

## Divorce and the farming family

The old adage of farmers marry farmers rings true even in 2020 for many in the rural community, as the strong social scene of Young Farmers Clubs and other similar associations and events brings farming families together.

Sadly, for those involved in a family farming venture, when a marriage fails it may result in a bitter dispute, often drawing in the older generation who remain dependent on the farm's prosperity for their income, or even for their home.

### A Case Study

Twenty years ago the case of *White v White* came before the most senior court in the country after a series of appeals. The Whites had been married for 30 years and had three children. Both parties came from farming backgrounds and had both injected capital into what had become a successful business, the joint assets being circa £4.5m. The court divided the assets 43% to Mrs White and 53% to Mr White and introduced as a starting point that "equality should only be departed from if and only to the extent that there is a good reason".

The concept and interpretation of matrimonial and non-matrimonial property is particularly important in farming divorce cases as frequently farms have been in families for many generations and are inherited (or gifted) through the family line. Mrs White did not gain a full half share because of this issue of inherited family property.

The courts will try to avoid ordering a sale if a farm remains profitable and when it has been gifted in the expectation that it will remain in the family and income generated may support a spouse or others. That said, it's not always possible to avoid a sale, and the position was reviewed in a later case of *N v N* in 2001, and again in *P v P* in 2004.

Lawyers often have to be resourceful when advising couples in a farming divorce in order to achieve a settlement both parties can live with and which seeks to ensure that a family farm can continue to be well managed and successful, in order to provide a sustainable income not only for the separating couple but also for their parents and/or children.

Diversification on the farm may possibly provide one solution, with one spouse creating a new business structure thus separating their income from the farms but ensuring that future generations can amalgamate the businesses together again at a later date should they wish.

## Butcher & Barlow LLP

Ensuring that you have an experienced team with detailed knowledge of farming practices is the key to achieving a practical workable solution when marriages sadly fail. As with many problems around divorce, understanding the practical and legal issues, and planning a way forward early on, can prevent unpleasant and upsetting disputes, save significant costs, and even avoid contested court proceedings.

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