



FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : MAN/00BY/BSA/2024/0010

Property : Arndale House 89-103
London Road Liverpool L3
8JA

Applicant : Stanley Platinum Asset
Management Limited

Representative : Mr. Scott El Paraiso

Second Respondent : Arndale House Liverpool
RTM Company Limited

Third Respondent : X1 Developments Limited

Representative : Mr. Philip Byrne instructed
by MSB Solicitors

Fourth Respondent : Mountain Reef Limited

Representative : Mr Richard Anthony Barker

Type of Application : Remediation Order

s123 Building Safety Act
2022

Remediation Contribution
Order s124 Building Safety
Act 2022

Tribunal : Mr. J Murray LLb
Mr. Hefin Lewis FRICS
-Mr. Andrew Gee RIBA

Date of Order : 22 June 2026

ORDER

ORDERS

1. Remediation Order

The Second Respondent do carry out the Remediation works described in the Schedule hereto pursuant to s123 Building Safety Act 2022 in accordance with the timetable set out in that Schedule.

2. Remediation Contribution Order

The Third Respondent do pay a Remediation Contribution Order pursuant to s124 Building Safety Act 2022 to the Second Respondent within 28 days of the date of this Order:

- a. For the reimbursement of the reasonable costs incurred in respect of the BB7 and Fire Prevent Reports obtained by the Applicant (details of those costs to be provided to the Tribunal and the parties by the Applicant within 14 days of the date of this Order) and for those costs to be reimbursed to leaseholders in accordance with the terms of their leases.
- b. The sum of £110,000 being for the costs estimated by Thomasons to carry out the preliminary works, less the costs of obtaining a further FRAEW report, the Tribunal being satisfied that the Fire Prevent FRAEW Report is sufficient. If Thomasons have observations on this proposal, the Second Respondent must file further submissions with such observations and any revised costings.
- c. The Second Respondent have permission to apply for a further Remediation Contribution Order once the full Thomasons report is provided with a detailed costs estimate to ensure the works are completed by no later than 3 years

REASONS

Background

1. The Tribunal is dealing with an application under section 123(2) of the Building Safety Act 2022 ("the Act") for a remediation order requiring the Second Respondent to remedy specified relevant defects to Arndale House, 89- 103 London Road, Liverpool L3 8JA ("the Building") by a specified time, and a Remediation Contribution Order for the Third Respondent to pay for the costs of those works.

2. The Tribunal held hearings on the 27th May 2025 and 29th January 2026. The Second Respondent was ordered to produce an expert report in relation to relevant defects or potential relevant defects, that report intended by the Tribunal to be “a pre-tender estimate akin to that produced by FRC providing a cost summary/breakdown to include anticipated construction costs, consultant fees, BSR application fees, any other related costs, and a project programme. The report was to be based on the scope of remediation works recommended by the Fire Prevent FRAEW”. The costs of that report were to be met by the Third Respondent.
3. Concerns about the report were raised by the Applicant. Following the case management hearing held on the 29th January 2026 a further order was made for a revised report to be prepared in accordance with a Schedule appended to the Order.
4. Mr. Kevin Leung for the Second Respondent emailed the Tribunal on the 11 February 2026 advising that new information had come to light regarding the production of an Expert Report in respect of the cladding remediation at Arndale House. He referred to the background dispute concerning control of the RTM Company resolved by court order on 24 November 2025; this had effectively prevented the Second Respondent RTM Company progressing matters.
5. To comply with the Tribunal's order of 5 August 2025, the Third Respondent had been instructed to commission a report on behalf of the Second Respondent, although ownership of the report remained with the Second Respondent. The Second Respondent had since received new information from Colliers, the firm that produced the original costing that the report they produced was only ever intended (by those instructing them) as an “outline costing” and that Colliers had made the Third Respondent aware of that fact. The Second Respondent asserted that the third Respondent had commissioned the report with full knowledge of this. The representative of the Second Respondent said that they had taken no part in the arrangement of the report which had been arranged by the Third Respondent due to the ongoing RTM control dispute.
6. When the Second Respondent received the report, it was clear that there were issues with it, and they asked the Third Respondent (via managing agents) to arrange for Colliers to produce a revised version correcting the necessary parts.
7. The Second Respondent asserted that it was January of 2026 before they were in a position to contact Colliers directly to discuss expanding the report to an Expert Report, as was required by the Tribunal. Colliers provided copies of previous correspondence with the Third Respondent in which they had made their position

clear that they were not qualified to produce an expert report, and that they had not been appointed on that basis, nor instructed to act as an expert witness. Colliers had stated that "issuing a further revision of the Colliers' Cost Plan / Order of Cost Estimate in response to the further requests would be inappropriate".

8. The Second Respondent stated that a new Expert Report would need to be commissioned to provide the relevant information, and they were making urgent enquiries to determine a realistic time scale to satisfy this requirement.
9. The Second and Fourth Respondents advised the Tribunal in an email of 24 April 2026 that the Third Respondent had ceased communications with them in relation to the Thomasons' Report from the Third Respondent's solicitor stated "My client has taken advice on the cost of the report, and they are advised that it is reasonable. However, I am instructed that my client cannot make this payment as they do not have funds available".
10. The Applicant responded with a submission dated 9th March 2025 in which he stated that the hearing held on 29th of January 2026 had been at his request, due to the "wholly inadequate professional cost report" commissioned by the Third Respondent, in "full and flagrant breach of the court order". At the hearing, it was established and accepted that the cost report was wholly inadequate, and the court made clear that a further order would be issued that would detail exactly the provision of information it expected such a professional cost report to contain, to enable the court to make the RCO order that is sought.
11. He asserted that the Second and Fourth Respondents, Mr. Leung and Mr. Barker, didn't seem able to understand or comprehend the issues with the defective cost report that had been provided. He also disputed the dates that Mr. Leung took control of the Second Respondent, as he himself had resigned earlier and Mr. Leung had been appointed.
12. He objected to their suggestion, and that of the new expert, that an entirely new FRAEW was required as there were already two professional and competent fire reports available; the BB7 EWS report, dated 16 November 2020 commissioned by the Third Respondent themselves, and the FRAEW report dated 22nd December 2022 by Fire Prevent, as referenced in the most Tribunal order of the 29th January 2026.
13. In previous hearings, the Applicant had agreed to a cost order that related to the findings and qualifying defects, as set out in the BB7 report, at the request of the

Third Respondent in an effort to speed matters along. It was at what was supposed to be the final hearing on 28th May 2025, the Tribunal noted that the Fire Prevent FRAEW was considered the more comprehensive and appropriate report to follow and subsequent orders had requested professional costings reports against that FRAEW. The Applicant pointed out that leaseholders had so far paid tens of thousands of pounds for the two cladding/fire safety reports, and there was no requirement for a third.

14. The Fire Prevent FRAEW had been commissioned previously by the Second Respondent, and instructed by Urban Evolution, the then managing agent, because applications for Government funding were being made, and Homes England had altered the type of fire safety report that would be accepted.
15. The Applicant stated that EWS1 reports had been a tick-box type report, based on strict black and white compliance and in his view were overly cautious, a “one size fits all” type of report, which often resulted in unnecessary remediation or overly expensive remediation. The FRAEW (PAS 9980) framework had been introduced to take a more holistic, risk-based approach to fully determine the actual fire risk associated with a building's external wall construction.
16. The Second and Fourth Respondent were seeking in their joint position statement, for the exact opposite of the now industry standard approach to fire safety reporting; they stated that they had been advised that the Fire Prevent FRAEW was “wholly inadequate” for three reasons:
 - 1) “Fire Prevent has been appointed by Urban Evolution to conduct a basic level fire risk appraisal of the external walls.”
 - 2) “The report is risk-based, not compliance-based.”
 - 3) “This report is based on a desktop assessment of available relevant documentation in conjunction with an on-site visual inspection of the building wall-systems.”
17. The Applicant asserted that the advice the Second and Fourth Respondent had received and put forward was not compliant with current industry guidelines.
18. He pointed out that the fact of the commissioning by Urban Evolution was irrelevant, although Urban Evolution had remediated tens of buildings cross-country, and secured tens of millions of pounds in Government funding.

19. The second objection, that the Fire Prevent FRAEW was “risk-based, not compliance-based” the Applicant asserted was the opposite of current Government guidance and fire safety reporting requirements; EWS reporting (compliance based) was replaced by FRAEW reporting, under the PAS 9980 framework, specifically because of its risk-based approach.
20. The Applicant objected to the suggestion by Mr. Leung and Mr. Barker that the FRAEW was “wholly inadequate” due to the statement the report contained, which states: “This report is based on a desktop assessment of available relevant documentation in conjunction with an on-site visual inspection of the building wall-systems.”
21. The Fire Prevent FRAEW stated that there was a desktop element to the report, due to the fact BB7 had undertaken significant invasive survey work in 2020, and had fully documented this work and imagery in their EWS report. This report was therefore reviewed and partly relied upon, in the Fire Prevent FRAEW, lessening the cost to leaseholders in conducting the same opening up works twice.
22. He stated that Fire Prevent had visited the building and conducted works to reassure themselves of the accuracy of the BB7 imagery and information; the fact that the information from the BB7 report was taken into consideration and used in parts of the Fire Prevent FRAEW was referred to at 4.1.4 and 7.1.1 of the FRAEW.
23. Upon making an application for Government funding at the building, on the basis of the Fire Prevent FRAEW, technical eligibility was granted. Full funding was only withdrawn due to the Building’s student-only usage. Given that the FRAEW had been “fully accepted” by the Government and Homes England, there was no requirement for any further FRAEW report. The Respondents had delayed matters by a year to produce an entirely defective report, and there was now a further delay proposed.
24. The Applicant raised concerns that he had for some of the conduct of the Third Respondent and the hearings that have taken place; he asserted that the Fourth Respondent had been brought into the proceedings by the Third Respondent as part of a strategy to “deceive, provide false, inaccurate, and misleading information, forge a false narrative, and manipulate the court”.
25. He went on to say that the Third Respondent’s position statement sent via email by their solicitor on the 4th December 2025 was “specifically drafted in order to mislead the court”, and “contained known lies and false information”. It was

“purposefully not accompanied by a statement of truth, nor signed”. It stated that “R3 wishes to clarify that the expert evidence referred to in the November email was provided by the Second Respondent (R2). It was not provided by R3, and R3 assumes this reference was made in error”. Subsequent emails from the Second and Fourth Respondent stated that the Second Respondent had no involvement with the commissioning of the Colliers report, and that the matter was dealt with entirely by the Third Respondent. Email threads confirmed this, and proved that the information provided in their position statement was false.

26. The Applicant asked for a further urgent hearing, to reiterate the type of expert costings report that it required, specifically, that it is based on the Fire Prevent FRAEW, or an order removing any doubt as to what report was required. He asked that the Tribunal refuse permission for either respondent to obtain a further FRAEW, and that he be directly instructed to obtain the required professional cost report, or that the Respondents be instructed to work with him directly, in obtaining such a report, given the constant and persistent non-compliance with previous orders, and the complete failure of the Respondents to obtain the required reports. He asked that any further serious non-compliance with future court orders be met with severe penalties.

27. He asked that, following the findings in Empire Square (LON/00BE/HYI/2023/0013 & LON/00BE/BSB/2024/0602), the costs of both the BB7 and Fire Prevent fire safety reports be added to the final RCO, so that these amounts might be reimbursed to leaseholders. He asked that all of his expenses and costs, including that of his time taken in the matter, be added to the final RCO.

Determination

28. The Tribunal has now been provided with a Fee proposal for cladding investigations, and a fire safety assessment (FRAEW) dated 24 February 2026 prepared by Thomasons on behalf of the Second Respondent.

29. Thomasons provided the Second Respondent with fee proposals on 24th/26th February 2026 for a Stage 1 FRAEW report at a cost of £28,000, and separately for a full 38 week service including the remediation scheme design and production of an expert report, costing £138,000.

30. The Tribunal is satisfied that Thomasons have the right process and the right credentials and that the scope of the report complies with what we asked for. There is no objection to the costs from any party, save the Applicant who points

out that the original FRAEW was acceptable to Government/Homes England. The Second and Fourth Respondent suggest they cannot use the FRAEW for a number of reasons, but we are not persuaded by their argument. They are suggesting a further report is required, against a backdrop where there are now questions to be asked about the Third Respondent's ability to fund even the costs of the initial investigations.

31. The communication as to the Third Respondent's financial position by email of the 24 April 2026 from the solicitors for the Third Respondent will be of great concern for the Applicant, Second and Fourth Respondent and the leaseholders when the costs of remediation are likely to exceed £3 million.
32. The Tribunal finds that the defects outlined in the original Fire Prevent FRAEW report do present a building safety risk with respect to the spread of fire, and are to be considered as relevant defects in line with s.120 of the Act. In these circumstances we make the Remediation Order based on the original FRAEW report, with a mechanism for the Second Respondent to vary the scope of the works and the dates for compliance subject to the eventual costings to be determined by Thomasons.
33. Bearing in mind anticipated pre-construction time scales of 123 weeks for pre – tender stage (39 weeks, as per the Thomasons fee proposal); Building Safety Regulator Approval (40 weeks, which the Tribunal estimates conservatively for Gateway 2 approval) and works on site (44 weeks as per the Collinsons cost estimate report), then allowing time for tendering and appointing a contractor, and building in a margin of six months given the nature of the works, we consider three years to be a reasonable time frame for completion. The defects should be remedied by 1 July 2029.
34. Considering it just and equitable to do so, we make a Remediation Contribution Order in the terms attached, against the body responsible for the relevant defects, the original developer the Third Respondent. The Third Respondent do pay the Second Respondent the costs of preparing the Thomasons Report, with the exception of the new FRAEW report they envisage.

We consider the Fire Prevent FRAEW report previously obtained by the Applicant fit for purpose and shall be used by Thomasons unless they put forward a reasoned and credible argument to persuade us otherwise. The Second Respondent may apply for a further Remediation Contribution Order once the precise specification and the costs of the works are established by their expert report.

Signed: John Murray

Judge of the First-tier Tribunal

Date: 22 June 2026

MAN/00BY/BSA/2024/0010

REMEDIATION ORDER

In respect of Arndale House 89-103 London Road Liverpool L3 8JA (“the Building”)

UPON the Tribunal considering the Applicant’s application for a remediation order pursuant to section 123 of the Building Safety Act 2022 (the BSA 2022) and the evidence and representations of the parties, and upon considering the provisions of the BSA 2022

IT IS ORDERED AS FOLLOWS:

1. By no later than 1 July 2029 the Second Respondent Arndale House Liverpool RTM Company Limited shall remedy the relevant defects at the building (which for the avoidance of doubt which fall within the meaning of s122 of the BSA 2022) as specified by and in accordance with the attached Schedule of Works.
2. The Parties have permission to apply in relation to paragraph 1 and the attached Schedule and in particular the Second Respondent has permission to apply:
 - a. To be permitted to undertake different works to the Works, if it is revealed by investigation and analysis by a suitably qualified consultant that reasonable alternative works will remedy the relevant defects; and
 - b. To extend the time for compliance with this order.
3. Any application made under paragraph 2 must be made on an Order 1 application form supported by a witness statement endorsed with a statement

of truth, with detailed evidence explaining the reason for the application and accompanied by a draft order setting out the variation sought. Permission is hereby granted to rely on relevant expert evidence to support the application, which must contain a reasonable time estimate for the application to be heard and served upon other parties.

4. The Second Respondent shall notify the Tribunal and all parties and the leaseholders of the Building within one month of the certified date of practical completion of the Works and shall send them copies of plans showing the Building as altered by the Works within three months of such notification.
5. By section 123(7) of the BSA2022 this Order is enforceable with the permission of the County Court in the same way as an Order of that Court.

Signed: John Murray

Judge of the First-tier Tribunal

Date: 22 June 2026

MAN/00BY/BSA/2024/0010

Schedule of Relevant Defects as specified in the Fire Prevent FRAEW Report 22.12.22

1. Open balcony approach to apartments on the upper floors, with aggravating features such as combustible decking and other combustible materials present;
2. There are balconies that have combustible elements, and which are of such a size that it is foreseeable they will be used for significant items of furniture, for holding storage or waste, or for inherently hazardous activities such as holding barbeques.
3. The open balcony approach to apartments in some areas have a balcony width of over 2 metres with no smoke channel down stands provided;
4. High pressure laminate cladding panels (European fire class D) present;
5. Gaps present in the high pressure laminate cladding panels that are between 10-20mm;

6. No cavity barriers present or cavity barriers are ineffective due to poor installation in the high pressure laminate cladding system, render system and in the soffit details;
7. The PIR/PUR Insulation in the render system has a likely European fire classification of E;
8. The support frame for the high pressure laminate cladding system and render system is timber framed;
9. The sheathing board in some high pressure laminate cladding system sections is OSB, and combustible;
10. The sheathing board in some render system sections is OSB, and combustible;
11. There is scope for a cladding fire to breach compartment wall and floor boundaries significantly worsened by the nature and the extent of combustible material in the external wall construction;
12. A continuous vertically running cavity is present in the render and high pressure laminate cladding systems with poorly installed or missing cavity barriers;
13. Windows and other openings are in line with the render system cavity;
14. The render system is horizontally adjacent to windows and openings, and is vertically in line with these openings, such that fire and smoke can spread into the building causing secondary fires as a result of direct flame impingement;
15. Fire can spread under the overhang of the walkway balconies to give rise to extended flame lengths over the soffit and up the external wall beyond;
16. The render and high pressure laminate cladding systems are provided in the central courtyard where walkway balconies are present. These cladding systems are adjacent to windows and openings, such that fire and smoke can spread into the escape routes to give rise to untenable conditions;
17. There are combustible balconies with aggravating features, such as combustible decking and other combustible materials present.

Schedule of Remediation Works:

As specified in the Fire Prevent FRAEW Report 22.12.22

By 1 July 2029 Arndale House Liverpool RTM Company Limited is required to remedy the relevant defects in Arndale House 89-103 London Road Liverpool L3 8JA as specified below:

1. The timber and Perspex 1st floor central courtyard enclosure should be removed;
2. The PIR/PUR insulation present in the render system on the building central courtyard, 3rd and 4th floors should be removed and replaced with an insulation material that achieves European fire class A2 -s1, d0 or better;
3. The soft wood timber battens present in the render system as a support frame on the building central courtyard, 3rd and 4th floors should be removed and replaced with a render system support frame/structure that achieves European fire class A2-s1, d0 or better;
4. In the sections of the render system where timber OSB sheathing boards are present on the building central courtyard, 3rd and 4th floors, they should be removed and should be replaced with a sheathing board that achieves European fire class A2-s1, d0 or better;
5. The Trespa Meteon high pressure laminate cladding panels should be removed from the building external façade in all areas and should be replaced with an external wall surface material that achieves European fire class A2-s1, d0 or better;
6. The soft wood timber battens present as a support frame in the high pressure laminate cladding system should be removed and replaced with a cladding system support frame/structure that achieves European fire class A2-s1, d0 or better;
7. The breather membrane in the high pressure laminate cladding system is unsatisfactory and should be replaced with a breather membrane that achieves European fire class B-s3, d0 or better;
8. In the sections of the high pressure laminate cladding system where timber OSB sheathing boards are present, they should be removed from the high pressure laminate cladding system and be

replaced with a sheathing board that achieves European fire class A2-s1, d0 or better;

9. Composite floor decking on the building common walkway balconies and in the central courtyard on the upper floors should be removed and replaced with a finished floor that achieves European fire class A2 -s1, d0 or better;
10. Combustible supporting structure and combustible insulation located within the composite decking floor on the building common walkway balconies and in the central courtyard on the upper floors should be removed and where necessary replaced with materials that achieve European fire class A2-s1, d0 or better;
11. The soft wood timber battens provided as a support frame in the soffit of the common balcony walkways in the central courtyard should be removed and replaced with a support frame/structure that achieves European fire class A2-s1, d0 or better;
12. 'Closed state' cavity barriers should be installed in the void above the soffit in the common balcony walkways in the central courtyard. The new cavity barriers should be installed vertically on each compartment wall line in the soffit void. The new cavity barriers should be correctly installed in accordance with the datasheet for the product and achieve a minimum fire resistance rating of 30 minutes (integrity) and 15 minutes (insulation);
13. Cavity barriers should be installed vertically at each compartment wall line and horizontally at each compartment floor level where a cavity is present in the new render system on the building central courtyard, 3rd and 4th floors. The new cavity barriers should be correctly installed in accordance with the datasheet for the product and achieve a minimum fire resistance rating of 30 minutes (integrity) and 15 minutes (insulation);
14. Cavity barriers should be installed around openings such as windows, doors and extraction ducting where a cavity is present in the new render system on the building central courtyard, 3rd and 4th floors. The cavity barriers can consist of any of the following:
 - a. Steel of at least 0.5mm thickness

- b. Timber of at least 38mm thickness
 - c. Polythene sleeved mineral wool or mineral wool slab, in either case installed under compression in the cavity
 - d. Calcium silicate, cement based or gypsum based boards of at least 12mm thickness
 - e. Any other material that achieves a minimum fire resistance rating of 30 minutes (integrity) and 15 minutes (insulation)
15. Cavity barriers should be installed vertically at each compartment wall line and horizontally at each compartment floor level where a cavity is present in the new high pressure laminate cladding system. The new cavity barriers should be correctly installed in accordance with the datasheet for the product and achieve a minimum fire resistance rating of 30 minutes (integrity) and 15 minutes (insulation);
16. Cavity barriers should be installed around openings such as windows, doors and extraction ducting where a cavity is present in the new high pressure laminate cladding system. The cavity barriers can consist of any of the following:
- a. Steel of at least 0.5mm thickness
 - b. Timber of at least 38mm thickness
 - c. Polythene sleeved mineral wool or mineral wool slab, in either case installed under compression in the cavity
 - d. Calcium silicate, cement based or gypsum based boards of at least 12mm thickness
 - e. Any other material that achieves a minimum fire resistance rating of 30 minutes (integrity) and 15 minutes (insulation)

MAN/00BY/BSA/2024/0010

REMEDATION CONTRIBUTION ORDER

In respect of Arndale House 89-103 London Road Liverpool L3 8JA

UPON the Tribunal considering the Applicant's application for a Remediation Contribution Order pursuant to section 124 of the Building Safety Act 2022 (the BSA 2022) and the evidence and representations of the parties, and upon considering the provisions of the BSA 2022

IT IS ORDERED AS FOLLOWS:

The Third Respondent do pay a Remediation Contribution Order pursuant to s124 Building Safety Act 2022 to the Second Respondent within 28 days of the date of this Order:

- a. For the reimbursement of the reasonable costs incurred in respect of the BB7 and Fire Prevent Reports obtained by the Applicant (details of those costs to be provided to the Tribunal and the parties by the Applicant within 14 days of the date of this Order) and for those costs to be reimbursed to leaseholders in accordance with the terms of their leases.
- b. The sum of £110,000 for the costs estimated by Thomasons to carry out the preliminary works, less the costs of obtaining a further FRAEW report, the Tribunal being satisfied that the Fire Prevent FRAEW Report is sufficient. If Thomasons have observations on this proposal, the Second Respondent must file further submissions with such observations and any revised costings.
- c. The Second Respondent have permission to apply for a further Remediation Contribution Order once the full Thomasons report is provided with a detailed costs estimate to ensure the works are completed by no later than 3 years

Signed: John Murray

Judge of the First-tier Tribunal

Date: 22 June 2026