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Social Enterprise, Mutuals and Spinning Out – A Guide in Finance

An assessment of the risks and liabilities: Effective failure regimes

Presented by Mark Johnson

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Questions

1. What errors did the PCT commit in running this process?
2. What would you differently?

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Assessment of the Risks and Liabilities: Effective Failure Regimes

Key Risks	Mitigation
Organisational capacity of commissioner	Consider key disciplines and skills required. Use outside experts where appropriate.
Procurement integrity	Plan carefully in advance. Establish clear evaluation procedures and criteria. Assurance framework for key decisions.
Governance of Provider	Check governance structure and credentials of key individuals – site visit? Develop prospective trustees?
Financial Capacity of Provider	Request & assess detailed business plan Evidence of funding support?
Contract Performance	Collect appropriate data. Spot early warning signs – cash flow, staff turnover, industry gossip

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Assessment of the Risks and Liabilities: Effective Failure Regimes

Key Risks	Mitigation
Contract Management	Proper Handover Awareness and enforcement of Contract terms
Contract Termination/Exit	Performance bond, retention or guarantee(s) Access to information on handover.
Reputational	Manage expectations, flag up risks to Board.
Insolvency of Provider	Retention of title clauses. Security over advanced payments. Specialist intervention team in commissioner?

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Thank You

TPP Law works with charities, not for profits, social enterprises, local authorities and NHS organisations to establish innovative delivery models for public services

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