

Outstanding contributions needed more than ever in uncertain times

Steve Colville of solicitors Warners considers some of the uncertainties farmers face

Warners is delighted to be sponsoring the Outstanding Contribution to Farming Award at the Food and Farming Industry Awards. Our association with this magnificent gala event taking place at the House of Commons on 2nd December has reached a five-year milestone. The event celebrates the hard work and achievements of people across the industry. It is absolutely right that these well-deserved accolades are presented publically to acknowledge the tremendous efforts made by the recipients, all of whom have made a supreme contribution to the success of this vital and growing industry. Warners is looking forward to meeting the award winners and other sponsors on 2nd December.

Certainty is something we all need to lead an orderly life but the farming sector in particular is facing uncertainty following the recent decision to exit the EU. No further comment will be made here about the result of the vote or its effect as opinion is most certainly divided!

Certainty in relation to land ownership is immensely important to a farming business as land is invariably its most valuable asset. However, there is an alarming increase in the number of farming businesses that have found it necessary to seek the determination of the courts to settle family disputes in relation to the ownership of the farm and its assets. Too often these disputes are difficult to untangle because they are based upon unwritten promises or an implicit nod and a wink by one family member to another. Over time these informal words or gestures are, rightly or not, often



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taken as clear binding promises with expectations arising leading to disappointment and intense acrimony within the family when those expectations are either dashed or realised by a court decision. Here are two real-life examples: A daughter and her parents fell out catastrophically when the hard-working daughter was assured by her parents that she would ultimately take over a successful Welsh farm with a pedigree milking herd. Taking her parents words at face value the daughter worked on the farm for very

little pay for many years. Whenever the daughter sought to negotiate a pay increase with her parents she was told that the farm would be hers one day and “not to kill the golden egg”.

The relationship between parents and daughter broke down dramatically and the parents sought to evict the daughter from a house on the farm. The litigation ended up in the Court of Appeal where it was decided that by toiling tirelessly on the farm for many years for a pittance the daughter had relied upon the promise of her parents and acted sufficiently to her detriment to be compensated.

Accordingly, the Court awarded the daughter £1.3 million for her to start her own farm. The farm was worth about £3.8m but the sad fact is the litigation ended the ability of the remainder of the family to continue farming.

Another farming partnership case reached the Court of Appeal which also resulted in the termination of the family's business. In this case, there was a partnership agreement initially between father and mother but they then took their son into the partnership. The son worked hard and, again, it was always intimated by the parents that in the future “it would all be his”.

As often happens the youngest partner wanted to move the business in a different direction to his parents and the son decided to give notice to determine the partnership in accordance with the terms of the partnership agreement. A dispute arose as to the value of the son's share but the provisions of the partnership agreement were unclear on this important issue. The parents

argued that the son was entitled to “book value” but the son wanted “market value” of all the assets. The son won and his mother and father had to sell the farm in order to pay him his share.

When a family works together there will inevitably be different aims and expectations across the generations. Too often these aims and expectations are not discussed and managed between the family members in a professional and business-like way, largely because everybody trusts each other or are too afraid to raise them. A farming business is often asset rich and cash poor and any dispute between the partners can lead to an untimely cessation of the business. This is hard for any business but if the partners of the business are closely related there is more than money at stake. Sadly, it seems farming families struggle more than most to hand over the business successfully. Therefore, a well thought out succession plan should be put in place early to assist in ensuring that the family business continues from generation to generation.

Warners has a dedicated team of agricultural and landed estate solicitors who all have a detailed understanding of the issues of relevance to countryside landowners and has been actively involved in the rural community for many years. The team is regularly recognised by leading legal directories Chambers UK and Legal 500 as offering some of the best legal advice in the region.

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