



Presentation — 13 October 2020

# Commercial Strategy in Action

## Amardeep Gill and Louis Sebastian

Pioneering — Bahrain — Construction — Public sector — Energy — Real estate — London — Tax — IT — Dubai — Manchester — Connecting — Knowledge — Pragmatic — Malaysia — Exeter — Thought leadership — Housing — Agile — Creative — Connecting — Private equity — Local government — Manchester — Environment — Focused — Islamic finance — Projects — Abu Dhabi — Corporate finance — Passionate — Team work — Employment — Regulation — Procurement — Expertise — Specialist — Planning — Investment — Committed — Delivery — IT — Governance — IP — Corporate — Infrastructure — Value — Development — Private wealth — Oman — Governance — Birmingham — Corporate finance — Dynamic — Pensions — Dispute resolution — Insight — Banking and finance — Arbitration — Diverse — Regeneration — Care — Communication

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Pioneering — Bahrain — Construction — Public sector — Energy — Real estate — London — Tax — IT — Dubai — Manchester —  
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# Commercialisation in the news

- **Luton Borough Council** - £60m loan in September to airport (£49m shortfall including £37m from airport)
- **Nottingham City Council** – Robin Hood Energy - £38.1m loss and concerns about councillors as directors
- **Croydon Council** – auditors consider issuing “Report in the Public Interest” especially the running of LATC “Brick by Brick”. Decision making process not been robust due to out-of-date data

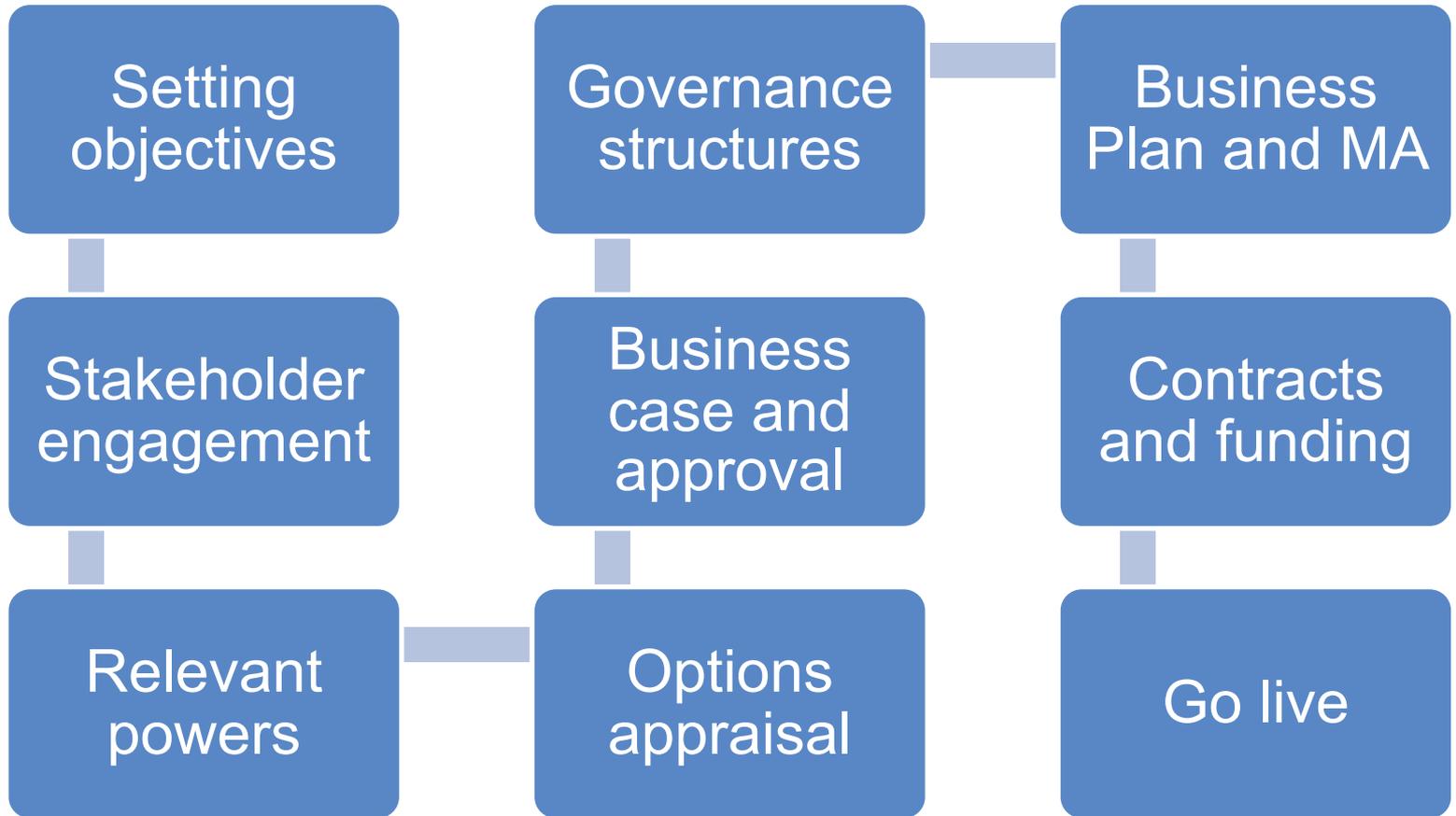
# Where does that leave commercialisation

- LA commercialisation in context of broader economic outlook – various sectors under strain
- Greater focus on business cases: is it the right approach?
- Auditing of decision making powers from the start and onwards
- Managing conflicts of interest, the role of councillors and experts on boards
- New avenues: PWLB consultation and the use of PE
- Let's not forget the success stories – a moment for reflection and refinement: **Commercialisation 2.0**

# Business Case



# The journey



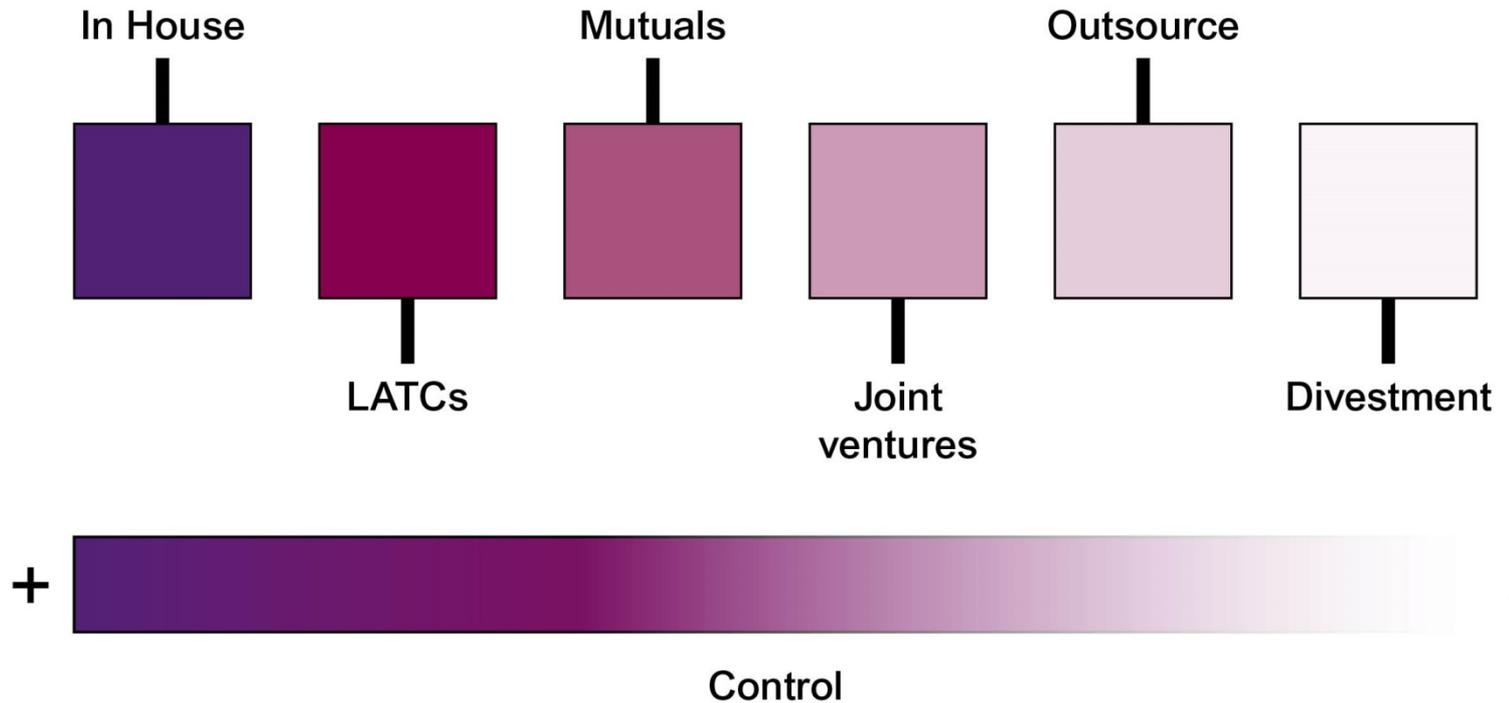
# Business Case

- Why is the LA considering the venture and should it do it alone?
- Clear objectives and purpose: social value or profit?
- Senior leadership buy-in and support
- Will cultural change truly be possible?
- A true cost assessment being made with honest financial success outcomes defined?
- How are decisions to be made and oversight secured?
- Other factors: budget, timeframes, risks, dependencies etc

# Options appraisal – legal issues



# Options for delivery



# Legal issues (1)

- Options review and business case – legal / financial – iterative process
  - Relevant powers (limitations and solutions)
  - Potential corporate vehicles
  - Governance
    - Board membership
    - Conflicts of interest
    - Indemnities for members and officers

## Legal issues (2)

- Staff and pensions
- Procurement issues
- State aid
- Tax
- Operational arrangements – client / contractor split
- Funding requirements

## Legal issues (3)

- Making a good decision
  - Sufficient detail of risk vs reward
  - Realistic projections
- Implementation
  - Company formalities and members' agreement
  - Director training – roles and responsibilities
  - Business transfer and services contracts
  - Funding arrangements
  - SLAs – IT services, payroll, accounting?
  - Property issues

# Ongoing oversight



# Ongoing Oversight

- Governance
  - Ensure effective monitoring of governance of vehicle
  - Clarify role/manage expectations of Members early to prevent conflicts of interest
  - Ensure adequate support and training to understand different legal and commercial roles (investor/shareholder vs lender vs director/manager vs service provider vs purchaser/commissioner vs scrutineer)
- Benefits Realisation
  - Conflicting objectives: Re-invest profits v dividend payments?
  - Benefits tracker - what does success look like?

# Practical steps



# Issues when considering a commercial venture

- Does the business proposition work
- Are there ingredients to create a sustainable business
- Ensuring the contractual matrix works
- Understanding risk and how to manage it
- Secure senior stakeholder buy-in
- Manage political aspirations
- Be aware of governance change
- Understanding the commercial view point
- Understanding citizen need
- Cater for changes on the horizon
- Adopt on-going audit and challenge processes

# Lessons for success

- Design Phase
  - Options appraisal
  - Member engagement
  - Knowledge transfer
  - Legal power to delegate/commercialise? (Vires audit)
- Business Case Development
  - Set clear cost savings and income return on investment targets
  - Set up and running costs
  - Consider implications for the rest of the organisation (e.g. pension deficit costs)
  - Clear exit strategy
  - Procurement route or deploy exemption (e.g. Teckal)
  - Employment law considerations

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