

The image features a modern office hallway with a large staircase in the background. People are walking in various directions, some blurred to suggest movement. The scene is overlaid with a teal and green geometric design consisting of overlapping triangles and polygons. The Ashfords logo is positioned in the top left corner of the teal area.

ashfords

Getting investment-ready: a guide to the investment process

Ashfords LLP
ashfords.co.uk

Whether you are looking for funding right now, or if you won't be thinking of it for a little while, being "investment ready" can really help to speed up the investment process once things get going.

It can also make you more attractive to potential investors, as it shows that you are well organised and aware of the kind of things investors will be looking out for.

Legal checklist

Some of the things you can do to be investment ready are pretty obvious – have a good business idea, prepare an interesting, punchy and understandable business plan/pitch deck, work on your presentation skills, etc. – but here's a checklist of some of the perhaps less obvious "legal" points to consider, which can help with your investment-readiness:

- **Ensure as much information as possible is in writing** – try not to rely solely on email chains. This particularly applies to any agreements/contracts, whoever they are with (including yourself!).
- **Be organised** – keep all records in a well arranged (and ideally numbered) folder system or data room.
- **Run your own internal due diligence exercise** – [here's an example of a standard legal due diligence questionnaire](#): Have a go at preparing responses to this, keep it up-to-date, and share it with your proposed investors when the time is right.

Preparation for this important step in your business' growth is key, so to assist you we have put together this helpful guide which includes a legal checklist to go through prior to starting the investment process, and a series of FAQs on some of the things you'll need to think about in the early stages of an investment process.

- **Ensure your company's records are up to date (including the company's "statutory books"** – see [Why do lawyers keep asking for my company's "statutory books"?](#)
- **Consider your company's IP** – is it reasonably protected? Has any registration been made in the company's name (domain names are often an issue here, as founders tend to set these up under their own names)? If not protected, have an explanation – even if the explanation is that registration isn't affordable just yet.

'Be organised – keep all records in a well arranged (and ideally numbered) folder system or data room.'

FAQs

What can I expect from due diligence?

When conducting due diligence potential investors will want you to provide them with certain information and will ask you questions about your business. [See here for an example of a standard \(fairly light-touch\) legal due diligence questionnaire.](#)

Investors are also likely to run some financial due diligence and will carefully look through your accounting information. They may also want to conduct some commercially focussed diligence separate to their legal and financial due diligence, asking questions touching on market opportunities and competitors and potentially (on relatively rare occasions and usually for higher value Series A/B+ rounds only) asking to speak to customers.














Generally, you should give as much information as possible to investors when responding to due diligence requests. However, at times the precise amount of information you give away at this stage and/or the way you phrase a particular response to a query, can be an important consideration. Your lawyers can help with this process if needed (and arguably should help!), if there are any areas of particular concern.

You'll need to refer to documents when responding to due diligence questions. It is best to ensure that all of the company's documents are well organised in a folder system/data room, with separate folders for different types of documents and ideally all documents should be numbered to allow for easy referencing and indexing – see to the right for an example of what this kind of structure might look like.

'...investors will want you to provide them with certain information and will ask you questions about your business.'

Before sharing information with investors, if you haven't yet signed a Term Sheet or any form of NDA we would recommend asking the investors to sign up to a standard NDA/ confidentially agreement.

Investment in your Company

- 1  Corporate Data and Structure
- 2  Intellectual Property Rights
- 3  Computer System and Data
- 4  Data Protection
- 5  Employees
 - 5.1  Employee Contracts
 - 5.1.1  Joe Bloggs Employment Contract.docx
 - 5.2  List of Employees
- 6  Contracts and Trading
- 7  Assets
- 8  Loans/Borrowings
- 9  Disputes
- 10  Funding and Grants

Should I ask potential investors to sign an NDA/confidentiality agreement?

Wherever possible, we would recommend that you ask anyone receiving potentially confidential information to sign up to an NDA. We have a standard template available [here](#) which is suitable for investment scenarios.

If you have already signed a Term Sheet with your investors this may include confidentiality wording, so you may not need a separate NDA (though an NDA can still be preferable in some circumstances as it tends to be more detailed).

Note that professional advisors will either be regulated and already under an obligation of confidentiality (e.g. lawyers), or will likely agree in their standard terms to keep company information confidential – so in most cases won't need to enter into an NDA.

I've got a Term Sheet, what's next? Should I sign it?

Firstly, well done!

Secondly, although it is tempting to get the Term Sheet signed up immediately and formally kick off the process, we would recommend that you ask your lawyers to take a look over the Term Sheet **before** it is signed.

Most investors really know what they're doing and it's unlikely that the Term Sheet will have major issues. But we've seen some companies sign up to very strong, off-market or unsuitable terms because they have rushed to get the Term Sheet signed before asking a lawyer to look at it – even with the best will in the world, investors can sometimes offer up standard terms which may not be entirely suitable to your company's circumstances.

An investor may be keen to sign, but they aren't going to complain about you taking legal advice when needed (and if they do, that may be a bad sign in itself...).

We're always happy to cast an eye over a Term Sheet when needed. If it looks good to go we'll tell you – incurring time and cost on something which already works well isn't good for anyone. However we'll also tell you if we think it needs some work before signing, and can explain the costs of helping you through the next steps before you incur any.

If you'd like to better understand some of the detail in your Term Sheet before speaking to a lawyer, feel free to take a look at our "Anatomy of a Term Sheet" series which breaks down and explains some of the phrases and provisions you are likely to see.

Feel free to [Contact Us](#) if you have any other Term Sheet based queries

'...some companies sign up to very strong, off-market or unsuitable terms because they have rushed to get the Term Sheet signed...'

If a Term Sheet is non-legally binding, does it really matter what it contains?

You're right that most parts of a Term Sheet are often stated not to be legally binding. However, despite this it can be commercially and morally difficult to move away from anything set out in a signed Term Sheet – your investor has included the terms for a reason, and attempting to change these later on can be damaging to your relationship at this important early stage.

For these reasons, in our experience it is fairly rare to see a term in the final investment documents depart from the position shown in the Term Sheet.

Note that despite generally not being legally binding, a few sections of the Term Sheet will usually be expressly binding. This often covers exclusivity, confidentiality, costs and potentially a few other areas – watch out for these, and ensure you fully understand what you are committing to before signing (though this goes for all parts of the Term Sheet!).

We would always recommend that you take legal advice on a Term Sheet before signing.

My investor wants our documents to be governed by non-UK law, is that ok?

If your company is registered in the UK then market-standard practice would be for your investment documents to be governed by UK law. This is commonly accepted by investors from all over the world.

The company they are investing in will be subject to UK laws and regulations, the majority of employees are likely to be UK based, the funds invested are likely to be held (and in most cases spent) in the UK, and generally UK law is viewed as a good standard for international transactions.

There may be limited circumstances in which the law of another country would be suitable, but you should discuss this with a legal advisor with suitable qualifications in that country before committing. As a default, we would say that all investments into UK companies, and all documents relating to those investments, should be governed by UK law.

What should I do if I don't want to give away a share of my company?

In this case equity fundraising won't be for you!

You may want to consider using debt financing – there are a lot of options on the market and a financial advisor may be able to help you navigate these.

Grant funding can also be a very useful source of funding for early-stage businesses, particularly in the science, medical and deep-tech sectors where such funding can be more readily available. InnovateUK are often a useful source of grant funding, and the UKRI "Funding Finder" is a useful tool (see www.ukri.org/opportunity/) as well. Again, financial advisors may be able to help navigate the options.

'Grant funding can also be a very useful source of funding for early-stage businesses, particularly in the science, medical and deep-tech sectors...'

How long will it take to complete an investment round?

It's difficult to give a definitive answer on this one. The time needed to complete an investment round will vary significantly based on the terms of the deal, the parties involved, how many issues may be uncovered along the way and lots of other variables. We've

seen some rounds completed within just a few weeks, whereas others have taken 6 months plus – and this only refers to the legal part of the process, ignoring the time spent on pitching, early due diligence and other steps.

We appreciate that isn't very helpful, so see below for a very rough potential investment timescale based on our experience of many hundreds of investment rounds and some reasonable assumptions:



*Note the above does not include time for any tax clearances – e.g. [SEIS/EIS advanced assurance](#) (which HMRC state can take up to 6 weeks to process).

The above also does not take into account any additional time which may be required in connection with the National Security and Investment Act 2021, which can in certain circumstances add substantially to timings. See [our Guide](#) to this Act for further information

Key Contacts



Scott Preece

Senior Associate

s.preece@ashfords.co.uk

T +44 (0)117 321 8022

M +44 (0)7826 642 928



Chris Dyson

Partner

c.dyson@ashfords.co.uk

T ++44 (0)117 321 8054

M +44 (0)7515 099340



Rory Suggett

Partner

r.suggett@ashfords.co.uk

T +44 (0)117 321 8067

M +44 (0)7912 270526

This document is intended to be for general information purposes only, may not cover every aspect of the topic with which it deals, and should not be relied on as legal advice or as an alternative to taking legal advice. English law is subject to change and the information shared may not reflect the latest legal developments.

You should always seek appropriate legal advice before taking, or refraining from taking, any action based on the information contained in

this document. Ashfords disclaims all liability for any loss, howsoever caused, arising directly or indirectly from reliance on the information contained within this document.

Ashfords LLP is a limited liability partnership, registered in England and Wales with number OC342432, and its registered office is at Ashford House, Grenadier Road, Exeter, EX1 3LH. Ashfords LLP is authorised and regulated by the Solicitors Regulation Authority.