

## Further information

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Our newsletter this month focuses on one topic: **Soft Landings**. This is a concept which is becoming increasingly high profile, especially given the government's intention to use its own version of **Soft Landings** on all government projects from 2016 onwards.

## Soft landings

The "Soft Landings" concept is set to become an increasingly common requirement for public sector and larger private sector clients and projects. A number of well-known contractors and designers have already embraced the approach, and the public sector form of soft landings, "Government Soft Landings" (GSL), will be mandatory for all new government projects from 2016.

But the Soft Landings concept can be a difficult one to pin down: what does it actually mean? And can it make a difference?

### What is Soft Landings?

Soft Landings is promoted as a best practice, forward-thinking, collaborative approach to the design and construction of new and existing buildings. Far from being a set of fixed contractual rules, it is a flexible concept, the aim of which is to avoid a "mismatch" between client expectations and the actual built asset. It does this by encouraging the client/occupier and the project team to focus from day one on the outcomes and operational performance of the building. Its aim is to produce better, more sustainable buildings with fewer adverse environmental consequences.

This approach should create advantages for both clients and the project team. The client ends up with an efficient and reliable asset which lives up to expectations. The project team will get detailed feedback on a building's performance which should enable it to provide more sustainable buildings in the future.

### Government Soft Landings

The government has produced its own soft landings approach, which has been developed as part of the Government Construction Strategy. The aim of this is to reduce the cost of public sector construction, with



a particular focus on energy efficiency and carbon reduction.

In short, GSL is intended to define precisely what the public sector expects from its new projects and to ensure that these are delivered as promised.

GSL sits within the government's BIM Task Group. The intention is that from 2016, all central government departments will use GSL principles alongside level 2 BIM, with more stringent energy and carbon emission targets for projects.

### Measuring performance

To gain the full benefit of Soft Landings, both the public and private sector emphasise that the approach should be embedded in every element of the procurement process from the outset of the project. But the way in which GSL and Soft Landings as a concept intend to "measure" performance differs significantly.

BSRIA has produced guidance which provides for better briefing during the initial scope discussions, reality-checking of design decisions throughout the project, and a graduated pre- and post- handover process whereby the project team is tasked with providing training to ensure that the building operators properly understand the building and its systems prior to occupation.

Following handover, a soft landings team will remain on site to receive feedback and fine-tune systems. There follows a 3-year post-practical completion “extended aftercare and post-occupancy” period to ensure proper operation of the asset and a “Post-Occupancy Evaluation” (“POE”) is carried out to receive feedback for future projects.

BSRIA suggests that the review at the end of year 1 can be coordinated with the Defects Liability Period sign-off.

The Soft Landings principles are intended to run alongside standard procurement routes without any major revisions to industry-standard documents. BSRIA suggest that references to the Core Principles can be inserted at relevant points in project tender documentation and referenced in the chosen form of professional team appointments and building contract, but that Soft Landings should not be made a contractual requirement in itself. It is BSRIA's view that to do so would interfere with the spirit of Soft Landings.

In order to achieve the operational outcomes, the BSRIA Framework and guidance promote an open, collaborative, working culture and emphasise the voluntary, non-binding, nature of Soft Landings and recommend a shared risk and responsibility (“*review not sue*”) attitude.

It is suggested that financial incentives, such as a bonus to the design and building team for meeting certain performance levels, could be adopted to make the approach more palatable to the project team. Whilst qualitative indicators (e.g. on a scale of good practice – best practice – innovative – pioneering) may be adopted as useful guides in helping promote client aspirations, penalties for falling short are not recommended by BSRIA.

## The Government's approach

While GSL is aligned with BSRIA's general approach to Soft Landings, it seems to have a greater focus upon the measurability of targets.

Government departments will define a series of outcomes at the outset of the project and provide input throughout the design and construction phases. And there will be specific incentives to achieve those outcomes, which must mean that there is the potential for government clients to use poor post-occupancy performance data to bring claims against designers and contractors.

Clearly, there is a marked difference in culture and approach between BSRIA's understanding of Soft Landings and GSL.

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## Will it make a difference?

Whilst Soft Landings has now been in existence for a number of years, there are still a number of issues left to be ironed out before its wide-scale adoption.

In many respects, most of the “tools” inherent in Soft Landings are already common in construction industry – BIM is being used more regularly on larger, more complex projects; Key Performance Indicators, “snag-free” completion, fitness for purpose, and extended defects liability periods are all accepted ways of improving performance and ensuring that problems are identified and fixed before the project team walks away. So does Soft Landings really offer anything new?

There are also significant questions around how an extended “aftercare” period will work with practical completion and defect liability periods. A major legal area for discussion will be how “poor performance” of an asset will be assessed, given that this could be down to poor building management or user behaviour, and how this interacts with fitness for purpose obligations.

It goes without question that the Soft Landings approach requires an investment of time, money and effort on both client and project team sides. If things do not go to plan, it seems unlikely that the non-adversarial “*review not sue*” approach will prevail, especially if time is running short and liquidated damages are on the horizon.

Of course, there are clear potential benefits of Soft Landings especially when used in conjunction with BIM and Computer Aided Facility Management (CAFM) systems: energy savings, sustainability and client satisfaction should not be sniffed at and Soft Landings might just provide the industry with the framework within which to achieve these benefits.

**We would be interested to hear your views and opinions on Soft Landings, in particular how you see it working with parties' contractual and legal obligations. Send us an email or tweet us at @BurgesSalmon to join the discussion.**

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