

## Farming and divorce: how can you protect your farm's vital assets?

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Divorce is sadly an increasingly normal part of modern life, and it hits farming communities harder than anybody because farming and family life are so inextricably intertwined.



Divorcing a spouse from outside of the farming family can put vital farming assets at risk, which makes relationship breakdown particularly complex for farmers. What can be done to minimise this risk?

In other circles, the division of assets on divorce is usually a straightforward process of dividing up the shared property and finances, starting at a 50:50 split as a benchmark to ensure that both parties walk away with the financial means to provide for themselves individually.

However, where farms are involved this very quickly becomes difficult; as well as the usual family home, assets can take the form of large acres of land, livestock and income from the business – all of which will need to be valued.

Moreover, as the family home is central to the farming business and often the base of operations, separating the assets is complex, particularly if the divorce turns acrimonious and an ex-spouse demands the family home.

One solution here could be to sacrifice those farm assets which have liquid value, eg savings/surplus in the farm's bank account, whilst preserving those that form the core operations of the farm, such as the farmhouse and the land.

Another complication is that farms are often passed down the family line, each generation being a 'custodian' of the family asset for the next branch of the family tree.

Divorce can disrupt this chain disastrously if a spouse from outside the family is seeking half the assets at the end of a marriage.

A judge may be persuaded to take this into account, and order that the family farm assets are to be preserved for future generations, but only if there is clear evidence of a plan to pass the farm assets on (for example, this intent expressed in a will).

In general, a court will only insist on including within the divorce settlement assets vital for the farm's continued operation if there are no other available options. However, this protection is not a given and a far better solution is to tie these points down in a pre-nuptial agreement outlining how all pre-marital assets are to be treated on divorce.

This can be used as a fixed point from which all assets gained during the course of the marriage are to be calculated and divided. Although not legally binding, a judge will respect them as an indication of the parties' intentions.

This is a complex area and it is vital that spouses seek separate and independent legal advice from qualified family law solicitors in order to minimise the risk of losing key family assets.

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