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Minimising the fallout from your fall-out!

Post webinar key tips and follow-up checklist

AGREEMENT / CLARITY

- ☒ **What is it?** What legal structure is your business? A limited company? A partnership? A quasi-partnership? Different legal implications depending on the answer, if unsure then seek legal advice
- ☐ **Who does what?** Are there particular divisions of responsibility? Who can make decisions and what are the restrictions on this? Does your legal structure and agreement match the reality.
- ☐ **Who owns what?** Think about the property and assets of the business – who owns them? What would happen if there is a business breakdown?
- ☐ **Where are you going?** Openly discuss strategy and direction of the business regularly.
- ☐ **Common understanding:** ensure you and your business partner(s), fellow directors and/or shareholders have a common understanding on the structure of the business and what your respective rights are.

DOCUMENTS

- ☐ **Governing Documents?** Ensure you have written agreements documenting what has been agreed in relation to how the business should be operated, for example Shareholder Agreements and appropriate Articles of Association for a limited company, or a Partnership Agreement for a partnership.
- ☐ **Does it work?** Any written agreements in place will need to be reviewed regularly. Just because the document aligned to the business' vision and strategy at the start does not mean it will always work for an evolving and growing business. The agreements may need varying and/or updating, and if this is the case you will want to ensure this is done properly and effectively.
- ☐ **Are there gaps?** If you do already have documents in place, then check these. Do they cover decision making, ownership of property and assets and exit options? Ensure the documents are comprehensive and cover all eventualities.

EXIT / DISPUTES

- ☐ **Exit plans?** As much as it might seem premature and too far away, consider exit options and rights from the outset of setting up the business – how will this work? And what options will each party have? How will the business be valued in the event of an exit and/or sale? Ensure the exit and valuation options are clear and workable from a practical perspective.
- ☐ **Things change:** Big life events and changes may have an effect on this business, or the potential to have such an effect, for example terminal illness or divorce. If one of the business partners / shareholders / directors is experiencing this, consider the impact and discuss this up front.

OUR KEY ADVICE

If things have started to go wrong, as they often do, seek legal advice at an early stage. Do not act or make decisions without advice, as you may compromise your position and/or waive certain rights. At the same time, do not bury your head in the sand and do nothing – ‘putting up’ with issues may result in a waiver of rights or you being ‘estopped’ from making a later claim.

SPEAK TO OUR EXPERTS



LYNSEY OAKDENE

Lynsey is a director in the Commercial Dispute Resolution team at Walker Morris and specialises in all aspects of commercial disputes. Lynsey advises on a full range of commercial contract disputes across all sectors and has been advising clients on avoiding and dealing with partnership and shareholder disputes, unfair prejudice actions and related litigation for over 20 years. Lynsey is a highly experienced trial/hearing lawyer as well as having a wealth of experience in all forms of alternative dispute resolution, in particular adjudication/expert determination and mediation.

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LOUISE NORBURY-ROBINSON

Louise Norbury-Robinson is a senior associate in Walker Morris' commercial disputes resolution team and has extensive experience of resolving disputes, including through alternative dispute resolution as well as litigation. She thrives on a varied workload of commercial disputes and pre-dispute advisory work across a broad range of sectors, including company and partnership disputes.

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MATTHEW GEALE

Matthew is Head of Forensic Accounting at Armstrong Watson. He has undertaken forensic work on a full-time basis since 1990 and has broad experience in dealing with many different types of cases. He has a proactive approach and understands the importance of providing strategic advice to those instructing him. He has given evidence numerous times, including matters in the High Court, the IPEC, the Patents Court as well as at the London Court of International Arbitration. He is also asked by clients to assist at mediations and settlement meetings.

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