



Significant new guidance on Building Liability Orders and “Information Orders”

In the very recent Judgment of *BDW Trading Limited v Ardmore Construction Limited and others* [2025] EWHC 434 (TCC), the TCC dismissed applications for an “Information Order” under the Building Safety Act 2022 (the “Act”), at the same time offering useful guidance on when Information Orders will be made and when Building Liability Orders (a “BLO”) can be sought and obtained.

Key takeaways:

- BLOs can be sought and made on an “*indemnifying basis*” by the Court in circumstances where the original body corporate’s relevant liability remains in dispute and is yet to be established.
- Information Order applications under section 132 of the Act can only be made against the original body corporate, not against any potentially associated company.
- Applications for an Information Order should be short and uncomplicated.

Background

Information Orders under section 132 of the Act are intended to enable an applicant to obtain information so that it can make, or consider whether to make, an application for a BLO.

BDW Trading Limited (“**BDW**”) engaged Ardmore Construction Limited (“**ACL**”) as design and build contractor on a series of separate developments.

Fire safety defects and other structural defects were said to have been discovered in each of these developments. BDW are said to estimate the aggregate total rectification costs to be circa £85m.

Separate claims have been commenced by BDW against ACL (primarily alleging breaches of the Defective Premises Act 1972) and were, at the time of BDW making the applications, at different stages.

BDW sought to argue that ACL’s publicly available accounts showed it did not have the financial means to meet its alleged liabilities in respect of the claims against it.

BDW therefore applied to the Court for an Information Order under section 132 of the Act. Specifically, BDW sought information relating to the corporate structure and financial standing(s) of ACL and its alleged associated companies (the wider Ardmore group). A lot of the information sought by BDW was of a commercially sensitive nature.

The TCC Judge, HHJ Keyser KC, dismissed BDW’s applications and in doing so, gave some helpful new guidance on when Information Orders will be made and when BLOs can be sought and obtained.

BLOs

- BLOs can be sought and obtained on an “*indemnifying*” basis and without first establishing the existence of a relevant liability of the original body corporate – in other words, a BLO can be made when the original body’s relevant liability remains in dispute.

Information Orders

- Information Orders can only be made against the original corporate body subject to a relevant liability under section 132(3); they cannot be made against associated companies.



- Applications under section 132 of the Act should be “*short and uncomplicated*” and do not impose on the Court any obligation to become embroiled in assessments of the merits of disputed matters. Where liability remains in issue, the Court acknowledged that this may mean that Information Orders might be made “*sparingly*”.
- The Judge confirmed that the Court will adopt a restrictive approach in respect of commercially sensitive information being sought, only ordering disclosure of information needed by the applicant to consider whether to apply for, or to make, an application for a BLO.
- In this case, the Judge found that the relevant corporate structure was sufficiently clear, and the majority of the detailed financial information BDW was seeking was unnecessary, particularly where the requests were considered “*commercially intrusive without sufficient justification*”.

Comment

The guidance in this Judgment regarding Information Orders shows that there will be a relatively high threshold for obtaining an Information Order and, if one is to be granted, it may well be narrow in scope. Parties applying for Information Orders will need to consider their strategy and focus their requests accordingly.

The guidance in relation to when a BLO can be sought and obtained is particularly interesting.

Notably, the fact a BLO can be made on an “indemnifying” basis before the “relevant liability” has been established, represents a key dynamic to be considered by parties when considering their strategy for dealing with building safety related claims.

This article contains information of general interest about current legal issues, but does not provide legal advice. It is prepared for the general information of our clients and other interested parties. This article should not be relied upon in any specific situation without appropriate legal advice. If you require legal advice on any of the issues raised in this article, please contact one of our specialist construction lawyers.
© Hawkswell Kilvington Limited 2025

HAWKSWELL KILVINGTON LIMITED

2nd Floor, 3150 Century Way, Thorpe Park, Leeds LS15 8ZB | 28 Queen Street, London EC4R 1BB
Tel: 0113 543 6700 | Fax: 0113 543 6720 | enquiries@hklegal.co.uk | www.hklegal.co.uk