

INFORMATION QUALITY IN BUILDING MORBIDITY AND MORTALITY



The quality and consistency of building information is directly linked to building morbidity and mortality, writes Katie Cornhill, Tactical Fire Officer and Silver Commander in the UK Fire and Rescue Service

On the 01st February 2021 Members of Parliament from all parties expressed that “it is fundamental that leaseholders should not have to pay a penny piece towards the cost of remediating the unsafe cladding that is there.” As the days and weeks go by the breadth of systemic failures that Dame Judith Hackitt’s review of building and fire safety that their ‘Building a Safer Future’ report found relating to preventive, protective and managerial building and fire safety measures becomes more and more visible in the media and in Parliamentary debates.

The issue of landlords passing the costs of remedial, repair or improvement works for passive and active measures onto residents through additional service charges when landlords commission building, and fire safety related works has become of national interest. Some lessees and local Members of Parliament have suggested that what is happening is scandalous with housing providers and landlords reacting in an unmeasured, bias, and often knee-jerk manner commissioning works and setting in place arrangements such as:

- Additional fire risk assessments to confirm the adequacy of existing building and fire safety measures,
- Destructive fire safety surveys to assess fire resistance, compartmentation, and barriers,
- The provision of a fire detection and alarm system covering the common areas (corridors, stairs),
- External wall system (known as cladding) surveys, and now
- ‘waking watch’ contracts.

The safety of all residents of any low, medium, or high-rise residential premises is important. It always has been. The additional service charges that are being levied at lessees due to some landlords interpretation of sections 19 and 20 of the Landlord and Tenant Act 1985 as amended by Section 151 of the Commonhold and Leasehold Reform Act 2002, and under the terms of Schedule 2 of The Service Charges (Consultation Requirements) (England) Regulations 2003, are by those feeling the brunt of this national dilemma, not 'reasonably incurred'.

Passive fire-resistant construction and compartmentation has been required for decades when building purpose-built general needs residential blocks of flats. Such protective measures should be assured as in place along with comprehensive information detailing such compartmentation as part of the duty holder's responsibilities prior to the occupation of any premises.

That is a clear legal duty under the Construction, Design and Management Regulations (CDM Regs) that is bestowed upon the owner/client, principal designer, and principal contractor. In particular the owner/client (usually the landlord) as a duty holder must ensure that they appoint competent duty holders and that they comply with the duties of the CDM Regs.

Collectively, during the pre-construction phase and the subsequent construction phase the duty holders must ensure that a comprehensive health and safety file is produced for the project. The health and safety file must contain relevant information about the project which should be taken into account when any construction work (including maintenance) is carried out on the building after the current project has finished.



Information such as the fire-resistant construction, standards of compartmentation and barrier protection (including at the edges of cavities, around openings (such as windows, doors, and exit/entry points for services) should be included clearly and concisely.

Fire Safety information is an important element of the contents that must be included in the health and safety file and it should be comprehensible in nature. The provision of fire safety information for a relevant building that must be passed between an applicant and the responsible person (often the same person/organisation) is also a requirement of the Building Regulations 2010, Part 8 – Regulation 38, and has been for many years (regulation 16B previously). It requires that 'as built' information which records the fire safety design of the building is provided.

On occupation, The Regulatory Reform (Fire Safety) Order 2005 (the FSO) applies and requires that the responsible person must ensure that duties imposed by articles 8 to 22 (Fire Safety Duties), or by regulations made under article 24 (and Article 38) of the FSO is complied with in respect of those premises so far as the requirements relate to matters within their control.

The importance of The Fire Safety (Employees' Capabilities) (England) Regulations 2010, which provide that employees' capabilities must be taken into account as regards fire safety in entrusting tasks to them, and that were made by the secretary of state in exercise of the powers conferred by article 24 of the FSO, should not be forgotten.

One of the most important and underpinning articles of the FSO, Article 11, prescribes that the responsible person must make and give effect to such arrangements as are appropriate, having regard to the size of his undertaking and the nature of its activities, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.

The systematic managerial arrangements (Article 11 of the FSO) to assure that effective preventive and protective measures are in place on occupation (including provision of 'as built' information) in hundreds of premises up and down the country, are not new outputs.

They are systematic requirements that underpin the provision of passive and active protection that should be in place throughout the conception to cradle to grave lifecycle of a building. The lifecycle approach for any given premises is illustrated by the Building Information Modelling (BIM) image below.

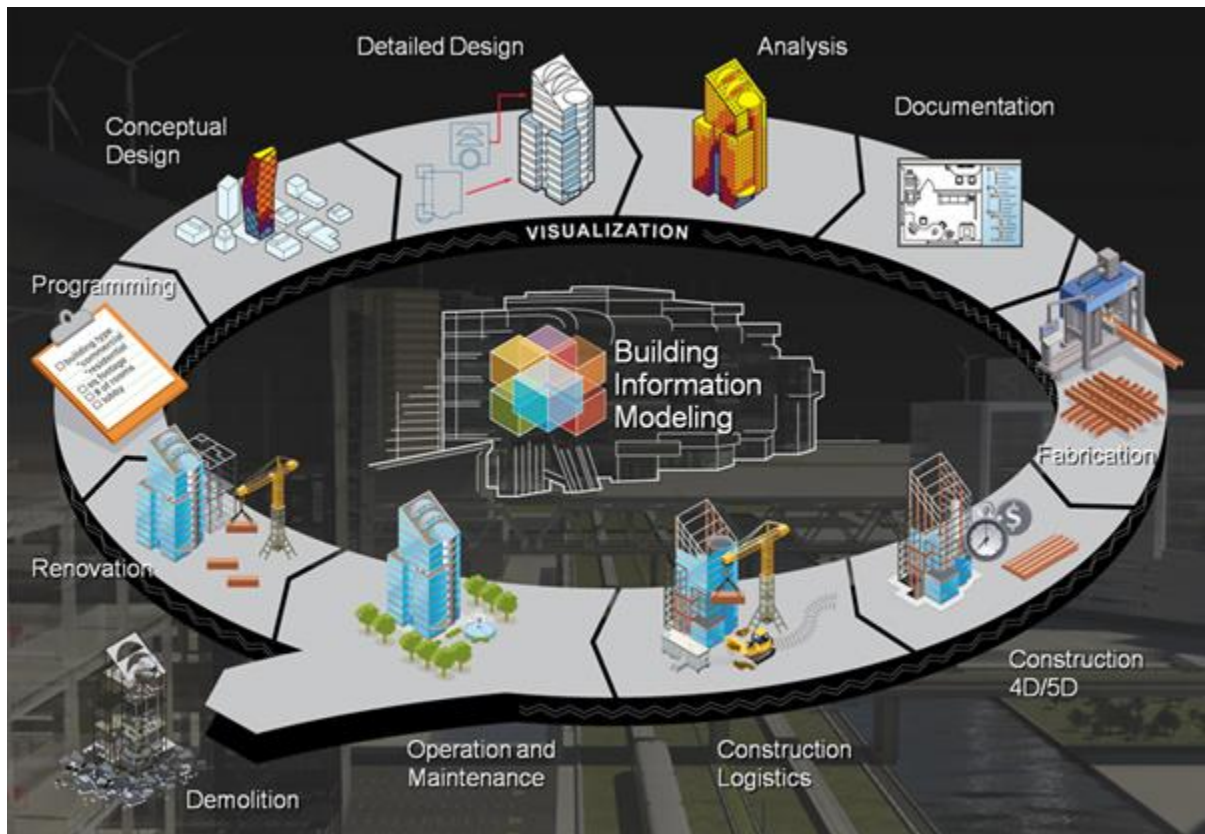


Image: Buildapedia.com

BIM methodology if applied correctly, enables a digital based comprehensive understanding by duty holders and responsible person(s) and secures a common operating picture (particularly during occupation) resulting from key inputs about the passive, active and managerial (including systematic) preventive and protective measures in relation to the full lifecycle of the built environment. This includes:

- Construction
- Materials
- Devices
- Equipment
- Facilities
- Fixtures
- Fittings
- Tasks
- Processes
- Training
- Required competence & capabilities
- Strategy and procedures for serious and imminent danger (evacuation)
- Comprehensible information sharing
- Contact necessary with emergency services, and
- Cooperation between occupiers.

There appears to be a lot of consideration currently being given to the provision of fire detection and alarm systems where the passive building and fire safety measures are identified as inadequate. It might seem that this active measure is the best solution to implement, but it can bring with it numerous hazards, risks, and costs including ongoing maintenance and the employment of competent and capable persons to undertake associated testing and maintenance tasks.

If the correct and required methodical approach is taken by duty holders so that requirements, responsibilities, and accountabilities of the CDM Regs, Building Regs, FSO and Employees Capabilities Regs are met and effective passive measures secured, then this is still the best approach. Subject to future legislative reforms, there should be no need for extra building and fire safety provisions and work to be undertaken at the end of a building project so that it meets its original intended purpose (including the occupant profile) safely.

Further to this, full and comprehensive information about the 'as built' fire safety design of the building should be recorded, stored and therefore readily available to any person that may need to see and use it for a given purpose, such as to develop procedures for serious and imminent danger (includes evacuation strategies).

As a fire safety and response professional I have long been a positive advocate for the need and introduction of greater transparency, scrutiny and understanding of fire safety duties and the benefits that a cultural and behavioural based legislative framework can provide for the consistent provision of effective safety in the built environment across the country.

The significance of full and comprehensive information being available to inform the design and implementation of an evacuation strategy for higher-risk residential buildings (HRRBs), balanced against the occupancy centred profile, cannot be underestimated.

Two of the most important stakeholders and recipients of such information are the tenants, and firefighters. As a serving advanced fire incident commander, I can say with some experience that important and life critical decisions are made by both when a fire occurs and often from the basis of a 'stay put' evacuation policy.

The use of 'stay put' evacuation strategy has been associated with general needs residential premises for many years and is under close scrutiny as part of the Grenfell enquiry. Perhaps a less hazardous approach would be to replace stay put with 'delayed evacuation' strategies in general needs premises, which is a term widely used in relation to residential care and hospital type premises and is understood by many fire safety professional stakeholders.

Delayed evacuation strategies in general needs premises implemented as part of the operational tactics during a fire incident, would provide benefit v risk focused decision making relating directly to the signs being witnessed and how a building on fire is behaving. After all, a tactic of delaying an evacuation can apply for one minute, 100 minutes, or even indefinitely depending on what an incident commander subsequently expects to happen and the benefit v risk at the time of their decision making.

Following the Grenfell Tower tragedy, Dame Judith Hackitt led the Independent Review of Building Regulations and Fire Safety. That review has led to two legislative Bills (the Fire Safety Bill and the Building Safety Bill) being introduced by government that proposes reforms to existing legislation.

Those reforms will enable delivery of recommendations made from the independent review and will take account of the context and history of the Fire Safety Programme. The Fire Safety Bill will place beyond doubt that passive fire protection and building components including fire resistant barriers, external wall systems (including cladding) and the fire doors to individual flats in multi-occupied residential blocks, fall within the scope of the FSO.

The Building Safety Bill will introduce legislation to deliver a new Building Safety Regulator. The new regulator will be responsible for implementing and enforcing a more stringent

regulatory regime for HRRBs. The new regulator will also provide wider and stronger oversight of safety and performance across all buildings.

It is important to recognise that the outcome of the Fire Safety Bill and the new Building Safety Regulator is not to achieve new building and fire safety passive and active fire safety measures per say. Rather the intention is to strengthen and place beyond doubt ownership, responsibility, and accountability for fire and building safety components that have been required for years.

The new regime will set in place regulators who will be closer and more operationally and tactically in touch with the safety standards for all buildings. It is likely to remove so called grey areas and loopholes that have caused concern since greater self-regulation became part of the fire safety regulatory framework whilst affirming the ability for existing regulators to better enforce locally.

Dame Judith Hackitt's report shows that the knowledge and understanding of the legislative framework and the responsibilities, accountabilities, and legislated duties of those that are duty holders/responsible persons relating to the historical and ongoing matter of building and fire safety measures (passive/active/managerial) for residential premises, is "patchy" at best. The need to secure appropriate levels of competence and capabilities to ensure ongoing compliance with the duties that duty holders/responsible persons are required to meet should not be underestimated.

For a service charge to be made to lessees, it must be for the costs of repairs or improvements that are reasonably incurred. Currently, there is no legal guidance or definition of what is reasonably incurred as each case is judged on its own circumstances, but there have been cases where landlords have been found not to be able to justify the costs of awfully expensive works just because there is a term in a lease agreement permitting them to recover such costs relating to repairs and improvements.

Resident support groups have identified lessees in default of their service charges and leaving residents distressed and out of pocket due to being charged for work that is seen as not 'reasonably incurred'. In some cases, groups are reporting households now in a position of poverty, and in some cases have raised concerns about extreme poverty. Arguably, due to the lack of legal guidance or definition, the missing fire-resistant construction, barriers and compartmentation that should have already been in place is not a repair or an improvement. Such in-built passive protection and the duty holder/responsible person knowledge of its existence (or plans to provide it) should have always been there.

As highlighted by cross party Members of Parliament during the parliamentary debate on the 01st February 2021, any person who is a lessee of a premises for which there is a landlord, should not be paying for passive or active fire safety works (this may include hazardous external wall system replacement, waking watches, invasive surveys, and works undertaken as a result of such surveys to provide fire resistance compartmentation and barriers) as this should have already been provided, and assured as in place upon completion of the building works and prior to occupation. The questions of; do the service charges reasonably qualify and are they reasonably incurred service charges? continues.

It would seem that lessees may be being wrongly, and perhaps illegally pressured and forced to pay for works through unreasonably incurred service charges to provide standards of building and fire safety measures that should have always been a cradle given, and which housing providers/landlords were always (and remain) legally obliged to ensure.

I referred earlier on to the importance of stakeholder access to comprehensive and detailed information. If that has not been viewed as a critical benefit focused outcome integral to a

business case to enhance an investor's return on investment during the conception phase of a building project, then it should be from here on in.

Greater stakeholder knowledge of any given premises is key to ensuring the safe use of a building for as long a term as possible. The comprehensive and comprehensible quality and consistency of building information is directly linked to building morbidity and mortality.

