in taking relevant steps in relation to a relevant defect in the relevant building;
    (b) costs incurred or to be incurred in obtaining an expert report relating to the relevant building;

(c) temporary accommodation costs incurred or to be incurred in connection with a decant from the relevant building (or from part of it) that took place or is to take place –
(i) to avoid an imminent threat to life or of personal injury arising from a relevant defect in the building,
(ii) (in the case of a decant from a dwelling) because works relating to the building created or are expected to create circumstances in which those occupying the dwelling cannot reasonably be expected to live, or
(iii) *for any other reason connected with relevant defects in the building, or works relating to the building, that is prescribed by regulations made by the Secretary of State.*"

12. Section 124(5) of the 2022 Act states that:
    "*temporary accommodation costs", in relation to a decant from a relevant building, means –*
    (a) the costs of the temporary accommodation, and
    (b) *other costs resulting from the decant, including removal costs, storage costs and reasonable travel costs*;

    "relevant steps": see section 120;"

13. Section 120(4A) states that:
    "*relevant steps", in relation to a relevant defect, means steps which have as their purpose-*
    (a) Preventing or reducing the likelihood of a fire or collapse of the building (or any part of it) occurring as a result of the relevant defect,
    (b) Reducing the severity of any such incident, or
    (c) Preventing or reducing harm to people in or about the building that could result from such an incident."

Submissions, Discussion and Reasons

Approach of the Tribunal

14. In the Applicant's submissions, the Tribunal should adopt an inherently purposive approach to the 2022 Act. Mr Fisher argued that the First-tier Tribunal, Court of Appeal and the Supreme Court have identified a broad policy objective which the Act is designed to address – to protect leaseholders and the public purse.

15. Mr Fisher refers to the First-tier Tribunal case of *Triathlon Homes LLP v Stratford Village Development [2024] UKFTT 26*, which was heard by the Upper Tribunal President and Deputy President acting in their capacity as First-tier Tribunal judges. He states that the Tribunal should follow the broad approach taken by the Tribunal in this case and refers, in particular, to paragraph 106 of the First-tier Tribunal's decision in which the Tribunal discusses the complexity of the subject matter of the 2022 Act and states:
    "*That complexity seems to us to require an interpretation of section 124 which focuses on the practical outcome of the things which have been*

done or are to be done, rather than any interpretation which tends to narrow the scope of the remediation provisions'.

16. We agree that a purposive approach should be adopted to the statute. That much is clear from the *Triathlon* case which was upheld by the Court of Appeal (*Triathlon Homes LLP v Stratford Village Development Partnership & Others [2025] EWCA Civ 846*).

17. Mr Bates, for the Respondent, asserts that the approach of the Tribunal should be similar to that of a debt claim, not an appeal under the Housing Act 2004 where the Tribunal's starting point is the local authority's decision. He submits that it is for the Applicant to prove its case, not the Respondent. The prohibition notice shows evidence of LFRS' view at the time and Mr Bates contends that it would be wrong for the Tribunal to adopt LFRS' findings and work from that as established fact. We will come to the Tribunal's views on this later.

Preliminary Issue 1: Are the costs the Applicant is seeking to recover costs of a kind described in section 124(2A)(c) of the 2022 Act

18. Neither party suggested that the costs claimed by the Applicant can be recovered under section 124(2A)(c)(ii-iii) of the 2002 Act. The focus is therefore on whether the costs claimed by the Applicant can be recovered under section 124(2A)(c)(i):

> *(c) temporary accommodation costs incurred or to be incurred in connection with a decant from the relevant building (or from part of it) that took place or is to take place –*
>
> *(i) to avoid an imminent threat to life or of personal injury arising from a relevant defect in the building,*

19. In order to answer the question posed in preliminary issue 1, the Tribunal considers that it is helpful to break the wording of the provision down by answering three questions.

Was there a decant?

20. There was a dispute between the parties as to whether a decant for the purposes of section 124(2A)(c) occurred.

21. "Decant" is not defined within the 2022 Act. Mr Fisher, for the Applicant, seeks to rely upon the ordinary meaning of the word and asserts that the meaning is simply a temporary removal or transfer of individuals from a building or property in a construction context. The Applicant contends that there was a decant from the Property following service of the prohibition notice. The notice expressly prohibited residential occupation, and residents left the building as a direct consequence. The Applicant submits that this constitutes a decant for the purposes of the statute, notwithstanding that some residents may have remained in occupation or that the notice was not enforced against individuals.

22. Mr Bates, for the Respondent, contends that there was no "decant" within the meaning of the statute. He states that the ordinary meaning of the word is of

limited use. Rather, Mr Bates relies upon the Ministry of Housing, Communities and Local Government 'Remediation enforcement: guidance for regulators' published on 2 December 2024 ("the Guidance"). The Guidance, at paragraph 9.5.4 states that:

> 'A decant is the full or partial evacuation of a property. Decants can occur for a number of reasons, such as identification of serious fire safety or structural defects through inspections. During a decant, the government expects landlords to provide and pay for suitable alternative accommodation until residents can return home. Decants can be triggered by landlords, which in this guidance is referred to as a voluntary decant.
>
> Local authorities and fire and rescue authorities also have powers to trigger a decant if a building is not safe for occupation. Local authorities and fire and rescue authorities can issue a prohibition order or prohibition notice respectively, to require the full or partial evacuation of a property, or restrictions in its use.'

23. Mr Bates asserts that there is a difference between a voluntary action and a decant.

24. The Respondent submits that, whilst the fire service issued a prohibition notice, the notice did not require a decant as:
    (i) The notice was not served on the long leaseholders or their sub-tenants. It was only served upon the Applicant as the freeholder to the building and whose only right to occupy was in relation to the common areas of the building.
    (ii) LFRS subsequently made it clear that they would not be enforcing the prohibition notice against residents - there was no *requirement* for the residents to leave.
    (iii) Many residents remained living at the Property.

25. The Respondent characterises the departures of residents as voluntary decisions taken in response to what it describes as a recommendation or advisory position, rather than a legally binding requirement to vacate. It refers to communications from relevant authorities, such as the County Council, which talk about the residents being asked or recommended to leave the Property.

26. Further, Mr Bates asserts that, if the current position was considered a decant, then every owner of an apartment in a high-rise building could move to a hotel and recharge the landlord on that basis. In response to that point, Mr Fisher asserts that it is not possible for everyone to simply move out and seek their costs for doing so; the circumstances were a recoupment of costs is possible are clearly limited in the statute to those in connection with a relevant decant and where there is an imminent threat to life or of personal injury.

27. In the Tribunal's view, the Respondent places too much reliance on the Guidance, which is non-binding in any event and is not a statement of the law. The Tribunal considers that if Parliament had wanted to define 'decant' within the 2022 Act it would have done so. Indeed, section 124(5) of the Act provides definitions of not less than 11 other words used within section 124 alone.

28. The prohibition notice expressly stated that the premises "must not be used for sleeping or resting". As a matter of substance, that is a prohibition on residential occupation. The fact that it may not have been served upon or enforced against individual leaseholders, or that some residents remained, does not detract from the practical effect: the building was rendered unsuitable for habitation and some residents left the Property as a result of the relevant defects.

29. The Tribunal finds the Respondent's attempt to characterise some residents' departures as "voluntary" unpersuasive. Section 124 is concerned with outcomes "in connection with a decant" and in the Tribunal's opinion should not be construed narrowly, consistent with the approach of the First-tier Tribunal in *Triathlon Homes* (see paragraphs 15 and 16 above).

30. The Tribunal is not persuaded by the Respondent that attributing a broad definition to the word decant would open up the provision of section 124(2A)(c) indefinitely; the circumstances in which it will apply are clearly limited by the rest of that provision.

31. Accordingly, the Tribunal considers that there was a decant for the purposes of section 124(2A)(c) of the 2022 Act.

Was the decant to avoid an imminent threat to life or of personal injury arising from a relevant defect?

32. There is no dispute between the parties that there were relevant defects at the Property for the purposes of the 2022 Act. Equally, the parties agree that the statute requires any threat to life or threat of personal injury to be imminent.

33. What is in dispute between the parties is whether there was, in fact, an imminent threat of either.

34. The Applicant submits that the decant took place in order to avoid an imminent threat and relies in particular on the terms of the prohibition notice itself, which stated that:

    "*The Fire and Rescue Authority are of the opinion that the risk of injury is imminent and the prohibitions to take effect immediately until the matters specified above have been remedied*".

35. Mr Fisher states that the prohibition notice itself refers to the matters which give rise to such risk, being, in the opinion of LFRS:
    a. Insufficient fire resisting separation and compartmentation between the sleeping accommodation and the means of escape, allowing heat and smoke from a fire to pass from the area of the fire to all floors.
    b. Insufficient means of detecting a fire and giving adequate warning to occupants meaning they would be unaware of a fire. The occupants would be likely to be overcome by the effects of heat and/or smoke before they could make their escape.
    c. The external wall systems are combustible and will allow any fire to spread rapidly on the external faces of the building with the potential for the fire to re-enter the building and spread internally.

36. Mr Fisher asserts that this is, on its face, evidence of the imminence of risk and that this risk relates to life or of personal injury. He states that the Tribunal cannot go behind the prohibition notice for the purpose of the preliminary issue and that the Tribunal must assume that the LFRS was correct contemporaneously in reaching its conclusion. The alternative, Mr Fisher argues, is to interrogate the evidential position of the LFRS, which could not be done at the preliminary hearing with no witnesses present and no opportunity to cross-examine.

37. Mr Fisher asserts that the fact that nothing changed at the Property prior to the issue of the prohibition notice is irrelevant; it does not speak of the question of imminence. He contends that many fire risks exist over extended periods before crystallising into an imminent threat.

38. The Applicant further refers to the prohibition notice being withdrawn in October by way of a letter to the Respondent dated 1 October 2025 and which records that:

> "the withdrawal of the Prohibition Notice indicates that the matter which were, in the opinion of the Fire and Rescue Authority, of such serious nature that there was risk to persons on the premises, have now been removed or remedied."

39. Mr Bates, for the Respondent, submits that the requirement for an "imminent threat to life or of personal injury" is not satisfied. He contends that the Applicant has produced no evidence of that imminent threat, and further that the building was not dangerous and that the prohibition notice was wrongly issued by LFRS and consequently was invalid.

40. The Respondent relies on what it says is expert evidence, contained within the bundle and which was prepared in respect of the Respondent's appeal of the prohibition notice, to the effect that the building did not present an increased or imminent fire risk, and submits that there was no change in circumstances that would have given rise to such imminence.

41. Mr Bates submits that LFRS' decision not to enforce the prohibition notice is telling; he states it is difficult for LFRS to maintain the line that there is an imminent threat if it is not prepared to take action to enforce the notice issued.

42. The Respondent also placed weight on the subsequent unilateral withdrawal of the prohibition notice by LFRS which it says occurred because LFRS believed the withdrawal to be preferable to the alternative option of explaining and justifying its decision to issue the prohibition notice before the Magistrates Court. The Respondent states that the withdrawal of the notice a few weeks before the hearing of the Respondent's appeal supports its position that the LFRS' concerns were unfounded or overstated, and denied the Respondent the opportunity to vindicate itself.

43. The Tribunal finds that the prohibition notice is prima facie evidence that there was an imminent threat either to life or of personal injury arising from a relevant defect. The LFRS is a competent authority, and it made clear in the prohibition

notice that it considered there was an imminent threat. The Tribunal considers that this is sufficient to meet the jurisdictional gateway of the section 124 claim for the purposes of the preliminary issue which asks us to decide whether the costs claimed *are of a kind* described in section 124(2A)(c) of the 2022 Act.

44. The Tribunal is not determining the truth of the LFRS assessment, only whether the statutory gateway is met on the face of the circumstances.

45. However, the Tribunal does consider that there is a substantive point as to whether there was, in fact, an imminent threat which the Applicant will need to prove at the final hearing. The Respondent had provided evidence to say that there was no imminent threat and that any risk was 'tolerable'. There was no opportunity for this to be properly explored or tested at the preliminary hearing, but it is a fundamental issue that will need to be addressed at the final hearing.

Are all heads of costs recoverable?

46. There is no dispute between the parties that the cost of the temporary accommodation itself falls within section 124(2A)(c)(i) of the 2022 Act. The parties diverge in opinion, however, on the ancillary costs claimed by the Applicant, namely:
    a) the legal costs incurred in relation to the drafting and completion of an agreement between the Applicant and a University for temporary accommodation; and
    b) overtime payments to the Applicant's staff who were required to work over the weekend to secure accommodation for residents.

47. The Applicant argues that a broader interpretive approach should be taken to section 124. It argues that the phrase 'temporary accommodation costs' include the costs of procuring the accommodation, otherwise there is not full remediation for the Applicant, which defeats the purpose of the Act.

48. Mr Fisher submits that all of the costs claimed by the Applicant fall within subsection (2A)(c) of section 124, but that, in any event, the ancillary costs of securing the accommodation would fall within subsection (2A)(a), although he acknowledges that this is the less apt of the two provisions.

49. Mr Fisher states that it cannot be that the costs of the accommodation itself can be recouped but no other costs as this would leave the Applicant out of pocket which was not the intention of Parliament.

50. Mr Bates, for the Respondent, submits that staff overtime and legal costs cannot properly be characterised as "temporary accommodation costs" within the meaning of section 124(2A)(c), and are not recoverable under that provision.

51. Mr Bates refers to the Upper Tribunal case of *Leicester City Council v Morjaria [2023] UKUT 129 (LC)* which concerned an appeal against a financial penalty under the Housing Act 2004 and in which the Council sought to add the costs of its investigation to the financial penalty. In that case, the Upper Tribunal refused to add such costs, stating [at paragraph 59]:

> "Had it been intended that the cost of investigating offences leading to financial penalties should be recoverable separately a reference to section 249A could have been included in section 49(1) when the rogue landlord regime was introduced in 2016. The fact that it was not suggests that there is no power to collect such a contribution through the penalty charge itself."

52. The Respondent asserts that Parliament legislates in housing very regularly and, following the UT's decision in *Morjaria*, the Applicant cannot stretch the words of the 2022 Act to include costs that go beyond what the statute provides for.

53. The Tribunal considers that, whilst a broad interpretation of the 2022 Act is appropriate, that approach cannot dispense with the need to give proper effect to the statutory language chosen by Parliament. The question remains whether the costs claimed fall within the natural and ordinary meaning of "temporary accommodation costs", read in their statutory context.

54. Section 124(5) provides a definition which is of central importance. It defines "temporary accommodation costs" as including both:
    1) "the costs of the accommodation", and
    2) "other costs resulting from the decant, including removal costs, storage costs and reasonable travel costs".

55. In the Tribunal's judgment, that definition reflects a structured distinction. The first limb captures the direct cost of providing substitute accommodation. The second limb permits recovery of additional categories of cost, but only where those costs: (a) result from the decant itself; and (b) are of a type analogous to those specified (removal, storage, and travel).

56. Applying ordinary principles of statutory construction, including the principle of ejusdem generis, the listed examples are all costs borne by or referable to the displaced occupiers as a consequence of leaving their homes. They are outward facing costs incurred in consequence of relocation. They do not extend naturally to the staffing costs or legal costs of the Applicant in organising that relocation.

57. The Tribunal does not accept the Applicant's submissions that all costs causally connected to the provision of accommodation fall within the scope of the provision. Section 124(2A)(c) requires a connection with the decant, but section 124(5) provides a limiting definition of the types of costs recoverable. The breadth of the former does not override the specificity of the latter.

58. In respect of the staff overtime costs, these represent internal expenditure incurred by the Applicant in discharging its operational functions. Whilst those costs were incurred in consequence of the events at the Property, they are not properly characterised as costs "of the accommodation" nor as costs analogous to removal, storage or travel. They are, rather, part of the Applicant's general administrative response to the situation.

59. The Tribunal also considers that to allow recovery of such costs would introduce uncertainty and indeterminacy into the statutory scheme. Internal staffing costs are capable of wide variation depending on how an authority chooses to deploy

its resources. There is nothing in the statutory language to indicate that Parliament intended such costs to be recoverable.

60. In this respect, the Tribunal considers that the Respondent's reliance on *Morjaria* is of assistance by analogy. Whilst the case concerned a different statutory regime, it reflects a consistent approach: where Parliament intends to permit recovery of administrative or enforcement costs, it does so expressly. The absence of such provision here militates against the interpretation advanced by the Applicant.

61. The same analysis applies to the claimed legal costs. The costs incurred in drafting and negotiating arrangements for the provision of accommodation are not, in the Tribunal's judgment, costs of accommodation itself, nor do they fall within the category of costs resulting from the decant as contemplated by section 124(5). They are, again, one step removed from the decant and are more properly characterised as professional or administrative costs incurred in the course of the Applicant's functions.

62. The Tribunal has also considered the Applicant's submissions that, absent any recovery of such costs, it will not achieve "full remediation" of its expenditure. However, that submission cannot override the statutory framework. Section 124 does not provide a general indemnity in respect of all costs arising from relevant defects. It provides a specific mechanism for recovery of defined categories of cost. It is not open to the Tribunal to expand those categories.

63. The Tribunal now turns to the Applicant's submission that, in any event, the ancillary costs are recoverable under section 124(2A)(a). The Tribunal does not accept that submission. Section 124(2A)(a) must be read alongside the definition of "relevant steps" in section 120(4A), which makes clear that such steps are those taken for the purpose of
(a) preventing or reducing the likelihood of fire or collapse;
(b) reducing the severity of such an incident; or
(c) preventing or reducing harm to persons in or about the building.

64. In the Tribunal's judgment, that definition is directed to physical or operational measures taken in respect of the building itself or the risks arising from it. Examples would include remedial works, fire safety measure, interim protections, or investigative steps designed to assess and manage the relevant defect.

65. The provision of temporary accommodation, whilst a response to the consequences of a relevant defect, is not itself a step taken to reduce the likelihood or severity of fire or collapse, nor to mitigate the risk within the building. Rather, it is a measure taken to remove occupants from the consequences of that risk.

66. That distinction is reflected in the structure of section 124(2A) itself. Parliament has made separate and specific provisions in subsection (c) for "temporary accommodation costs".

67. It follows that section 124(2A)(a) cannot be used to expand the scope of recoverable costs by re-characterising accommodation-related or administrative costs as "relevant steps".

68. In any event, and even if the Tribunal were wrong in that analysis, the ancillary costs claimed by the Applicant – staff overtime and legal costs - would not fall within section 124(2A)(a). Those costs are not incurred in taking steps directed at the relevant defects themselves. They are incurred in organising and implementing the response to the decant of residents.

69. For these reasons, the Tribunal finds that:

(1) the direct costs of providing temporary accommodation fall within section 124(2A)(c) and section 124(5) of the 2022 Act;
(2) the staff overtime costs do not fall within the definition of "temporary accommodation costs" in section 124(5) and are not recoverable;
(3) the legal costs do not fall within that definition and are not recoverable; and
(4) the staff overtime costs and legal costs cannot be recovered under section 124(2A)(a).

<u>Preliminary Issue 2: If so, whether the fact that those costs have been (or are to be) incurred pursuant to the Applicant's statutory duties as a local housing authority prevents the Applicant recovering them by means of a RCO</u>

70. As the Tribunal has answered the first preliminary issue in the affirmative, the Tribunal turns to the second preliminary issue, namely whether the fact that the Applicant incurred the relevant costs in the exercise of its statutory duties precludes recovery under section 124 of the 2022 Act.

71. The Applicant states that the initial provision of accommodation, from 25 April 2025 up to and including 22 May 2025, was made pursuant to emergency powers under the Civil Contingencies Act 2004 ("the 2004 Act"), with the Applicant formally accepting that it had a statutory duty to re-house from 23 May 2025 onwards, pursuant to the Housing Act 1996. The Tribunal accepts this assertion which is corroborated by the Applicant's letter to residents dated 21 May 2025 in which it confirmed that "We have just agreed a minor extension to this provision of accommodation until 12 noon on Friday 23 May 2025. At this point, we consider that our powers under the Civil Contingencies Act will have ended."

72. The Applicant submits that there is no bar to recovery arising from the fact that the costs were incurred pursuant to statutory powers or duties. It contends that the wording of section 124 does not impose any such limitation, and that the Respondent's argument seeks to introduce an unwarranted requirement of exclusive causation. That would be a strange outcome given that the s 124(5) defines an interested person (that is, someone who can apply for a RCO) as including a local authority for the area in which the relevant building is situated, and, Mr Fisher asserts, it is difficult to envisage a scenario where a local

authority would seek such an order where its statutory obligations were not engaged.

73. In any event, the Applicant argues that the costs were incurred with the decant, even if they were also incurred in the course of discharging statutory functions. It submits that statutory duties were triggered by the decant and do not displace the causal connection required by section 124.

74. The Applicant further relies on the broader purpose of the 2022 Act, submitting that it is intended to ensure that the financial consequences of building safety defects fall on those connected with the building, rather than on public authorities or leaseholders.

75. Mr Bates, on behalf of the Respondent, submits that the Applicant is not entitled to recover costs incurred in the performance of its statutory functions. It contends that the Applicant provided accommodation pursuant to its duties under the 2004 Act and the Housing Act 1996, both of which contain their own statutory regimes governing the provision and funding of such assistance.

76. The Respondent argues that Parliament has made specific provision as to when and from whom a local authority may recover such costs under those statutory schemes, and that landlords are not amongst the categories of persons liable to be charged. It refers to regulations 4 and 44 in the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 which sets out a local authority's power to make a charge which, it submits, is evidence that Parliament has thought about when the right to charge under this Act may arise and submits that section 124 should not be construed so as to cut across those existing statutory frameworks.

77. Mr Bates states that the specific provision in the 2004 Act takes precedence over the more general provisions of the 2022 Act and refers to Bennion on Statutory Interpretation in support of this argument.

78. Mr Bates further submits that the same point can be made in relation to the Housing Act 1996 where Parliament has already decided when and who can be charged for support under the homelessness legislation, and which does not include landlords. Mr Bates submits that it is not for the Tribunal to take the very general powers set out in section 124 of the 2022 Act and cut through the earlier decisions made by Parliament. The Respondent refers to the *Case of R (Imam) v London Borough of Croydon [2023] UKSC 45* (paragraph 59) and asserts that the Applicant has no need, let alone the right, to seek these sums under section 124 of the 2022 Act. Such costs are funded by central government, and that there is therefore no justification for permitting recovery under section 124.

79. Finally, the Respondent submits that section 124 is not intended to operate as a general mechanism enabling public authorities to recover the cost of performing statutory functions from third parties. It contends that there is an absence of the necessary causal connection between the decant and the costs, and that the claim falls outside the intended scope of the provision. In terms of the circumstances in which a local authority might seek a RCO (where its statutory duties are not

engaged), Mr Bates asserted that a circumstance might arise where the local authority provided assistance to a person who was not entitled to homelessness assistance, such as a foreign national.

80. In response, Mr Fisher asserted that such circumstances would be extraordinary and Parliament could not conceivably have intended the statutory provision to apply in such limited circumstances. He states that such an interpretation would undermine the purpose of the legislation.

81. Mr Fisher submits that Parliament would have been cognisant of the powers to recharge under the 2004 Act and the Housing Act 1996. He states that a crossover or overlap has not been identified and that the point of section 124 of the 2022 Act is to give local authorities the power, in the limited circumstances of the Act, to charge third parties, specifically landlords and developers, for these costs, and which is not permitted under either the 2004 Act or the Housing Act 1996.

82. Mr Fisher also contends that, even if there is an overlap in charging provisions, whilst the 2004 Act precedes the 2022 Act, it is section 124 of the 2022 Act that is the more specific as it explicitly mentions temporary accommodation costs resulting from relevant defects. He submits that Parliament did this having full knowledge of the 2004 Act.

83. The starting point for the Tribunal is the language of section 124 itself. There is no express limitation excluding costs incurred by public authorities in the exercise of statutory functions. Section 124(2) of the 2022 Act provides that an RCO may be made in respect of "costs incurred… in connection with relevant defects", and subsection (2A)(c) specifies that such costs include "temporary accommodation costs… in connection with a decant".

84. The statutory test is therefore whether the costs meet the defined criteria. It does not include, either expressly or by necessary implication, any requirement that the costs must not have been incurred pursuant to statutory duties.

85. In the Tribunal's judgment, the Respondent's case requires the implication of a significant limitation into the statutory language. There is no proper case for doing so.

86. Whilst the Tribunal can accept that on a broad, high-level view, there is an overlap - a local authority can re-charge its costs via two separate statutes - this is too high level of a view. The 2022 Act provides a novel mechanism for recovery of costs in specified circumstances: it addresses the question of who should ultimately bear the financial burden of costs arising from relevant defects in a building. The Act is a carefully considered piece of legislation and to the extent that there is any overlap between the Act and the Civil Contingencies Act 2004 and the Housing Act 1996, Parliament must have been aware of it. In the Tribunal's judgment, Parliament clearly intended to add a string to the bow of local authorities, by widening the class of people/ entities from which it can claim its costs in such circumstances.

87. The Tribunal also rejects the Respondent's reliance on a purported lack of causation. Section 124(2A)(c) requires only that the relevant costs be incurred "in connection with a decant". That language is deliberately broad. It does not require that the decant be the sole, dominant, or proximate cause of the costs.

88. The Tribunal considers that, in most cases, including the present, the provision of temporary accommodation will be both: (a) a response to a decant; and (b) the discharge of statutory duties triggered by that decant.

89. Those two characterisations are not mutually exclusive. The statutory duties arise because of the decant. The connection between the costs and the decant is not displaced by the fact that the authority is under a legal obligation to respond to the situation created.

90. The Tribunal therefore considers that the relevant connection required by section 124 is satisfied, notwithstanding that the Applicant was acting pursuant to its statutory duties.

91. Finally, it is necessary to consider the purpose of the 2022 Act. Section 124 is part of a wider legislative scheme directed at ensuring that the costs associated with building safety defects are borne, so far as it is just and equitable, by those connected with the building, rather than by leaseholders or the public purse. If the Respondent's arguments were correct, it would follow that, in circumstances where a local authority intervenes to protect residents and incurs costs as a result, those costs would only be recoverable as against the residents, even where they arise directly from relevant defects in the building. That would run counter to the evident policy of the legislation.

92. The Tribunal does not consider that Parliament could have intended such an outcome, particularly given the broad language used in section 124 and the absence of any express exclusion.

93. For these reasons, the Tribunal concludes that:
    (1) The fact that the Applicant incurred, or will incur, the relevant costs pursuant to its statutory duties does not preclude the recovery under section 124 of the 2022 Act; and
    (2) Section 124 operates as a distinct mechanism for allocating the financial consequences of relevant defects, and it is not displaced by the statutory regimes governing the provision of accommodation.

Judge S. Westby
Date: 15 June 2026