

STEWARTS

The Policyholder Review 2026

Construction



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Disputes remain firmly at the forefront and show no signs of slowing down

The construction sector continues to be a focus area for legal and regulatory changes.

The Building Safety Act 2022 (“BSA”) altered the landscape, and the changes in the law introduced have given rise to a significant number of fire and building safety disputes. As we discuss further in this chapter, the Supreme Court has now confirmed that developers have a right under the Defective Premises Act 1972 (“DPA”) to recover the costs of remediating buildings from relevant parties in the supply chain and can benefit from the extended limitation periods arising under section 135 of the BSA.

Against a government mantra of swifter fire safety remediation and a 2029 deadline for unsafe cladding removal, the new duties and liabilities introduced under the BSA continue to give rise to significant financial orders against construction businesses, including on a non-fault basis. Additionally, the Remediation Acceleration Plan (RAP) and proposed powers sought under the Remediation Bill, give rise to potentially severe penalties for any failures to remediate buildings within government’s timescales.

Such a seismic shift in duties, liabilities and remedies has an equivalent impact on the potential for coverage disputes, particularly in areas of unchartered territory.



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Key legislative and regulatory developments in 2025

Buildings must be fixed faster

The RAP is the government’s central delivery vehicle aimed at fast forwarding the remediation of buildings with unsafe cladding. When first published on 2 December 2024, the RAP highlighted that following the Grenfell tragedy, remediation work had been completed on only 1,436 of the 4,834 unsafe buildings identified at that time.

The government’s intention via the RAP is clear. Every building over 11 metres (11m+) with unsafe cladding must be fixed, and buildings must be fixed faster. Avoidance is not an option.

Alongside the RAP objectives first set out in December 2024, on 17 July 2025 the government outlined a range of additional measures aimed at overcoming perceived barriers to remediation. Included in the new measures to be introduced was an outline of the government’s intention to bring forward a Remediation Bill as soon as parliamentary time allows, intended to “create a hard ‘endpoint’ for remediation”. The intended Remediation Bill will include a Legal Duty to Remediate which will compel landlords to remediate buildings within fixed timescales or face criminal prosecution. Where landlords fail to fix buildings, new powers are to be introduced, which will include a Remediation Backstop to ensure works are completed.

In tandem with seeking new powers under the Remediation Bill, the government is reviewing Ordnance Survey records to identify relevant 11m+ buildings with potentially unsafe cladding and where necessary, it is contacting relevant parties to review their fire risk assessments and discuss their proposed programme for remediation.

The Legal Duty to Remediate

The government’s message to the industry is explicitly stated: avoidance is not an option. By the end of 2029, every 11m+ building with unsafe cladding must either have been remediated, have a date for completion, or its landlords will face strong sanctions and stringent penalties.

Under the Legal Duty to Remediate, the RAP now confirms that:

1. It will be an offence for any person to obstruct another from assessing or remediating an unsafe building 11m+ in height, without a reasonable excuse. Any party “whose actions unreasonably hinder progress” may be subject to financial penalties.
2. By the end of 2029, any landlord who has failed to remediate a building over 18 metres (18m+) “without reasonable excuse”, will face criminal prosecution, with unlimited fines and/or imprisonment.
3. For buildings between 11 and 18 metres, those that have not been remediated or scheduled for completion by the end of 2029 will be escalated to the government’s regulatory partners “for investigation and enforcement”.
4. Local authorities and Homes England will have new Remediation Backstop powers where, if the timeline for completing cladding remediation has passed or if relevant enforcement options have been exhausted, an application may be made to the First-tier Tribunal for such authorities to undertake remedial works themselves directly – with the landlord liable for any costs that would not normally have been covered by government. Of further note, is that, if the landlord does not or cannot pay those costs, then the building may be subject to an enforced sale to fund repayment.
5. There will be a new dedicated Remediation Enforcement Unit within the Building Safety Regulator (“BSR”), to progress the enforcement of 18m+ buildings that are not progressing to the RAP timescales.



The government's proposals are significant. We address elsewhere in this publication the insurability of fines and penalties (see [here](#)).

Against a backdrop of significant sanctions and in advance of the government's deadlines, policyholders will be under significant pressure to push forward remediation works and the insurance industry must engage in resolving any disputes that are slowing down remediation, where indemnities are potentially available.

Policyholders must push forward any unresolved insurance issues, and where appropriate, take further action to resolve coverage disputes. If insurers fail to engage on coverage and remediation is delayed, policyholders should consider claims under Section 13A of the Insurance Act 2015, to seek payment from insurers for any losses that arise because of a delay in paying sums due within a reasonable time.

Cladding and fire safety claims

Analysis from Solomonic confirms that the number of cladding and fire safety claims issued in the High Court has decreased for the first time in five years.



Source: Solomonic App database
Data correct as of 15 December 2025
Excludes Insolvency & Companies List

In conjunction with Solomonic, we have analysed the number of High Court claims issued over the last five years, which relate to cladding and fire safety¹.

Since 2021, there have been 257 such claims issued, with claims peaking in 2023 and 2024, no doubt due to the introduction of the BSA.

For 2025, whilst substantial disputes are ongoing, there has been a significant reduction in the number of High Court claims issued. In circumstances where there are still thousands of buildings to be remediated, that decrease may be the result of the BSA leading parties to seek new remedies in the Property Chamber of the First-tier Tribunal, which are not available in traditional litigation. As we anticipated last year, it is possible

that we may see an influx of claims returning to the High Court for determination when disputes arise as to which party should ultimately bear the costs of any Remediation Orders made.

Equally, the reduction in claims issued over the past 12 months might be reflective of the Supreme Court's judgment in *URS v BDW*. Now that construction supply chain professionals face longtail exposures under the DPA, developers may be opting to conduct remediation works first, with recovery actions to be pursued at a later date. If that is the case, we may see a wave of professional indemnity (PI) claims issued by building owners and developers against their third-party supply chain contractors in due course.

¹ The Solomonic dataset is produced on claims that contain any of the following topics: Grenfell, cladding, fire safety issues, Defective Premises Act, Building Safety Act or Fire Safety Act.

Building Safety Act 2022 (BSA)

On 28 June 2022, the BSA introduced sweeping legal and regulatory changes, impacting liability and insurance cover. It is a radical piece of legislation which has reshaped building safety and shifted the law. Since its introduction, the construction industry has had to grapple with extended limitation periods, alongside new duties of care and causes of action.

Limitation for Defective Premises Act (DPA) claims (section 135)

As set out in our 2025 edition of The Policyholder Review one of the most widely commented upon shifts in the law following the introduction of the BSA is the significant retrospective extension of the limitation periods that apply to claims pursued under the DPA.

To re-cap, prior to the introduction of the BSA, any cause of action in respect of a breach of duty imposed by the DPA could only be brought within six years from the date the dwelling was completed. As of 28 June 2022 however, the BSA² applied the following special time limits for certain actions in respect of building defects:

- For buildings completed after 28 June 2022, claims can be commenced up to 15 years from the date the right of action accrued; and
- For buildings completed prior to 28 June 2022, claims can be commenced up to 30 years from the date the right of action accrued.

Additionally, claims can now be brought under the DPA for defective refurbishment or rectification works to existing dwellings, with an applicable 15-year limitation period. For such “further work” claims, the cause of action (and the start of time running) accrues from the date the further work is finished.

All of this means that claims have been reawakened against developers, contractors and consultants, who prior to June 2022, might reasonably have taken the view that they had no liability exposure on historical projects post-Grenfell.

² BSA, section 135

³ *BDW Trading Ltd v Ardmore Construction Ltd* [2024] EWHC 3235 (TCC)

⁴ *Vainker v Marbank Construction Ltd & Ors* [2024] EWHC 667

From an insurance coverage perspective:

- The impact of the new limitation periods continues to give rise to coverage disputes. We are increasingly seeing coverage disputes being resolved on an urgent basis, often as the underlying claim reaches some form of alternative dispute resolution or is subject to a significant litigation step. Additionally, now that building safety claims can be adjudicated following the Technology and Construction Court (TCC) decision in *BDW Trading v Ardmore Construction*³, the expedited timetables at which adjudicated claims are determined means that policyholders facing building safety claims subject to adjudication are similarly going to be seeking confirmations of coverage much more quickly.
- As to the underlying causes of action, the introduction of the BSA and the DPAs extended limitation periods has given rise to claims against a policyholder which would previously have been statute-barred. Whilst each case will turn on its own facts, exclusions for fire safety have developed over time. Although such exclusions have become the norm, rather than the exception, that has not always been the case. Policyholders should revisit their historic fire-safety claim notifications from 2017 to review whether any coverage declinations were because of a fire safety exclusion, or some other exclusion (for example a contractual warranty exclusion). If so, the decision may be disputable, if claims are now being advanced under the DPA.
- Similarly, as DPA claims increase in significance due to the renewed limitation periods, policyholders should continue to be alert to potential coverage points being raised around the possibility of whether the DPA imposes strict liability, which would mean that a claimant does not have to prove fault or negligence (with potential implications for professional indemnity cover and whether there is a wrongful act). For policyholders for whom this issue might be relevant, this is a point we raised in The Policyholder Review 2025. At the time of writing, it remains the case that there is no authority from the court which finds that DPA claims are based on a strict liability (fitness for purpose obligation), rather than a duty to use reasonable skill and care. Based on present authority, DPA claims should therefore be indemnifiable under PI policies, as supported by the court’s considerations of reasonable skill and care within the context of a DPA claim as, for example, was observed in *Vainker*⁴.



URS Corporation v BDW Trading

Amidst the ongoing focus on the scope of construction professionals' duties of care, the court is not shying away from setting significant precedents which alter the legal landscape for the construction industry.

In December 2024, seven Supreme Court justices sat to determine a number of points of significance under the BSA and DPA, in *URS Corporation v BDW Trading*⁵. Judgment was handed down on 21 May 2025, with the justices unanimously dismissing URS's appeal on all four grounds.

In this landmark judgment, the Supreme Court reached a decision that supported developers, and sought to progress swifter remediation of fire safety defects by expanding the scope of liability for remediating defects. Developers now have a right under the DPA to recover the costs of remediating buildings from their contractors and consultants. They can also benefit from the extended limitation periods arising under section 135 of the BSA.

Background facts

URS had been retained by BDW (a property developer) as the structural design engineer on the construction of 12 residential tower blocks. The tower blocks contained fire safety defects in the form of inadequate structural designs, although by the time BDW discovered this in 2019, it had sold the premises. Nevertheless, prompted by the Grenfell Tower fire, BDW took it upon itself to carry out the remedial works. As URS was responsible for the alleged negligent design of the tower blocks, BDW sought to recover the remediation costs from URS. In March 2020, given its contractual claim against URS was statute barred, BDW brought a tortious claim alleging that URS had breached its duty to exercise reasonable skill and care.

BDW was successful at first instance, and on appeal to the Court of Appeal where it also obtained permission to amend its pleading to include a DPA claim and contribution claims against URS, given the extended limitation period. The Supreme Court's judgment addressed the following four grounds and in doing so, provided much needed clarity on a consultant's duty of care in defective premises claim.

- Ground 1 – Scope of duty and the “voluntariness principle”:** It was agreed between the parties that URS owed BDW a duty of care in tort to avoid pure economic loss (i.e. avoid the costs of structural repairs). The key question in dispute was whether this duty of care extended to losses that had been “voluntarily” incurred by BDW. URS argued that there was no legal liability for BDW to undertake the remedial works and, therefore, the losses were “voluntary”. The Supreme Court rejected this argument, finding that there was no principle in English law that stated that, where a party has incurred losses which it had no legal obligation to assume and which it has incurred voluntarily, it could not seek to recover those losses from another liable third party. Overall, the Supreme Court held that BDW had no “realistic alternative” than to carry out the repair works. Ground 1 was dismissed, finding there was no rule of law that meant the repair costs fell outside the scope of the duty of care or were too remote.
- Ground 2 – application of section 135 of the BSA:** It was agreed between the parties that section 135 of the BSA applied to a claim brought under section 1 of the DPA. However, URS contended that the retrospective extension should not apply to related claims in negligence, or for contribution. Further, URS's stance was that, as BDW's remedial works were carried out voluntarily and prior to the enactment of the BSA, the extended limitation periods should not apply. In contrast, BDW's position (unsurprisingly) was that the amended limitation periods under the BSA were to be treated as having always been in force. The Supreme Court rejected URS's argument, observing that it would be “legally incoherent” to have differing limitation positions between claims advanced by homeowners against BDW under the DPA, and claims for negligence and/or contribution by BDW against URS. There was no reason to restrict the application of section 135 of the BSA to claims made under the DPA and in line with the purpose of the BSA, it determined that the retrospectivity should extend to claims in negligence and for contributions. In practice, this means that, for buildings completed prior to 28 June 2022, building safety claims pursued by developers against their subcontractors, equally have a potential 30-year limitation period.
- Appeal Ground 3 – Did URS owe BDW a duty under Section 1(1)(a) of the DPA?:** Section 1(1)(a) imposes a duty on persons building dwellings for work conducted to be carried out in a workmanlike or professional manner and with proper materials, so that the dwelling is fit for habitation. URS contended that this duty did not extend to developers as the purpose of the DPA was to protect the purchasers of new dwellings only and it was not intended to be a recourse for developers against their subcontractors, who could use other avenues to bring claims. Again, the Supreme Court rejected this argument, finding that the DPA was intended to encapsulate first owners including those who order the construction of a dwelling (i.e. developers). Therefore, BDW was owed a duty by URS under the DPA.
- Appeal Ground 4 - Could BDW bring a claim against URS under section 1 of the Civil Liability (Contribution) Act 1978 (“CLA”):** In the circumstances of this case, no action had been commenced by the homeowners against BDW. Accordingly, URS argued that a right to recover a contribution does not arise until either a judgment, admission of liability, or settlement, are obtained for the same loss. In contrast, BDW's stance was that a right to contribution arose at practical completion, when damage was first suffered by a claimant homeowner. Lord Leggatt rejected both positions – finding instead that the right to recover arises when (i) damage is suffered by the claimant for which two parties are liable (“D1” and “D2”), and (ii) D1 must have paid for, been ordered to pay, or agreed to pay, compensation for such damage. A “payment in kind” by way of carrying out remedial works, is sufficient to establish (ii). It is at this point that a cause of action for contribution is crystallised and the limitation period of two years under the CLA begins.

Further discussion on the decision in *URS v BDW* can be found [here](#).

⁵ *URS Corporation Ltd v BDW Trading Ltd* [2025] UKSC 21



What does this wider liability for remediating fire safety defects mean for professional indemnity insurance?

An influx of claims against construction professionals?

Many policyholders (and their insurers) had been monitoring the outcome of *URS* to establish whether they owe potential longtail liabilities to developers. The outcome is that liabilities under the DPA are now considerably wider in scope, and there is likely to be a wave of professional indemnity claims by building owners and developers against their third-party supply chain contractors.

In a similar vein, the decision in *URS* also confirmed that developers may bring contribution claims against third parties under the Civil Liability (Contribution Act) 1978 even where no other party is liable and no other claim is brought against the developer. Again, this widens the scope of the supply chain's exposure to developer claims.

Longtail liabilities

As to what this means in practice, construction supply chain professionals now face similar longtail exposures, with limitation periods of up to 30 years under the DPA. Those businesses should also bear in mind that a developer may opt to conduct remediation works on a building unilaterally, and then later launch a recovery action against the third-party contractors.

Is it (finally) time for coverage to crystallise?

While the industry has been seeking to establish who carries potential liabilities for fire safety remediation costs, many construction insureds who have notified large fire safety exposures have received sweeping general reservations of rights from their insurers, pending claims or developments.

Now that the right for developers to pursue third-party contractor claims has been made clear in *URS*, coverage stances must crystallise. We are beginning to see an influx of coverage disputes as a result.

Some of the coverage issues that might arise include:

- **Notification disputes:** potential liabilities where claims are not advanced until sometime later will almost always give rise to insurers considering the notification provisions of the policy and any prior awareness. Many policyholders will have already reviewed their involvement in legacy projects and considered their exposure, but it is important that supply chain businesses now also do so.
- **Legal liability:** whether the remediation costs arose as a result of a legal liability or were incurred "voluntarily" is also a point which may give rise to coverage disputes. The judgment in *URS* provides some helpful analysis for what costs can be considered "truly voluntary" where there is no realistic alternative but for the insured to carry out remedial works. In light of the Supreme Court's judgment, it may also now be easier for policyholders to trigger cover under a policy, given insurers will need to take into consideration the requirement to incur costs on a 'voluntary' basis to achieve building safety. Policyholders should give regard to whether their policy wording provides cover for costs incurred in relation to "compulsory remediation" or costs in relation to "voluntary remediation" and the distinction between both.
- **Policy exclusions:** the scope and application of any policy exclusions (for example, workmanship exclusions) will continue to be a key battleground when seeking to agree the amount of the indemnity due under the policy.

- **Subrogation:** An insurer has a right to bring a claim in an insured's name to recover a loss it has paid under the policy once the insured has been indemnified. For parties able to pursue recovery actions against the construction supply chain, the operation of the policy's subrogation clause will be highly relevant, particularly where the cost of any remediation works exceeds policy limits. It is not unusual for policies to contain differing subrogation provisions (either favouring the insured or insurer). Insureds should consider the subrogation clause's terms at the settlement of the underlying claim if third-party recovery actions are envisaged.

The judgment in *URS* provides some helpful analysis for what costs can be considered 'truly voluntary' where there is no realistic alternative but for the insured to carry out remedial works.

Policy exclusions pose a further coverage issue. The scope and application of any policy exclusions, such as workmanship exclusions, will continue to be a key battleground when seeking to agree the amount of indemnity due under the policy.

Importantly, the decision confirms a duty can be owed to a developer as the first owner of the building and therefore consultants and designers may owe duties 'up the chain' thereby extending the risks for policyholders. This may lead to an increase in contribution claims and policyholders should be prudent in checking whether their policies provide cover for contribution claims.

An insurer has a right to bring a claim in an insured's name to recover a loss it has paid under the policy once the insured has been indemnified. For parties able to pursue recovery actions against the construction supply chain, the operation of the policy's subrogation clause will be highly relevant, particularly where the cost of any remediation works exceeds policy limits.

It is not unusual for policies to contain differing subrogation provisions, favouring either the insured or insurer. Insureds should consider the subrogation clause's terms at the settlement of the underlying claim if third-party recovery actions are envisaged.



Remediation Orders (section 123)

Section 123 of the BSA provides the First-tier Tribunal (FTT) with the power and discretion to issue a Remediation Order (RO) against landlords requiring them to remediate defective buildings and/or take specified relevant steps in relation to a defect.

Following the introduction of the BSA, the first RO was granted in 2022 in *Kedai*⁶. This case provided some helpful insights into how the FTT would assess whether there was a “relevant defect” to be remediated (as defined by section 120 of the BSA). The test to be applied here is whether the relevant defect caused a “building safety risk”⁷, applying industry knowledge at the date of the hearing.

We first considered the scope of ROs in our [2025 edition of The Policyholder Review](#), which included an analysis of the state of play following the decisions in *Grey GR Limited Partnership*⁸ and *Di Bari*⁹. Since then, we have seen further new law on the scope and application of ROs, which provides additional clarity for businesses subject to BSA orders.



⁶ *Waite & others v Kedai Limited* LON/00AY/HYI/2022/0005 & 0016

⁷ A “Building Safety Risk” as defined by BSA section 120(5): “a risk to the safety if people in or about the building arising from – (a) the spread of fire, or (b) the collapse of the building or any part of it”.

⁸ CAM/26UH/HYI/2022/0004

⁹ *Di Bari and others v Avon Ground Rents Ltd* LOM/00AP/HYI/2022/0017

¹⁰ *Secretary of State for Levelling Up, Homes and Communities v Grey GR Limited Partnership* CHI/00HN/HYI/2023/0008: The Chocolate Box, Bournemouth

The Chocolate Box

In 2023, the Secretary of State made an application for an RO against Grey GR Limited Partnership in relation to a building in Bournemouth known as The Chocolate Box¹⁰, a development of 59 residential properties, over 12 storeys. The decision provides a helpful framework of the core threshold requirements under section 123, relevant to the granting of a RO, including that: it must be a “relevant building (section 117(2)); the respondent must be a “relevant landlord or management company” (section 120(5)); and there must be “relevant defects” that cause a building safety risk (section 120(2)).

Importantly, even if each of those thresholds are met, The Chocolate Box confirms that the tribunal retains full discretion, and it is not compelled to make a RO.

Matters have however moved on again since The Chocolate Box, with *Empire Square* (considered over) providing further guidance on the test for making a RO. The test is not “fair and just” as The Chocolate Box suggested, but rather the FTT has a broader, unfettered, discretion, so long as the decision achieves remediation and is within the range of reasonable decisions.

Empire Square

On 5 June 2025, the FTT provided its decision for a RO sought by leaseholders against the landlord of *Empire Square*¹¹, as developed by Berkley Homes. In addition to the RO sought by the leaseholders, the landlord also sought a Remediation Contribution Order (RCO) against Berkley Homes.

The case is a notable one, as it is the first time the FTT considered whether to make a RO in circumstances where the developer, Berkley Homes, was positively asserting that it would remediate the building. In 2022, Berkley Homes had also signed up to the Developer Pledge (a government initiative which required developers to commit to remediate life critical fire safety defects in buildings over 11 metres), although by the time of the hearing in April 2025 works had not commenced.

The FTT granted the RO against the landlord and ordered a RCO against Berkley Homes (albeit both were suspended, on the grounds that this the best way to achieve remediation in the shortest possible time). In relation to the RO:

- There is now a shift from a “fair and just” test to a “purposive approach” – which the FTT explained as a solution focussed, rather than blame focussed, approach.
- The FTT considered that in line with the principal focus of the BSA, non-fault purposive approach to remediating buildings as soon as reasonably possible should be adopted.
- The purpose of a RO is to achieve practical remediation of life-threatening safety defects for the safety of leaseholders (not simply redress for non-compliance) and the FTT’s assessment of what the best answer is here is unfettered.
- The FTT’s decision must simply be “within a range of reasonable decisions” and its decision is not open to challenge “unless no reasonable decision maker, on the facts known to it, could have come to the same decision”.

Importantly, the FTT also confirmed that the landlord’s (incurred and continuing) costs in relation to the RO could be recovered from the developer under an RCO, including its legal costs and the costs of expert reports. Additionally, as was the case here, a RO and RCO could be made on suspended terms, to provide the developer with an opportunity to get on with the remediation of the building, failing which the landlord must do so under the RO, with the costs of such action to be recovered from the developer under the RCO. Either way, the FTT’s stance was that the developer was the appropriate body, who was going to pay.

2 Hillside

More recently, on 16 September 2025, the FTT handed down another important decision on the interpretation of ROs, in *2 Hillside*, where an application for a RO had been brought by leaseholders against the landlord¹². The decision provides yet further clarity on the scope and application of ROs in relation to “relevant defects”.

Under section 123(2) of the BSA the FTT has now confirmed that, whilst it has the power to specify the “relevant defects” to be remedied, it cannot dictate how those defects should be remedied and “how the landlord goes about remediation must be a matter for it”.

Additionally, the remediation works are not “relevant steps” under the BSA. Instead, for the purposes of section 140(4A), “relevant steps” (being the actions necessary to address a “relevant defect”) are the mitigation steps, whilst remedial works are being carried out. That is a point which is also made clear in The Leaseholder and Freeholder Reform Act 2024 (LFRA 2024) which inserted the definition of relevant steps into the BSA from 31 October 2024. The LFRA 2024 now confirms that, in law, relevant steps (i.e. interim or temporary measures such as fire sprinklers, waking watches and temporary accommodation) fall within a relevant landlord’s responsibility – although a developer or previous landlord can be required to contribute to the costs of remedying or, where applicable, taking such mitigating steps in relation to relevant defects (with such costs recoverable, retrospectively and prospectively, under RCOs).

¹¹ *Robert Zampetti & Others v Fairhold Athena Limited* LON/00BE/HYI/2023/0013.

Analysis

Any landlord seeking to argue against a RO on grounds that it is unfair, will face an uphill battle. Against a mantra of unfettered discretion focused on achieving remediation as quickly as possible, it is clearly going to be very difficult for any landlord to establish that no reasonable decision maker, on the facts known to it, would have come to the same decision.

As we have highlighted previously, an approach that focuses on achieving remediation, rather than assessing whether there is legal culpability challenges well-established legal principles. An outcome-based remedy means that potentially, a policyholder may be liable even if it acted responsibly, which may give rise to coverage disputes around how such remedies fit within the realms of indemnity insurance.

As to resultant claims against developers, we expect that as was the case in *Empire Square*, developers will want to take the opportunity to control and undertake the remediation works in place of the landlord as, in our experience, costs can otherwise spiral significantly, with disputes arising over the reasonableness and scope of the remediation works later down the line. This point increases in significance now that it is confirmed under the LFRA 2024 that it is the landlords' responsibility to undertake the "relevant steps", with such costs recoverable, retrospectively and prospectively, from developers under RCOs. Again, the costs of waking watches, temporary accommodation and expert reports prior to the completion of remedial works can potentially, be very significant – and any delays in carrying out remedial works will only cause such costs to increase.

Against a background of increasing liability, developers will no doubt wish to take control and push their insurers to indemnify the relevant steps, and the remedial works to be conducted, as soon as possible - and action should be taken to crystallise and resolve any ongoing coverage dispute causing a delay.

While we had hoped that we would see more proactive engagement by insurers to seek to resolve coverage issues earlier, under the threat of ROs, so that the insurance funds needed to carry out necessary remediation works are received without delay, our team are instead witnessing an increase in building safety coverage disputes, as the underlying claims move forward or crystallise. Pursuant to section 13A of the Insurance Act 2015, it is an implied term of every insurance contract that the insurer must pay any sums due in respect of the claim within a reasonable time. If, as a result of any delay in payment, policyholders are facing ROs they might not otherwise have been subject to, section 13A claims for losses may follow against insurers as a result. Such losses might include: costs incurred in responding to an application for an RO; and any additional remediation costs that arise when measuring the costs of the remedial works ordered under a RO (assessed by reference to the building regulations in force at the time of the application hearing, rather than the regulations in place at the time of the works), against losses that might flow from claims in contract, tort or under the DPA.



Remediation Contribution Orders (section 124)

In addition to ROs, section 124 of the BSA makes provision for Remediation Contribution Orders ("RCOs"), pursuant to which the FTT may, on the application of an interested person, make an order that requires a "specified body corporate or partnership" to contribute towards the costs of remedying relevant defects if they are an "associated person". This effectively pierces the corporate veil.

Triathlon Homes

On 19 January 2024, the FTT handed down its first RCO in the case of *Triathlon*¹³.

The RCO application concerned five residential building blocks in the former Olympic Village in Stratford, London. Triathlon, who owned the long leaseholds, sought RCOs under section 124 against: the original developer Stratford Village Development Partnership ("SVDP"); SVDP's parent company ("Get Living Plc"); and East Village Management Ltd ("EVML"), a company established by agreement between SVDP and Triathlon, which was contractually responsible for remedying defects in the blocks. EVML had initially funded the remediation works through service charges levied on the leaseholders.

The RCOs were sought to require SVDP and Get Living Plc to pay for Triathlon's share of the remediation works, and to seek reimbursement of historic costs incurred before the BSA came into force. The RCOs ordered by the FTT were subject to appeal.

On 8 July 2025, the Court of Appeal handed down judgment¹⁴ on whether the FTT erred in determining that it was "just and equitable" to make the RCOs; and if RCOs could apply retrospectively and for costs incurred before the BSA was implemented.

The Court of Appeal unanimously dismissed the appeal and upheld the FTT's decision to grant RCOs against SVDP and Get Living Plc.

- **Just and Equitable:** On Ground one, the court confirmed that the FTT decision was not flawed. It was the underlying policy of the BSA for developers and well-capitalised owners to be held primarily responsible for remediation costs, rather than the public purse; and RCOs are independent and largely non-fault-based remedies which are not contingent on the existence of other claims, such as contractual claims or service charge, or other avenues of redress.
- **Retrospectivity:** On Ground 2, the court similarly agreed with the FTT view that section 124 was intended to have retrospective interpretation, referencing the Supreme Court's decision in *URS v BDW*, as to the retrospective effect of limitation periods under section 135 of the BSA. This will be particularly relevant, for leaseholders who were previously required to pay remediation costs, by way of service charges, prior to the enactment of the BSA. In reliance upon *Triathlon*, leaseholder can now seek to recover those losses on the basis that they are just and equitable (meaning that developers and their group companies may see claims originating out of already remediated buildings, where the works were paid for out of service charges prior to the BSA coming into force on 28 June 2022). A similar stance was reached by the Court of Appeal in *Adriatic Land*¹⁵, albeit subject to appeal.

SDVP and Get Living Plc have successfully obtained permission to appeal Ground 2 (retrospectivity) to the Supreme Court, which will be heard by the same panel considering the appeal in *Adriatic Land*.

The decisions are significant for construction professionals in the context of legacy projects and are a reminder that even where there has been a change in beneficial owner of the developer, as was the case in *Triathlon*, it will not prevent the court from granting an RCO, as the starting position will almost always be whether it is just and equitable for the developer to pay the remediation costs.

Additionally, an RCO's ability to pierce the corporate veil remains a potentially significant issue. Any entity facing an RCO as an "associated" person should consider their policy wording carefully and, if needed, take coverage advice. Subject to the terms of each policy, coverage disputes might arise if the "associated" entity was not a party to the underlying contract(s) or involved in the development at the material point in time.

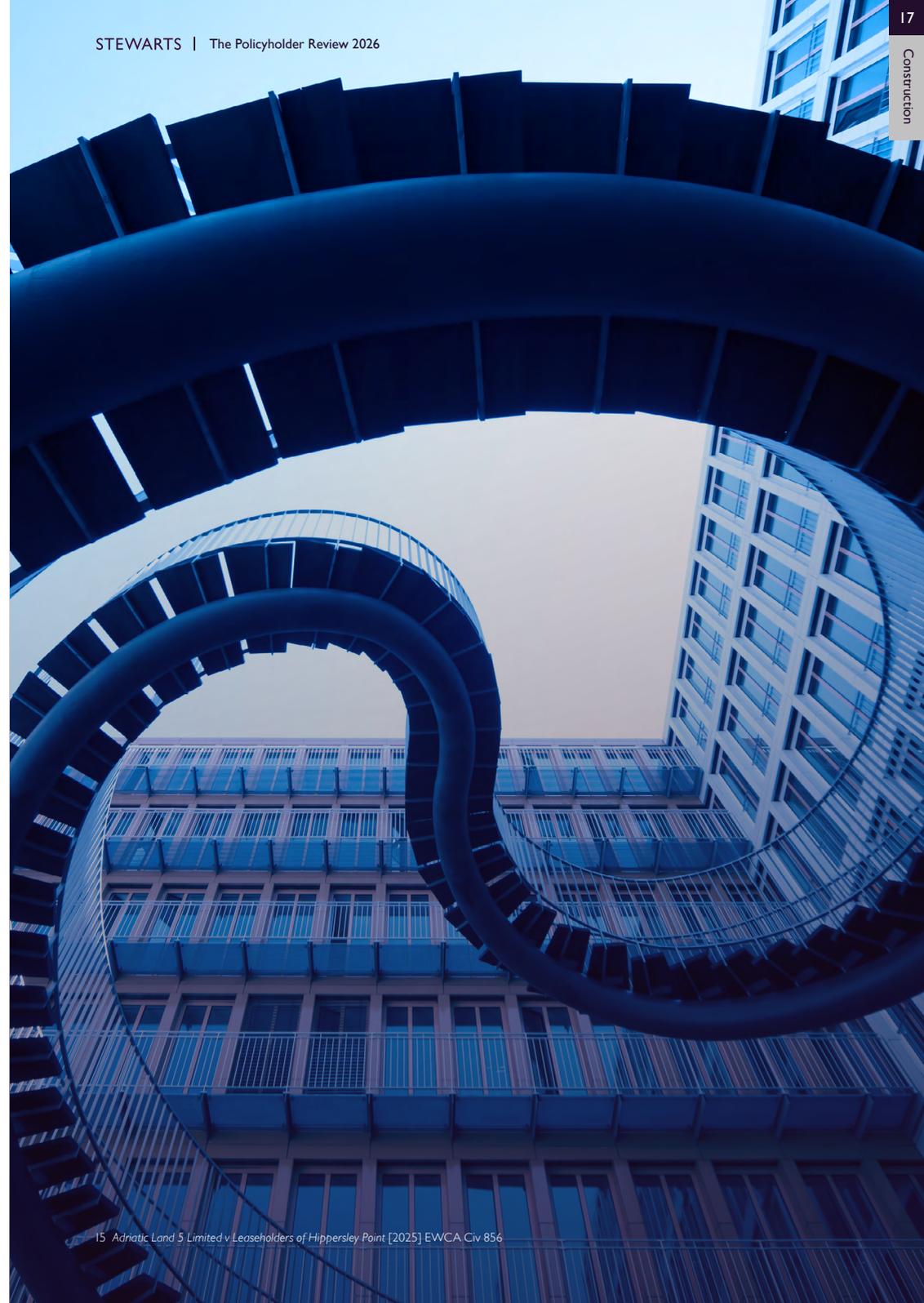
Equally, rather than a composite policy, the developer and associated entity could feasibly be insured under separate policies with separate insurers and differing terms, which may further complicate the issue.

The polluter pays principle

Alongside *Triathlon*, further guidance and clarity on the application of RCOs was also provided by the FTT in *Empire Square*, which we have discussed. Whilst the original developer in that case, Berkley Homes, had confirmed that it would carry out the remediation works, that did not prevent the FTT from ordering a RCO. The case authorities continue to demonstrate a 'polluter pays principle', which would follow the government's legislative goal under the BSA to ensure that those who conducted the development, pay for the remedial works and the costs arising out of remedial orders where it is "just and equitable" to do so. The FTT decision in *Empire Square* that legal costs incurred in obtaining the RCO would be recoverable from Berkley Homes under section 124(2) is a further illustration of this, and developers remain the focus point.

As we discussed in last year's The Policyholder Review 2025, it appears that boundaries are rapidly blurring between what appeared to have been the original aim of ROs and RCOs - being an alternative and more efficient tool to resolve disputes – and the characteristics of traditional litigation. Overall, the FTT has been granted the power to provide remedies that are far broader than would ordinarily be the case in litigated construction disputes proceeding in the TCC so that applicants can avoid the cost and complexities ordinarily associated with such litigation. The lines here are now blurring even further, and whilst the FTT may be focused on achieving remediation quickly, that does not mean expensive and lengthy litigation ramifications will not be felt by parties in knock-on coverage disputes, or later TCC claims flowing from RCOs.

In the meantime, the burden of pursuing such TCC litigation to recover the costs from the ultimate responsible party is evidently being placed on developers (and their insurers). Given the quantum of building safety claims is often considerable (and typically complicated by insured and non-insured losses), it would be sensible for developers to revisit the subrogation rights and payment waterfall provisions in any relevant insurance policies, to better assess the likely recoveries that might flow from potential third party claims, and who receives the rewards of any third party claim first.



¹⁵ *Adriatic Land 5 Limited v Leaseholders of Hippersley Point* [2025] EWCA Civ 856

Building Liability Orders (section 130-132)

In a similar vein to RCOs, another groundbreaking reform introduced by the BSA was the power now provided to the High Court to issue a Building Liability Order (“BLO”), which will make another specified body corporate jointly and severally liable for relevant liability.

In considering whether to grant a BLO, the court will have regard to the facts in each case and what is just and equitable in the circumstances. Different to RCOs, BLOs are secondary remedies and will only be granted where primary liability has been established.

However, BLOs are another enforcement mechanism available to the court to pierce the corporate veil and the challenges posed by special purpose vehicles (SPVs), in extending liability to associates of the original developer or landlord liable under the DPA, section 38 of the Building Act 1984 or as a result of some other widely defined “building safety risk”.

This past year has been relatively quiet for BLOs and there remains a limited number of precedents on the application of this secondary remedy (or additional enforcement option) since the introduction of the BSA.

The first ever BLO

The first BLO under section 130 of the BSA was granted in 381 *Southwark Park Road*¹⁶. The first defendant, Click St Andrews, was a special purpose vehicle (SPV), which had entered into a freehold purchase agreement (“FPA”) with the leaseholders and the right to manage company which required it to carry out some works. The court determined that Click St Andrews breached its obligations under the FPA and the question was whether its “relevant liability”¹⁷, could be extended to its parent, Click Group Holdings Ltd, as an “associated body corporate”¹⁸.

Upon establishing liability, the court held a consequential hearing in December 2024 and determined it was just and equitable to make the

BLO given the SPV could not meet the financial liability and the associated company need not be named in the original proceedings for a BLO to be made (although it would be sensible for them to be joined for effective case management).

The case acts as a reminder to developers and the like that forming an “empty shell” of a SPV does not always provide upscale protection. The message following the BSA is that the court will not be reluctant to source alternative funds where SPVs are insolvent. As with RCOs, the court will interpret BLOs narrowly and only in circumstances whereby a “relevant liability” (i.e. circumstances that give rise to a building safety risk being either fire or structurally related) has been established.

*BDW v Ardmore*¹⁹ also provided some commentary on when a BLO could be issued, suggesting that applicants could seek a BLO even before the relevant liability of the original entity has been established. Again, this represents another potential shift in the court’s attitude and approach to company liability – although the court equally acknowledged in that case that applications for information in connection with a BLO (under section 132) “ought... to be short and uncomplicated” and should not “impose on the court any obligation to become embroiled in assessments of the merits of disputed matters”, which might mean “that applications for information orders will be made sparingly in cases where liability is in issue”.

Policyholders should take care to ensure that there is clear visibility over group structuring before setting up SPVs, as associated and parent companies may face greater. Similar care should be taken in relation to the group’s insurance arrangements. Policy terms should be reviewed closely and in particular; consideration should be given to which companies within a group structure fall within the definition of the ‘insured’. Providing detailed information to insurers on group company structures during the proposal process would be sensible, and may reduce potential coverage disputes down the line.



Damage and aggregation clarity in Construction All Risks insurance

In December 2024, the Court of Appeal handed down its judgment in *Sky UK Limited v Riverstone Managing Agency*²⁰.

The case concerned damage to the roof of Sky’s global headquarters in London during its construction. The roof, which is the largest flat timber roof in Europe, made up of 472 individual wooden cassettes, suffered extensive water ingress during its construction. Water entered the roof space because the contractor, Mace, had failed to provide protective measures by way of a temporary roof during a period of rainfall. Despite various drying-out attempts, by the time practical completion was achieved on 4 April 2016, the issue had not been rectified. Remedial works are ongoing and expected to complete in 2029.

The policy coverage case concerns the application of key insurance law principles. Sky and Mace were both co-insureds under a ‘construction all risks’ policy, which covered the period of construction, plus a one year “maintenance period”. Both parties sought an indemnity from Insurers under the Construction All Risks (CAR) policy for damage that occurred during the period of insurance, damage that developed thereafter, and the costs of investigating the extent of the damage that had occurred to date. The CAR insurers contended that Sky and Mace were not entitled to any cover for “damage” that occurred after the Period of Insurance, nor for the costs of investigating the extent of the “damage”. It was also disputed whether multiple deductibles applied.

The Court of Appeal found in favour of Sky and Mace on several key principles and the whilst the CAR insurers sought permission to appeal, that was refused by the Supreme Court²¹.

¹⁶ 381 *Southwark Park Road RTM Company Ltd & Ors v Click St Andrews Ltd (in Liquidation) & Anor* [2024] EWHC 3179 (TCC)

¹⁷ Under section 130(3)(b) of the BSA.

¹⁸ Under section 131 of the BSA, it was argued that Click Group Holdings Ltd was an “associated body corporate”.

¹⁹ *BDW Trading Ltd v Ardmore Construction Ltd & Ors* [2025] EWHC 434 (TCC)

²⁰ [2024] EWCA Civ 1567

²¹ UKSC/2025/0026vvzv

The Period of Insurance and developing damage

The insuring clause required insurers to indemnify Sky and Mace against "physical loss or damage to Property Insured, occurring during the Period of Insurance, from any cause whatsoever". Whilst insurers sought to argue that damage occurring after the Period of Insurance was not covered, the Court of Appeal found in favour of Sky and Mace on the following principles:

- In a contract of insurance against damage to a property, an insurer promises to an insured, by way of a warranty, that the damage will not occur. Once the damage has occurred, the insurer is in breach of its primary obligation. The insurer's secondary obligation is to pay damages for breach of its primary obligation.
- Therefore, the measure of recovery in a property insurance claim is governed by common law principles, i.e. to put the innocent party in the same position as if the breach had not occurred.
- The measure of recovery will be subject to express terms in the insurance policy, such as deductibles, limits and exclusions.
- Such modifications and limitations must be achieved by clear wording. The temporal limit in the Insuring Clause (occurring during the Period of Insurance) did not provide the clear wording required to modify the common law principles. It does not purport to define or confine the loss for which the insurer is liable. If the insured damage has caused further damage, then subject to the usual principles of mitigation and remoteness, the insurer is liable for the loss resultant upon suffering that further damage.

Put simply, the costs of remedying the foreseeable deterioration and development damage that occurred after the Period of Insurance, as a result of the insured damage that occurred during the Period of Insurance, were recoverable under the CAR policy. A point Lord Justice Poplewell found was consistent with authorities reaching back to 1850, and with commercial sense.



The meaning of physical 'damage'

It was the insurers' position that, in order to be "damaged" within the meaning of the CAR policy, the timbers would have had to reach a condition requiring "immediate replacement or repair", as anything short of that would not constitute damage. Insurers' case here was that wetting, which could be cured by drying out, was not damage.

Again, the Court of Appeal rejected the insurers' position, finding instead that damage constituted any change to the physical nature of tangible property that impaired its value or usefulness, even if the damage can be remedied.

The application of deductibles

It was disputed between the parties whether a deductible of £150,000 for "any one event" applied once to the whole of the claim, or separately in respect of damage to each cassette - in which case the cover available would be minimal or non-existent.

Finding in favour of the policyholders, the Court of Appeal agreed that the "event" was the cause of the damage, and not the damage suffered to each individual cassette. The decision not to have a temporary roof was a single event. Therefore, a single deductible was applicable.

The recoverability of investigation costs

An issue arose as to whether as to whether investigation costs fell within the policy's Settlement Clause, which required insurers to "indemnify the Insured on the basis of the full cost of repairing, reinstating or replacing property lost or damaged...".

The Court of Appeal favourably determined that the costs of investigating what is reasonably necessary to remedy insured damage, and deterioration and development damage, are self-evidently part of "the full cost of repairing or reinstating" insured damage within the meaning of the Settlement Clause. Investigation costs are therefore recoverable, if they are reasonably incurred, even if no damage is discovered.

What is the impact of Sky & Mace v Riverstone for policyholders?

The decision is a significant win for policyholders of time-relate occurrence policies.

- Damage to a property is interpreted widely and includes any change to the physical nature of tangible property that impairs its value or usefulness, even if it is capable of remedy.
- Damage occurring after a period of insurance that can be shown to have developed from the damage occurring during the period of insurance can, in the absence of any intervening cause, be recoverable under the policy subject to its term. Policyholders (and insurers) in existing disputes should reconsider their positions in light of this. However, if the policy is clearly worded to exclude cover, the courts will be reluctant to step away from that position. This emphasises the importance of closely considering policy wording.
- Reasonable investigation costs incurred in investigating the cause and extent of damage should be recoverable.
- Aggregation clauses that refer to "any one event" relate to the event causing the damage.

Construction: Overview of the market

Howden

The construction professional indemnity insurance (PII) market has continued to soften over the past 12 months. The increase in new insurer entrants to the market has created significant competition, both on renewal lines and new business. Well-run firms, without systemic claims issues and with robust, evidenced risk management procedures, are likely to see significant benefits from this, both in terms of premium and policy coverage.



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Market update

Overall, the PII market has continued to soften, with several factors exerting downward pressure on price, primarily additional competition from new entrants and increased capacity in existing markets.

Construction, however, is not a singular profession. Therefore, while the market has significantly improved from the 2020-2022 pricing peak, there will inevitably be variation in the savings achieved across the sector.

Coverage

In addition to improvements on premium, there has been a noticeable shift in the coverage being offered by insurers.

During the peak of the hard market, the coverage available was quite restrictive in certain higher-risk areas. Smaller firms had the greatest difficulty in this regard, often being placed on insurers' own wordings (traditionally less generous than broker wordings), which contain more onerous conditions and exclusions.

This appears to have shifted; the market is increasingly willing to adopt broker wordings for architects, engineers and similar professionals. Where it is not possible to adopt a broker wording, improvements can be made to existing wordings, such as removing exclusions and improving coverage.

Fire safety coverage

Up until recently, fire safety and cladding coverage within the market have remained quite restrictive and largely inconsistent, with a great degree of variance from firm to firm and profession to profession. While the standard position has been for insurers to provide cover limited to the cost of rectification only (ie, excluding consequential losses), applying only where such losses arise from a negligent act and with a retroactive date, higher levels of cover are now achievable.

While we would heavily caveat this on the basis that each firm's characteristics, services offered and claims history differ, insurers are increasingly willing to provide fire safety and cladding cover on a simple aggregate basis, without exclusions of consequential loss. Further to this, there is an increased appetite to provide retrospective cover (covering prior work/services), albeit on a more limited basis and subject to sufficient comfort being provided to underwriters during the renewal process.



Areas of concern

Artificial intelligence

From an underwriting perspective, there has been increased focus on artificial intelligence (AI) and its deployment within the industry. This is in tandem with a number of professional bodies, such as the Royal Institute of British Architects (RIBA) and the Royal Institution of Chartered Surveyors (RICS), publishing their views and guidance on the use of AI.

At Howden, we are now seeing underwriters asking firms to provide evidence of their AI policies and procedures, with a key point being the level of oversight the firm maintains over its use. If firms do not already have a written procedure governing the use of AI, it would be advisable to put one in place.

Building Liability Orders

Building Liability Orders (BLOs) are a relatively new remedy introduced by section 130 of the Building Safety Act 2022 (BSA). A BLO effectively allows the courts to hold an associated company (such as a parent company) responsible for another company's liabilities (where the requirements are met).

While relatively new and at present somewhat uncommon, BLOs have the potential to create a number of issues from an insurance perspective:

1. PII policies are intended to cover liability arising out of the performance of the insured's services. By their nature, BLOs can make you liable for work performed by another entity that the policies are not intended to cover, as the other entity may not be an 'insured' under the terms of the policy.
2. There is an increased potential exposure for parent and holding companies. It is important to consider that such firms may not maintain PII and, where they do, it may not be intended to cover construction-type risks. This is particularly the case, for example, where the parent company is a financial institution.
3. There is an increased risk of exposure arising from corporate transactions/mergers and acquisitions.

Given their limited use to date, it is difficult to provide a comprehensive overview of the PII market's response to BLOs. However, firms should actively engage with their broker to ensure that policies are drafted as widely as possible and that underwriters are made aware of any potential liabilities.

Criminal prosecution

The BSA created several new criminal offences. For example, failure to comply with compliance and stop notices is a criminal offence, as is a breach of the Building Regulations 2010. These offences carry a maximum penalty of up to two years' imprisonment and an unlimited fine. Further, the Building Safety Regulator now has the option to prosecute individuals within corporate bodies in certain circumstances.

This poses a number of challenges from an insurance perspective, which firms (and individuals) should consider:

While PII policies are generally not intended to provide cover for criminal prosecutions, it has become increasingly common for them to provide some form of cover for the defence costs associated with a criminal prosecution. This is likely to have arisen following the potential liabilities imposed under the CDM Regulations 2015.

Insurers are, therefore, not new to this exposure. However, not all policies have been updated to reflect the BSA and its liabilities (with many still only covering exposures under the CDM Regulations 2015 and similar legislation). Firms should discuss this with their broker to ensure adequate coverage in this respect.

One key point concerns "personal" liability. There is an important distinction between the liabilities under the BSA and the CDM Regulations 2015. The liabilities under the BSA primarily relate to design, rather than health and safety. Design-related issues may not become known for some time after the original breach. As PII is a "claims made" basis of insurance, it would be the policy in force at the time of the claim/prosecution that would respond. This could create difficulties for individuals who have left a practice or for practices that no longer exist and maintain insurance. This should be a key consideration for individuals.

Competence

The driving theme throughout the BSA, which has flowed through into the underwriting process, is competence. A firm's ability not only to demonstrate competence but also to be competent is key not only to ensuring compliance with the legislation but also to a successful renewal.

Section 11F of the Building Regulations, introduced as part of the broader reforms brought in by the BSA, sets out general competence requirements for the construction industry. Our experience with renewals is that insurers are keen to understand how practices are satisfying these requirements, both at the individual and company levels; they want to see more than just a thin veneer of competence.

Summary

In summary, while there have been significant improvements in the PII market, primarily driven by increased competition, the benefits will be most accessible to well-run firms that can demonstrate robust risk management procedures and competence to insurers as part of their submissions.



Claims overview

Although it has been more than eight years since the Grenfell Tower tragedy, the professional indemnity market is still dealing with its aftermath, as well as the BSA and its implications for the construction profession. These are still being worked through and are still not fully understood in practice. The result is a continued stream of BSA-related claims, with the new addition of BLOs being sought.

Internationally, there continues to be a focus on fire safety within tall buildings. The rectification work conducted over the last four years has reached a stage where recovery is now being sought by government bodies, such as the State of Victoria in Australia, and by contractors/building owners. The recent fires in Hong Kong have also kept the topic high on the agenda for all parties, including insurers.

In addition, there has been a steady rise in high-value, complex professional negligence claims, and the cost of defending them remains high. Independent experts, especially in relation to fire-safety claims, continue to be in demand. This means the cost of expert evidence is increasing, as the conflict between supply and demand favours experts. As a result, additional costs and delays are inevitable.

Given the increasing costs and the high value of claims, we have seen a steady increase in insurers instructing coverage panels to explore ways to reduce their liability and/or avoid it altogether.

Common themes

Continued impact of the Building Safety Act

Although the BSA was rolled out in 2022, the construction industry and the legal profession are still grappling with its impact and reach. As a result, the claims that continue to dominate the professional indemnity market are fire-safety and cladding-related in respect of both historical and recent projects.

These types of claims affect the entire complement of construction professionals, with no single profession singled out. The claims are often high-value and multi-party. However, due to the extended limitation period for residential projects under the Defective Premises Act 1972 (DPA), we have seen poorly particularised and vague claims being received. This is usually because project documentation or information is limited or unavailable, given the length of time since project completion. We continue to see challenges with documentation production for historical projects, which delays the pursuit of these claims and inevitably increases costs. For example, we have even seen a handful of claims being made against firms that had no involvement in the project.

It remains to be seen how the courts will deal with this lack of documentary evidence and arguments under section 135(5) of the BSA, which allows the courts to dismiss a claim brought in reliance on the extended retrospective limitation periods under the DPA, where proceeding with the claim would breach the defendant's right to a fair trial. However, we question how much longer it will be before we start to see judgments on this issue.

As set out above, these claims dominate the market, and we do not expect this to slow down anytime soon, as parties are still exploring their options. The new extended limitation period means we will continue to see these in the construction sphere.

Building Liability Orders (BLOs)

We are now starting to see an increase in claims in which BLOs are being threatened against independent but related entities. This is yet another recovery mechanism for claimants to try when the party that undertook the project is no longer trading or was a special purpose vehicle (SPV), so is effectively a shell company.

BLOs impose joint and several liability on associated companies, allowing relevant liabilities to be extended to related entities. This principle addresses the challenges posed by SPVs and reduces the scope for developers to avoid liability. However, any imposition of liability must be just and equitable. Following the case of *BDW v Ardmore*, claimants and their solicitors have become more confident in their use, and they are now being used more widely.

However, as explained in more detail in our market section above, BLOs do pose some coverage concerns because to be indemnified under a professional indemnity policy, there needs to be an allegation of a breach of the named insured's professional business. A claim under a BLO is an alleged breach against a separate and independent entity. Therefore, BLOs can raise potential coverage issues and lead to uninsured losses.

Insolvency/cashflow

Insolvency remains an issue in the construction market due to increases in the price of materials and supply chain issues. Due to these issues, many construction professionals are experiencing cashflow problems, leading parties to seek creative ways to retain and/or collect payments. It is a longstanding issue in construction that employers use allegations of negligence as a tactic to avoid paying legitimate fees.

However, over the last 12 months, we have seen a significant uptick in claims that an employer has made simply to avoid payment and/or to recoup losses incurred up the chain. This is usually done through the contract's set-off provisions. The allegations are often meritless and/or unsubstantiated, but, given the economic climate, are used to put pressure on and bully cash-strapped parties into agreeing discounts.

Claims to watch

Sustainability and climate control

With climate control and sustainability being major political and client priorities, construction professionals must now be (and should have been) considering how they are designing for a changing global climate. Whether this is designing for temperature fluctuations, energy requirements or more extreme weather, building resilience must be at the forefront of design decisions.

There is a significant risk for construction professionals if buildings designed today are not suitable in the years to come. Although we are not yet seeing claims along these lines, we predict this area could result in a myriad of claims from multiple claimants, including tenants, investors and building owners.

Artificial intelligence

AI is not new, and firms have been using it in everyday practices to analyse building performance, predict project outcomes and provide insights into their operations. This has the potential, if used correctly, to enable firms to become more efficient and profitable, and allow construction professionals more time to focus on their role by removing the administrative burden they often face. However, AI comes with a warning. Without a clear understanding of its limitations and human supervision, there is a high risk of errors. These risks could potentially be replicated on a large scale.

RICS recently announced that it is publishing a global professional standard for the responsible use of artificial intelligence in surveying practice. This attempts to put in place guidance to professionals to minimise the risk noted above. Although this applies to surveyors, the principles apply to all professions. Although we have not yet seen many AI-related claims, we expect these to increase as technology continues to advance and more professions adopt AI into their everyday practices.



Meet the team

Aaron Le Marquer

Head of Policyholder Disputes

With over twenty years' experience in insurance law on both the policyholder and insurer side, Aaron is a leading advocate for policyholders in diverse sectors including financial services, hospitality and retail, energy and construction, and sports and entertainment. Known for leading a series of high-profile Covid-19 business interruption test case litigation in recent years, he is experienced in all commercial lines of business, including business interruption, directors and officers, professional liability, cyber, environmental risks, and construction. Aaron spent eight years practising in the Asia Pacific region and is particularly experienced at resolving international and reinsurance disputes, often via arbitration.

Aaron has been ranked as a leading insurance practitioner in the Legal 500, Chambers, and Lexology Index (formerly Who's Who Legal) since 2013. He was named as The Times Lawyer of the Week in 2023, and listed in The Lawyer Hot 100 in 2025.



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Aaron Le Marquer is genuinely outstanding. ... A standout name in the market."

Legal 500 2026

Chloe Derrick

Partner

Chloe specialises in insurance coverage and professional negligence. Having previously acted for insurers, she now acts exclusively for businesses and individuals in high-value disputes against the insurance market and the financial and professional services sectors. Chloe has successfully recovered significant funds for clients across insurance lines, and has represented clients in disputes spanning a number of jurisdictions (including the United States, Canada, South Africa, Mauritius, Gibraltar, and countries across the Channel Islands and Europe).

Before joining Stewarts, Chloe advised Lloyd's and London market insurers on their high-profile market loss exposures and drafted policy wordings for existing and new insurance products. Chloe is ranked by both Chambers and Legal 500.



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Chloe is wonderful to work with. She has deep expertise in her specialism and is very personable and conscientious. She is able to explain things in a clear way to non-lawyers and lawyers alike."

Chambers 2026

James Breese

Partner

James is ranked by Chambers and Legal 500 as an 'Up and Coming' and 'Next Generation Partner'. He has represented policyholders in the UK and internationally for eight years, having previously acted on the insurer-side. James uses his knowledge of both sides of the market to strategically advance policyholders' complex insurance disputes.

James' clients range from listed companies, private equity houses, asset managers and multinational enterprises, to high-net-worth individuals and directors of companies. He is regularly instructed to resolve coverage disputes under W&I, D&O, cyber, and investment management insurance policies.

Since 2020, James has also represented policyholders in the leading Covid-19 insurance litigation in the Commercial Court and Court of Appeal. James is widely regarded for his strong business interruption insurance expertise having recovered tens of millions from insurers, including for distressed or insolvent businesses.



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James is easy to work with, pragmatic and clear, and he produces great results."

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Policyholder Disputes at Stewarts

We act exclusively for policyholders in high-value, complex insurance disputes.

Our market-leading Policyholder Disputes team represents businesses in insurance coverage disputes, including cyber, financial and professional risks, construction, business interruption and property losses.

We only represent policyholders in disputes against insurers. Our team has experience acting for local and multinational clients in all sectors, including financial services, entertainment, property, construction, hospitality, retail, logistics, manufacturing, energy and sports.

We do not act for London market insurers, and so are free to pursue claims against the insurance market.

We are one of the largest dedicated policyholder teams in the UK market, and all three of our partners are ranked as leading practitioners in the main legal directories. Our team's cases have been listed in The Lawyer's Top 20 Cases and Top 10 Appeals for the last four years consecutively.

Stewarts is a litigation powerhouse, and we leverage the firm's broader resources where subject matter experts are required, including in tax, insolvency and asset recovery, securities, fraud and employment law. Our combined resources in these areas provide a unique one-stop-shop for insured companies and their directors and officers.

We regularly act in English litigation and arbitration for clients based in overseas jurisdictions with insurance placed through the London market. Our team is experienced in handling disputes with a broad international reach with a particular focus on the [US](#), and [Middle East](#) and [Asia Pacific](#) regions.

Our firm has unrivalled experience in putting together innovative costs arrangements to help with insurance disputes. The use of third-party funding, after-the-event insurance and risk-sharing fee agreements enables our clients to manage risk and litigate from a position of financial strength.



Stewarts' insurance team is one of the leading policyholder teams in the country."

Legal 500 2026



Stewarts know how to get the best possible results for their clients. The team are extremely knowledgeable and we have complete trust in their ability to handle the most complex insurance matters."

Chambers 2026

About Stewarts

Stewarts is the UK's largest disputes-only law firm acting in some of the most high-profile and ground-breaking cases.

Specialist expertise

We are widely recognised for our innovative and cutting-edge approach to high-value and complex litigation. Clients instruct us when the stakes are high and where genuine disputes experts are needed.

Our strength and depth rivals that of many disputes teams across the elite UK, US and international firms.

Conflict-free status

As a disputes-only firm, we are conflict-free and uniquely placed to advise where other law firms may be conflicted.

Client service

We get to the core of the dispute at hand as well as our clients' underlying commercial and strategic objectives so that our advice is tailored and holistic.

Our lawyers handle a small number of cases to ensure that they give our clients the care and responsiveness they need to go against the most well-resourced opponents.

Reputation

Our reputation is confirmed by our rankings in the leading legal directories as well as The Times Best Law Firms. We are consistently recognised as a "truly client-focused outfit whose calibre and experience is second to none".

International reach

The great majority of our work is international. As an independent law firm, we are free to work with our clients' existing advisers and can also draw on our strategic alliances with leading international law firms. This enables us to work in a global counsel role to coordinate complex multi-jurisdictional



Depth

We have over 200 lawyers, including 90 partners, and 480 staff across our London and Leeds offices.



Clients

We act for corporates and individuals in high-value and complex disputes in the UK and around the globe.



Practices

We have 15 practice areas across Commercial Disputes, Private Client Disputes and Injury Disputes.



Rankings

All of our practices are highly ranked in the Chambers and Legal 500 guides



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- Westgate Communications
- Simon Manuel



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