Introductions

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#BIMinar
Taking Stock on BIM

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Webinar Outline

**Practical Considerations**

+ What “BIM” actually means and how it impacts on the design process;
+ Current best practice in relation to BIM, both at an organisational and project level.

**Legal Considerations**

+ Common legal questions regarding the use of BIM, including:
  – Copyright;
  – Responsibility for Models;
  – Insurance;
  – Disclaimers; and
  – Interoperability.
+ How is BIM reflected contractually?

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Practical Considerations

+ Casey Rutland
+ Associate Director, Arup Associates

#BIMinar
IN A nut shell

#BIMinar
DIGITISING
the industry

#BIMinar
ACCESS to company INFO

#BIMinar
ACCESS to project INFO

#BIMinar
ACCESS to staff INFO

#BIMinar
#BIMinar
BIM is for everyone

#BIMinar
TOP 10 Challenges

#BIMinar
BIM DOESN'T affect me

#BIMinar
BIM is for nerds

#BIMinar
#BIMinar
I don’t have TIME to ‘do’ BIM

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#7
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#BIMinar
Asking for something you don’t understand?

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#5

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#BIMinar
BIM is all about software right?

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#BIMinar
People see these as an OBSTACLE to adopting a BETTER WAY OF WORKING!

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How does BIM impact design?

#BIMinar
less waste

#BIMinar
Improved

VISIBILITY

#BIMinar
COMMUNICATION

#BIminar
understanding
#BIMinar
Best practice
BIM
@ ORGANISATION

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Who are you?

CLIENT  DESIGNER  CONTRACTOR  PM  PAINTER  BUILDER  QS  MANUFACTURER

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Who are you?

IT AFFECTS YOU ALL

#BIMinar
Who are you?

IT AFFECTS YOU ALL BUT DIFFERENTLY.

#BIMinar
BUT IN THE SAME WAYS

#BIMinar
CHANGE MANAGEMENT

CONSISTENCY

STANDARDS

LEAN APPROACH

#BIMinar
#BIMinar
#BIMinar
#BIMinar
PROCESS
SECURITY

#BIMinar
INFORMATION

#BIMinar
CLASSIFICATION

#BIMinar
SOFT LANDINGS

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Best practice
BIM
@ PROJECT LEVEL

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Commercial arrangement

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consistently
Use the BIM Standards

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Legal Considerations

+ Andrew Croft
+ Solicitor, Beale & Company

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BIM – Legal Issues

+ BIM + Law = ??

+ BIM will impact on rights and obligations (and liability)...........

+ .... can be managed if clear about:
  
  – what “BIM” means on the project;
  
  – responsibilities of the project team; and
  
  – how team will collaborate.

+ Important on any project.

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Common Concern: BIM will involve taking more risk

- No UK case law on implications of BIM.
- …but should only involve onerous obligations if you agree to them!
- “….solely responsible for the suitability and integrity of the selected software and any information, drawings, specifications or other information extracted from the model. “

(CIOB Complex Projects Contract (clause 11.3.4)).

- Consider any BIM protocol and contractual provisions carefully.

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Common Concern: Losing Intellectual Property Rights (IPR)

+ Licence should suffice.
+ CIC Protocol - ownership remains with party producing Model.
+ BIM used as excuse to transfer IPR.
+ If assign IPR – cannot use on other projects.
+ More important to protect IPR re Model Objects etc?

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Common Concern: BIM blurs lines of responsibility

- “Ownership of information remains with the originator, although it is shared and reused, only the originator can change it”.

PAS 1192-2, Para 9.2.2, Note 3

- Responsibility clear….if BIM Execution Plan agreed and PAS 1192:2 followed.

- Record keeping important.

- “Level 3”?

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Common Concern: BIM will not be covered by insurance

- CIC Best Practice Guide for PI insurance (Griffiths & Armour, BIM Task Group).

  “There were no perceived issues that would prevent designers from obtaining PI insurance when working on projects delivered at BIM Level 2.”

- If agree to something outside policy, won’t be covered - hosting data/CDE?

- Integrated Project Insurance “the only insurance product capable of supporting BIM Level 3” (Stephen Bamforth, Griffiths & Armour).

- Speak to insurers.

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Common Concern: Disclaiming liability for use of a Model

+ Wide disclaimers being used because:
  – unable to verify content of Model;
  – basis of collaboration has not been agreed, e.g. in:
    • Protocol (Model Production and Delivery Table); and/or
    • BIM Execution Plan;
  – Models not contractual deliverable.

+ Importance of due diligence before Models issued/used.

+ Disclaimers may become less restrictive if basis on which Models shared agreed at outset.

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Common Concern: BIM and software issues

+ Interoperability – software speaking different languages.
+ Unlikely to be able to recover from software provider.
+ CIC Protocol, Cl 5.2 – no liability for data corruption.
+ Manage—
  – BIM Execution Plan – agree how team will collaborate;
  – Verification – if format changed, check Model; and
  – IFC (Industry Foundation Classes), Open BIM.

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How is BIM being reflected contractually?

- Level 2 does not require significant amendments, if roles and responsibilities clear.

- CIC Protocol:
  - Must be incorporated into contracts.
  - Models contractual deliverable;
  - Permitted Purpose - LOD;
  - Define responsibilities in MPDT;
  - Information Requirements; and
  - In contracts of all project team for consistency.

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How is BIM being reflected contractually? (cont.)

- NEC3, JCT, ICC – limited amendments published.
- CIOB Complex Projects Contract – Clause 11 and Appendix C.
- Bespoke contracts/protocols.
- Consistency between contracts and use of BIM?
- Importance of discussing BIM pre-contract.

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Collaborative Contracts

+ Likely to see more collaborative contracts.
+ Joint ventures.
+ PPC2015 – “a strong basis for BIM levels 2 and 3”.
+ Integrated Project Insurance – alliancing:
  – Gain/Pain share linked to success of project;
  – IPI steps in if any issues; and
  – no blame culture.
Conclusion

+ BIM will impact on rights and obligations (& liability),
+ … can be managed if understood at the outset.
+ Agreeing basis of collaboration is key.
+ Make sure contracts reflect project approach to BIM.
+ Likely to see more collaborative contracts

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Questions?

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