



Department  
for Education

# **Area reviews of post-16 education and training institutions**

**Framework for Due Diligence:  
appendices**

**October 2016**

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## Introduction

These Appendices should be used in conjunction with the main body of the Framework – [“Framework for Due Diligence following area reviews of post-16 education and training institutions”](#) (URN DFE-00245-2016), published on 19 October 2016.

## Appendix A – Types of restructuring

This Framework covers a range of restructuring types and can be used as guidance for a wide range of organisations. The introduction (section 1) sets out who this Framework has been produced for and it is anticipated that the majority of users will be contemplating restructuring involving colleges operating in the same funding and regulatory environment. If the restructuring being considered involves merging or otherwise combining with an organisation that is in a different operating or regulatory environment (e.g. Higher Education), the majority of guidance in this Framework is still likely to be relevant. However, care should be taken to understand the operating and regulatory environment of the other party to ensure that risks are fully understood and appropriate governance structures can be put in place to mitigate.

### Merger between two or more colleges

A merger between two or more colleges will be the option being considered by many colleges. This will involve a minimum of two colleges being combined in both the curriculum offer and from a legal and operational perspective.

Guidance on the two types of merger (Type A & Type B) can be found on gov.uk<sup>1</sup>. Type A would result in both (/all) colleges being dissolved and a new entity being formed and Type B, would result in all but one entity being dissolved and all assets and liabilities transferred to the remaining entity.

Consideration should be given to the benefits and pitfalls of both types. The decision of restructuring type may require legal advice and will depend on a number of factors including but not limited to:

- The reputation of the colleges involved;
- The relative specialities of the colleges and their ongoing provision (for example if one college is renowned for a high level of provision in a certain subject it may be beneficial to keep that organisation going);
- Any competition concerns;
- Legacy issues in one or more colleges (e.g. pension liabilities, contingent liabilities);
- Management of the respective entities;

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<sup>1</sup> [Guidance on types of college mergers](#)

- Funding availability in both (/all) entities and the funding requirement of the new combined entity; and
- Location and availability of estates (including any issues in transferring estates between parties).

## **Partnership with training provider**

A college may look to form a strategic partnership with a training provider to better meet the needs of the local area. The parties may have different benchmarks and parameters regarding curriculum and financial performance that need to be taken into account.

## **Merger with University/Higher Education Institute (“HEI”)/Higher Education College**

In this type of restructuring, the college will combine its curriculum with that of a University or similar Higher Education Institute. In line with guidance above in relation to mergers between two or more colleges, this will merge the college and the organisation from a legal and operational perspective. The college will need to fully understand the provision, cost-saving synergies and benefits of such a restructuring and may need to understand the provision, student population and culture of the other organisation which would not have been established during the area review. They will also need to take account of particular funding and oversight structures relating to HE provision.

## **‘Carve out’ of part(s) of college curriculum and wind down of remaining services**

This type of restructuring would mean that the post restructuring organisation would solely provide the services which were ‘carved out’, i.e. identified as wanting to continue to provide to its students. The other services provided would be removed from the curriculum and would no longer be offered to students, or transferred to another provider.

## **Becoming an academy**

Government has indicated that sixth-form college corporations can dissolve and transfer the property, rights and liabilities of the Corporation to a new or existing academy trust. Academies are designated as public sector bodies. Before an academisation proposal can go ahead, both the college and where applicable any existing multi-academy trust which the new academy will join, will need to complete due diligence on the financial and legal aspects of the transfer. This does not have to be completed in full before an application is approved, but applications will need to set out sufficient information to

provide assurance that the new academy will be financially solvent and viable. This Framework can assist in scoping that due diligence and more information is available on gov.uk<sup>2</sup>.

## **Rationalisation or specialisation of services**

This restructuring type would result in a college being reorganised to make the curriculum provision more efficient. This could include the reduction in resource plan, an increase in certain areas of the curriculum to make the college more specialised, or a combination of the two.

## **Implementation of shared services**

Colleges could collaborate to set up a joint venture limited company (owned by the colleges) to deliver a number of distinct functions e.g. HR, Finance, IT functions etc. Additional considerations would need to be given to the deliverability of savings planned and the arrangements for sharing confidential data in such a scenario.

## **Joint ventures with others to form an apprenticeship company**

Both parties would enter into a contract or agreement that details their respective duties and responsibilities. The pair would then set up a new organisation which would be jointly owned by the college and the partner.

This approach might be taken, for example, where the college was unable to gain significant apprenticeships due to its relative small size, or where the area review identifies clear overlap of key employers and needs. A joint venture with an appropriate party may provide access and credibility to generate more apprenticeship income.

## **Creation of, or addition to, a group structure of a number of colleges (including Federation)**

Colleges would effectively merge within an existing corporation, but may be in different areas geographically. Such a structure might be put in place to rely on the support services, management, financial support or other aspect of one college, leaving the provision of education and engagement with the local community to the local college.

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<sup>2</sup> [Becoming a 16 to 19 academy: advice for sixth-form colleges](#)

## Appendix B – Consultation with stakeholders

This has included a sample of colleges, a number of professional service providers, other stakeholders and sector organisations (see list of stakeholders consulted with below). In particular;

- A range of colleges that had been through restructuring were consulted to understand areas of best practice identified and pitfalls to avoid (both issues uncovered by due diligence and in the engagement process of professional service providers which might have contributed to inefficiency or additional cost in the process),
- The views of some colleges about to embark on a restructuring or in the early stages of planning have been consulted to ensure this document provides relevant and appropriate guidance on issues where colleges need support through the restructuring and due diligence process,
- A number of professional service providers shared their experiences to highlight potential issues seen and to discuss how these can be overcome in the Framework, and
- Specific areas were discussed with lenders and other commissioners of due diligence to understand where they might require additional due diligence to be completed for their own benefit. It should be noted that using the Framework as a guide does not restrict or limit in any way the lenders' ability to commission further due diligence, the cost of which will be borne by the college/s.

The Department for Business Innovation & Skills and the Department for Education would like to thank all those individuals, businesses and organisations for making their time available in the preparation of this Framework.

### List of stakeholders consulted

Association of Colleges  
Barclays Bank plc  
Bath College  
BDO LLP  
Black Country Consortium Ltd  
Brockenhurst College  
Bromley College of Further and Higher Education  
City of Glasgow College (Merger Research Centre)  
City of Westminster College  
Deloitte LLP  
DLA Piper UK LLP  
Ernst & Young LLP



Eversheds LLP  
Further Education Commissioner  
Grant Thornton UK LLP  
HEFCE  
Icca Education Training and Skills Limited  
Jisc  
KPMG LLP  
Lloyds Bank plc  
Mills & Reeve LLP  
NCG  
NUS  
Pinsent Masons LLP  
PricewaterhouseCoopers LLP  
RSM UK Consulting LLP  
Santander UK plc  
SEMLEP  
Sixth-Form College Commissioner  
Sixth Form Colleges Association  
Solihull College & University Centre  
The 157 Group  
The Education & Training Foundation  
The Transactions Unit  
Wessex Education Shared Services Limited

## **Appendix C – Levels of due diligence reliance**

### **Primary engagement (and consequently, duty of care)**

Engaging professional service providers will likely be done by colleges themselves and therefore they, as the primary engaging party, will be owed the primary duty of care.

This means that the scope will have been defined by them (using this Framework as a guide) and the work will be carried out with the college in mind, understanding that they will place reliance on it when it comes to making decisions. They receive the full due diligence report and can act upon it.

Colleges commissioning due diligence need to work with their professional service providers to set the right scope, i.e. to make sure the due diligence covers the things which are important to them for the decision making process. However, the engagement scope can be varied to allow for secondary due diligence if found to be required.

### **Duty of care**

A duty of care is a legal obligation that a professional service provider has to another party that they have shown adherence to a certain reasonable level of professional care in completing the work requested of them. This holds professional service providers to a minimum standard when producing the due diligence report.

A duty of care enables the beneficiary to rely on the due diligence report produced, to make decisions and take remedial action if it is later found that this information was not produced to the necessary standard (e.g. through negligence).

### **Joint duty of care**

It is necessary to consider at the outset which other stakeholders will wish to rely on the due diligence report being produced. (See section 3.1 which gives guidance on which stakeholders may require this).

This needs to be carefully considered as to exactly how much reliance each party will wish to place on the due diligence report or whether they will find the information useful or interesting but ultimately not plan to place any reliance on the due diligence report.

Where one of the identified stakeholders needs to place reliance on the due diligence report being produced the scope needs to reflect their requirements.

Given that the due diligence will then be produced with that stakeholder's requirements in mind it is normal for that stakeholder to receive a joint duty of care from the professional

service provider (although this is something that needs to be agreed with the professional service provider upfront).

In the same way as a primary duty of care, a joint duty of care enables the other stakeholder to place reliance on the same piece of work (possibly for different purposes) and be able to seek the same remedies if the work is not acceptable. A joint duty of care usually allows for the parties to receive all of the due diligence reports which are provided. It is possible to restrict access for specific reports but this requires agreement in advance.

## **Assumption of duty**

If the stakeholders who need to place reliance on the report are not considered, it may be difficult to agree further duties of care or the release of the due diligence report to other parties may not be possible.

It may be possible in some circumstances to agree an assumption of duty to a further party, but this will need the consent of the original client and the professional service provider as the professional service provider will likely only consent if their overall liability cap remains the same.

An assumption of duty should only be explored with the professional service provider if the existing report is likely to meet the requirements of the new stakeholder; if the scope of the due diligence was quite specific, the resulting report may not be sufficient and further due diligence may be required.

## **Hold harmless**

A hold harmless agreement is one between an additional party (not subject to the terms of the original engagement) that wishes to receive a copy of the due diligence report, but does not plan to place reliance on the work and therefore receives it effectively 'for information purposes only'.

The hold harmless agreement is put in place to agree with the additional party that the due diligence report has been produced with the original client in mind and not the additional party. The additional party will agree that they will not be able to place reliance on the report and they will not hold the producer of the due diligence report responsible for any actions or decisions that they take as a result of reading the due diligence report. Such agreements can only be made with the professional service provider's agreement and the additional party will likely be required to indemnify the professional service provider in respect of any breach of the hold harmless letter's terms and conditions.

## **Interest only**

Those parties or organisations that have an interest in the restructuring process but would not make a decision based on the due diligence report or findings (e.g. employees and learners) and therefore are unlikely to need sight of any due diligence procedures.

## Appendix D – Financial

This section covers the full indicative scope for financial due diligence and information that may be undertaken/required as part of a restructuring involving a college. The exact scope will need to be specifically tailored depending on many factors including the size, type and complexity of the restructuring being considered.

### Indicative due diligence scope

1. College overview
  - a. Brief history of the organisation since inception including changes in structure and current status (including trusts if appropriate).
  - b. Brief description of key activities and key funding streams, including commercial areas.
  - c. Description of learner base from ILR data/area review information
2. Historical trading results (for the three years ended 31 July 20[X] and the current year to date)
  - a. Summary of income and expenditure accounts for the three years ended 31 July 20[X] and the current year to date; high level commentary on trends in key performance indicators.
  - b. Adjusted underlying EBITDA analysis for the three years ended 31 July 20[X] and the current year to date; high level commentary on key adjustments identified from the review undertaken including details of one off items; non-recurring revenue or costs; non-business expenses; provision movements; comment on underlying trading performance.
  - c. Analysis of overheads and commentary on key trends in each period.
  - d. Details of employees including number of employees and remuneration, benefits, pension and other plans (as applicable).
  - e. Reconciliation of trading results to the financial statements for the three years ended 31 July 20[X] (as available).
  - f. Where only part of an organisation's operations is to be transferred as part of the restructuring, understand the basis on which the proportion of operation to be transferred has been carved out of the overall operations of the organisation.
3. Historical balance sheets (at 31 July 20[X], 31 July 20[X] and latest available month end)

- a. Summary of net assets at each period end and review for key exposures with commentary against:
    - i. Material and/or unusual balances;
    - ii. Significant trends/movements in key components; and
    - iii. Provisioning levels and movements.
  - b. Analysis of any debt and debt-like items in the balance sheet identified from the review undertaken including net interest bearing debt, bank overdrafts, loans, finance leases and other interest bearing liabilities.
  - c. Details of any litigation pending, and any other contingent liabilities.
  - d. Where only part of an organisation's operations are to transfer, understand the basis on which the balances to transfer have been
4. Historical cash flows (for three years ended 31 July 20[X] and current year to date)
- a. Summary of historical cash flow statements.
  - b. Reconciliation of EBITDA to the cash flows and commentary on the conversion of EBITDA to operating cash flows.
  - c. Analysis of historical working capital requirements.
5. Projected trading results and cash flows for the three years ending 31 July 20[X] (as applicable in the Business Plan)
- a. Summary of projected results and cash flows for each year.
  - b. Basis of preparation of the projections.
  - c. Analysis of projected results and cash flows, including commentary on principal assumptions split between:
    - i. Income
    - ii. Expenditure
    - iii. Cash flows and working capital
    - iv. Capital expenditure
    - v. Planned synergies and reorganisation associated with the restructuring (e.g. back office functions and any areas of duplication, service/course areas and areas for rationalisation).
  - d. Analysis of key vulnerabilities, sensitivities and upsides to the business plan.

- e. Comparison and assessment the current standalone cost structure of the proposed merged entities with that set out in the business plan.

6. Other matters

- a. Review of management letters issued by external auditors in respect of their audits of the organisation for the three years ended 31 July 20[X].
- b. Details of summary accounting policies.
- c. Review of any other reports issued by funding authorities or other regulators.
- d. Details of any other matters arising from the review undertaken.

## Indicative information request

Financial due diligence information request should consist of the following:

	Area	Information required
1.	<b>Historical results review</b>	<ol style="list-style-type: none"> <li>1. Audited financial statements for the three years ended 31 July 20[X] including: <ol style="list-style-type: none"> <li>a. audit reports; and</li> <li>b. reconciliation between year-end management accounts and audited financial statements.</li> </ol> </li> <li>2. Monthly management accounts for the three years ended 31 July 20[X].</li> <li>3. Key performance indicators reported and routinely monitored by the college (including learner numbers).</li> <li>4. Analysis of key drivers of year-on-year movement in income and expenditure over the last three historical periods.</li> <li>5. Detailed of income and expenditure balances considered by the college to be non-recurrent/one-off in nature.</li> <li>6. Details to support any cost efficiency targets and performance against the targets.</li> </ol>
2.	<b>Current year performance</b>	<ol style="list-style-type: none"> <li>1. Monthly management accounts for the current financial year.</li> <li>2. Commentary to support any under/over-spends against YTD budgets identifying key drivers of performance.</li> <li>3. Detailed analysis of the forecast outturn for the current financial year including key assumptions underpinning the run-rate over the forecast period.</li> </ol>
3.	<b>Accuracy of budgeting</b>	<ol style="list-style-type: none"> <li>1. Governing Body/Corporation approved budgets for each of the historical periods.</li> <li>2. Analysis of actual outturn to budgeted position for each of the historical periods.</li> </ol>
4.	<b>Balance sheet</b>	<p><b>Fixed Assets</b></p> <ol style="list-style-type: none"> <li>1. Detailed analysis of current asset register including: <ol style="list-style-type: none"> <li>a. date of purchase;</li> <li>b. depreciation policies;</li> </ol> </li> </ol>



	Area	Information required
		<ul style="list-style-type: none"> <li>c. asset life; and</li> <li>d. net book value.</li> </ul> <ul style="list-style-type: none"> <li>2. Detailed analysis of assets that are owned and leased.</li> <li>3. Details of any back-log maintenance spend and plan (where applicable).</li> <li>4. Details of any capital and revenue commitments.</li> </ul> <p><b>Current assets and liabilities</b></p> <ul style="list-style-type: none"> <li>1. Detailed monthly balance sheets for a minimum of the last 12 months.</li> <li>2. Detailed analysis of debtor and creditor balances at each balance sheet date and current reported balance sheet position (this should include the age profile of debtor and creditor balance at the latest reported balance sheet date).</li> <li>3. Details of provisions held for bad debts and any debtor write-offs.</li> <li>4. Details of any contingent liabilities at each balance sheet date (where applicable).</li> <li>5. Documentation to support any provisions held at each balance sheet date.</li> </ul>
5.	<b>Cash flow review</b>	<ul style="list-style-type: none"> <li>1. Monthly cash flow statements for the historical periods to cover a minimum of 12 months.</li> <li>2. Reconciliation between the closing cash balance to the movements in cash per the cash flow statement analysis.</li> </ul>
6.	<b>Projected trading results and cash flows</b>	<p>Details of key assumptions made within the projected trading results and cash flows supporting the business plan including:</p> <ul style="list-style-type: none"> <li>1. Income and expenditure assumptions;</li> <li>2. Cash flow and working capital;</li> <li>3. Capital expenditure requirements (including and planned asset disposals);</li> <li>4. Planned synergies to be achieved over the projected period.</li> </ul>

	Area	Information required
7.	<b>Other</b>	Where only part of a college's current operations are to transfer to another college or into a new entity, working papers to support the basis on which balances deemed to be "in scope" have been identified.

## Appendix E – Pre and post-restructuring integration

This section covers the indicative scope for a range of pre-restructuring integration and post-restructuring integration activities that would typically be undertaken as part of a restructuring.

### Indicative due diligence scope

1. Understand the current operating model(s)
  - a. Assessment of the current standalone operating model, including:
    - i. Cost base and key cost drivers, resulting in a comparable cost base across all parties involved in the restructuring.
    - ii. Operating structure.
    - iii. Headcount and departmental structure.
    - iv. Flexibility of the current operating models to meet rise/fall in demand.
    - v. Back office functions and areas of duplications.
    - vi. Service delivery and areas for rationalisation.
    - vii. Current and future trends in student-driven demand.
  - b. Assessment of any in-progress or planned future transformational/change plans.
2. Assess the post-deal implementation plan
  - a. Review the post-deal implementation plan, developed in conjunction with key stakeholders, which defines:
    - i. Strategy for the combined entity including defined culture and fit, coupled with changes identified as required at each location.
    - ii. Future operating structure, including potential of functional centralisation (applicability of the use of a shared service centre; use of cloud based storage; use of cloud based software/applications).
    - iii. Headcount, staffing and leadership structure.
    - iv. Combined cost base, and how cost savings will be delivered if appropriate.
    - v. Leadership skills needed and management capability, plus gap analysis if appropriate.

- vi. Steps plan for creation of detailed implementation roadmaps, detailing actions, timelines and responsibilities required across each functional work streams (including but not limited to IT, Finance, HR, Legal, Procurement, Estates and Services), for the timeframe pre-Day 1 to implementation completion.
  - vii. KPIs, e.g. achievement rates, performance against funding allocations curriculum plans, resource plans and apprenticeship strategy to date as well as against financial benchmarks.
  - viii. Communication plans for learners, prospective learners, employers, staff and other stakeholders.
- b. Understand what risks colleges have identified to the post-deal implementation plan and how these are proposed to be mitigated. In particular:
    - i. Understand the impact of sensitivity analysis found during financial due diligence and how colleges intend to manage these, and
    - ii. Identify who will be responsible for delivery of aspects of the plan and understand how any gaps are to be covered.
  - c. Evaluate what options colleges have identified in the event that the financial and non-financial plans go off track.

**Key functional considerations may specifically include assessing any of the following:**

Issue	Common support function challenges
<b>1. Finance</b>	
<b>a. Organisation</b>	<p>Is the proposed finance team properly sized?</p> <p>What is the role of finance in the organisation (roles, responsibilities and skills set of the finance team)?</p> <p>Evaluate any existing outsourcing arrangements and quality of services?</p> <p>Is the cost base of the finance function appropriate?</p>
<b>b. Financial processes</b>	<p>Is restructuring processing efficient and effective?</p> <p>What is the expected level of process standardisation and functional centralisation?</p> <p>Have management determined the requirements of</p>

Issue	Common support function challenges
	<p>financial and operational reporting?</p> <p>Is there clear consistent and robust control and compliance across key processes?</p>
<b>c. Financial systems</b>	<p>Is there a roadmap to management accounts and consolidated reporting?</p> <p>Is there an inventory of financial systems used across the business?</p>
<b>2. HR</b>	
<b>a. Organisation</b>	<p>Understand the organisation structure of HR function (i.e. roles, responsibilities/skills set of HR team)</p> <p>Is the function adequately resourced to deal with the implementation?</p>
<b>b. HR processes (some overlap with HR section)</b>	<p>Understand the current HR processes and their effectiveness.</p> <p>Evaluate robustness of each process and streamline where possible.</p> <p>Agree owners for each process and procedure (i.e. IT policy, Health &amp; Safety policy etc.).</p>
<b>c. HR systems (some overlap with HR section)</b>	<p>Create inventory of HR systems used across the organisation</p> <p>Understand interdependencies of HR systems to other systems (i.e. self-service, payroll, expenses)</p> <p>Review any outsourcing of systems (i.e. payroll) and cost effectiveness and service provided (better to bring in house?).</p>
<b>3. Support functions interdependencies</b>	
<b>a. X- functional dependencies</b>	<p>Understand the existing interdependencies among support functions – e.g. hire-to-retain process.</p>

## Indicative information request

Post-restructuring due diligence information request should consist of the following:

	Area	Information required
1.	<b>Post-restructuring</b>	<ol style="list-style-type: none"><li>1. Financial results for the year ended 31 July 20[X], detailing the cost base by function/type, with significant one-off costs identified.</li><li>2. Organisation/structure charts, detailing all departments with associated roles and headcount.</li><li>3. FTE listing, with breakdown of staff costs per head/role (anonymous).</li><li>4. Contractor listing, with breakdown of costs per contractor.</li><li>5. Internal process documentation e.g. process diagrams, manuals or walkthroughs.</li><li>6. Details of all current estates: Location, size, valuation, costs.</li><li>7. List of third party contracts held, showing counterparty, service type, cost, basis of charging, and change of control implications. Significant contracts made available for review.</li></ol>

## Appendix F – Information technology

This section covers the indicative scope for a range of IT activities that would typically be undertaken as part of a restructuring.

1. Understand the current operating model(s)
  - a. Assessment of the current standalone operating model, including:
    - i. Current and future trends in the use of IT for curriculum delivery.
    - ii. IT infrastructure, applications and organisation.
  - b. Assessment of any in-progress or planned future transformational/change plans.
2. Assess the post-deal implementation plan
  - a. Review the post-deal implementation plan, developed in conjunction with key stakeholders, which defines:
    - i. Future operating structure, including potential of functional centralisation (applicability of the use of a shared service centre; use of cloud based storage; use of cloud based software/applications).
    - ii. IT infrastructure required to support operating model including cyber security and resilience.

**Key considerations may specifically include assessing any of the following:**

Issue	Common support function challenges
<b>Organisation</b>	<p>Evaluate whether team has right skills and experience to understand and take decisions on use of IT.</p> <p>Understand the organisation structure of the IT function.</p> <p>Evaluate the existing outsourcing arrangements and quality of services.</p> <p>Evaluate the cost base of the IT function.</p>
<b>IT processes</b>	<p>Understand the existing IT processes and how these are to be used going forward. Identify any immediate issues with licences, curriculum delivery etc.</p>

## Indicative information request

IT due diligence information request should consist of the following:

	Area	Information required
1.	IT	<ol style="list-style-type: none"> <li>Any available diagrams showing overall system landscape and data feeds between systems and external interfaces.</li> <li>Details of all key business applications, including application name and version, overview of functionality.</li> <li>A summary of licence, support and maintenance agreements for all critical business applications, business productivity tools and other software.</li> <li>Details of server and other hardware used.</li> <li>Any available historical KPI data (for last three years) illustrating the performance of the IT function.</li> <li>Data showing up/downtime of key IT systems, and any trend(s) relating to overall system availability/outages over the last 2 years.</li> <li>Details of any external standards (including ITIL, CMM, COBIT, ISO20001, ISO27001, PRINCE2/PMI) implemented with the IT organisation.</li> <li>Details of demand for bandwidth (peak/average including daily demand cycles) and projected demand taking account of faculty and student demand as well as back office functions).</li> <li>Security/resilience of the IT systems including connectivity.</li> </ol>



## Appendix G – Estates

The following section provides an indicative scope for carrying out estates due diligence, to confirm that the future accommodation complements the college's future requirements in terms of corporate strategy, financial plan and future ways of teaching & working.

There are in addition legal issues in relation to estates which are highlighted in Appendix L.

### Indicative due diligence

1. Background
  - a. Review the results of the relevant area review to see how future occupancy needs have been established.
  - b. Gain an understanding of the sites operated by each college and how they are currently used.
2. Future operating model
  - a. Carry out a brief assessment of the proposed future operating model, including future demand estimates, provision models and key areas of rationalisation.
  - b. Gain an understanding and test the accommodation concepts and assumptions related to future size, shape and configuration of the colleges in the medium term. This should include challenging the need to own accommodation and specialist facilities, looking at student headcount projections, specialist accommodation and building condition and discussing the preferred organisational and operating model.
3. Portfolio review
  - a. A full review of the asset portfolio to gain a detailed understanding of the estates of each college involved in the restructuring.
  - b. Understand the current estates performance, assess what risks relate to any estates rationalisation, planned efficiencies and planned cost saving identified.
4. Option analysis
  - a. Carry out a review of the strategic options as they apply to estates. This should include assessment of the disposal timing, value estimated, any associated residual public funding, restrictions and comment on any proposed planning requirement. Identify any risks associated with ownership models e.g. sale & leaseback, asset transfers, trusts. For each option, lay out a full description of the option, the key risks and constraints and the associated asset & space implications.

- b. Assess the financial impact of each option, clearly laying out the financial findings of the option appraisals so the college can fully understand the associated revenue and capital impact.

5. Conclusion

- a. Provide a clear summary of the qualitative and quantitative assessment of the proposed estates strategy against the wider strategic objectives.

## Indicative information likely to be needed

Estates due diligence information request should consist of the following:

	Area	Information required
1.	<b>List of properties</b>	<ol style="list-style-type: none"> <li>1. Full address of all properties owned, leased and occupied by the college.</li> <li>2. Tenure (leasehold/freehold/long-leasehold).</li> </ol>
2.	<b>Legal information</b>	<ol style="list-style-type: none"> <li>1. Deeds, leases, funding agreements, statutory instruments.</li> </ol>
3.	<b>Rent paid and received</b>	<ol style="list-style-type: none"> <li>1. Details of rent payable and receivable and how it is paid (weekly/monthly/quarterly).</li> <li>2. Rent/lease agreements summary – e.g. full maintenance.</li> <li>3. Details of arrears and any payment plans (where applicable).</li> <li>4. Details of any payment mechanisms in place e.g. rent free periods, stepped rents etc.</li> </ol>
4.	<b>Council Tax</b>	<ol style="list-style-type: none"> <li>1. Details of the Council Tax position of each site including costs, rating appeals etc.</li> </ol>
5.	<b>Management</b>	<ol style="list-style-type: none"> <li>1. Details of any management agreements (if applicable).</li> </ol>
6.	<b>Running Costs</b>	<ol style="list-style-type: none"> <li>1. Annual running costs per site using <u>eMandate</u> definition.</li> <li>2. Running costs in respect of void properties and those with common areas of lighting/heating not reported elsewhere.</li> </ol>
7.	<b>Tenancy schedule</b>	<ol style="list-style-type: none"> <li>1. Schedule of tenancy agreements including tenant name, occupied space, term, break date and notice period.</li> </ol>
8.	<b>Title reports</b>	<ol style="list-style-type: none"> <li>1. Copy of title report and plan for each property asset detailing: <ol style="list-style-type: none"> <li>b. material defects;</li> <li>c. breaches;</li> <li>d. easements; and</li> <li>e. coverage provisions or covenants that could impact on value.</li> </ol> </li> </ol>

	Area	Information required
9.	<b>Statutory and HSE compliance</b>	<ol style="list-style-type: none"> <li>1. Copies of statutory documentation including: <ol style="list-style-type: none"> <li>a. fire risk assessments;</li> <li>b. gas/electrical safety compliance certificates; and</li> <li>c. service and maintenance contracts.</li> </ol> </li> </ol>
10.	<b>Insurance</b>	<ol style="list-style-type: none"> <li>1. Details of all insurance arrangements over properties and costs.</li> </ol>
11.	<b>Tax</b>	<ol style="list-style-type: none"> <li>1. Details of any VAT declarations to opt to tax any properties.</li> <li>2. Last set of tax computations.</li> </ol>
12.	<b>Disputes</b>	<ol style="list-style-type: none"> <li>1. Details of any disputes with occupiers or adjoining owners of properties.</li> </ol>
13.	<b>Capital expenditure</b>	<ol style="list-style-type: none"> <li>1. Details of capital expenditure: historical, committed and forecast.</li> <li>2. Details of public investment and estimated residual value of the public investment.</li> <li>3. Backlog maintenance and planned maintenance schedules.</li> <li>4. Where there are development plans in place: <ol style="list-style-type: none"> <li>a. details of the development proposals including details of any contracts entered;</li> <li>b. details of any enforcement notices served (where applicable);</li> <li>c. details of any residual planning conditions (where applicable);</li> <li>d. confirmation and authority sign-off of planning conditions; and</li> <li>e. copies of planning consent/applications.</li> </ol> </li> </ol>

## Appendix H – Pensions

This section covers the indicative scope for pensions due diligence procedures:

### Indicative due diligence scope

#### 1. Impact on funding

Understanding the impact on funding of two entities participating in different LGPS Funds for their non-teaching staff:

- a. Review of latest actuarial assessments of funding contributions to the LGPS funds.
- b. Consider options around running two LGPS participations or merging liabilities into one LGPS fund – pension risks, liabilities and deal structure implications.
- c. Consider impact of affected LGPS funds requiring new covenant assessment information for the new entity and revising its approach to funding.

#### 2. Impact on accounting

Understanding the impact in both/all existing college or new entity accounts of participation in the LGPS.

#### 3. Impact on auto enrolment

Understanding the impact of merger on two separate auto enrolment processes:

- a. Consider the scope to align processes including the use of any low cost pension provision for temporary or flexible workers e.g. NEST.
- b. Assessment of the re-enrolment date for the acquiring or new entity.
- c. Estimate potential new costs on re-enrolment of enrolling all existing employees who have opted out into their relevant pension scheme.

#### 4. Early retirement and unfunded promise cost exposure

Understanding triggers of expensive redundancy early retirement pensions requiring immediate contributions, or any other unfunded promises:

- a. Assess early retirement exposure by looking at age and service profile of staff.
- b. Review any unfunded pension promises provided to employees or former employees (in addition to the main TPS or LGPS benefits).

5. Impact on financial assessment

- a. Consider, in the light of the above, how pensions should be allowed for, if at all, in any financial discussions and applications around the restructuring.

## Indicative information request

Pensions due diligence information request should consist of the following:

	Area	Information required
1.	<b>Pensions</b>	<ol style="list-style-type: none"><li>1. Latest FRS17/IAS19 LGPS disclosures and covering actuarial report.</li><li>2. Latest LGPS contributions notification and/or other company specific document from the Fund actuary confirming the employer classification used by the Fund for funding (if any) and the length of the assumed recovery period.</li><li>3. Details of any unfunded pension promises provided to employees of former employees (in addition to main TPS or LGPS benefits).</li><li>4. Confirmation of auto enrolment date and processes.</li></ol> <p>(Note: pension data for individual employees is included in the “Employee information” section of the HR data request.)</p>

## Appendix I – Human resources

This section covers the indicative scope for HR due diligence procedures:

### Indicative due diligence scope

1. Skills and talent capability
  - a. Review of Ofsted assessments relating to leadership, management, and academic personnel (including both teaching and research expertise). Identify areas of particular weakness prior to the restructuring.
  - b. Review of key vacant roles or talent gaps in leadership, support staff and specialist academic talent, as well as the suitability of succession and retention plans to ensure that the right talent is in place to deliver the post-restructuring objectives.
  - c. If part of a college is transferring (i.e. a carve-out restructuring) assess whether the transfer perimeter includes the skills and talent necessary to support the carved-out part of the college.
  - d. Review any synergy plans for the colleges and assess whether the required management, support and academic talent is in place to support the objectives of the college post restructuring.
  - e. Understand the implications of proposed future operating model on organisation design and employee reporting structures.
2. Severance and relocation costs (may be provided as part of financial due diligence)
  - a. Review the expected long term employee cost savings from anticipated redundancies or recruitment freezes against employee contracts and severance terms to confirm cost.
  - b. Understand if any early retirement pension payments are required and if factored into the cost projections.
  - c. Understand the plan for redundancy notification to understand if all costs and activity are factored into the implementation plan.
  - d. Review relocation policies and assess cost and challenges of any required employee relocation activity, if appropriate.
3. Employment model and cost risks
  - a. Assess potential impact on projected staff costs of recent UK employee legislation and similar changes, in particular focusing on National Living Wage, Apprenticeship Levy, pensions auto-enrolment and holiday pay court cases



and comment on possible mitigations being considered or that could be considered.

- b. Review details and costs of any self-employed or temporary associated workers e.g. contractors, temporary labour and any implications or obligations (e.g. Agency Workers Rights).

#### 4. TUPE issues

- a. Identification of any legacy TUPE protections that may impact ability to change terms and conditions in the future, particularly if the restructuring involves a partner outside of FE.
- b. If part of a college is transferring (i.e. a carve-out restructuring) identify any TUPE implications (e.g. inform and consult), assess which shared employees will transfer as part of the deal and verify the overall people costs of the carved out entity.

#### 5. Reward and benefits

- a. Side by side analysis of reward and benefits arrangements of each organisation to identify any potential challenges of harmonising post restructuring.
- b. Appropriateness of current pay level versus the market.
- c. Impact of collective bargaining agreements.
- d. Impact of individual contract terms.
- e. Workforce sentiment on reward.

#### 6. HR systems and structure

- a. Review of the structure and suitability of the current HR model (e.g. size of function and skills), which often depends on historic relationship with stakeholders.
- b. High level side by side assessment of HR systems for each organisation to assess the complexity of any integration needed.

#### 7. Safeguarding

- a. Review of workforce-related safeguarding protocols, processes and training to ensure they are effective and in compliance with law (e.g. recruitment and selection processes).
- b. Suitability of training and monitoring processes for ensuring appropriate safeguarding of Adults and learners with special education and high needs.
- c. Review of safeguarding records and any previous incidents to identify any past or current reputational issues early.

## 8. Culture

- a. Side by side review of cultures of each organisation to identify any areas of culture or reputational incompatibility early (assess leadership & management style, collaboration and teamwork, autonomy and involvement, work environment, risk and adaptability).

## Indicative information request

HR due diligence information request should consist of the following:

	Area	Information required
1.	<b>Employee costs</b>	<ol style="list-style-type: none"> <li>1. Split of income and expenditure charge for employee cost for the last three completed financial years, current year to date, and for the period covered by the business plan, including a split by salaries, any bonuses or allowances, pension plan charges (by plan), social security charges and other costs, such as severance payments.</li> <li>2. Confirmation that there are no employee costs recorded elsewhere in the income and expenditure statement (e.g. within a charge for a central department) or details of any such costs.</li> <li>3. Underlying assumptions in business plan in relation to employee costs (e.g. headcount changes, salary growth, redundancy plans etc.) and justification for these.</li> <li>4. History of salary increases for last three years.</li> <li>5. Full breakdown of balance sheet items related to long or short term employee benefit liabilities, including accrued pay, vacation, any bonus, employee litigation, medical claims, pension/long service awards (where applicable).</li> </ol>
2.	<b>Employee Information</b>	<ol style="list-style-type: none"> <li>1. Copy of the organizational chart for the entity.</li> <li>2. Employee census document with the following information for each employee: <ol style="list-style-type: none"> <li>a. date of birth</li> <li>b. start date</li> <li>c. role/job title</li> <li>d. classification as: i) management; ii) academic staff; or, iii) support staff</li> <li>e. salary</li> <li>f. employment status (FT/PT)</li> <li>g. notice period</li> <li>h. annual leave entitlement</li> <li>i. any entitlement to bonus or allowances</li> <li>j. union collective bargaining affiliation (if any)</li> <li>k. pension plan type and employee contribution</li> </ol> </li> </ol>

	Area	Information required
		<p>(including indicator of whether opted out of the relevant pension plan).</p> <p>3. Details of any staff absent due to long term sickness absence or maternity leave.</p> <p>4. List of any temporary or self-employed workers (if not included in the above employee census file), including details of contract payment rates, hours, start and anticipated end dates (and of consecutive contracts if applicable).</p>
3.	<b>Contracts leadership</b>	Employment contracts/service agreements and personal information for key management including details of current remuneration, terms and conditions of employment (basic salary, any bonus or allowances, notice period, length of service, age).
4.	<b>Contracts workforce</b>	<p>1. Sample employment contracts for general workforce, including any variations of terms and conditions (covering notice periods, holiday entitlement, termination process, restrictive covenants, hours of work, probation period, sickness terms, etc.).</p> <p>2. Summary of any TUPE protections that may impact ability to transfer employees or change terms and conditions in the future.</p> <p>3. Sample contracts or agreements for any self-employed, temporary, contractor or agency workers.</p>
5.	<b>Culture</b>	<p>1. Details of any culture surveys undertaken in the last five years.</p> <p>2. Any other available information on college culture and values.</p>
6.	<b>Safeguarding training</b>	<p>1. Summary of workforce-related safeguarding protocols, processes and training arrangements (e.g. related to recruitment and selection processes).</p> <p>2. Information on any notable workforce-related safeguarding incidents in the last five years.</p>

	Area	Information required
7.	<b>Skills and talent capabilities</b>	<ol style="list-style-type: none"> <li>1. Information on Ofsted assessments relating to leadership and management, and any assessments relating to quality of academic and support staff.</li> <li>2. List of key vacant roles or talent gaps (for management, academic and support staff).</li> <li>3. Information on any talent succession and retention plans (for management, academic and support staff).</li> <li>4. Information on any challenges with the current leadership models.</li> </ol>
8.	<b>Severance and employee relations</b>	<ol style="list-style-type: none"> <li>1. Information on employee severance terms (and any variations by employee group).</li> <li>2. Information on any redundancy activity in the last five years, highlighting any notable challenges or issues.</li> <li>3. Description of relationships with any unions.</li> <li>4. Redundancy terms and any specific individual terms and conditions.</li> <li>5. Date and number of any planned redundancies.</li> <li>6. Details of collective bargaining agreements and management's view of issues which could be potential threats to any potential redundancy exercises.</li> <li>7. Employee turnover for the last three fiscal years, by employment status if available.</li> <li>8. Description of labour relations, including any grievances or unfair labour practice claims, outstanding lawsuits by employees or former employees or regulatory orders concerning employee benefit plans for the last five fiscal years.</li> <li>9. Details on employee relocation policies including any calculation formula for relocation settlements.</li> </ol>
9.	<b>Rewards and benefits</b>	<ol style="list-style-type: none"> <li>1. Listing and costing of employee benefit, compensation plans and policies that the college offers (e.g. pension plans, medical, allowances, any other incentive compensation, paid time off, etc.).</li> <li>2. Description of pay and grading structures and any job</li> </ol>

	Area	Information required
		<p>evaluation methodologies used.</p> <p>3. Information on any pay benchmarking undertaken in last five years.</p> <p>4. Description of the vacation, holiday and paid time off policies, including the carry-over policy and supporting detail for any corresponding balance sheet accruals.</p> <p>5. Employee handbook and any variations.</p>
10.	<b>HR systems and structure</b>	<p>1. A summary of the current HR model, including number of HR staff, structure of the team, and information on any notable strengths or weaknesses in the HR function.</p> <p>2. List of key HR systems including payroll, time and attendance, expenses and HR master data system (e.g. SAP, workday etc.).</p>
12.	<b>Other HR</b>	<p>1. <i>Holiday pay</i> – Summary of current and historical approach (if different) for calculating holiday pay, and whether this includes overtime or commission payments.</p> <p>2. <i>Equal pay</i> – Details of any equal pay audits or relevant analysis previously undertaken. If none undertaken, a description of gender pay equality across the college.</p> <p>3. <i>Agency workers</i> – Information on number of agency or contractor workers currently engaged and typical within year variability.</p> <p>4. <i>Apprentices</i> – Details on current and projected level of apprenticeship use within the college, the financial impact of the levy to be introduced in April 2017 and the extent this is allowed for in projected staff costs.</p> <p>5. <i>National Living Wage</i> – Confirmation of policies adopted relating to the UK National Living Wage introduction, and how reflected in projected staff costs.</p>

## Appendix J – Employment taxes

This section covers the indicative scope for employment tax due diligence procedures:

### Indicative due diligence scope

1. Employment tax compliance
  - a. Assess how general employment taxes compliance issues relating to payroll, expenses and benefits in kind are dealt with in order to ensure that appropriate controls are in place.
2. Real Time Information
  - a. Assess the payments process, RTI procedures and any gross payments made to employees/workers.
3. Dispensations and forms P11D
  - a. Review the expenses policy and expenses claims procedures to identify those expenses that fall within the exemption and those where it may be necessary to make payments subject to tax to avoid any compliance failure.
  - b. Carry out a “look back” over P11D and PSA reporting, historic dispensation coverage and salary sacrifice arrangements to ensure that there are no previous failures.
4. Issues specific to colleges
  - a. Assess any risks associated with the following issues specific to colleges, which may include:
    - i. The provision of living accommodation to employees.
    - ii. Employees at multi-site organisations with more than one permanent workplace.
    - iii. Compensation for the buying out of certain employee benefits such as pensions entitlements.
    - iv. Termination payments.
    - v. Employment status with regard to the engagement of workers on self-employed terms, particularly teaching/lecturing staff.
    - vi. The private use of the organisation’s vehicles e.g. vans, minibuses, cars etc. particularly pool vehicles.
    - vii. Travelling and other expenses claimed by home-based staff.

## Indicative information request

Employment taxes due diligence information request should consist of the following:

	Area	Information required
1.	<b>Employment taxes</b>	<ol style="list-style-type: none"> <li>1. Completion of Employment Taxes Information Memorandum Questionnaire relating inter alia to compliance with relevant statutes and regulations, payroll procedures, expenses claims procedures/payments and provision of benefits in kind.</li> <li>2. Copies of forms P11D and supporting documentation for the most recent tax year submitted.</li> <li>3. Copies of any P11D reporting dispensations issued by HMRC applicable for the years prior to 6 April 2016.</li> <li>4. Copy of final RTI submission for the most recent completed tax year.</li> <li>5. List of payslip elements.</li> <li>6. PAYE payment record for the last completed tax year and to date for the current tax year.</li> <li>7. Copy of Class 1A NIC calculation and form P11D (b) for the most recent tax year submitted.</li> <li>8. PAYE Settlement Agreement (PSA) documentation for the current and previous tax year.</li> <li>9. Pool vehicle usage records for the last completed tax year.</li> <li>10. Petty cash summaries for the last completed tax year.</li> <li>11. List of college accommodation provided to employees, if relevant, and tax treatment adopted.</li> <li>12. Copy of staff handbook.</li> </ol>



## Appendix K – VAT and other taxes

### Indicative due diligence scope

The following section provides an indicative scope for carrying out VAT and other taxes due diligence.

1. Historic corporate income tax liabilities of each legal entity (including corporation tax, sales taxes/VAT, payroll taxes, social security taxes and Stamp Duty) – this will include a review of copies of tax returns and correspondence with the relevant authorities for years which remain open to audit (to the extent practicable), as well as the filing status of the above taxes.
2. Tax audits detailed review of any recent tax audits including the principal findings.
3. Disputes detailed review of any tax matters that are in dispute or matters of which the colleges are aware that may be contentious.
4. VAT treatment confirm the correct VAT treatment has been applied to:
  - a. tuition fees received from students;
  - b. incidental revenue streams;
  - c. services received from non-UK suppliers; and
  - d. property development and acquisitions.
5. For each legal entity, details of any assets for which the base cost and book values differ materially.

## Indicative information request

VAT and other taxes information requirements will primarily take the form of a questionnaire against a particular line of inquiry with information required to support the responses to these questions, as detailed below:

	Area	Key questions and information required
1.	<b>Background</b>	<ol style="list-style-type: none"> <li>1. Is the organisation established in the UK?</li> <li>2. If not in the UK where is the organisation established?</li> <li>3. What is the organisation's UK VAT registration no.?</li> <li>4. Is the organisation a member of a VAT group?</li> <li>5. If so please confirm who the other members of the VAT group are and who is the representative member of the VAT group? Please provide a current copy of the VAT registration certificate</li> <li>6. Is the organisation registered or liable to be registered in any other country? If so where?</li> </ol>
2.	<b>Returns and accounting</b>	<ol style="list-style-type: none"> <li>1. What are the organisation's VAT period return dates?</li> <li>2. Have last six years business records been retained?</li> <li>3. Does the organisation operate a retail scheme or any other non-invoice based method for accounting for tax? If so please provide a copy of any agreed scheme.</li> <li>4. Have all VAT returns been filed and VAT payments made by the due date?</li> <li>5. Is the organisation subject to the VAT monthly payments on account scheme? Please provide a copy of the last years VAT returns and supporting papers for the most recent period.</li> </ol>
3.	<b>Risk and controls</b>	<ol style="list-style-type: none"> <li>1. Is the organisation subject to the Senior Accounting Officer regime?</li> <li>2. The penalty regime is based on the concept of reasonable care. What steps have been taken by the organisation to address the adequacy of VAT systems and controls?</li> <li>3. Has the organisation received a risk rating from HMRC and if so what is the rating?</li> </ol>

	Area	Key questions and information required
4.	<b>Surcharges and penalties</b>	<ol style="list-style-type: none"> <li>1. Have any VAT surcharge liability notices been service on the organisation in the last three years?</li> <li>2. Has the organisation received any penalties or suspended penalties? If so please provide details.</li> </ol>
5.	<b>HMRC appeals and disputes</b>	<ol style="list-style-type: none"> <li>1. When did the organisation receive its last VAT inspection?</li> <li>2. Were there any major issues arising from the VAT inspection?</li> <li>3. Does the organisation have any outstanding VAT issues? Please provide copies of rulings/correspondence with HMRC relating to any outstanding issues.</li> <li>4. Have any assessments been issued to the organisation within the last four years or has the organisation made any Voluntary Disclosures to HMRC within the last four years? If yes please provide copies of correspondence (any copy Notices of Assessment/Voluntary Disclosures as applicable).</li> <li>5. Does the organisation currently have an appeal to the VAT tribunal? If so what is the current status of this?</li> <li>6. Has HMRC ever required the organisation to give security for payment of VAT? If so please provide details.</li> <li>7. Is the organisation involved in any dispute concerning VAT with third parties from HMRC? If so, provide details.</li> </ol>
6.	<b>Liabilities and supplies</b>	<ol style="list-style-type: none"> <li>1. Please provide a description of those supplies the organisation makes that are not liable to UK VAT at the standard rate.</li> <li>2. Please confirm the value, in the last 12 months, of the supplies made at each rate (i.e. standard rate/reduced rate/zero-rate/exempt/outside the scope).</li> <li>3. Is exemption claimed under any of the following headings: <ol style="list-style-type: none"> <li>a. A UK university or college of a university</li> <li>b. A college (FE college or sixth-form college)</li> <li>c. A public body</li> <li>d. A teacher of English as a foreign language</li> </ol> </li> </ol>

	Area	Key questions and information required
		<p>e. A body that cannot distribute profits and uses any surpluses for the furtherance of supplies of education.</p> <p>4. If college of a university status has been claimed has an analysis been conducted in the light of recent case law?</p> <p>5. If eligible body status is claimed as a body that cannot distribute profits what evidence is retained to support this?</p> <p>6. How are supplies of goods and services closely related to a supply of education treated?</p> <p>7. Has a claim been made following the Brockenhurst case?</p> <p>8. If student accommodation is provided how is non-term time lettings treated?</p> <p>9. How is the student's status tested to ensure it complies with HMRCs definition?</p> <p>10. How are supplies to other eligible bodies treated? If supplies are exempted what is the basis for this?</p> <p>11. Does the organisation provide technical training where the consideration paid is ultimately a charge to funds provided by:</p> <ul style="list-style-type: none"> <li>a. the Young People's Learning Agency for England under Part 3 of the Apprenticeships, Skills, Children and Learning Act 2009;</li> <li>b. the Chief Executive of Skills Funding under Part 4 of that Act; or</li> <li>c. the National Assembly for Wales under Part ii of the learning and Skills Act 2000?</li> </ul> <p>12. Does the organisation provide technical training for which the student is eligible for a student loan? If so how are these treated</p>
7.	<b>Invoicing payments</b>	<p>1. Does the organisation issue VAT invoices for all supplies that it makes? If so within what timescale are invoices generally issued?</p> <p>2. Has the organisation agreed an extension to the normal 14 day invoicing rule with HMRC? If so please provide details</p>

	Area	Key questions and information required
		<p>3. Are invoices ever issued in advance of delivery? If so please provide details and confirm at what time VAT is accounted for.</p> <p>4. Are any advance payments received? If so please provide details and confirm at what time VAT is accounted for</p>
8.	<b>Services</b>	<p>1. Does the organisation receive payments of royalties in relation to copyrights or other intellectual property?</p>
9.	<b>Land and buildings</b>	<p>1. Please provide details of any land and buildings that the organisation has an interest in or occupies. Please indicate the nature of the interest (e.g. freehold/leasehold etc.).</p> <p>2. Where the organisation does not own the freehold has the landlord opted to tax any land or buildings in which the organisation has an interest or occupancy?</p> <p>3. Has the organisation, or any organisation now or previously in a VAT group registration with it, opted to tax any land or buildings?</p> <p>4. Is the organisation prevented from exercising the option to tax on any land or buildings it owns under the terms of a lease or other agreement?</p> <p>5. Please provide details of income received in respect of lease or disposal of land and property in the last three years.</p> <p>6. In the last ten years has a certificate been issued for construction services of supplies made under VAT group Schedule 8 Group 5?</p> <p>7. If a certificate has been issued has the use of the building been regularly monitored?</p> <p>8. Does the organisation have any buildings where it has applied the principle of Lennartz accounting to the recovery of VAT?</p>
10.	<b>Finance and treasury functions</b>	<p>1. Does the organisation have a finance treasury department? If so please provide a description of the types of activity undertaken by the department.</p> <p>2. Is any VAT recovered on direct costs of dealing in foreign exchange?</p>

	Area	Key questions and information required
11.	<b>Partial exemption/Non-business</b>	<ol style="list-style-type: none"> <li>1. Please describe the type of income that the organisation receives that is either exempt or outside the scope (non-business) of VAT.</li> <li>2. Has the organisation ignored any exempt income for partial exemption purposes?</li> <li>3. Has the organisation used the standard or a special method to calculate the amount of recover VAT?</li> <li>4. Please provide copies of partial exemption working papers for the last twelve months. Please provide a copy of any special method agreement letter received from HMRC.</li> <li>5. Have all partial exemption annual adjustments been carried out?</li> <li>6. Has the organisation agreed a method for apportioning VAT incurred for business and non-business purposes?</li> </ol>
12.	<b>Capital goods scheme</b>	<ol style="list-style-type: none"> <li>1. Has the organisation incurred VAT on the acquisition, extension or other costs to a property in the last ten years where the VAT bearing costs exceeded £250,000?</li> <li>2. Has the organisation purchased any single item of computer equipment costing over £50,000?</li> <li>3. Has the organisation carried out any Capital Goods scheme adjustment calculations in relation to relevant items?</li> </ol>
13.	<b>Reverse charge</b>	<ol style="list-style-type: none"> <li>1. Does the organisation purchase supplies of services from outside the UK?</li> <li>2. Does the organisation account for VAT under the reverse charge mechanism on the value of imported services?</li> <li>3. If the organisation does not account for VAT on the full value of the amounts paid to overseas suppliers what is the basis for this? Has this been agreed with HMRC?</li> </ol>
14.	<b>Single market issues</b>	<ol style="list-style-type: none"> <li>1. Does the organisation purchase goods from suppliers in other member states of the EU?</li> <li>2. Does the organisation account for acquisition VAT in relation to these acquisitions?</li> </ol>

	Area	Key questions and information required
15.	<b>Services</b>	<ol style="list-style-type: none"> <li>1. Does the organisation provide services to clients in other member states of the EU? If so how are these treated for VAT purposes?</li> <li>2. Does the organisation submit EC Sales lists for services?</li> <li>3. Does the organisation purchase services from suppliers in other member states of the EU?</li> <li>4. Does the organisation provide on-line distance learning?</li> <li>5. Does the organisation provide any other electronically supplied services ("ESS")?</li> <li>6. If the organisation provides on-line distance learning or ESS how does it identify the status (i.e. business or private consumer) of its customer?</li> <li>7. If the organisation provides on-line distance learning or ESS how does it identify the location of its customer?</li> </ol>
16.	<b>Charitable relief</b>	<ol style="list-style-type: none"> <li>1. Is the organisation a charity (registered or un-registered)?</li> <li>2. Does the organisation issue certificates for relief from VAT on advertising? Sample certificates should be reviewed.</li> <li>3. Does the organisation issue certificates in respect of relief from the standard rate of VAT on fuel and power?</li> <li>4. Does the organisation issue certificates in respect of relief from VAT on certain works for the handicapped?</li> </ol>

## Appendix L – Legal

This section covers the indicative scope for legal due diligence procedures.

There is some overlap between the legal due diligence scope and scope that would be undertaken in other due diligence work streams (e.g. Financial, HR, pensions and estates). Included here are both versions; if colleges are only considering the use of financial and legal due diligence they may wish to give consideration to whether their professional service providers should consider specific matters in those areas depending on the size and nature of the restructuring. An assessment will need to be made as to which areas colleges diligence themselves and for which they require professional assistance.

Each scope item should be reconsidered in respect of any subsidiary companies which the relevant college may have.

### Indicative due diligence scope

In the following scope, “college” refers to the college being acquired as part of the merger and “corporation” refers to the body that operates the college.

1. General corporate information
  - a. Verify general corporation/college information (e.g. full college name; the registered number; the date of establishment; and the registered office address).
  - b. Review the current and up to date instrument and articles of Government (or the equivalent corporate governance documents).
  - c. Review the corporation records and registers (including minute books, members’ resolutions, statutory books and corporation seals (if any)).
  - d. Consider any board rules or similar documentation to assess the exercise of the board’s powers, proceedings at meetings and other related matters.
  - e. Identify the person or persons authorised to execute documents on behalf of, or to exercise the corporate authority of, the corporation/college and the terms of his or her authority.
  - f. Where the college, board of governors or the business of the corporation/college is connected to a trust (including a charitable trust), consider the documents establishing the trust (and documents amending or otherwise varying the terms of that document), together with details of the names and addresses of:
    - i. all trustees of the trust;



- ii. the principal beneficiaries of the trust; and
- iii. any “protector” or other person with power to change the trust, trustees or beneficiaries.

## 2. Contracts, commitments and trading

- a. Consider details or copies of any agreement, contract, transaction, obligation, commitment, understanding, liability or arrangement (written or oral) of the college, including any extensions, which:
  - i. is material to the college in terms of expenditure or revenue expectations (and an explanation of the materiality threshold used – see section 2 for more details on setting materiality);
  - ii. is incapable of termination by the college on three months’ notice or less without payment of compensation or any special or termination fees;
  - iii. directly or indirectly restricts the college’s freedom to carry on (or transfer) the whole or any part of its business in any part of the world in such manner as it sees fit;
  - iv. may be terminated in the event of any change in the underlying ownership or control of the college or would be materially affected by such change; and/or
  - v. under which the other party is likely to be relieved of any obligations or become entitled to exercise any right, power or remedy as a result of any change in the underlying ownership or control of the college.
- b. Review all outstanding guarantees, indemnities, surety relationships and lets of credit provided by the college.
- c. Review all contracts for rent, lease, hire, hire purchase, credit sale, conditional sale or purchase by instalments calling for payment aggregating, in any 12 month period, £5,000 or more.
- d. Review all material standard form contractual documentation currently used by the college.
- e. Identify all major supplies (that is, suppliers accounting for more than five per cent of goods/services supplied to the college) and review details and copies of all agreements/arrangements with those suppliers, the value of goods received in the last year from such major suppliers and copies of any standard terms of business used by those suppliers.
- f. Identify all major customers/learners/clients (that is, customers/learners/clients accounting for more than five per cent of income for the college) and review details and copies of all agreements/arrangements with those customers/learners/clients.

- g. Review all joint venture, partnership, limited partnership, consortium or syndication agreements and/or arrangements to which the college is a party or by which it is bound.
- h. Review all contracts with intermediaries (e.g. consultants) entered into by the college.
- i. Review all sub-contracting arrangements involving the college.
- j. Review all contracts between the college and any Government entities.
- k. Review any membership agreements and affiliations between the college and any trade associations and any rules or codes of conduct of such association together with details (if it be the case) of any non-compliance with such rules or codes of conduct.
- l. Consider research and development/collaboration agreements involving the college.
- m. Assess the details of any negotiations of material importance to the college that are currently in progress.
- n. Investigate instances of any breach, invalidity, or grounds for determination, rescission, avoidance or repudiation of any contract to which the college is a party or of any allegation of such a thing.
- o. Identify whether there are any person or persons together on whom the college is substantially dependent or the cessation of restructuring with whom would substantially affect the business of the college.

### 3. Powers of attorney

- a. Review copies of outstanding powers of attorney and letters of authorisation regarding the signing of documents on behalf of the corporation/college.

### 4. Grants and allowances

- a. Review details of any grant, allowance, aid or subsidy applied for or received from any supranational, national or local Government authority or agency during the last six years.

### 5. Licences and regulatory compliance

- a. Identify all material licences, permits, consents and other permissions, authorisations and approvals relating to the business of the college.
- b. Verify whether there is any indication that any licence, permit, consent, permission or approval relating to the college is likely to be varied, revoked or not renewed as a result of the merger or otherwise.
- c. Review details of any material investigations or enforcement or other proceedings current, threatened or pending or which have taken place in the

last three years against the college by any regulatory body together with any known circumstances which are likely to give rise to any such investigations or proceedings.

## 6. Financing

- a. Review details of all loans to, and other borrowings by, the college together with copies of any documentation relating to such loans and borrowings and copies of all other documents the purpose of which is to raise money for, or provide finance or credit to, the college (including without limitation copies of all loan agreements, debt instruments, bond or loan stock trust deeds or indentures, fiscal agency agreements, commercial paper or similar facility documents, security documentation, guarantees, comfort letters and letters of credit).
- b. Review details and copies of all existing and proposed overdraft, loan or other finance facilities available to the college from any source and the amounts outstanding under those facilities.
- c. Review all charges and other security interest over any of the undertaking and assets of the college.
- d. Obtain and review details of any non-compliance with the terms of any of the agreements referred to in this section and details of any event or circumstance which may be or become an event of default under, or breach of any of the terms of, any loan capital, borrowing, debenture or financial facility of the college or would entitle any third party to call for repayment prior to normal maturity.

## 7. Litigation and arbitration

- a. Review and identify (including a copy of each judgment, decree, order of court or regulatory agency and settlement etc.) all current, pending, threatened or expected and concluded civil or criminal litigation, arbitration, industrial tribunal actions, mediation, administrative proceedings, Governmental inquiries or other disputes involving a claim exceeding £10,000 or seeking an injunction or declaration that may have a material effect on the business of the college.
- b. Evaluate of the college's ethical policies (including policies under, and measures put in place in compliance with, the Bribery Act 2010).
- c. Consider the information regarding compliance by the college with, or complaints against or disputes with the college in relation to, any applicable health and safety legislation to which the college is subject.

## 8. Insurance

- a. Review all insurance arrangements that the college has in place, including details of the nature and amount of cover, name and address of insurer, annual premiums (including evidence of latest premiums paid), renewal date and any outstanding claims.

- b. Identify all claims made on the college's insurance policies for the last six years.
- c. Obtain confirmation that all premiums due have been paid on all policies of insurance and that the assets of the college are, and have been at all material times, insured to their full replacement or reinstatement value in accordance with generally accepted practice with a well-established and reputable insurer.
- d. Obtain confirmation that the college has in place, and has had in place at all material times, insurance giving adequate cover against accident, damage, injury, third party loss (including product liability) and all other risks normally insured against by persons carrying on a similar business to the business of the college.
- e. Consider any circumstances likely to give rise to a claim under insurance policies held by the college and anything that has or might have been done or omitted to be done which has made or could make any policy of insurance void or voidable, its renewal refused or its premiums likely to be increased.

## 9. Assets

- a. Identify all material fixed assets (other than estates owned occupied or used by the college) and review details of any purchase price left outstanding.
- b. Identify all material agreements and leases relating to plant, machinery and equipment of the college.
- c. Review any agreements in relation to the development or installation of plant or facilities of the college.
- d. Review documents relating to any charges, liens, mortgages, charges, security, claims, encumbrances, pledges, options, rights, leases, hire purchase agreements, retention of title, other restrictions or adverse rights of any description over the assets referred to above or commitments and agreements to create any of the same over the assets referred to above.
- e. Obtain details of any asset of the college which is not:
  - i. adequate and fit for the purposes of the business of the college; or
  - ii. in good repair and condition; or
  - iii. in satisfactory working order; or
  - iv. properly serviced and regularly maintained; or
  - v. used exclusively for the business of the college.
- f. Review documents relating to all motor vehicles owned or hired by the college, including log books and insurance arrangements.

10. Property (this relates to the legal aspects of the estates scope)
- a. Identify all properties owned or occupied by the college or in which the college carries on operations (each a “Property” and together the “Properties”) including:
    - i. address;
    - ii. any title number;
    - iii. tenure and, if leasehold, term; and
    - iv. details of the use to which each Property is put.
  - b. Review, for each Property:
    - i. a completed “Estates Report Template” in the form set out in Schedule 1; and
    - ii. a plan suitable for local authority search purposes.
  - c. Investigate details of all previous known uses of the property prior to the college’s ownership or occupation.
  - d. Review all deeds and title documents in existence relating to the Properties or details of the whereabouts of the title deeds and the names and addresses of solicitors who acted on the purchase of freeholds and grant of leaseholds.
  - e. Review documents relating to any other real property occupied, used or controlled by the college or in respect of which the college has any estates, interest, right or liability (whether actual or contingent, secondary or otherwise).
  - f. Review all mortgages or charges or debentures or lien or other right in the nature of security or any option, right of pre-emption or right of first refusal affecting any of the Properties.
  - g. Review any covenants, restrictions, stipulations or other encumbrances (whether of a private or public nature) affecting the Properties which are of an onerous or unusual nature, or affect their value, or which conflict with the current use of the Properties.
  - h. Obtain confirmation that there are no subsisting contracts (oral or written) or negotiations in any way relating to any of the Properties including, without limitation, as to its disposal, the grant of any interest in or right or licence over or for the benefit of any Property or the entry into any covenant affecting or for the benefit of any Property.
  - i. In the case of leasehold properties, review the leases and of any sub-leases or tenancy agreements and of any licences relating to or outstanding notices affecting any of the Properties (including, where appropriate consents to assignment).

- j. Obtain documentation relating to any current, pending or threatened disputes with landlords, tenants, adjoining owners or any other parties in relation to any of the Properties or confirmation that no such current pending or threatened disputes exist.
- k. Identify the necessary utility services that supply the Properties (e.g. confirmation of drainage, water, electricity, gas and telephone services).
- l. If the college is not in exclusive occupation of every part of each Property, review details of sharing of occupation and/or facilities between the college and any party not included in the merger.
- m. Assess if there are any circumstances which (with or without taking other action) would entitle any third party to exercise a right of entry to, or take possession of, all or any part of the Properties, or which would in any other way affect or restrict the continued possession, enjoyment or use of any part of the Properties.
- n. Obtain confirmation that the college has complied with all applicable statutory and bye-law requirements relating to construction and any alterations of the Properties and the current use.
- o. Review building regulation consents, planning permissions and any agreements/planning obligations relating to any of the Properties.

11. Environmental and Health and Safety (“EHS”)

- a. Review applicable EHS policies operated by the college together with copies of any policy statements, internal guidance notes or codes of practice and details of how any such policy is implemented and how compliance with the policy is monitored.
- b. Identify if there are any known or suspected EHS incidents or issues in respect of the Properties, any property formerly used or occupied by the college, any neighbouring or other properties and/or in respect of any employee or contractor of the college or any visitor to any of the Properties (such EHS incidents including but not being limited to spillages, contamination of the relevant property or the underlying soil or groundwater, the use of hazardous materials or the generation of dust, waste or noxious gases or fumes at any of the Properties or at any property formerly used or occupied by the college or those relating to any accident injury or illness of any person in connection with any of the foregoing or relating to any other accident or injury at work).
- c. Investigate whether there are any known or suspected asbestos on any of the Properties and steps taken to comply with asbestos management obligations.
- d. Review details of any Properties or any land within 300 metres of the boundary of any Property that has been used for the deposit of waste of any description (whether or not controlled waste).
- e. Consider whether there are soil and site investigations, environmental surveys or samplings of the soil/water or atmosphere at any of the Properties.

- f. Identify whether there are any known or suspect exposure of employees or contractors to hazardous materials, noise, vibration or dust. Details of reportable injuries or dangerous incidents.
- g. Review insurance cover for any EHS risks and details of any claims made.
- h. Review EHS audits, assessments or other studies carried out in relation to the activities of the college, or any premises now or previously owned, used or occupied by the college.
- i. Investigate whether any known or suspected breaches by the college of the conditions of such consents, licences, authorisations and permits or of any EHS laws or regulations exist.

## 12. Intellectual Property and Data Privacy

- a. Review the details of and documentation relating to all intellectual property rights ("IPR") owned or used by the college, including but not limited to trade marks (whether registered or unregistered), patents, utility models, registered designs and pending applications for any of the foregoing, unregistered designs and copyright works (where such works are material to the college) and including a copy of any audit or review of IPR conducted by or on behalf of the college (if any).
- b. Verify whether the college owns all IPR used by the college or whether it is licensed to use such IPR by third parties, and, if the latter, review details of any such licences, including any breaches, and copies of any assignments and licences of IPR to the college.
- c. Review details of any licences from the college to third parties of IPR owned or used by the college, including details of any breaches of such licences, and copies of any relevant agreements.
- d. Consider whether an employee or consultant has created any IPR used by the college, details of such IPR and a copy of the employment or consultancy contract.
- e. Review details of any outstanding or potential claims against the college under any contract or relevant legislation for employee compensation in respect of any IPR.
- f. Investigate whether there has been any:
  - i. opposition proceedings relating to any applications to register any IPR commenced by or against the college;
  - ii. actual, potential, suspected or alleged infringements of any third party IPR by the college;
  - iii. infringements by a third party of any IPR owned or used by the college; and

- iv. disputes in which the college is involved relating to ownership of any IPR owned or used by the college.
  - g. Assess the policies and procedures employed by the college to ensure compliance with data protection and privacy legislation.
  - h. Review internal data protection audits or reviews undertaken by or on behalf of the college.
  - i. Consider whether there has been any breach or alleged or potential breach by the college or any of its data processors of data protection or privacy laws or regulations.
13. Employees (this is also covered under the HR scope but is identified here for restructuring involving a partner outside of FE – to confirm provision is made for all requirements under employment legislation)
- a. Identify personnel employed or engaged by the college, including persons who have accepted but not yet begun employment or engagement and persons who are on leave, showing job title, grade (if appropriate), date of commencement of employment, number of years of continuous employment, normal hours of work, notice period, salary or wages and benefits (including without limitation by way of incentive and bonus/commission arrangements, pension arrangements, medical and other insurance) and any loans outstanding.
  - b. Consider how many contractors have been engaged in the business of the college.
  - c. Consider whether there is an organisational chart.
  - d. Review details of college's current sponsorship licence.
  - e. Review and obtain a copy of:
    - i. the contract of employment or services contract for any employee with notice entitlement in excess of six months or base annual salary in excess of £50,000;
    - ii. all standard documents setting out terms and conditions of employment, including standard offer letter(s), standard statements(s) of terms and conditions and contract(s) of employment;
    - iii. the letter of engagement or contract for any person engaged as a contractor in the business of the college (whether self-employed or engaged through a third party) where that person has been so engaged for a period or periods exceeding six months in the last twelve months or where the annualised fee in relation to such person exceeds £50,000;



- iv. all standard contracts used by the college for the engagement of contractors;
  - v. any staff handbook(s) or similar and other material documents distributed or made available to employees;
  - vi. any other document setting out employee policies whether or not distributed to staff (including policies on HR, internet use, job evaluation, appraisal, recruitment, equal opportunities and discrimination, grievance and disciplinary procedures, sickness/disability schemes, training, performance review, data protection, redundancy, health and safety, relocation and expenses);
  - vii. any documents relating to incentive or bonus schemes or arrangements; and
  - viii. any documents relating to any medical benefits (including private health insurance, permanent medical insurance, death in service awards), employee loan arrangements, car policy and other benefits in kind.
- f. Review details of any:
- i. arrangements with any trade union, staff association or other employee representative body including any elected employee representatives, where transacting outside of FE;
  - ii. recognition, procedural, collective or workforce agreement entered into with any of those bodies (and copies of any such agreements);
  - iii. planned dismissal of any key worker;
  - iv. employee who is receiving or is due to receive payment under any sickness or disability or permanent health insurance scheme and any pending or threatened claims for such payment;
  - v. employee communication and consultation policies or procedures;
  - vi. historic current or potential disputes with any of these bodies or employees generally (including but not limited to any threatened pending demand for trade union recognition, strikes or other disturbances);
  - vii. works council or staff council, together with the constitution of any such body;
  - viii. current, pending or threatened claims by or against present or former employees and any grounds upon which any such claims may be commenced;

- ix. other employee related claims or disputes with any other person, or any ongoing pending or threatened investigations or enquiries (e.g. concerning the correct payment of tax or social security or any employment law related claim, investigation or inquiry by any Governmental agency, commission or authority or quasi-Governmental agency, commission or authority);
- x. sums owed to present or former employees (other than routine repayment of expenses) or any other circumstances which may give rise to a claim by any such employee;
- xi. transfer of an undertaking under the Transfer of Undertakings (Protection of Employment) Regulations 2006 or collective redundancy exercise involving 20 or more employees carried out by the college within the last 24 months or proposed to be carried out prior to the restructuring;
- xii. redundancy payments made during this period over and above statutory entitlements (including the formula for making such payments) together with any written policies or customary arrangements concerning redundancy selection criteria; and
- xiii. consultancy agreements or other agreements for the provision of services by workers, consultants or contractors and whether they are subject to the Commercial Agents (Council Directive) Regulations 1993 (and copies of any such agreements).

## Indicative information request

Legal due diligence information request should consist of the following:

	Area	Information required
1.	<b>Corporate Structure</b>	<ol style="list-style-type: none"> <li>1. Basic registration details, e.g. members/board of governors/registered office and registration number etc.</li> <li>2. Constitutional documents/instrument of articles of Government</li> <li>3. Statutory registers</li> <li>4. Minutes and resolutions</li> <li>5. Details about historical acquisitions/mergers/disposals</li> </ol>
2.	<b>Banking and Finance</b>	<ol style="list-style-type: none"> <li>1. Existing financing arrangements</li> <li>2. Overview of external financing arrangements</li> <li>3. Overview of Government grants</li> <li>4. Issues relating to termination, including break fees</li> <li>5. Change of control/assignment/novation</li> <li>6. Security</li> <li>7. Guarantees/indemnities</li> <li>8. Bank accounts, bank statements and mandates</li> <li>9. Hire purchase, rental, leasing and similar arrangements</li> </ol>
3.	<b>Contracts</b>	<ol style="list-style-type: none"> <li>1. Overview of contract categories (e.g. client/supplier/distribution/subcontractor)</li> <li>2. Identification of material contracts/thresholds</li> <li>3. Duration and termination provisions</li> <li>4. Change of control/assignment/novation</li> <li>5. Onerous/unusual provisions</li> <li>6. Liability issues, including indemnities and caps</li> <li>7. Governing law</li> <li>8. Compliance with legal/regulatory requirements</li> </ol>
4.	<b>Grants/subsidies</b>	<ol style="list-style-type: none"> <li>1. Overview of grants/subsidies</li> <li>2. Term, interest and payment obligations</li> <li>3. Change of control/assignment/novation</li> <li>4. Issues relating to termination, including fees</li> </ol>

	Area	Information required
5.	<b>Employment</b>	<ol style="list-style-type: none"> <li>1. Overview of workforce, including number and function</li> <li>2. Identification of key employees</li> <li>3. Salary, benefits and bonuses</li> <li>4. Notice periods</li> <li>5. Restrictive covenants</li> <li>6. Terms of employment contracts</li> <li>7. Work counsels and trade unions</li> <li>8. Consultation/notification requirements</li> <li>9. Historical strikes/disturbances</li> <li>10. Collective bargaining arrangements</li> <li>11. Employment law issues, including TUPE issues</li> <li>12. Identification of actual/potential breaches</li> <li>13. Anticipated issues in the event of redundancies</li> <li>14. Current status of actual/potential litigation claims</li> <li>15. Employee handbook</li> <li>16. Historical redundancy programmes</li> <li>17. Agency/contractor arrangements, including issues relating to termination, identification of risk of employment status</li> <li>18. Immigration – status of sponsorship licences</li> </ol>
6.	<b>Estates</b>	<ol style="list-style-type: none"> <li>1. Premises occupied by the merging colleges</li> <li>2. Address, title details and registered proprietor</li> <li>3. Title, office copy entries and local authority searches</li> <li>4. Restrictions on title</li> <li>5. 3rd party occupational lease issues</li> <li>6. Identification of planning and use issues</li> <li>7. Current rent and rent review provisions</li> <li>8. Term, break and forfeiture provisions</li> <li>9. Change of control/assignment/underletting or overletting provisions</li> <li>10. Restrictions on charging</li> <li>11. Issues relating to termination, including reinstatement</li> <li>12. Statutory duties</li> <li>13. Identification of guarantee arrangements</li> </ol>

	Area	Information required
7.	<b>Disputes</b>	<ol style="list-style-type: none"> <li>1. Actual/potential disputes as claimant or defendant</li> <li>2. Identification of potential liabilities</li> <li>3. Historical claims and outstanding liabilities/obligations</li> </ol>
8.	<b>Intellectual Property</b>	<ol style="list-style-type: none"> <li>1. Overview of IP owned and used, including patents, trademarks and domain names</li> <li>2. Adequacy of IP protection</li> <li>3. Employment contract ownership provisions</li> <li>4. Unregistered IP Identification of IP that is not formally protected</li> <li>5. Identification of potential and current IP disputes</li> <li>6. Licensing of IP – nature of contract</li> </ol>
9.	<b>Information Technology and Cyber Security</b>	<ol style="list-style-type: none"> <li>1. Overview of IT software and hardware</li> <li>2. Compliance monitoring</li> <li>3. Licensing of 3<sup>rd</sup> party IT</li> <li>4. Data Protection Registration status</li> <li>5. Suitability of data protection/privacy policy</li> <li>6. Details of any internal data protection audits or review</li> <li>7. Complaints, access requests and enforcement notices</li> </ol>
10.	<b>Regulatory</b>	<ol style="list-style-type: none"> <li>1. Overview of applicable regulatory regimes</li> <li>2. Compliance with regulatory requirements</li> <li>3. Identification of actual/potential breaches</li> </ol>
11.	<b>Environmental</b>	<ol style="list-style-type: none"> <li>1. Overview of applicable regulatory regimes</li> <li>2. Explanation of risk areas</li> <li>3. Identification of actual/potential breaches</li> </ol>

# Schedule 1

## Estates report template

<b>COLLEGE NAME</b>	
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<b>TOTAL STUDENTS</b>	
<b>Total number of FTE students:</b>	
- of which FE:	
- of which HE + Adult + Other:	

Enter total FTE FE students. Enter total FTE for all HE, adult and other students, including full cost recovered, international, Tier 4, pre-16, school-link provision, personal/community/development and other provision. 540 planned hours = 1 FTE.

	<b>Whole College</b>	<b>Site A etc</b>
<b>RUNNING COSTS</b>		
<b>Running Costs (£/year)</b>		

Include Insurance, Net Service Charge, Cleaning, Water & Sewerage, Maintenance, Security (incl. staff costs), Waste Disposal, Estate Management, Energy.

<b>BUILDING CONDITION</b>	<b>%</b>	<b>Total</b>	<b>m<sup>2</sup></b>
<b>A</b> (As new. Typically built or major refurbishment within last 5 years.)			
<b>B</b> (Sound. Operationally safe with only minor deterioration.)			
<b>C</b> (Operational. Major repair or replacement needed within 5 years.)			
<b>D</b> (Poor. Serious risk of major failure or breakdown.)			
<b>Total Space</b>			

Enter GIFA in square meterage for each site in each category. Use the most current information from your most recent survey but amend according to the expected outcomes of any current works, including works and developments for which you have signed contracts but have not yet started. If survey not available, use in-house estimates using the descriptors above.

"GIFA" means the Gross Internal Floor Area, defined as: "the area of a building measured to the internal face of the perimeter walls at each floor level" (Royal Institution of Chartered Surveyors).

Building condition categories taken from *Building Condition Categories*, eMandate 2014.

				%	Total	M <sup>2</sup>
<b>INTERNAL SPACE &amp; TENURE</b>						
<b>GIFA (Gross Internal Floor Area) (m<sup>2</sup>) – FREEHOLD</b>						
<b>GIFA (Gross Internal Floor Area) (m<sup>2</sup>) – LEASEHOLD</b>						
<b>GIFA (Gross Internal Floor Area) (m<sup>2</sup>) –TOTAL</b>						
<b>By Area / Accommodation Type (m<sup>2</sup>):</b>						
<b>General / Non-Specialist</b>						
<b>Specialist Curriculum</b>						

Enter GIFA for each site for which the college has Freehold title or will have at the completion of current works, and for each site for which the college has Leasehold title, including all forms of leases, after current contracted developments have been completed. Exclude buildings that will be removed as part of current works. The GIFA total here should be the same as the Total Space in the previous section.

"General" refers to all space that is not specialist, including administration and common areas. "Specialist" space includes areas that have limited student capacity due to equipment and facilities, typically including: Agriculture, Horticulture and Animal Care, Science (laboratories), Arts, Media and Publishing, Studios, Workshops, Construction, Planning and the Built Environment, Catering, Cooking, Textiles, Carpentry, Plumbing, Engineering and Manufacturing Technologies, Catering, Hairdressing Information and Communication Technology, Welding, Automotive, Installation Trades, Preparation for Life and Work. Also include sites that have limited occupancy -- e.g. rural centres.

<b>UTILISATION</b>	
<b>Utilisation (whole college):</b>	

Follow the methodology set out in: *Guidance for Further Education Colleges on the Management of Floor Space (LSC 2007)*. For this purpose be sure to use 0900 - 1700 over a 5-day week as the maximum hours (8x5=40). Use integers / whole numbers, not decimals.

<b>EXTERNAL SPACE</b>	
<b>Whole Site (m<sup>2</sup>)</b>	
<b>% of Site Developed</b>	

This % = total ground floor space / whole site. For this purpose car parks and sports fields are not developed.

<b>SURPLUS SPACE (IF APPLICABLE)</b>			
<b>Post Code</b>	<b>Site Name</b>	<b>External Area (m<sup>2</sup>)</b>	<b>Estimated Net Value (£000)</b>
<b>Totals</b>			

<b>Information sources</b>	<b>Source</b>	<b>Date</b>
<b>Running Costs</b>		
<b>Building Condition</b>		
<b>Space (GIFA)</b>		
<b>Utilisation</b>		
<b>Surplus Space Valuation</b>		
<b>Most Recent Property Survey</b>		



<b>Completed by:</b>	
<b>Name</b>	
<b>Email address</b>	
<b>Position</b>	
<b>Date</b>	



Department  
for Education

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