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# Startups by Lewis Silkin - Dataroom Toolkit

## How to prepare for investor due diligence

One of the first parts of a fundraising or exit transaction is a process called “due diligence”. As part of this process, investors will generally ask their lawyers to carry out “legal due diligence”. The first thing their lawyers will normally do is send through a list of documents they want you to make available in a dataroom.

We’ve put together this toolkit to help startup founders understand what goes into a dataroom. It covers the key points of focus for investors that frequently crop up during the legal due diligence phase of a fundraise.

Many founders don’t build their dataroom until an investor asks them to. However, building your data room early, before anyone asks for it, has some key advantages.

**Shows you where the gaps are**

First and foremost, it will show you where the gaps and issues are. Sometimes filling a gap will just take a call to an old employee, but sometimes you might have to do some work to fix it. Getting this sorted early is much quicker and less stressful than doing it during an investment round.

**A quicker and smoother transaction**

If you don’t start digging through your files until the lawyer sends you their shopping list, the process is going to take longer than if you’ve already made a start. A lot of founders also find the data room structure helpful in keeping a good handle of company paperwork on an ongoing basis.

**Improves investor confidence**

By providing investors with easy access to comprehensive and up-to-date information, a dataroom can instil confidence in your startup's management team and ability to manage the business effectively. This transparency can help build trust and credibility, which are essential for attracting investment.

This toolkit features everything you need to know about building your dataroom. Throughout this document you’ll find handy checklists to make sure you don’t forget anything, along with top tips and explanations about the documents you should be including to get ready for your investment round.

**Click here** Click here to view the online version of our dataroom guide, which includes some additional information and guidance about what your dataroom should look like.

If you have any questions about anything covered in this toolkit, **get in touch with our team**.

## Corporate documents

This folder will include things that relate to your company’s shareholding structure and corporate governance including cap tables, shareholder registers and shareholders’ agreements.

**Group Structure**

Most startups are a single company and won’t need anything here. If you’ve got more than one company in your structure, then you should include a diagram to show that. Make sure to annotate the diagram with ownership percentages if they aren’t all 100% owned.

**Cap table**

Whatever you’re using to keep track of your shares, options and convertibles, if you have them, goes in here. If you

don’t have a cap table, then it’s worth putting one together in advance.

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**Governing documents (Articles and SHA)**

An investor/buyer will want to see the governing documents of a company to understand the relationship between the company and its shareholders. If the company is very new, it might have been incorporated with the default set of "model articles." If that's the case, there won't be much to include here.

**Share history**

Every time your company has issued shares, there will be paperwork that goes with it. As a minimum you should include the board decision (minutes or resolutions) as well as a shareholder or investor permission.

**Registers**

The main ones that investors/buyers will ask for are:

- The register of shareholders - a record of a company's shareholding
- The register of directors – a list of current and previous directors
- PSC register – a register of individuals who have "significant control" over a company (this is usually anyone with over 25% of the shares)

*Have your registers ready in advance of a transaction. Depending on the number of shareholders you have, they can take a bit of time to draft.*

**Options and convertibles**

Include details about your option scheme here. If not included in your cap table, then a spreadsheet showing how many options you've granted would be helpful. If you have a central "scheme rules" document, include that too.

# Accounts

Your annual accounts should go in here. Ideally for the last three years if you've been operating longer than that. Management accounts for the period from the last accounts date up to your most recent month end would also go in. You or your accountant will be able to produce that from your accounting software.

# People

**People**

Everything in relation to your employees goes here. It might variously be named "Employees" or "Staff", but it means the same thing.

Key things to include here are the general terms on which your company employs people and any specific employment terms that apply to the founders and any other senior executives.

**Employees – General**

Include an anonymised spreadsheet with key information about your employees, including length of service, usual work location, salary, job title, hours (if not full time) and any benefits. You'll also need to include any standard employment terms.

**Employees – Founders / Executives**

An investor is going to want to see the employment agreements of the founders. If the company has any directors in addition to the founders, their director service agreements should go in here.

*You may have multiple pieces of paper with employees dealing with things like intellectual property and confidentiality separately. If that's the case, put those documents in here as well.*

**Consultants**

Include a similar spreadsheet here to the one mentioned in the Employees – General section, but for your consultants. An investor will be focused on the terms of payment and scope of work of your consultants along with any standard terms.

**Immigration**

Are any of your employees working for you on a working visa? If so, include your sponsor licence from the UK Home Office.

**Policies**

If you have more than a couple of employees, an investor will want to make sure that the company has policies in place for workplace behaviour, anti-harassment and discrimination.

**Pensions**

If your company has employees, you'll need to have a pension scheme in place. Your pension scheme will have scheme rules which sets out the pension terms and level of employer contribution.

# Commercial Contracts

The level of detail here will depend on the stage of your business. If your company is well established with lots of customers, there will be more to include here. If your company is in its early stages, there will be less to include.

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**Customers**

If your company relies on a couple of key customers that make up a large proportion of revenues, it's likely that you will be asked to identify those customers and set out roughly what percentage of the company's revenues they are responsible for over a certain period (generally the previous financial year). Also include your contracts with these customers.

*Investors will be interested in identifying your key customers and main sources of revenue as well as the agreements with those customers.*

**Suppliers**

Does your company rely on a few key commercial suppliers? If so, an investor will want to know who those are and look at the contracts you have with those suppliers.

# Litigation

If your company hasn't been involved in any disputes or litigation, and none are being threatened by anyone, you'll need a short note confirming that.

If the company is or has been involved in a dispute, or someone has threatened taking the company to court, then an investor would want to see a note describing that dispute.

*Check with your lawyer whether you should be anonymising the other parties when describing the disputes and disclosing any related documents.*

# Borrowing

Include any documents that relate to debt available to your company. Any security you have granted over your assets will have included a pack of paperwork that you should include here. This could be a debenture, plus additional separate documents depending on what assets have been secured in connection with the loan.

*If your company has given any guarantees, or if anyone else has given a guarantee to cover the company's obligations, then remember to include those as well.*

# Regulation

Do you operate in a regulated industry? Then you'll need to be registered with the relevant authority/regulator. If your company is regulated, include the certificate confirming registration.

If you've ever received inquiries from your regulator, any details around the status of those inquiries/investigations and related correspondence should be included here.

# Real Estate

If your company rents out or uses any property space (including office, warehouse or parking spaces), then include the documents which detail the terms of that use, such as the lease or licence. If not, there will be nothing to worry about here.

*Include any relevant property information such as any recent service charge statements, wayleave agreements or notices served on you by your landlord or any neighbour.*

# Data Protection

Practically all businesses collect and use personal data. This could be employee, customer or client data, or even data belonging to other businesses when the business performs its services.

"Personal data" generally means any electronic information relating to an identifiable person. "Processing" means

doing anything with the personal data such as collecting, using, storing, or even deleting it.

Your business may be classified as a "data controller" or a "data processor".

**Registrations**

Most data controllers in the UK need to be registered with the data protection supervisory authority, the Information Commissioners Office (the ICO). These records are available on a public register, but it's good practice to provide a copy of this registration to demonstrate that the business is meeting a basic obligation.

**Privacy notices and Consents**

Data controllers have obligations to inform data subjects, such as employees or customers, about how and why their personal data is collected and used. An investor may want your company to demonstrate how it provides information to data subjects, such as privacy notices and cookie notices, and how the company obtains the required consents.

**Data Processing Agreements**

Where another company processes personal data on your behalf, such as a service provider, or you process personal data on behalf of another company, a data processing agreement must be in place. If this applies to you, make sure

to include a template copy of your data processing agreement.

### Breach Notifications and Gap Reports

Any letters or other documents relating to personal data breaches, data subject complaints, or any investigations by the ICO or other regulators should be included.

*If your business processes a lot of personal data, gap reports can reassure an investor that the business is aware of where data protection improvements need to be made. It also shows you have a plan for fixing any issues.*

## Intellectual Property

If your business is a technology business then your intellectual property, or "IP", will likely be a big area of focus for any investor as part of their due diligence.

### Material IP

As a starting point, you should prepare a document that lists the material IP the business uses. Divide the list into sections describing (1) the material IP the company owns and (2) the material IP that the company licences from third parties.

### Registrations and Applications

Any information relating to trademark, design or patent filings you have made. You should include a clear indication of the country in which protection has been sought, details regarding the mark/patent title/design image, any application or registration number and filing details.

### Licences In and Out

Your company should have a licensing agreement in place if it is licencing IP to generate revenue, expand the business geographically or launch new product lines. Your company will also need a licensing agreement in place if it licences someone else's IP.

*IP does not only cover IP that is registered with an authority, such as a trademark or a patent. It also covers unregistered IP like copyright, software, code, ownership of domain names, designs, know-how, etc.*

## IT

Your IT and technology estate gives investors a good idea of how developed and risk adverse your company is as well as how your computer systems work together.

### Overview of IT Estate

Pull a document together which outlines what your IT estate looks like outlining the below:

1. What computer equipment the company owns
2. Whether employees use their own equipment in carrying out work for the company
3. What SaaS products the company uses
4. What domain names the company owns

### Disaster Recovery

An investor may want an understanding on your business interruption and disaster recovery process. If your company is in its early stages, it's probably relying on the redundancy and backup provisions of the hosting provider. Regardless, it's helpful to set out something that shows you have identified those provisions.

*If you previously registered domain names personally, now is a good time to transfer the ownership of those domains to the company.*

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