

Can the application process described be used to determine the financial condition of a company? Explain your answer and cite relevant provisions of the Code and the Regs.

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10.10

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What is the application process described? Explain your answer and cite relevant provisions of the Code and the Regs.

10.11

Can the application process described be used to determine the financial condition of a company? Explain your answer and cite relevant provisions of the Code and the Regs.

- How the application process described can be used to determine the financial condition of a company.
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Questions of RSP following Deadline 3 response to the ExA's First Written Questions

F.1.1

1. Which legal entity is the Applicant referring to when it says it's "only function is to receive money from Investors and use that money to pay fees in support of the DCO process"?
2. Can the Applicant provide proof of £13M spent to date as this is not visible from accounts lodged with Companies House.
3. Can the Applicant provide Investor details and terms for the £13M spent to date
4. RiverOak Operations Ltd has received a Bank loan of c£4.5M that is due within 2 years of FY17. Can the Applicant provide details of the Lender and terms of the loan. Also the means by which the loan will be repaid within the stated timescales

F1.2

1. Can the Applicant explain why Riveroak MSE Limited not been disclosed as a subsidiary to Riveroak Strategic Partners Ltd?
2. Can the Applicant explain the 'dormant' status of Riveroak Strategic Partners Ltd
3. Can the Applicant provide accounts for Riveroak Strategic Partners Ltd's Parent companies: RiverOak Manston Limited and MIO Investments Limited
4. Can the Applicant provide draft accounts for FY18 for all Parent and Subsidiary companies linked to the Applicant company Riveroak Strategic Partners Ltd

F1.3

1. Can the Applicant provide a copy of the historic Joint Venture Agreement showing who is party to the agreement, which is presumably still in force until such time as the restructuring is completed
2. Can the Applicant provide details of the restructuring currently taking place including details of interested parties and persons with significant control
3. Can the Applicant show proof of funds relating to the £7.5M and £5.6M to which it refers (e.g. bank statements; loan agreements; Investor proof of commitment and funds)

F1.4 – Please respond to the following questions for each investor (1-6)

1. Can the Applicant provide proof of Investor commitment and funds
2. Can the Applicant provide Investor details to enable the ExA to determine whether as credit / financial institutions they would be subject to UK Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017
3. If the answer to question F1.4.2 is 'no' then how does the Applicant propose the ExA assess the risk of money laundering, terrorist financing and transfer of funds (see associated UK regulations 2017) associated with this transaction?
4. Is each investor subject to UK Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017?
5. What value (GBP) has each Investor committed to the Applicant and how has this commitment manifested itself (e.g. Lol?)
6. What security does each Investor require in return for its investment?
7. Is each investor listed on a regulated Market? If so which Market(s)?
8. What investment conditions has each investor stipulated?
9. What return on investment does each investor expect of this project?
10. What is the duration of each investment?
11. What is each investor's exit strategy and plan?
12. What is each investor's rights in the event of non-delivery of the project and the forecast revenue / profit projections?
13. What is each investor's funding release schedule?
14. How much investment remains to be secured by the Applicant?
15. Which legal entity(ies) will each investor invest in, and what will be the impact on the current Persons with Significant Control?
16. What level of governance does each investor require over the future operations of the business?

17. Are each of the investors aware and agreeable to the involvement, influence and control of the other investors committed to this application? What evidence is there to substantiate the Applicant's response to this question?
18. Can the applicant provide proof of Investor funds for this project specifically?
19. Can the applicant provide details and terms of existing loans to all of the RSP family of companies involved in the application, development and operation of this project

F1.7

1. Can the Applicant provide detailed CVs and references for the individuals with extensive career experience in capital markets and infrastructure project finance in London and New York
2. Can the Applicant provide contact details of existing clients for whom they have provided capital markets and infrastructure project finance services, and summary credential details of £300M+ initiatives for which they were directly responsible for raising the funding

F1.10

1. Can the Applicant explain why the Applicant's accountant holds £500,000 rather than the Applicant?
2. What is the Applicant's current financial position (net assets / liabilities and cash in bank) for each of the family of companies linked to this Project?

F1.11 & F1.12

1. Notwithstanding the current restructuring and in the absence of information pursuant to said restructuring can the Applicant show
 - a. how the shortfalls in funding under the current structure are intended to be met and by whom
 - b. timing and availability of funds
 - c. proof of adequate funding to enable the compulsory acquisition within the statutory period following the order being made.

APPENDIX – RSP responses to a number of the ExA’s First Written Questions

F.1 Funding and resources

[Draft/Final]

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Manston Airport DCO - Responses to ExA’s First Written Questions – Deadline 3 – 15 February 2019

Ref No.	Respondent	Question
F.1.1	The Applicant	<p>The Undertaker and availability of funds</p> <p>The Applicant’s attention is drawn, in particular, to the Relevant Representations from Jane Lee-Hopkinson [RR-0742], Gary Lewis [RR-0580].</p> <p>The ExA invites the Applicant to comment on the statements contained in there RRs.</p> <p>NOTE: In responding to this question, the Applicant should note that some of the content of these RRs has been redacted and should take this into account in responding.</p> <p>Applicant’s Response:</p> <p>The events alluded to occurred over 25 years ago and are not relevant to this application. The Applicant is a Special Purpose Entity whose only function is to receive money from its investors and use that money to pay fees in support of the DCO process. Any representation that any of the partners have arbitrarily loaned themselves money from the entity is false. Having spent over £13,000,000 on this project to date, the Applicant has shown long-term commitment to this project and of course has a business model. Investors would not have expended £13 m without knowing how they could expect to earn a return. A summary of the Applicant’s business model is provided at Appendix F.1.5 in TR020002/D3/FWQ/Appendices.</p>
F.1.2	The Applicant	<p>The Undertaker and availability of funds</p> <p>Provide full details, including audited accounts, for any companies, bodies or undertaking wholly or partly owned by RiverOak Strategic Partners Limited.</p> <p>Applicant’s Response:</p>

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Ref No.	Respondent	Question
		<p>The Applicant, RiverOak Strategic Partners Limited, has three subsidiary companies: RiverOak Operations Limited, RiverOak AL Limited and RiverOak Fuels Limited. Please find attached at Appendix F.1.2 in TR020002/D3/FWQ/Appendices the financial statement for RiverOak Operations Limited filed with Companies House in April 2018. The Applicant and its subsidiaries RiverOak AL Limited are non-trading companies and as such, have not been audited.</p> <p>RiverOak Fuels Limited does not yet have audited statements as it was incorporated in July 2018.</p>
F.1.3	The Applicant	<p>The Undertaker and availability of funds</p> <p>The Funding Statement [APP- 013] states in paragraph 19 that:</p> <p><i>“Through its joint venture agreement, RiverOak is able to draw down these two categories of funding (£7.5m land acquisition and £5.6m noise mitigation measures) when required.”</i></p> <p>Provide a copy of the joint venture agreement showing who is party to the agreement.</p> <p>Applicant’s Response:</p> <p>Due to the restructuring mentioned in the cover letter submitted at Deadline 1 (TR020002/D1/Cover), which is still in progress, there is no longer a Joint Venture agreement. Details of the new structure will be provided as soon as possible..</p>

F.1.3	The Applicant	<p>The Undertaker and availability of funds</p> <p>The Funding Statement [APP- 013] states in paragraph 19 that:</p> <p><i>"Through its joint venture agreement, RiverOak is able to draw down these two categories of funding (£7.5m land acquisition and £5.6m noise mitigation measures) when required."</i></p> <p>Provide a copy of the joint venture agreement showing who is party to the agreement.</p>
		<p>Applicant's Response:</p> <p>Due to the restructuring mentioned in the cover letter submitted at Deadline 1 (TR020002/D1/Cover), which is still in progress, there is no longer a Joint Venture agreement. Details of the new structure will be provided as soon as possible..</p>
F.1.4	The Applicant	<p>The Undertaker and availability of funds</p> <p>The Funding Statement [APP- 013] states in paragraph 23 that:</p>

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Ref No.	Respondent	Question
		<p><i>"To meet the capital costs of construction, RiverOak will select one or more funders from amongst those who have already expressed interest and others that are likely to come forward, to secure the best deal for constructing and operating the project."</i></p> <p>i. Name those funders who have expressed interest and show audited proof of assets; and/or</p> <p>ii. Provide other evidence to demonstrate that there is a reasonable prospect of the requisite funds for constructing and operating the project becoming available.</p>
		<p>Applicant's Response:</p> <p>ii. Although the identity of the funders who have expressed interest remains confidential at this stage, the Applicant is able to describe them in the following terms.</p> <p>Investor 1.</p> <p>This institutional investor has a global reach in terms of both the ownership of airport infrastructure, and aviation related assets, namely aircraft leasing, engine manufacturing, and avionics technology development. They are joint venture collaborators with all global air frame manufacturers, and are conversant and agreeable with the future requirements of airport capacity in the world's major population centres, particularly the south east of the UK. This investor has in-house assets both on their own balance sheet, but also on a third party assets under management of in excess of \$500 billion.</p> <p>Investor 2.</p> <p>The Applicant has had detailed discussions with a publicly listed global infrastructure institution, which owns and operates a number of major airports in Asia, and has co-invested and participated in numerous financings of airports in the US. This particular investor is keenly interested in expanding its presence into the UK and Europe, and has been involved in the</p>

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		<p>evaluation of our development plans for Manston since very early in the process. This entity has a market capitalization in excess of \$150 billion.</p> <p>Investor 3.</p> <p>This investor is a UK based asset management company with annual revenues of almost £3 billion and responsible for over £400 billion on behalf of its clients This investor has a major mandate to diversify and seek to support investments into the development of UK infrastructure, and Manston fits its criteria. They have been tracking the Applicant's progress both with the DCO application and the details of the scale of proposed development at Manston.</p> <p>Investor 4.</p> <p>The Applicant has had significant ongoing dialogue with this global private family investment entity. This diversified investment vehicle has extensive interests already in airport and strategic infrastructure assets, and again, have been involved in reviewing and advising on our business case and the thesis we have proffered on Manston from very early on in our investment review. This family office has known assets valued in the region of \$25 billion.</p> <p>Investor 5.</p> <p>The Applicant has strategic relationships with smaller private groups with extensive specific experience in certain sectors that will have good value to the future success of Manston. These groups have partnered with directors of the Applicant previously in other infrastructure investments both in terms of brownfield redevelopment and ground up data centre infrastructure development. One such has executed, in the last three years, the ground up conception, planning approval, construction and delivery, as lead developer, of two major office projects in London with the aggregate value in excess of £700m. One of these projects has since been sold to a major Asian investor for pricing in excess of £330m.</p> <p>Investor 6</p>

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		<p>This investor is a global security services group with assets of over £4 billion and annual revenues of £8 billion." They have expressed a strong interest in participating in the airport project and in investing in fire and security infrastructure.</p> <p>Underwriting and capital markets:</p> <p>The Applicant has broad based relationships, both with buy-side institutional investors themselves, but also with the underwriting and financial instrument placement community, both in the US and Europe.</p> <p>The Applicant in the process of reviewing proposals from a number of global investment banking firms on the structuring of financing both equity and debt, for the successful completion of the development plans our scheme proposes under the DCO. These discussions are ongoing and very detailed, and display not just the specific breadth of relationships that the Applicant itself has for sourcing funding capital, as outlined above, but the major interest globally by institutional investors, both in terms of infrastructure as a whole, but even specific to Manston, despite the concerns of Brexit on the UK trade and economic outlook.</p> <p>It should be noted that one of the reasons for the confidentiality of the identities of the investors above derives from earlier attempts to secure Manston by CPO via the local authority. The Applicant previously provided detailed letter-headed correspondence from major global financial investors as to their interest in participating in the Manston project. This correspondence found its way into the public domain to the consternation of the authors who had requested that it be treated as commercially sensitive.</p> <p>The Applicant here reiterates the level of detail on funding that is referred to in statute and guidance. The statutory requirement in regulation 5 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) is that where a DCO would authorise the compulsory acquisition of land, the application should be accompanied by "a statement of reasons and a statement to indicate how an order that contains the authorisation of compulsory acquisition is proposed to be funded". This statement should provide as much information as possible about the resource implications of both acquiring the land and implementing the project for which the land is required."</p> <p>The clear implication from the statute is that where compulsory acquisition forms part of the DCO, the applicant must include a statement explaining how that acquisition will be funded. The statutory requirement must be given priority over the non-</p>

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		<p>statutory guidance which appears, in the extract set out above, to go further than the statutory requirements and require a funding statement to cover not only the costs of the acquisition but the resource implications of the project as a whole.</p> <p>In fact, the guidance does not contain an absolute requirement to establish the funding available to cover total project costs, but rather seeks "as much information as is possible" about the "resource implications" of implementing the project, recognising that the information that it is possible to provide may vary across different projects. The 2013 guidance also refers to the further guidance available in Circular 06/2004 which explains that "A general indication of funding intentions, and of any commitments from third parties, will usually suffice to reassure the Secretary of State that there is a reasonable prospect that the scheme will proceed".</p>
F.1.5	The Applicant	<p>Resource Implications – Implementation of the project</p> <p>The Applicant is reminded that that DCLG Guidance related to procedures for the compulsory acquisition of land (DCLG (2013) Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land, April) states that:</p> <p><i>"Any application for a consent order authorising compulsory acquisition must be accompanied by a statement explaining how it will be funded. This statement should provide as much information as possible about the resource implications of ... implementing the project for which the land is required."</i></p> <p>Provide a copy of any business case and/or plan which forms any part of the basis for estimating the net cost of implementing the project.</p> <p>Applicant's Response:</p> <p>A summary business model is attached at Appendix F.1.5 in TR020002/D3/FWQ/Appendices, representing a high-level, 20-year operating income statement for the airport. Major revenue categories include cargo handling fees, airside and landside rents, aircraft landing revenues and fuel revenues. Given that airports are labour-intensive, direct costs include the personnel costs of handling freight, staffing the control tower, providing security, fire control, maintenance and passengers operations.</p>

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		Indirect costs are the overhead costs required to keep the airport operating including all utility costs, property rates, administrative costs, insurance costs and others.

F.1.6	The Applicant	<p>Resource Implications – Implementation of the project</p> <p>The Applicant is reminded that that <i>DCLG Guidance related to procedures for the compulsory acquisition of land</i> (DCLG (2013) Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land, April) states that:</p> <p><i>"Any application for a consent order authorising compulsory acquisition must be accompanied by a statement explaining how it will be funded. This statement should provide as much information as possible about the resource implications of ... implementing the project for which the land is required."</i></p> <p>Resource Implications – Implementation of the project</p> <p>The Funding Statement [APP- 013] states in paragraph 15 that:</p> <p><i>"RiverOak has taken expert advice from RPS on the cost estimate for the project that is the subject of the application. The initial phase of the project, which will bring the airport back into use, is estimated to cost about £100 million. The cost of developing the remaining phases of the project over a 15-year period is estimated to be an additional £200 million, i.e. a total of £300 million."</i></p> <p>i. Show where in the application documentation the detailed costings used to arrive at this figure are to be found; or</p> <p>ii. Set out the assumptions and broad estimates of the costs of the different elements of the proposed scheme that underlie this estimate of £300 million.</p> <p>Applicant's Response:</p>
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		<p>ii. The Applicant has attached its Capital Expenditure budget of £306m at Appendix F.1.6 in TR020002/D3/FWQ/Appendices. The chart depicts both the Applicant's and its masterplanning consultant RPS's high level cost projections for the proposed capital expenditure (CapEx) plan for Manston. This CapEx scheme is currently proposed to be phased over 15 years. The total expenditure (including a 10% contingency) equals just under £306m, consistent with the figure of £300m in the Funding Statement [APP-013]. However it should be noted that following a more detailed analysis the level of expenditure to bring the airport back into use is a greater share of the £300m than stated in the funding statement, i.e. £186m rather than £100m.</p>
F.1.7	The Applicant	<p>Resource Implications – Implementation of the project</p> <p><i>Paragraph 11 of the Funding Statement [APP-013] states that:</i></p> <p><i>"RiverOak anticipates that it will raise further equity and debt finance following the making of the DCO in order to develop the authorised development to completion."</i></p> <p>The ExA notes the use of the word "anticipates".</p> <p>i. Provide evidence of your ability to raise further equity and debt finance following the making of the DCO in order to develop the authorised development to completion; and</p> <p>ii. Provide an evidenced estimation of the probability of doing so.</p> <p>Applicant's Response:</p> <p>i. The directors of the Applicant have had extensive career experience in the financial capital markets and infrastructure project finance, in terms of equity and debt financings, both in New York and London.</p> <p>On a macro overview, the extent of equity capital raised amongst the directors is in excess of \$1.0 billion, for a variety of infrastructure and longer term asset funds and redevelopment projects. In addition, many of these project finance</p>

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		<p>investments have had a hands on operational / management involvement and strategic implementation strategies for asset repurposing.</p> <p>One of the directors has spent the formative years of his career in the US Public Finance / Municipal Capital Markets, which entailed raising significant new money and debt refinancing of airport infrastructure across the United States.</p> <p>These debt financing projects included the funding / development of freight facilities, passenger terminals, on-apron aviation fuel storage holding tanks, runway extensions, multi-story passenger parking garages and MRO / aircraft hangar and engineering infrastructure.</p> <p>The Applicant, specific to Manston over the previous number of years, has been willing to invest significant risk capital on the back of numerous discussions with long term institutional funding partners, both in terms of future equity requirements, and debt financing instruments to construct the necessary new infrastructure to meet the required capacity demands, both in terms of the DCO qualifications, but also in accordance with commercial business planning with potential end user entities such as air freight carriers, integrators, freight forwarders and digital retail platforms.</p> <p>ii. The probability of raising this finance is considered to be very high. The Applicant's canvassing of both the long term infrastructural financing community and the broad range of different end users has granted it significant confidence that the repurposing of Manston will be a long term viable addition to the UK's economic and trade sectors. As set out in answer F.1.4 above, there is significant interest in further investment beyond that which has already been secured.</p> <p>In addition to pure at-risk capital the Applicant has expended to outline its scheme of redevelopment under the DCO process, it has interacted with commercial banking institutions, UK and US pension fund investors, the investment departments of potential end users and a series of Asian infrastructure groups with existing airport ownership and operating assets.</p>

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Ref No.	Respondent	Question
		<p>The Applicant is reminded that DCLG Guidance related to procedures for the compulsory acquisition of land (2013) advises at paragraph 18 that the resource implications of a possible acquisition resulting from a blight notice have been taken account of.</p> <p>The Funding Statement [APP- 013] states in paragraph 20 that:</p> <p><i>"In some circumstances, landowners can make blight claims once the application has been made but before it is decided. Statutory blight is triggered once an application for a DCO has been made, pursuant to paragraph 24(c) of Schedule 13 to the Town and Country Planning Act 1990. The three categories of land to which this applies are small businesses, owner-occupiers and agricultural units. CBRE advise that there is no land subject to compulsory acquisition under this application in any of these categories. Nevertheless, RiverOak is has set aside funding for potential blight claims out of an abundance of caution and have drawn down £500,000 from their investors at the time of making the application in case any claims are successfully made."</i></p> <p>i. Show where in the application documentation the detailed costings used to arrive at this figure are to be found; or</p> <p>ii. Provide details of the costings of elements of the estimates underlying the figure of £500,000.</p> <p>iii. Show audited evidence that RiverOak has assets of at least £500,000.</p> <p>iv. Provide full details, including current audited accounts, of the investors cited in this paragraph.</p> <p>v. Show where the availability of this sum is subject to any form of guarantee in the dDCO [APP-006].</p>
		<p>Applicant's Response:</p> <p>ii. The Applicant has obtained advice from CBRE to the effect that no claims in blight are likely to be successful, given the land concerned and the eligibility criteria, but that this amount should be set aside as a precaution.</p> <p>iii. The Applicant will provide evidence that its accountants hold £500,000 on its behalf as soon as possible.</p>

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		<p>iv. As explained in Enclosure 2 to the Applicant's Deadline 1 cover letter [REP1-001], restructuring is currently taking place and so the identity of the investors mentioned in the Funding Statement is no longer relevant.</p> <p>v. This figure is encompassed in the overall land compensation figure which is the subject of a guarantee in article 9 of the dDCO, as it is merely being paid earlier than it would have done had the Applicant acquired the land after the granting of the DCO.</p>
F.1.11	The Applicant	<p>Potential shortfalls</p> <p>The Applicant is reminded that DCLG Guidance related to procedures for the compulsory acquisition of land (2013) advises at paragraph 17 that the Applicant should provide an indication of how any potential shortfalls are intended to be met.</p> <p>Figures in the Funding Statement [APP- 013] show the estimated capital cost of the scheme as being £300m. Figures in the Funding Statement show the estimated potential combined cost of compulsory acquisition, the Noise Mitigation Plan and blight to be £13.6m.</p> <p>A letter from PWC AG appended to the funding statement refer to assets of £15m.</p> <p>Show how the shortfalls in funding are intended to be met and by whom.</p>
		<p>Applicant's Response:</p> <p>The Applicant will submit an updated funding statement as soon as the restructuring mentioned in the Deadline 1 cover letter (REP1-001) is complete, which will address how any shortfalls would be met.</p>
F.1.12	The Applicant	<p>Timing of availability of funds</p>

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Ref No.	Respondent	Question
		<p>The Applicant is reminded that DCLG Guidance related to procedures for the compulsory acquisition of land (2013) advises at paragraph 18 that applicants should be able to demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the order being made.</p> <p>Demonstrate that adequate funding is likely to be available to enable the compulsory acquisition within the statutory period following the order being made.</p>
		<p>Applicant's Response:</p> <p>The updated funding statement to be provided once the restructuring is complete will demonstrate that adequate funding is sufficiently likely to be available to enable compulsory acquisition to take place within the statutory period following the order.</p>

F.1.13	The Applicant	<p>Guarantee</p> <p>The ExA notes that Article 9 - Guarantees in respect of payment of compensation, etc in the dDCO [APP-006] proposes guarantees in respect to £7.5m.</p> <p>Figures in the Funding Statement [APP- 013] show the estimated potential combined cost of compulsory acquisition, the Noise Mitigation Plan and blight to be £13.6m</p> <p>Justify the figure of £7.5m in Article 9 of the dDCO [APP-006].</p> <p>Applicant's Response:</p> <p>The £7.5m sum guaranteed in Article 9 of the dDCO related to the cost of compulsory acquisition (including blight). The revised version of the dDCO being submitted for Deadline 3 [TR020002/D3/2.1] has increased this figure to £13.1m to include the additional cost of implementing the Noise Mitigation Plan proposals. The sum of £13.6m referred to in the</p>
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Ref No.	Respondent	Question
		question appears to have added £500,000 for blight when that sum was already included in the £7.5m and should be a total of £13.1m.
F.1.14	The Applicant	<p>Guarantee</p> <p>The ExA notes that Article 9 - Guarantees in respect of payment of compensation, etc in the dDCO [APP-006] proposes guarantees in respect to £7.5m.</p> <p>Demonstrate how Article 9 of the dDCO (APP-006) provides sufficient security for individuals in consideration of the provisions of the Human Rights Act 1998.</p> <p>Applicant's Response:</p> <p>The Applicant explains in section 13 of the Statement of Reasons [APP-012] why it considers that its application complies with the European Convention on Human Rights and the Human Rights Act 1998. In the final sentence of paragraph 13.4 the Applicant states that "those affected by the exercise of compulsory acquisition or temporary use powers will be entitled to compensation and [the Applicant] has the resources to provide such compensation." Article 9 obliges the undertaker to demonstrate the existence of those resources before commencement of the Proposed Development. The article provides that the Proposed Development cannot be commenced until security of £13.1m has been provided in respect of the liabilities of the undertaker to pay compensation under this Order and the Secretary of State has approved the security in writing. Article 9 therefore provides a commitment from the undertaker to back up the claim made in the final sentence of paragraph 13.4 of the Statement of Reasons. This forms part of the Applicant's justification that interference with European Convention rights secured by the Human Rights Act 1998 is justified and proportionate.</p>
F.1.15	The Applicant	Cost efficiency and sustainability

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		<p>The Planning Statement [APP-080] states in paragraph 6.47 , with reference to the Airports NPS, that:</p> <p><i>"Paragraph 4.39 states that the applicant should demonstrate in its application that its scheme is cost efficient and sustainable, and seeks to minimise costs to airlines, passengers and freight owners over its lifetime. Whilst this is relevant primarily to the Heathrow Northwest Runway, RiverOak have set out the relevant details applicable to their scheme in the Funding Statement provided with the DCO."</i></p> <p>Show where and in what ways the Funding Statement (APP- 013] demonstrate the proposed scheme is cost efficient and sustainable, and seeks to minimise costs to airlines, passengers and freight owners over its lifetime.</p> <p>Applicant's Response:</p> <p>The Planning Statement [APP-080] notes that paragraph 4.39 of the Airports NPS is relevant primarily to the Heathrow Northwest Runway proposal. Indeed, most of the section within the NPS that deals with 'Costs' specifically relates to Heathrow Airport especially paragraphs 4.37 and 4.38. Cost is a particularly important issue for the Heathrow Northwest Runway proposal because of concerns that have been expressed about Heathrow's ability to raise the money to fund the scheme and fears that passengers and taxpayers might somehow need to contribute. In contrast, the costs of implementing and constructing the Manston DCO project plus the costs of acquiring necessary rights over the land is not dependent on any public funding, Government subsidy or guarantee, or any access to borrowing or grants from UK or European funds (paragraph 21 of the Funding Statement, APP-013). Consequently, the relationship between cost and affordability is much more relevant to the assessment of the Heathrow Northwest Runway proposal.</p> <p>The NPS recognises in paragraphs 4.36 and 4.37 that funding of airports is subject to economic regulation by the Civil Aviation Authority (CAA). Following any grant of the DCO, the operating arm of Applicant will comprise professionals with operational experience in aviation and costs will be controlled/regulated to the satisfaction of the CAA. The Applicant recognises the vital role of the aviation regulatory community in delivering this project and ensuring that regulatory compliance is achieved. The airport operator will have to obtain an Aerodrome Licence and this licence can only be obtained through the engagement of suitably qualified and experienced personnel (SQEP) at all levels of the Airport's operational</p>

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		<p>management and it is the responsibility of the CAA to ensure that the holders of an Aerodrome Licence are financially and operationally competent and suitable persons to exercise the privileges of that licence.</p> <p>Paragraph 4.40 of the NPS recognises that the CAA is a statutory consultee for all proposed applications relating to airports or which are likely to affect an airport or its current or future operation. The same paragraph states that the Applicant is expected to provide the CAA with the information it needs to enable it to assist the Examining Authority in considering whether any impediments to the Applicant's development proposals, insofar as they relate to the CAA's economic regulatory and other functions, are capable of being properly managed. RSP has consulted with the CAA throughout the preparation of the DCO application. The CAA has not made any specific requests for any financial information.</p> <p>The requirement to demonstrate that the Proposed Development is cost efficient and sustainable, and seeks to minimise costs to airlines, passengers and freight owners over its lifetime is not therefore directly applicable to the determination of this DCO application. However, cost efficiency and sustainability are important themes that underpin proposed development. The Manston Airport project proposes the reuse of an existing airport including the reuse of key airport related infrastructure which already exists including a runway which is in good condition, and which is protected and promoted for aviation use, expansion and diversification in saved policies in the Thanet Local Plan 2006. The Proposed Development truly embodies a sustainable form of development which is translated into the cost estimates for the project which will ultimately benefit costs to airlines, passengers and freight handlers using the airport.</p> <p>The cost estimate for the Manston Airport project includes the cost of implementing the project, the cost of construction and funding the acquisition of the necessary rights over land. Cost-efficiency and sustainability considerations have underpinned the cost-estimates which have been prepared by aviation experts. The Business Model is predicated on being able to offer airport users competitive terms. The costs have been shared with, and have attracted, significant interest from various interested institutional investors including entities with extensive broad-based aviation investments, in terms of aircraft leasing portfolios, but also those with extensive airport infrastructure interests combining investment ownership, airport management, airport construction, expansion and airport masterplanning. This significant interest would not exist unless the investors deemed the cost estimates to be cost-efficient and sustainable.</p>

[Draft/Final]

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18324744.1

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Ref No.	Respondent	Question
F.1.16	The Applicant	<p>The Airports NPS (new runway capacity and infrastructure at airports in the South East of England, June 2018) refers in paragraph 4.37 to the fact that the CAA has granted an economic licence to the operator of Heathrow Airport to levy airport charges. This licence sets a maximum yield per passenger that can be recovered by the operator of Heathrow Airport through airport charges.</p> <p>Are you applying for, or expect to be granted, a similar economic licence?</p> <p>Applicant's Response:</p> <p>No. Airports in the UK are subject to regulation by the CAA and must apply for an operating licence under the Air Navigation Order 2009 if they are to be allowed to accept specified flights for the purpose of public transport (which include passenger and air cargo) or for the purpose of instruction in flying, as these can only take place only at a licensed aerodrome or a Government aerodrome. In common with other commercial airfields, the Applicant will be seeking a public (as opposed to an ordinary or private) operating licence and once Manston's annual turnover has exceeded £1m for two years, it will be eligible to apply to the CAA for recognition as a statutory undertaker and in so doing come under the economic as well as operational regulation of the CAA.</p> <p>There are currently over 50 airports in the UK subject to economic regulation, including a number in Northern Ireland under specific, parallel regulations and ten in the Highlands and Islands of Scotland. Regulation is of two significantly different kinds, which may be described as 'light' and 'heavy'. The latter is restricted to a small number of airports in the UK (Heathrow, Gatwick, Stansted and Manchester) which qualify as 'designated' airports by having significant market power in their geographical catchments and thus having the potential that market power unfairly to their commercial advantage. It is this <i>heavier</i> regulatory regime (recently updated in the Civil Aviation Act 2012) under which Para 4.37 of the Airports NPS highlights the operator of Heathrow Airport has been granted a licence to levy airport charges.</p> <p>The re-development of Manston Airport in the form being sought via this DCO application is considered highly unlikely to result in a dominant market position within the South East of England or the wider air cargo sector in the UK and is not anticipated to need a similar licence. It will, however apply for a certificate in relation to the status of the airport operator as</p>

Ref No.	Respondent	Question
		a statutory undertaker under Section 57A of the Airports Act 1986 (as introduced by Section 76(3) and Schedule 8 Part 1 of the Civil Aviation Act 2012) as soon as it is eligible to do so.
F.1.17	The Applicant	<p>The ExA has noted the advice contained in paragraph 4.40 of the 2018 Airports NPS that:</p> <p><i>"Detailed scrutiny of any business plan put forward by the licence holder will fall under the CAA's regulatory process under the Civil Aviation Act 2012, and the detailed matters considered under that process are not expected to be scrutinised in the same way during the examination and determination of an application for development consent."</i></p> <p>This paragraph goes on to state that:</p> <p><i>"The applicant is expected to provide the CAA with the information it needs to enable it to assist the Examining Authority in considering whether any impediments to the applicant's development proposals, insofar as they relate to the CAA's economic regulatory and other functions, are capable of being properly managed."</i></p> <p>Provide a list of the information provided to the CAA in this respect.</p> <p>Applicant's Response:</p> <p>The Applicant has not yet commenced the CAA's regulatory process under the Civil Aviation Act 2012. The start of the certification and licensing application is expected in the latter part of 2019; that business plan (setting out funding and resourcing) will be part of this application. However, a business model is included at Appendix F.1.5 in TR020002/D3/FWQ/Appendices.</p>
F.1.18	The Applicant	<p>The Statement of Reasons [APP-012] contains a number of references (eg at paragraphs 5.9.1, 5.9.2, 5.9.6, 5.9.7, 5.9.9) to provisions under which parties may be entitled to compensation.</p> <p>Show where provision has been made for this in the calculation of the costs of the project.</p>

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Ref No.	Respondent	Question
		<p>Applicant's Response:</p> <p>Provision has not specifically been made for these items, which relate to street works, protective work to buildings and occupation of land during the five-year maintenance period. The Applicant has taken advice from CBRE to the effect that any compensation payable under these heads of entitlement would be of low amounts and would therefore be covered by the overall total previously given of £7.5m.</p>



RICS professional standards and guidance, global
**Countering bribery and
corruption, money laundering
and terrorist financing**
1st edition, February 2019



Countering bribery, corruption, money laundering and terrorist financing

RICS professional statement

1st edition, February 2019



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RICS professional standards and guidance

RICS professional statements

Definition and scope

RICS professional statements set out the requirements of practice for RICS members and for firms that are regulated by RICS. A professional statement is a professional or personal standard for the purposes of RICS Rules of Conduct.

Mandatory vs good practice provisions

Sections within professional statements that use the word 'must' set mandatory professional, behavioural, competence and/or technical requirements, from which members must not depart.

Sections within professional statements that use the word 'should' constitute areas of good practice. RICS recognises that there may be exceptional circumstances in which it is appropriate for a member to depart from these provisions – in such situations RICS may require the member to justify their decisions and actions.

Application of these provisions in legal or disciplinary proceedings

In regulatory or disciplinary proceedings, RICS will take into account relevant professional statements in deciding whether a member acted professionally, appropriately and with reasonable competence. It is also likely that during any legal proceedings a judge, adjudicator or equivalent will take RICS professional requirements into account.

RICS recognises that there may be legislative requirements or regional, national or international standards that have precedence over an RICS professional statement.

Document status defined

The following table shows the categories of RICS professional content and their definitions.

Type of document	Definition
<i>RICS Rules of Conduct for Members and RICS Rules of Conduct for Firms</i>	These Rules set out the standards of professional conduct and practice expected of members and firms registered for regulation by RICS.
International standard	High-level standard developed in collaboration with other relevant bodies.
RICS professional statement (PS)	Mandatory requirements for RICS members and regulated firms.
RICS guidance note (GN)	A document that provides users with recommendations or an approach for accepted good practice as followed by competent and conscientious practitioners.
RICS code of practice (CoP)	A document developed in collaboration with other professional bodies and stakeholders that will have the status of a professional statement or guidance note.
RICS jurisdiction guide	This provides relevant local market information associated with an RICS international standard or RICS professional statement. This will include local legislation, associations and professional bodies as well as any other useful information that will help a user understand the local requirements connected with the standard or statement. This is not guidance or best practice material, but rather information to support adoption and implementation of the standard or statement locally.

Glossary

The following definitions relate to this professional statement and do not include legal or other matters as defined in relation to local legislative or regulatory requirements.

Adequate knowledge: An appropriate understanding of the issues and responses connected to bribery, corruption, money laundering and terrorist financing so that the individual can apply the requirements of this professional statement to their role. This level of knowledge will vary depending on the sector, organisation and role that the individual works in. The knowledge may be gained through attending training, private study or work-based experience.

Applicable laws: The local and global laws and regulations that apply to firms and individuals. These may depend on the main place of business, where the alleged corrupt act or bribe was paid or received, or the country in which a parent company is registered.

Beneficial ownership/owner: Anyone who benefits from ownership of a security or property, who may or may not be on record as the owner. This also incorporates those who exercise ultimate effective control over a legal person or arrangement. In many jurisdictions the beneficial owner is defined as an individual who owns or controls 25% or more of the shares or profits of a legal entity.

Bribery: The offer, promise, giving, demanding or acceptance of an advantage as an inducement for an action that is illegal, unethical or a breach of trust.

Corruption: The misuse of public office or power for private gain, or misuse of private power in relation to business practice and performance.

Customer due diligence (CDD)/know your customer (KYC): Taking the appropriate steps to ascertain who the customer or client is and, if relevant, their ultimate beneficial owner is and counterparty. These can be relatively simple checks to verify the identity of the customer/client or may entail deeper investigations. This is a legal and regulatory requirement in many countries.

'Facilitation payment': A payment made to a government official with the purpose of speeding up a routine administrative action. Such payments are customary and legal in some countries, but in many jurisdictions they are criminalised.

Money laundering: Concealing the source of the proceeds of criminal activity to disguise their illegal origin. This may take place through hiding, transferring and/or recycling illicit money or other currency through one or more transactions, or converting criminal proceeds into seemingly legitimate property.

Person of Significant Control (PSC): Individuals or legal entities who have significant control or influence over a company. This control and influence can be exercised in a variety of ways, for instance the individual has absolute veto rights over decisions related to the running of the company.

Politically exposed person (PEP): Individuals and the family members of such individuals, entrusted with prominent public functions by any country or international organisation. This includes heads of state or government, senior politicians, senior

governmental, judicial or military officials, senior executives of state-owned corporations and directors, deputy directors and members of the board or equivalent functions within international organisations. PEPs who relinquish office or their relatives who cease being family members (e.g. through divorce) are no longer treated as PEPs 12 months after this occurs.

Price-fixing monopoly-cartel: A group of formally independent producers of goods or services whose goal is to increase their collective profits by pushing the price of a product as high as possible (or perhaps fix, peg, discount or stabilise prices), generally leading to profits for all sellers.

Professional money launderers: Those that specialise in enabling criminals to evade anti-money laundering and counter-terrorist financing safeguards and sanctions. They perform this function for a fee or commission. For instance, tax advisers, lawyers or accountants who act as professional facilitators for criminals.

Red flags: Common characteristics that either individually or in combination might indicate potential misuse of the real estate sector for money laundering or terrorist financing purposes.

Reliance: The extent to which the required checks on individuals or companies have been undertaken satisfactorily by a third party, meaning that these checks do not need to be duplicated.

Reporting: Taking the appropriate action to draw attention to known or suspected activity involving money laundering, bribery or corruption issues and/or terrorist financing. The action of reporting may take the form of internal or external processes, and should as a minimum comply with the applicable laws as defined.

Scheme: A specific operation or case of money laundering or terrorist financing that combines various techniques, mechanisms and instruments into a single structure.

Terrorism: The use or threat of violence to pursue ideological objectives committed by governments, non-state actors, or undercover personnel serving on behalf of governments. Terrorism reaches beyond its immediate target victims and is also directed at targets that represent a larger spectrum of society. Various national legislations contain their own definitions of terrorism and lists of groups designated terrorist organisations.

Terrorist financing: The solicitation, collection or provision of funds with the intention that they may be used to support terrorist acts or organisations. Funds appropriated directly or indirectly for this purpose constitute terrorist funding.

Triggering event: An event that necessitates a firm re-evaluating the risk level of a customer, client, partner, third party provider or employee, and possibly conducting enhanced due diligence.

For further information on these definitions please refer to the Financial Action Task Force (FATF) – see www.fatf-gafi.org.

Foreword

As an anti-corruption NGO, Transparency International (TI) seeks to raise awareness of the social, economic and political costs of corruption, and advocates concrete measures to tackle them. In the 25 years since TI was founded, large-scale corruption has become increasingly understood as a cross-border phenomenon. Corruption involves not only public officials and private bribe payers, but often also requires access to the financial system, the use of anonymous shell companies and professional facilitators to help launder the proceeds.

Far from being a victimless crime, corruption also deprives state institutions of sorely needed resources. Resources that could be used for investment in health, education and infrastructure among many other areas.

In recent years, the evidence base showing that money laundering through real estate is not just a risk but a reality has multiplied. Research published in 2016 by TI-UK identified 986 London land titles with links to Politically Exposed Persons (PEPs), owned through corporate structures registered in secrecy jurisdictions. In Canada, meanwhile, 46 of the 100 most expensive homes in Vancouver were found to have unclear ownership using offshore shell companies, trusts and nominees.

As well as weaknesses in anti-money laundering legal frameworks that allow for these and other types of opaque ownership, in many countries public authorities have insufficient resources for oversight and supervision. Country assessments carried out by the global standard-setter FATF (Financial Action Task Force), in over 50 countries since 2014, have identified repeated institutional and legal gaps.

In this context, proactive steps taken by the real estate profession to strengthen standards, such as this professional statement from RICS, are very welcome. In particular, the expectation in this statement that RICS members and regulated firms should go beyond legislative and regulatory requirements is critical, precisely due to the structural weaknesses that exist. Where consistently implemented, measures that serve to increase transparency, reduce risk and promote trust also lead to improved business outcomes at the sector level.

During 2017 and 2018, TI benefited directly from RICS input on a project that seeks to increase dialogue between authorities, the sector and civil society regarding the effective implementation of anti-money laundering measures. TI looks forward to continued engagement with RICS, and to sharing the lessons that emerge from the roll-out of this professional statement to RICS membership.

– Transparency International, December 2018



Part 1: Requirements

1.1 Overview

This professional statement deals with *bribery, corruption, money laundering and terrorist financing* and is divided into three parts:

- 1 Mandatory requirements for *anti-bribery and corruption* and for *anti-money laundering and terrorist financing*.
- 2 Guidance setting out supporting good practice for *anti-bribery and corruption* and for *anti-money laundering and terrorist financing*.
- 3 Supplementary guidance on some of the concepts described in parts 1 and 2.

Bribery and corruption mitigation controls will typically involve monitoring the activities of your own organisation. Meanwhile effective management of *money laundering and terrorist financing* risks involves being vigilant of the actions of outside parties that RICS-regulated firms and members may do business with, such as clients and third-party introducers.

Bribery, corruption, money laundering and terrorist financing are illegal and unethical. It is possible, however, that more than one of these activities can take place in a single transaction. You should be vigilant for this kind of activity both inside and outside your own organisation, with clients and third parties, and have procedures in place to identify, monitor, report and prevent it.

This professional statement defines terms used throughout in the *Glossary*. Defined terms are shown in italics when used elsewhere in the document.

1.2 Application

This professional statement applies to all RICS members and RICS-regulated firms involved with work where there is potential for *bribery, corruption, money laundering and/or terrorist financing*. If the statement contradicts local legislation then the legislation takes precedence.

1.3 Bribery and corruption

1.3.1 In relation to bribery and corruption **RICS-regulated firms must:**

- not offer or accept, directly or indirectly, anything that could constitute a *bribe*
- have plans in place to comply with applicable laws governing *bribery and corruption*, and ensure that these are followed
- *report* any activity they are aware of that breaches *anti-bribery and corruption* laws to the relevant authorities (as specified in local legislation); where there is no local legislation the activity should be recorded and, if possible, reported to a senior manager
- act with due diligence to perform periodic written evaluations of the risks that face the firm and that may lead to the facilitation of *bribery or corruption*; in determining

the appropriate level of due diligence, the firm may consider the type of business activities they engage in and the environment in which they operate

- retain information detailing how the firm has met the requirements of this professional statement.

1.3.2 In relation to bribery and corruption **RICS members must:**

- not offer or accept, directly or indirectly, anything that could constitute a *bribe*
- ensure that they have *adequate knowledge* of *bribery and corruption* to be able to comply with the requirements of this professional statement
- report any activity they are aware of that breaches applicable *anti-bribery* and *corruption* laws to the relevant authorities (as specified in local legislation); where there is no local legislation the activity should be recorded and, if possible, reported to a senior manager.

1.4 Money laundering and terrorist financing

1.4.1 In relation to money laundering and terrorist financing **RICS-regulated firms must:**

- not facilitate or be complicit in *money laundering* or *terrorist financing* activities
- have systems and training in place to comply with these laws, and ensure these are followed
- *report* any suspicions of *money laundering* or *terrorist financing* activities to the relevant authorities (as specified in local legislation); where there is no local legislation the activity should be recorded and, if possible, reported to a senior manager
- evaluate and review periodically the risks that prospective and existing business relationships present in terms of *money laundering* or *terrorist financing* offences taking place
- ensure that their responses to the risks identified are appropriate, including conducting appropriate checks on clients and customers
- use *reliance* only where there is an appropriate level of confidence in the quality of the information provided by the third party – *reliance* should only be taken from third parties with standards conforming to the legal requirements, that provide the obliged market participant with a complete exchange of all legally required AML information regarding the identified party and only by confirming the identity and verification of identity of the client or counterparty in question; ultimate responsibility for the assessment of risk and actions taken based on this remain with the member or regulated firm
- take appropriate measures to understand the client and the purpose of the transaction
- verify the identity of their client by undertaking basic identity checks
- record and retain information detailing how the firm has met the requirements of this professional statement.

1.4.2 In relation to *money laundering* and *terrorist financing* **RICS members must:**

- not facilitate or be complicit in *money laundering* or *terrorist financing* activities
- *report* any suspicions of *money laundering* or *terrorist financing* activities to the relevant authorities (as specified in local legislation); where there is no local legislation the activity should be recorded and, if possible, reported to a senior manager.

Part 2: Guidance

2.1 Bribery and corruption

2.1.1 In relation to *bribery and corruption* **RICS-regulated firms** should:

- prepare a written policy covering *anti-bribery and corruption* including a risk assessment detailing the nature and impact of risk affecting the business – this policy should be reviewed and updated periodically as appropriate
- have appropriate governance and systems controls in place, proportionate to the type of work the firm does
- encourage transparency within the organisation by implementing a register including but not limited to:
 - gifts
 - hospitality, entertainment and expenses
 - customer travel and hospitality
 - political contributions
 - charitable donations and sponsorships
 - potential conflicts of interest
- provide clear guidance for staff so that they understand their role in preventing bribery and corruption and are aware that the following will not be tolerated:
 - so-called '*facilitation payments*'; although such payments may not be illegal in the local country where the payment is made, no such payments should be made without explicit authorisation from the head office
 - bribes
 - price-fixing to create a monopoly or cartel arrangement
 - failure to declare a conflict of interest
- appoint a contactable person within the company or local office to discuss compliance and ethics matters; the largest regulated firms may decide to formally appoint a local compliance and ethics champion, which is best practice for the largest regulated firms; smaller firms may still elect to make such an appointment, depending on resource implications
- publish a code of behaviour and provide this to staff
- carry out appropriate due diligence on third-party suppliers to ensure they are acting appropriately; if present in local bribery and corruption legislation then in line with their requirements.

2.1.2 In relation to *bribery and corruption* **RICS members** should:

- declare certain items to their employer, including but not limited to:
 - gifts
 - hospitality, entertainment and expenses

- customer travel and hospitality
- charitable donations and sponsorships
- attend relevant training provided by their employer or a regulator addressing *bribery* and *corruption*
- be familiar and act in compliance with their employer's policy, process and code of behaviour relating to *bribery* and *corruption*
- if in a senior management position, take a leadership role in attempting to ensure that their employer has an appropriate regime in place for addressing *bribery* and *corruption* risks.

2.2 Money laundering and terrorist financing

2.2.1 In relation to *money laundering* and *terrorist financing* **RICS-regulated firms** should:

- have a written policy addressing *money laundering* and *terrorist financing* risks that covers the following issues:
 - in high risk situations where enhanced due diligence is required, understanding the source of funds in a transaction
 - identifying PEPs, PSCs and any potential breaches of sanctions
 - the process to be followed for *customer due diligence*
 - the situations in which simplified due diligence, standard/ordinary due diligence, or enhanced due diligence will be appropriate (see 3.6)
- have appropriate governance and systems controls in place, proportionate to the type of work the firm does
- provide appropriate, recurring training for staff, to ensure they are familiar with the risks associated with *money laundering* and *terrorist financing* and the firm's systems to counter these risks
- keep reports of suspicion of *money laundering* and *terrorist financing* activity confidential (for guidance surrounding whistleblowing see 3.11)
- identify the *beneficial owner* of a company/client involved within a transaction
- appoint a senior person to be responsible for ensuring *anti-money laundering* and *counter-terrorist financing* policies are in place and complied with.

2.2.2 In relation to *money laundering* and *terrorist financing* **RICS members** should:

- keep abreast of current training/regulation offered to them either by their employer or by a regulator addressing *money laundering* or *terrorist financing*
- comply with their employer's policy and process relating to *money laundering* and *terrorist financing*
- keep reports of suspicion of *money laundering* and *terrorist financing* activity confidential
- if in a senior management position, take a leadership role in attempting to ensure that their employer has an appropriate regime in place for addressing *money laundering* and *terrorist financing* risks.

Part 3: Supplementary guidance

3.1 Bribery and corruption risks

It is important that firms and individuals are aware of the *bribery* and *corruption* risks facing them during their normal business. Assessment of risk may start with a review of the types of risks most pertinent to the firm. Typically, such risks are broken down in a risk register and categorise the kind of industry standards that apply to the major business activities of the firm (especially accepted ways of winning and doing work).

The level of risk will often depend on the country in which business is done and the extent to which national controls are available and/or applied. Some countries and sectors give rise to a much higher risk than others (see, for example, Transparency International's *Corruption Perceptions Index* and lists of high-risk countries published by FATF). Where business is being done in countries or sectors with a higher risk, have a plan to deal with the issues this creates. It is useful to consider how information can be shared between branches and offices on a common transaction or client in order to ensure risks are properly identified.

Firms that have determined their activities give rise to very low risks of *bribery* and *corruption* require fewer controls in place than those firms with greater risks, possibly because of the range of activities they undertake, the countries they work in and the sectors in which they operate.

It is good practice for firms that consider they have higher risks to appoint a person or team to be responsible for assessing these risks, before designing and testing controls that can be put in place to mitigate against them. Those with lower risks still will need to assess their risks and monitor these for change. Periodic review is necessary to make sure the risks and the controls are still in line with the assessment.

Regardless of risk exposure, all firms are expected to have some clear rules about what is acceptable, and appropriately set limits that all their staff know and can easily access.

For firms with lower risk, very extensive policies and procedures are not necessarily needed. Reminders to staff (and agents) of what is expected in business process and a clear threshold set by those at the top of each firm will be sufficient for many firms, except those with higher risks.

3.2 Money laundering and terrorist financing risks

Money laundered funds are often 'layered' via single or a series of payments or transfers/transactions, so that the proceeds can be hidden and used later by the perpetrator.

Typical examples include using the proceeds of crime to purchase a legal asset such as real estate, held in the name of an individual or a more complex structure, such as a legal trust or a group of companies. The asset is held onto and eventually either used for lifestyle purposes or sold and converted into cash. This is how criminals recycle their proceeds and why firms and individuals are exposed to high risk in the property and real estate sectors.

Knowing who you are doing business with is a significant first step in countering *money laundering* and *terrorist financing*. *Know your client* (KYC) or *customer due diligence* (CDD) requirements are now common, and in many countries a legal and regulatory requirement. These establish that before taking on a new client or transaction appropriate steps are taken to ascertain who the client is and, if relevant, who the ultimate *beneficial owner* of the client is and where appropriate the counterparty. These can be relatively simple identity checks or can involve deeper investigations where circumstances require (e.g. where there is a concern over the background associations of an introducer, or where the KYC documents are not provided when asked for and without reasonable excuse). KYC or CDD procedures are a good foundation for an anti-money laundering programme for all firms.

Sometimes a transaction will include other professionals. In some limited cases, the fact that a buyer or seller has already been ‘on boarded’ by a lawyer or accountant may indicate that a lighter touch may be applied when carrying out steps as CDD. This is acceptable, but firms are encouraged to take a risk-based approach to each case (see 3.5). Firms and individuals should, as a minimum when assessing this risk, consider:

- the reliability of the professional
- whether the other professional is in an equivalent jurisdiction
- the nature of the transaction
- the sector the client is operating in, and
- whether there is a need to carry out enhanced due diligence (EDD) (see 3.6), such as where there is a PEP involved in the ownership or funding chain.

Other professionals in the purchase/sale cycle may also be targets for money launderers. Just because a lawyer, financier, estate agent or other surveyor are involved in the chain, this does not mean the customer, client or the transaction are legitimate. Firms and individuals should keep in mind that:

- Ultimate responsibility for risk assessment of the client and the resultant actions taken by the firm in respect to them can never be outsourced to another party.
- *Red flags* for *money laundering* ought not to be ignored.

Firms with overseas offices need to consider how they will apply a common approach to *money laundering* across their offices. There is, however, less likely to be a need for a very extensive *money laundering* programme in smaller or medium-sized firms that have local, known clients and operate in low risk countries. This as compared to multi-service firms with overseas offices operating in countries ranked as higher risks.

Every firm will benefit from using effective training suitable for their staff and agents. Training has to be practical and accessible. Circulating anonymised *money laundering* decisions is also a good way to familiarise staff with the issues the firm is facing in its day-to-day business.

Firms are expected to document their approach to *money laundering* and *terrorist financing*. In all but the smallest firms, presentations on at least an annual basis are expected to be made to the board/senior managers on how the firm’s approach to managing these risks appears to be holding up.

It is important not to report concerns widely that can lead to ‘tipping off’ offences or otherwise compromise those involved. Tipping off broadly means telling or letting a client

or some third party know that a report has been made to a local crime agency and/or that there is an investigation ongoing. Reports will need to be made very discreetly and to a small audience. *Money laundering* suspicions must be made to the nominated officer or person appointed internally as responsible, who can advise individuals on next steps.

3.3 Reliance

Reliance has to be considered using a risk-based approach. In instances where the client has instructed or has already passed the checks required by a regulated entity in an appropriate country, such as a law firm or large lending institution, it may be acceptable to rely on their checks of the client. This means identification of the individual reliant on the verification having been carried out by the regulated firm or institution.

This approach would not be acceptable, however, in cases where the source of funds is considered suspicious. For example, if a young, non-working individual has no cash assets but is buying a high-end apartment for the sum of millions, it would be appropriate to undertake further checks on the origin of this money. In such situations, ultimate responsibility for risk assessment of the client and the actions taken remain with the firm even if it relies on checks undertaken by a third party.

There may also be specific data protection requirements that need to be considered depending on the territory/region, such as the period of time for which a third party is required, or entitled, to hold the data being relied on.

3.4 Departures

A 'departure' is a circumstance where specific legislative, regulatory or court order needs to be followed that

differ from some of the requirements of this professional statement. RICS members and firms are expected to record such conflict(s) in writing between applicable laws and this professional statement, the deviation(s) taken from this professional statement because of the conflict(s), and any additional reporting or controls implemented based on applicable laws.

The requirement to depart from this professional statement pursuant to legislative, regulatory or court order takes precedence over all other requirements of this professional statement.

3.5 Risk-based approach

For a risk-based approach a useful starting point may be to consider 'the three Ws' – who you act for, what you are doing and why you are being asked to do something – when assessing risks to your business.

Within a risk-based approach a greater level of resource is devoted to higher risk areas, which will have been identified using a risk assessment.

A risk-based approach will involve planning to use resources in a proportionate way to target the risks in a firm. This involves assessing *bribery*, *corruption*, *money laundering* and *terrorist financing* risks before forming the plan accordingly.

3.6 Enhanced and simplified due diligence

Customer due diligence (CDD) involves collecting standard evidence to verify the identity of different types of clients. Examples include companies, trusts, special purpose vehicles, partnerships and charities.

Requirements to carry out CDD vary from country to country, but always comprise the following elements:

- identify the transacting party/parties
- verify the identification is valid and
- carry out additional checks where necessary, according to certain risk factors.

Simplified Due Diligence (SDD) means that full CDD is not needed. In a situation assessed as having a low risk of *money laundering*, applying basic verification may be appropriate. Internal policies and procedures need to set out (subject to local laws) when SDD can be applied. Evidence of the client's status may suffice, such as a check on the local company register, the status of a company, or evidence of listing on the stock exchange.

Enhanced due diligence (EDD) will need to be applied in situations (see 3.9 for the example of PEPs) where under your policies and assessments, or the applicable laws, more checking and monitoring is required to complete the client profile, requiring continued review of the client or the transaction.

It is for each firm to set up and consistently apply its approach to CDD. Some applicable laws provide when either SDD or EDD need to be utilised and this is expected to be followed. In the UK, for instance, applying SDD is now no longer an automatic option in any situation and firms need to always be alert to *red flags* that may indicate *money laundering* risks are elevated and deeper due diligence needed.

Source of funds and source of wealth checks are also closely aligned to the *money laundering* risks inherent in a transaction or from client activity. Firms need to understand how a transaction is being funded and consider whether the size and commercial sense of a particular deal matches the funding information obtained.

Some situations will warrant a check on the source of funds, such as where the source of wealth is clearly not matching the commercial factors. Information such as bank statements, trust deeds or evidence of a bonus payment may be needed and in turn may bring about further questioning.

Being familiar with when to check the source of funds and understand wealth background intimately is a function of experience and has to generally be described in a firm's procedures and in training.

Professionals need to also be mindful of the need to refresh CDD on their existing clients or customers from time to time and are expected to have a policy on this. Revisiting the information every three years may be appropriate in many situations. Risks can arise when low risk clients are taken on for a particular matter and remain 'in the system' for a much riskier transaction that follows later. The risk is then that the firm does not elevate its due diligence because the client has already passed internal, lower-threshold checks. It would be best practice to gather up-to-date identification documentation at the commencement of each new transaction, or at regular, frequent intervals if engaged

in an enduring business relationship with the client (as can be common in commercial transactions).

3.7 Compliance and ethics champion

Appointing a compliance and ethics champion is potentially a very effective way to help embed systems that help detect and counter *money laundering* and *terrorist financing*, *bribery* and *corruption*. Typically, this role will be allocated to a senior manager with experience of how the business works and with visibility of a department or office. Firms constrained because of their size and/or resources, however, may not be able to elevate this function to a senior manager, but should put appropriate measures in place.

These champions can take an overview of those individual(s) responsible for CDD and ethics in a firm. They can help to promote good practice and are closer to the day-to-day risks that arise so are better able to inform senior managers of new risks and make practical

recommendations regarding suitable controls. Internal investigations too, where needed, can be managed by champions who will be an invaluable resource to internal and external lawyers or compliance professionals.

For firms with a larger resource base, there is probably a champion already responsible for CDD, so look to formalise this role as a part of an approach to *money laundering* governance. Firms constrained by resource may find champions a cost-effective way to cope with increased demand.

3.8 Code of behaviour

A code of behaviour is a formal and typically short document that enshrines a firm's commitment to good ethics and what is expected by those acting for the firm. Such documents can set out the correct behaviour in certain situations, or who to contact in the event of an issue.

As with a number of the suggested measures, whether to have a written code of behaviour will depend on the size, complexity and locations of each firm. A one or two office firm of less than 25 people in total may not require such a document. Larger firms are expected to decide for themselves if a code of behaviour is worthwhile.

3.9 Politically exposed persons (PEPs)

PEPs are high risk from a *money laundering* and *corruption* perspective because they hold positions of influence – indeed many jurisdictions specifically legislate for this. It needs to be noted that just because an individual has been identified as a PEP does not mean that firms are expected to automatically reject their business or treat their transaction as suspicious.

A correct approach to dealing with a PEP is to have a policy that enables a PEP to be detected on a risk basis. Many firms have automated searches for all new clients (and suppliers and agents in high risk countries) which will pick up if someone is a PEP. Smaller firms may search according to pre-set risk criteria and ask the clients directly if they are PEPs.

If it is determined that a customer or client, or potential customer or client, is a PEP, this should be a *trigger* for EDD to be applied on the customer or client. As part of this

process, there will then need to be a deeper assessment of the transaction type and potentially the source of funds being utilised. Decisions made around a PEP need to be documented. Senior managers are expected to be involved in deciding whether to proceed with a transaction involving a PEP as a party or if they are providing third-party funding (such as a parent funding a purchase for his or her children).

When dealing with companies or other legal entities, the same processes apply if a *beneficial owner* is a PEP.

3.10 Beneficial ownership

In the case of most entities (partnership, companies and trusts), the *beneficial owner* will be the person who ultimately owns or controls a legally defined minimum percentage of the shares or voting rights in that entity. Some laws place this at 25 per cent or more, others at 10 per cent or more. In the case of a trust, this refers to an interest of a defined minimum percentage of the capital of the trust property or – where there is no specified beneficiary – the person who controls the trust or in whose main interest this trust was set up.

The *beneficial owner* of a client organisation can be identified by requiring helpful document types to be provided, such as a recent Certificate of Incorporation or Annual Return for a company, or written confirmation from a lawyer stating who the *beneficial owner(s)* are for a trust.

3.11 Whistleblowing

Depending on their size, it may be appropriate for RICS-regulated firms to have a formal whistleblowing policy covering when and how employees should report concerns, and how such reports will be treated. In the case of SMEs, having a formal whistleblowing policy may represent a disproportionate expense and so is not a requirement. Larger firms, however, will find it difficult to justify why they do not have such a policy in place. If relevant this policy should provide guidance for whistle-blowers who face compelling local reasons (such as war, political instability and natural disasters) not to make a report through the usual channels, indicating alternative safe channels for reporting.

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Further reading

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Appendices

- 1** These templates are intended to be helpful to RICS-regulated firms and RICS members but do not constitute formal RICS guidance. The templates are not intended to, nor should be construed as, providing a comprehensive guide to all required and/or appropriate actions.
- 2** These templates are relied upon at your own risk.
- 3** The level of relevant detail will largely depend on the type and size of the relevant firm and, to this end, this outline should be used flexibly in the context of the firm.
- 4** Some aspects of the template may not apply or be relevant to a particular firm.
- 5** It is for the RICS-regulated firm or RICS member to determine whether further detail and checks beyond those laid out in these templates are appropriate.

Appendix A

Template customer due diligence form

To: [subject of customer due diligence checks]

[For individuals]

Please provide for each an official identification document with photograph, for instance a current passport or drivers licence with recent proof of address.

[For entities other than individuals (e.g. a company, partnership or trust)]

Please provide unique identifier for the entity, for instance the company registration number or SSIP registration number.

Please provide evidence that you are authorised to act on behalf of this entity.

Please provide the address of your registered office, and if different, your principal place of business.

If you or your controlling/parent company are publicly quoted on a stock exchange, please provide proof of this. If not, please provide a structure chart disclosing the current ownership, control structure (including all entities that sit between the client and the ultimate beneficial owner) and identity of any individual/entity holding more than a defined percentage [e.g. 25%] of your voting and/or control rights.

Please provide a current excerpt from your registration documents, for instance an annual return, certificate of incorporation, certificate of good standing, articles of association, copy of the company accounts or trust document.

Appendix B

Draft of compliance checks to be carried out by firm

Those tasked with applying customer due diligence within the firm should undertake the following checks to verify the information provided by the potential customer or client in the customer due diligence form:

- meet the potential customer or client in person
- validate either a physical copy of the potential customer or client's identification documents, or a copy of them certified by an appropriate legal professional
- verify the validity of documents provided by an entity other than an individual
- check if the potential customer or client (or their ultimate beneficial owner) is a Politically Exposed Person (PEP), or a close associate or family member of a PEP
- check if the potential customer or client (or their ultimate beneficial owner) is under any relevant sanctions that would prohibit you from establishing a business relationship with them
- ascertain the purpose and intended nature of the potential business relationship and transaction
- check where the potential customer or client is principally based, and, if it is overseas, whether it is a high-risk third country
- check what the potential customer or client's principal business sector and activity is.

Based on these checks ascertain whether enhanced due diligence (EDD) checks should be applied to the potential customer or client.

Draft beneficial ownership enquiry

To: [complex or offshore structure about whose beneficial ownership you are enquiring]

[The relevant legislation] requires us to ascertain the beneficial owner(s) of the parties of a transaction, including those who trade as a company, partnership, trust or other entity (or a combination of these). Beneficial owner in practical terms means establishing the person or persons who own more than a defined percentage [e.g. 25%] of an entity as well as those who manage or control the entity if different from the owner(s).

Where we are not readily able to make our own enquiries (to establish beneficial ownership) via searching national databases of beneficial ownership, and in any of the following circumstances:

- a company is registered abroad
- there is a trust involved
- there is any type of partnership involved,

we request that you provide the necessary documents to demonstrate both your structure and, ultimately, who your beneficial owners are. Appreciating that terminology may differ, the following document types are likely to be helpful:

- **Companies:** recent Certificate of Incorporation, Annual Return or similar (detailing the identity of the shareholders) enabling us to identify the individual shareholders at the required threshold (e.g. at 25%) or more of its shares/voting rights.
- **Trust:** written confirmation provided by a lawyer (who may be a trustee) or trustee stating the identity of the beneficial owner(s) of the trust; generally these will be the beneficiaries or trustees, or if they are not yet known or are not specific individuals, then the trustees are generally treated as being the beneficial owners.
- **Partnership:** partnership deed, latest accounts, or solicitor's or accountant's letter confirming beneficial ownership.

These documents are also required for each layer of structure 'beneath' the beneficial owners.

Anti-money laundering checklist

Instruction ID: **Client name:**

Property name:

Proof of ownership: National Land Ownership Registry: Lease copy:

Other:

Letter of authorisation to instruct (if required):

Level of due diligence (KYC): Normal: Simplified: Enhanced:

If simplified or enhanced, please explain the reasons:

.....

.....

.....

Beneficial owners (persons)

Name: Photo ID: Address proof: Online check:

Name: Photo ID: Address proof: Online check:

Name: Photo ID: Address proof: Online check:

Ownership structure (include entity names, % owned and hierarchy):

.....

.....

I CERTIFY THAT

I have verified the identity of the client and have seen the original documents and I can confirm that any associated photograph of the client bears a good likeness to the client AND/OR that any certified copies are signed. My AML checks have been completed according to the company's AML Policy & Procedures and I acknowledge that I am responsible for its completeness and correctness.

Negotiator's name: **Signature:**

Office: **Date:**

Appendix C

Template reliance letter

From: [insert name and address of person on whom you are relying]

To:

Date:

Dear [name]

[I/we] hereby acknowledge receipt of your letter dated [insert date] regarding your request to rely on [my/our] customer due diligence carried out in relation to [client] in accordance with [the relevant legislation].

In response to your request:

[I/we] [confirm/] that [I am/we are] an [estate agent] as defined by [local legislation];

[I/we] [confirm] that [I/we] have applied customer due diligence measures in relation to [client] as required under [the relevant legislation];

[I/we] consent to being relied on for the purposes set out in your letter and limited to the customer due diligence measures required by [the relevant legislation];

[I/we] [confirm] that [I/we] will retain the records relating to [my/our] customer due diligence as listed for the period required under [the relevant legislation];

[I/we] agree to make available to you as soon as reasonably practicable on request any information and copies of any identification and verification data relating to [client] [and any beneficial owner] which [I/we] obtained when applying customer due diligence measures; and

[I/we] confirm that [my/our] supervisor for money laundering purposes is/are [insert name e.g. the Commissioners for Her Majesty's Revenue and Customs] or that we follow standards equal to those maintained in EEA countries.

You agree and warrant that information we provide to you in accordance with this letter and [the relevant legislation] will be used for the sole purpose of your obligations under [the relevant local legislation of the relier] and not for any other purpose and that personal or sensitive data relating to any clients or individuals or entities provided by us to you in accordance with this letter will be treated accordingly. You also confirm you will observe all relevant data protection laws from time to time in force when processing and handing data provided.

You confirm by acceptance of this letter that we are not liable to you or any third party in relation to the confirmations in this letter or at all. Compliance with the relevant legislation is and remains your sole responsibility.

[Name of person on whom you are relying and position within the firm]



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RICS promotes and enforces the highest professional qualifications and standards in the valuation, development and management of land, real estate, construction and infrastructure. Our name promises the consistent delivery of standards – bringing confidence to markets and effecting positive change in the built and natural environments.

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Red Flag indicators

<p>If the client:</p> <ul style="list-style-type: none"> • is secretive or evasive about who they are, the beneficial owner, the source of funds, the reason for the transaction, or what the big picture is • uses an intermediary, or does not appear to be directing the transaction, or appears to be disguising the real client • avoids personal contact without good reason • refuses to provide information about the transaction • has criminal associations • has unusually high level of knowledge about money laundering processes • is a PEP or subject to sanctions <p>If the parties:</p> <ul style="list-style-type: none"> • or their representatives reside in, or are incorporated in, a high-risk country (Algeria, Ecuador, Ethiopia, Indonesia, Myanmar, Pakistan, Syria, Turkey, Yemen, Iraq, Iran, and North Korea) • to the transaction are connected without an apparent business reason • have connections of a family or other business nature which causes doubts as to the real reason for the business • appear multiple times in transactions over a short period of time • executing the transaction are unusual, e.g. if they are under legal age or there is no logical explanation for their involvement are a director or representative which does not appear suitable for any reason e.g. age <p>If the source of funds for the transaction is unusual such as:</p> <ul style="list-style-type: none"> • large cash payments 	<p>If the transaction has unusual features such as:</p> <ul style="list-style-type: none"> • size, nature, frequency or manner of execution • early repayment of mortgages/loans • short repayment periods for borrowing • an excessively high value is placed on assets/securities • it is potentially loss making • involving unnecessarily complicated structures or steps in transaction • repetitive instructions involving common features/parties or back to back transactions with assets rapidly changing value • the transaction is unusual for the client, type of business or age of the business • unexplained agency, requests for short cuts or changes to the transaction particularly at the last minute • use of a Power of Attorney in unusual circumstances • no obvious commercial purpose to the transaction • instructions to retain documents or to hold money • abandoning transaction and/or requests to make payments to third parties or to back source monies passing directly between the parties <p>If the instructions are unusual for your business such as:</p>
---	--

<ul style="list-style-type: none"> • unexplained payments from a third party • client doesn't appear to have the means to pay/fund the transaction according to their legitimate income source • loans from non-institutional lenders • use of corporate assets to fund private expenditure of individuals • use of multiple accounts or foreign accounts 	<ul style="list-style-type: none"> • Outside you or your firm's area of expertise or normal business, or if client is not local to you and there is no explanation as to why your locality has been chosen • willingness of client to pay high fees • unexplained changes to legal advisers • the client appears unconcerned or lacks knowledge about the transaction
<p>If there are geographical concerns such as:</p> <ul style="list-style-type: none"> • unexplained connections with and movement of monies between other jurisdictions • Connections with jurisdictions which are subject to sanctions or are suspect because drug production, terrorism or corruption is prevalent or there is a lack of money laundering regulation 	
<p>The above may indicate a reason to suspect money laundering. If present, seek more information and report if you are still uneasy or you cannot get a full answer to your concerns.</p>	



Due Diligence Protocol

Thanet District Council



1.0 Introduction

1.1. What is Due Diligence?

- 1.1.1. Due diligence is firmly established as an element of corporate good governance and is an investigation of a business or person prior to signing a contract.
- 1.1.2. For the Council this contract can take a variety of forms, examples of these are a contract to provide services, an agreement in relation to a grant, a lease agreement or a joint venture/development partner agreement.
- 1.1.3. Why do it?
- 1.1.4. Both the Bribery Act 2010 and Money Laundering Regulations 2007 contain sections pertaining to the use of due diligence when establishing relationships with third parties.
- 1.1.5. In essence due diligence is undertaken to:
 - (a) Identify the entity and verify the entity's identity on the basis of documents, data or information obtained from a reliable and independent source;
 - (b) Establish the ability of the entity to deliver the contract
- 1.1.6. Due diligence is implemented to cut down on unpleasant surprises and reduces the chance that business practices of a service provider or grant recipient reflect poorly on the Council.
- 1.1.7. Due diligence will not provide a yes or no answer as to if the authority should use/partner with an entity. However, performing these types of investigation results in informed decision making through the use of enhanced information gathered during the process.
- 1.1.8. Decision makers can then analyse information and deliberate regarding costs, benefits and risks prior to entering into contracts.

2.0 What are the steps involved?

- 2.1. As due diligence is such an important part of the contract process, planning is essential as it may take some time to gather the appropriate information, consult experts, analyse the information and provide answers to questions.
- 2.2. Staff resource should also be considered, for example particular legal advice maybe required.
- 2.3. **STEP 1 – Planning**
 - 2.3.1. The steps of due diligence should be planned so that work can be completed before the contract discussions are too far advanced. For contract partners that present concerns it may be useful to consult with legal and finance colleagues to establish the best form of due diligence.
 - 2.3.2. The level of due diligence is likely to vary considerably from contract to contract depending upon the risk to the authority of the contract being entered into.
 - 2.3.3. Therefore planning is a key stage to ensure that all questions are answered and concerns alleviated, prior to contract award.
- 2.4. **STEP 2 – Gather Information**
 - 2.4.1. The first major step is to gather the information required in order to perform due diligence. The planning stage should of assisted in assessing the information that is likely to be required, but at the very least the information that should be gathered can be split into four categories:

2.4.2. Basic Information

- Name of organisation and directors/officers
- Registered address
- CVs of principals
- Contact details
- Group Structure (chart) showing how the contracting company fits into the overall corporate structure
- Company registration number and date of registration (where appropriate)
- VAT number
- Project outline
- Evidence the proposed project would not represent an excessive increase in the overall scale of the organisation's activities.
- Relevant experience of similar projects

2.4.3. Financial information

- Last 3 years financial accounts
- Auditor contact details
- Financial Plan
- Evidence of funds required to complete the project.

2.4.4. Web searches

- External credit rating
- Credit reference (taken by TDC)
- General search on company performance
- Press/media

2.4.5. Government policy

- Compliance with money laundering regulations

2.5. **STEP 3 – Analyse the Information gathered**

2.5.1. Analysis of the information gathered is essential in order make an informed decision regarding contract award.

2.5.2. Key questions that should be considered are:

2.5.3. Corporate image

- Has there been any negative publicity in the media around the company and how has the company dealt with and resolved these issues?
- Are there any pending legal cases against the entity?
- Is the entity only looking for a marketing opportunity by partnering with the Council?
- Is the entity looking only for procurement opportunities or money from the Council?
- Is the entity willing to engage in a transparent manner, with for example due regard to the Freedom Of Information Act?
- Is the entity willing to accept limitations around publicity of its relationship with the Council so that the Council is not perceived as endorsing the entity?

2.5.4. Social Responsibility

- Is the entity involved primarily in activities that the Council do not wish to align with, i.e. tobacco, firearms.
- Does the entity openly discriminate against race, sex or religion?
- Are there any concerns with the entity around corporate social responsibility?

- Is there any history regarding child or forced labour?
- Does the entity endorse standard Health & Safety requirements for workers?

2.5.5. Environmental Responsibility

- Does the entity assess the environmental impact of the project to be delivered?
- How does the entity monitor and set targets for improved environmental performance?
- Are there sufficient contingency plans to deal with emergencies relating to the contract?

2.5.6. Financial Ability

- Does the entity have the resources to fulfil its obligations through the contract?
- Does the entity issue annual accounts?
- Does the entity have a long track record, how many years has it been established?
- Does the entity have a stable structure and good governance around financial decision making?

2.5.7. Policy Compatibility

- Does the entity comply with all statutory regulations?
- Is it subject to any investigations by government, i.e. HMRC.
- Would entering into the contract cause the Council any issues with regards to its own constitution?

2.6. **STEP 4 – Further Specific and supplementary enquiries**

2.6.1. Further supplementary enquires may be required to answer the concerns or questions raised, however the level of these enquiries is likely to be dependent on:

- The scale of the proposed project or contract
- Responses to the initial enquires made

2.6.2. If the financial commitment is at a low level then enquires made will be restricted. The nature of the project and the level of risk are also considerations.

2.6.3. The planning stage of the due diligence process will allow you to assess the required level of further enquiries.

2.6.4. It is essential that a specific time limit is set for entities to respond, so that the awarding of the contract is not unduly delayed.

2.7. **STEP 5 – Decision making**

2.7.1. Once a comprehensive picture is built up of the entity concerned, an informed decision making process can occur using the information obtained.

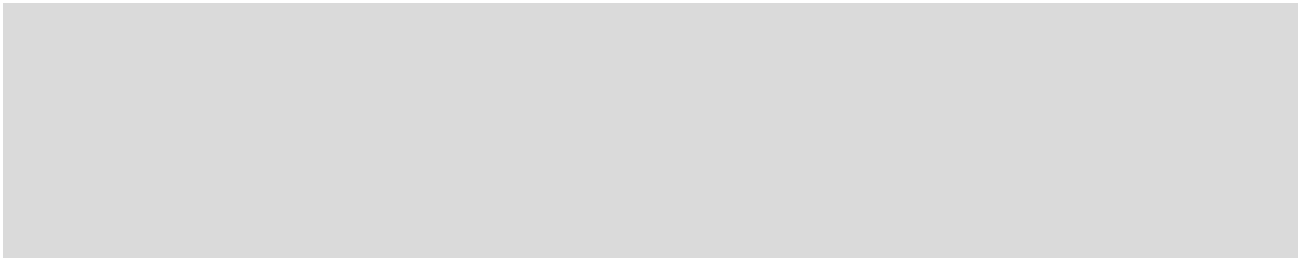
2.7.2. An entity that has struggled to provide information or answer some of the key questions is likely to be unsuccessful in winning the contract.

2.7.3. When it comes to decision making, a final decision must be reached in a timely manner and in conjunction with advice received from other departments such as legal and finance.

3.0 **Conclusion**

3.1. Due diligence assists in the detection and treatment of risk in relation to a contract award.

3.2. The process can be lengthy, but ultimately leads to the reputational protection of the Council and its finances, as well as the protection and reputation of the decision makers.



RSP Company Name:

RiverOak Manston Ltd

INFO PROVIDED / IN THE PUBLIC DOMAIN

RAG

OVERALL DUE DILIGENCE RAG

Incorporated In

Company Number

Date of Incorporation

Current Status (as at 3/3/19)

Trading (as at 03/03/19)

England & Wales

10286975

19-Jul-16

Active

Dormant

52230 - Service activities

incidental to air transportation

Model Articles

Not provided/ shareholder

information not available

£4

1 Ordinary Shares

A. Freudmann; N. Lawlor; G.Yerall

Stated Purpose (Companies House)

Articles of Association

Owned By

Share Capital

Share Class

Directors

Persons with significant control

Residency of Persons with significant control

Financial Year

Accounts: 2018

Accounts: 2018 (Draft)

N. Lawlor

Non-UK

To 31 July

Due 30/04/19

Not provided



Bank Statements: 2018	Not provided	
Accounts: 2017	A/c for Dormant Company	
- Fixed Asset Investments	Not provided	
- Trade Creditors <1yr	Not provided	
- Bank Loans Due 1-2 Yrs	Not provided	
- Amounts owed by group undertakings	Not provided	
- Other Debtors (inc. loans receivable)	Not provided	
- Net Assets / (Liabilities)	Not provided	
- Employees inc. Directors	Not provided	
P&L: 2017	Not provided	
Cash-Flow Statement: 2017	Not provided	
Bank Statements: 2017	Not provided	
Accounts: 2016	Not in existence	
Bank Statements: 2016	Not provided	
Accounts: 2015	Not in existence	
Accounts: 2014	Not in existence	

Subject to UK Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017?

N/A

Investor name	Not provided	
Investment value (GBP)	Not provided	
Investor security (e.g. charge over real estate assets; other)	Not provided	
Investor type (e.g. credit / financial institutions)	Not provided	
Investment type (e.g. loan)	Not provided	
Investor Registered Office details	Not provided	
Investor subject to UK Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017?	Not provided	
Investor Listing (Regulated Markets)	Not provided	
Investor Beneficial Owners	Not provided	
Investor Beneficial Owners Registered Office details	Not provided	
Proof of investment offer and value	Not provided	
Investment conditions (e.g. phasing; RoI expectations)	Not provided	
Investment duration	Not provided	
Investor exit strategy & plan	Not provided	
Investor rights in the event of non-delivery of Project	Not provided	
Investor funding release schedule	Not provided	
Investor Board Positions	Not provided	
Investor impact on existing Beneficial Ownership	Not provided	
Investor risk to National Security	Not provided	
Investor Governance	Not provided	
Investment gap (requirement - committed)	Not provided	

RSP DUE DILIGENCE - STATUS OF ESSENTIA

MIO Investments Limited		Riveroak Strategic Partners Ltd	
INFO PROVIDED / IN THE PUBLIC DOMAIN	RAG	INFO PROVIDED / IN THE PUBLIC DOMAIN	RAG
Belize	Red	England & Wales	Red
162208	Green	10269461	Green
Not provided	Red	08-Jul-16	Green
Active	Green	Active	Green
Not provided	Red	Dormant	Red
Not provided	Red	51101 - Scheduled passenger air transport;	Green
Not provided	Red	51102 - Non-scheduled passenger air transport;	Green
Not provided	Red	51210 - Freight air transport; 52230 - Service	Green
Not provided	Red	activities incidental to air transportation	Green
Not provided	Red	Model Articles	Yellow
Not provided	Red	90% owned by MIO Investments	Red
Not provided	Red	10% owned by RiverOak Manston	Red
Not provided	Red	£1	Green
Not provided	Red	10,000 Shares at £0.0001 each	Green
Not provided	Red	A. Freudmann; G. Huesler (CH); N. Lawlor ; N.	Green
Not provided	Red	Rothwell (CH); R. Seitz (CH); G.Yerall (US)	Green
Not provided	Red	None on Companies House	Red
Not provided	Red	MIO Investments?	Red
Not provided	Red	Not provided	Red
Not provided	Red	To 31 July	Green
Not provided	Red	Due 30/04/19	Yellow
Not provided	Red	Not provided	Red

Not provided
Not provided
Not provided



Not provided
Not provided
Not provided





AL INFORMATION (04/03/19)

Riveroak Operations Limited		Riveroak Fuels Ltd	
INFO PROVIDED / IN THE PUBLIC DOMAIN	RAG	INFO PROVIDED / IN THE PUBLIC DOMAIN	RAG
	Red		Red
England & Wales	Green	England & Wales	Green
10311804	Green	11535715	Green
04-Aug-16	Green	24-Aug-18	Green
Active	Green	Active	Green
Active	Green	Active	Green
52230 - Service activities incidental to air transportation	Green	52230 - Service activities incidental to air transportation	Green
Model Articles	Yellow	Model Articles	Yellow
100% owned by Riveroak Strategic Partners Ltd	Red	>75% owned by Riveroak Strategic Partners Ltd	Red
£1	Green	£1	Green
1 Ordinary Share	Green	1 Ordinary Share	Green
A. Freudmann; N. Lawlor; G.Yerall	Green	A. Freudmann; N. Lawlor; G.Yerall	Green
Riveroak Strategic Partners Ltd	Red Ultimately MIO Investments Ltd in Belize	Riveroak Strategic Partners Ltd	Red Ultimately MIO Investments Ltd in Belize
UK	Red Ultimately Belize	UK	Red Ultimately Belize
To 31 August	Green	To 31 Aug	Green
Due 31/05/19	Yellow	Due 06/09/19	Yellow
Not provided	Red	Not in existence	Red

Not provided		Not provided	
Bank (Lender TBC)	(£4,458,285)	Not provided	
Riveroak AL Ltd	£45,480	Not provided	



Riveroak AL Ltd		Riveroak MSE Ltd	
INFO PROVIDED / IN THE PUBLIC DOMAIN	RAG	INFO PROVIDED / IN THE PUBLIC DOMAIN	RAG
England & Wales		England & Wales	
10269458		11720590	
08-Jul-16		10-Dec-18	
Active		Active	
Active		Active	
52102 - Operation of warehousing and storage facilities for air transport activities; 52230 - Service activities incidental to air transportation		96090 - Other service activities not elsewhere classified	
Model Articles		Model Articles	
100% owned by Riveroak Strategic Partners Ltd		>75% owned by Riveroak Strategic Partners Ltd	
£1		£1	
1 Ordinary Share		1 Ordinary Share	
A. Freudmann; N. Lawlor; G.Yerall		A. Freudmann; N. Lawlor; G.Yerall	
Riveroak Strategic Partners Ltd	Ultimately MIO Investments Ltd in Belize	Riveroak Strategic Partners Ltd	Ultimately MIO Investments Ltd in Belize
UK	Ultimately Belize	UK	Ultimately Belize
To 31 July		To 31 Dec	
Due 22/07/19		Due 10/09/20	
Not provided		Not in existence	



KEY:

Information available from RSP or in the public domain and readily verifiable. Not of concern.



Information available from RSP or in the public domain and readily verifiable. Information in question raises concerns



Information not available from RSP nor in the public



domain and / or of
concern. Essential to
successful completion of
essential Due Diligence.

