

How can farming families plan fairly for succession when one child works on the farm and the others do not

Succession planning can be particularly complex when one child has made a significant contribution to the family farm while others have built their lives elsewhere. Fair does not always mean equal, and careful consideration should be given to work, ownership, inheritance and the future viability of the farm. Clear communication, good records, and coordinated legal and financial planning can help families manage expectations, prepare for unexpected events, and give the next generation greater certainty about the path ahead.

A QUESTION THAT DESERVES TIME

In many farming families, one child returns to the property while their siblings build their lives elsewhere. The returning child may work long hours in the farming business, accept a lower income while the operation grows, take responsibility during illness or difficult seasons, or make choices about their own family and career because the farm needs them.

Parents often want to acknowledge that contribution. At the same time, they may want all of their children to feel respected and secure. Those aims are not necessarily in conflict, but they do require careful thought. A plan that has only ever been discussed at the kitchen table can be understood very differently years later, particularly after a death, relationship breakdown or a difficult financial period.

Not every family will come to the same arrangement. Spending time discussing and documenting these matters where relevant will help your family make decisions with a clear view of their consequences, while there is still time to explain them and adjust them.

FAIR DOES NOT ALWAYS MEAN EQUAL

An equal division of assets can appear straightforward. It may also be impractical where the main asset is a farm that needs to remain viable as one operation. Dividing land, machinery, livestock, water entitlements or business interests may not produce a workable result for anyone.

A fair approach may be that the child who has worked in the business for a lower income receives a greater interest in the farm, while other children receive other assets, superannuation benefits, life insurance proceeds or a different form of support. In another family, the farming child may be paid properly during their working life and had opportunities to grow their own businesses, and the estate may then be divided more evenly.

Neither approach is automatically right. What matters is that the arrangement reflects what the family intends, the contribution each person has made, the financial position of the business and the needs of the people involved. It should also be revisited as circumstances change.

SEPARATE WORK FROM OWNERSHIP AND INHERITANCE

One of the hardest issues is separating three connected but different questions: what someone is paid for their work, whether they have an ownership interest in the business, and what they may inherit in the future.

A family member can be a valued employee without owning part of the farm. They can take on management responsibility without having a guaranteed entitlement to inherit it. They can also receive an ownership interest during their parents' lifetime, with arrangements made for the remaining estate separately.

Vague assurances can create real difficulty. A parent who says, 'This will be yours one day', may be expressing a hope for the future. The child who has built their life around the farm may hear a commitment. Their siblings may have heard something else entirely. Good records do not remove the need for trust, but they mean a family is not relying on memory alone when the stakes are high.

INCLUDE THE RIGHT PEOPLE IN THE CONVERSATION

The farming child's own family and partner may be affected by the arrangement through housing, income, childcare, work opportunities and decision making for their household. Siblings who are not involved in the business may also need an opportunity to understand the broad direction of the plan, even if they are not involved in operational decisions.

That does not mean every financial detail must be shared with every family member. It does mean parents should consider what information is needed to avoid surprise, resentment and assumptions. A carefully facilitated family meeting can be valuable where the issues are sensitive or views are already beginning to diverge

PLAN FOR LIFE CHANGING EVENTS

Succession planning should not assume that everything will proceed as expected. Illness, incapacity, death, relationship separation, a poor season, debt pressures or a change in a child's plans can all affect an arrangement that once seemed settled.

For example, if a child or their partner has contributed substantial labour or money to the farm, the family should understand how that contribution is being recognised. If parents intend to transfer an interest in the business, they should consider how that interest is held, managed and protected. If a relationship later ends, early legal advice can help the family understand the implications before documents are signed or assets are transferred.

Estate planning should sit alongside the business plan. Wills, enduring powers of attorney, superannuation arrangements, company or trust documents and any agreements between family members need to work together. An outdated Will can undermine an otherwise sensible succession plan.

PUT IMPORTANT DECISIONS INTO PRACTICE

Families do not need every answer before they begin. A useful first step is to identify what has been decided, what decisions still need to be made and who should be involved in the next conversation. That may include the family's accountant, financial adviser and lawyer, all working from the same understanding of the family's objectives.

Good lawyers know the law. Excellent lawyers apply good judgement to the way legal, financial and family considerations meet in real life. For farming families, that means helping you consider the practical effect of a decision on the business you have built and the people you hope it will support.

A considered plan gives the next generation a clearer basis on which to contribute. It also gives every member of the family a better chance of understanding the path ahead, before a difficult event requires decisions to be made quickly.

HOW HHG LEGAL GROUP CAN HELP

HHG Legal Group advises farming families on succession planning, estate planning and family law issues that can affect family businesses. We can help you clarify your objectives, identify the matters that need to be documented and work with your other advisers to develop arrangements suited to your circumstances.

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