

The Vista Tower Judgment: A Landmark Decision on Remediation Contribution Orders

The Upper Tribunal (Lands Chamber) has handed down its much-anticipated decision in the Vista Tower dispute *Edgewater (Stevenage) Limited and Others v Grey GR Limited Partnership* [2026] UKUT 18 (LC). The appeal brought by the original respondents against whom Remediation Contribution Orders (RCOs) had been made was dismissed on all grounds.

The decision provides welcome clarity and guidance at appellate level on the scope and application of several of the criteria for the making of an RCO under Section 124 of the Building Safety Act 2022 (BSA). The judgment, delivered by Mr Justice Edwin Johnson, addresses several key issues including: (1) whether RCOs can be made that make multiple respondents jointly and severally liable for the same sum of money; (2) the correct approach to applying the “just and equitable” test; (3) the threshold for what constitutes a “building safety risk”; and (4) the approach to allegations that a remedial scheme is unnecessarily costly in the context of RCOs.

Background

Vista Tower is a 16-storey, 49.5-meter high-rise building in Stevenage, originally built in the 1960s as offices and later converted into 73 residential flats. The conversion was commissioned by the first appellant, Edgewater (Stevenage) Limited (R1), who sold the freehold to Grey GR Limited Partnership (Grey) in 2018 for £587,650. Following the Grenfell Tower tragedy, investigations revealed significant fire safety defects in the building’s external walls.

Grey applied to the FTT for an RCO in respect of the costs of remedial works, which were estimated at over £13 million. In January 2025, the FTT made an order against 76 of the 96 original respondents, declaring them jointly and severally liable for the total sum of £13,262,119.08. These respondents, referred to as the “Specified Respondents,” were various corporate entities associated with the developer.

The Appellants challenged this decision on four primary grounds, each addressing fundamental aspects of the BSA, each of which is considered below.

Ground 1: Jurisdiction for Joint and Several Liability RCOs

The first ground of appeal concerned whether the FTT has the jurisdiction to issue RCOs making multiple respondents jointly and severally liable for the same total sum. The Appellants argued that the language of the Act—referring to “a specified body corporate or partnership”—required individual orders to be made which apportioned shares of liability, so that it could not make a single order making more than one party liable for the same sum.

The Upper Tribunal rejected that narrow interpretation. Applying the Interpretation Act 1978, it was held that the singular “specified body” includes the plural. More importantly, the President noted that requiring apportionment would frustrate the legislative purpose of the BSA. If the FTT were forced to apportion shares between respondents, and some entities became insolvent or an order otherwise went unsatisfied, it would prevent the applicant from obtaining the necessary funds for remediation. For those reasons, the Upper Tribunal concluded that the FTT does have the power to make joint and several RCOs where it is just and equitable to do so.

However, in an important postscript to the judgment, the Upper Tribunal made clear that where there are multiple respondents to an RCO application joint and several liability is not the starting point in every case. The FTT must carefully consider what is the appropriate just and equitable outcome for each respondent. In some cases that may be apportionment between respondents or some respondents having no liability at all.

Ground 2: The “Just and Equitable” Test

The Appellants also argued that in order for it to be just and equitable to make an RCO, there is a minimum requirement that the respondent either participated in the relevant development or received remuneration from that development (whether directly or indirectly).

The Upper Tribunal rejected that argument. In doing so, it confirmed that it is not sufficient for the applicant simply to satisfy the gateway requirements in section 124. There has to be something more before the FTT can be satisfied that it is just and equitable to make the RCO. There is therefore an initial burden on the applicant to put forward a case as to why it is just and equitable to make an RCO against each respondent. However, that initial burden should not be overstated and once that applicant has stated its case it is then for the respondents to put their case in response, with each party bearing the evidential burden of proving the matters on which they rely. The judgment stresses that “just and equitable” test is a very wide one and Parliament had chosen not to list or limit the factors that could be taken into account.

The Upper Tribunal concluded that the FTT had been entitled to find that it was just and equitable to make the RCOs in light of its finding that the respondents were not carefully delineated SPVs, but part of an opaque network and structure which had not been satisfactorily explained by the respondents in their evidence.

The judgment also emphasises that where RCOs are sought on a joint and several basis against multiple respondents that are said to be caught by the association provisions, respondents will be expected to provide evidence clearly explaining the nature and extent of their relationship in order to assist the FTT in assessing whether it is just and equitable to make an RCO and if so on what basis.

Ground 3: Defining “Building Safety Risk”

At first instance, the FTT had concluded that for there to be a “building safety risk” for the purposes of Section 120(5) of the BSA, the relevant risk had to exceed the “low” category used in PAS9980 assessments. However, the Upper Tribunal took a different and less restrictive approach.

It was held that the term “risk” did not require any particular level or threshold of risk to be met. Any risk would be sufficient. So, while the level of risk may be relevant when the FTT is considering what remedial works are necessary, it does not form any gateway requirement to the criterion of whether there is a “building safety risk”. Support for that aspect of the decision comes in large part from the fact that in other aspects of the legislative regime where a particular level of risk has to be established, the legislation makes that clear; whereas no specific level of risk specified in Section 120 of the BSA.

On this point, the Upper Tribunal’s decision is broadly consistent with the FTT’s recent decision of 6 January 2026 in Canary Riverside Estate (LON/00BG/BSA/2024/0005 LON/00BG/BSB/2024/009) and brings clarity to this issue, making the bar for establishing that there is a building safety risk a lower one than many commentators had thought.

Ground 4: The Reasonableness of Remedial Costs

Finally, the Appellants challenged the reasonableness of the costs incurred in relation to some of the remedial works that were the subject of the RCOs. Expert witnesses had agreed that, from a purely technical perspective, the total removal of insulation was disproportionate.

However, the Upper Tribunal upheld the FTT’s conclusions that those costs were reasonable not least because earlier technical advice had supported the removal of the insulation and it was not incumbent on the applicant to second-guess that advice. Moreover, it was appropriate to take into account factors beyond engineering, including the pressures of having to implement remedial schemes quickly to satisfy Building Control and the Secretary of State, as well as the overarching need to resolve unsafe conditions for residents who had been living in at-risk conditions for years.

The decision highlights the fact that a reasonable remedial scheme does not necessarily mean the minimum that is technically necessary and that claimants will be allowed a certain degree of leeway in determining whether or not a remedial scheme is reasonable, not least owing to the competing pressures of the various stakeholders involved.

Conclusion and Implications

In dismissing the appeal against the FTT’s decision on all grounds, the Upper Tribunal has sent a clear message to developers and their associates. The decision confirms the FTT’s jurisdiction to make RCOs on a joint and several basis and that there is no need to apportion sums between respondents, provided it is just and equitable to make an order on a joint and several basis. Applicants will also welcome the decision that the “just and equitable” test does not require there to have been participation in the development or financial gain from it (although cases where those features are present are likely to be stronger). The decision also affirms the less exacting test for whether there is a “building safety risk” set out in the FTT’s recent decision in Canary Riverside Estate.

The decision also provides a salutary warning that respondents who fail to give candid explanations of their corporate structures are unlikely to be viewed sympathetically by the FTT.

Link to the judgment [here](#).

Article written by Thomas Crangle.