



Factsheet

Farming divorces

Dealing with the division of property, savings, pensions and so on upon any divorce can be both emotionally and legally challenging. When a farming couple separate and divorce, though, there can be further dimensions to consider.

Often a farm may have been in a family for generations and the couple may well have intended, whilst together, that the farm should continue to be passed down the generations. That intention may no longer be mutual as one party may want the farm assets to be realised to satisfy their respective matrimonial claims.

The farm complex itself often comprises several properties lived in by not only the couple and any children, but also other wider family members,

and the shift in dynamic upon a separation is felt by everyone and can be difficult to manage and cope with emotionally.

Another factor is that farmers are extremely busy at certain times of the year, for example harvest, and simply do not have the time or energy to deal with the fallout from their separation and divorce. This can cause difficulties with giving instructions to the solicitors

involved, and can cause one party to feel matters are not progressing as fast as they should and, in exasperation, lead to a court application being made to ensure the matter moves on. This then will usually increase the level of acrimony and the legal fees.

The family court takes into account all the resources a divorcing couple has or is likely to have in the foreseeable future. The farm business and the income it produces are therefore relevant resources. It is not uncommon for farming couples to be asset rich but cash and income poor. The liquidity and accessibility of the farm's assets is often a key issue as the court seeks to divide fairly the "matrimonial pot" whilst working out what is readily available. The court will be mindful of the need to ensure both parties' housing needs are met, with first consideration being given to the welfare of any minor children, and this may mean that farm assets have to be sold.

Given the particular need for sensitivity and often more creative and bespoke solutions, our recommendation would commonly be to try to resolve matters using the collaborative process or in mediation. These are both options whereby the couple can make their own decisions in discussions round the table. In the collaborative process the couple would have their respective solicitors with them and in mediation they would be assisted by the mediator, a neutral independent third party, to help guide their discussions and they can take legal advice as and when they want to alongside the process. Both the collaborative process and mediation are flexible in that further expertise can be brought in if deemed helpful, for example a financial consultant to assist with the tax consequences and

questions, and/or an accountant to value the shares, or a family consultant to help manage the emotions and assist with communication issues.

The Moore Barlow family team comprises collaboratively trained solicitors and we offer a family mediation service as well.



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