FG | INSIGHT

INTELLIGENCE GUIDE: SUCCESSION PLANNING

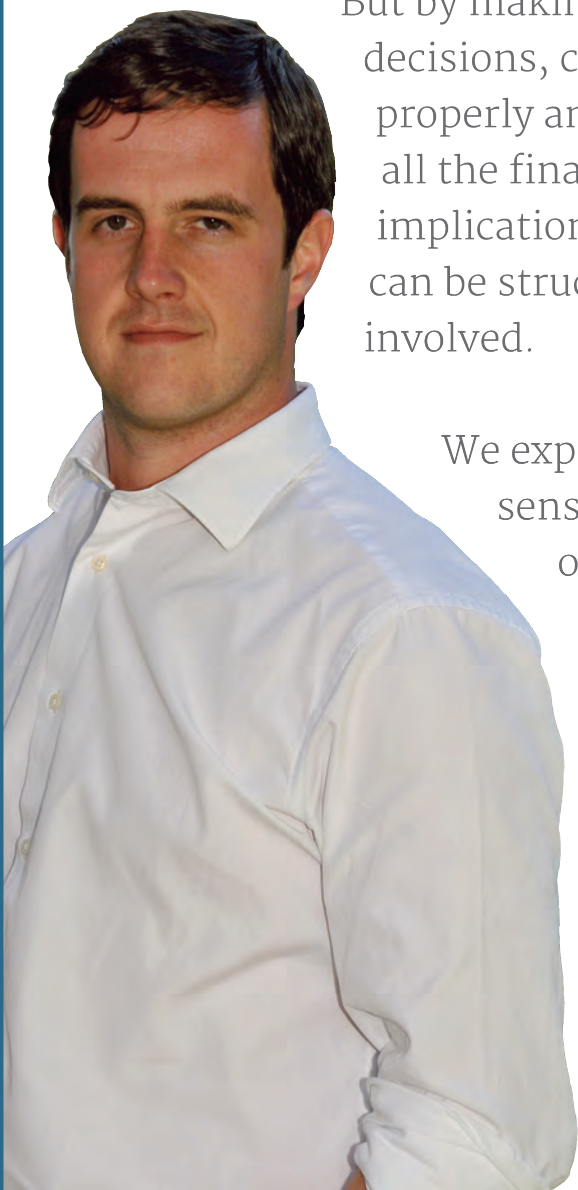
YOUR GUIDE TO

Ensuring the future of a farming business by thinking early enough about succession

INTRODUCTION

Planning for the day you hand over the farming reins to your chosen successor is never easy, but it is a crucial exercise for any business.

Having the initial discussion about succession can, however, often be the hardest thing to do, especially in families where strong views and raw emotions can cloud commercial judgements.



But by making tough decisions, communicating properly and weighing up all the financial implications, the right deal can be struck for all parties involved.

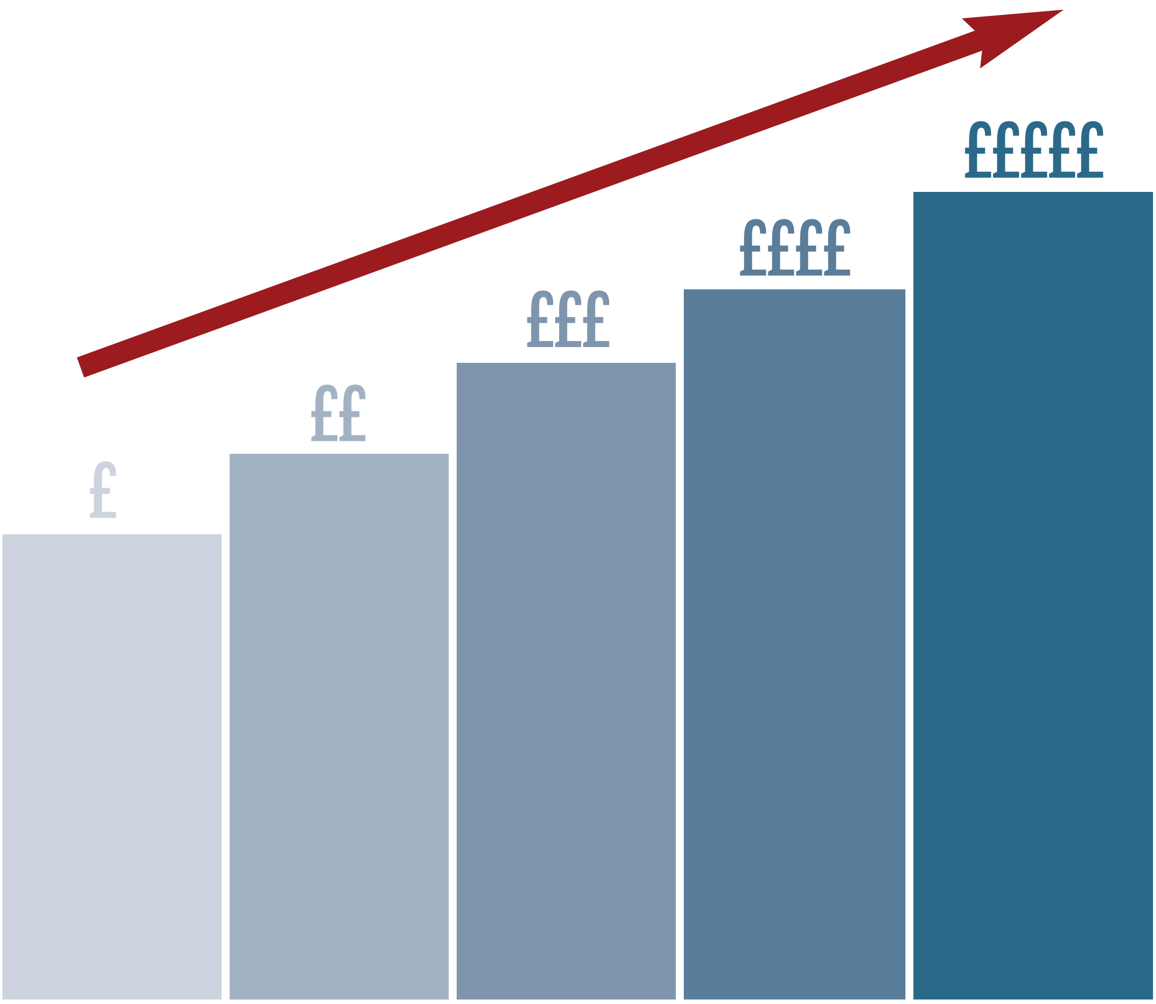
We explore this sensitive topic in our exclusive succession guide.

BEN BRIGGS

NEWS AND BUSINESS EDITOR

CONTENTS

PLANNING CAN LEAD TO BUSINESS GROWTH



Planning for succession can change business attitudes and lead to long-term growth, according to experts. The Central Association of Agricultural Valuers annual conference and general meeting was dominated by succession.

Matt Lobley, senior research fellow and co-director of centre for rural policy research at the University of Exeter told attendees about the 'succession effect' – the concept that the expectation of succession led to changes in the way farms operated as those in control aimed to leave more to their successors.

He said: "You are thinking about things in a certain way, which might be more expansive or progressive. It provides an impetus for business development."

He also spoke about the 'successor effect', the effect a successor themselves can have on the business with what they bring to the frame. But Mr Lobley highlighted the need to allow younger generations real decision-making duties on the farm. He spoke of the 'farmer's boy' syndrome – those aged over 21 with no delegation of decision-making.

Studies suggest 24 per cent of UK successors are in this bracket.

He said: "If done correctly, succession can be a great boost for the farm. There may be a wobble, but everything is take-off for business. If you get to your 60s and start to wind down, things can take a downturn."

Mr Lobley said it was important to give older generations a dignified retirement.

"We need to encourage management delegation and we need to show the older generation there is more to life than just being on the farm."

GROWTH

The theme of succession planning stimulating farm growth was also discussed by Sian Bushell, from Sian Bushell Associates, which specialises in farm succession planning.

Mrs Bushell said: "You need to grow the business to the size of your family. You need to start thinking about it at a very early age."

She added succession could be a process which was expensive if not handled properly.

> "IF DONE CORRECTLY, SUCCESSION CAN BE A GREAT BOOST FOR THE FARM
>
> Matt Lobley

TOP TIPS
ON INITIAL PLANNING

1

Firstly, it is suggested to hold a formal meeting at a neutral venue

2

Invite all involved relatives, even off-farm relatives and those not set to be involved in the farm's succession

3

Write down what is set so it can be referred to at a later date

4

Clarify expectations of younger generations to avoid potential conflict later

5

Talk about how much time returning relatives will be expected to spend working

COMMUNICATION: IT'S GOOD TO TALK

Farming families are not always the best at talking things through, but when it comes to succession, an ongoing dialogue is vital. Catherine Desmond, partner at chartered accountancy practice Saffery Champness, said the need for discussion did not have to involve the whole family, so long as the conversation had begun.

And she claimed this meant, in some cases, contemplating worse case scenarios.

> “DEBT AND ASSOCIATED SECURITY ARE PART AND PARCEL OF MANY FARM BUSINESSES
>
> **Catherine Desmond**

“Planning is essential because, to put it bluntly, while in an ideal situation succession is triggered by retirement and involves a structured handover it can, in other cases, be triggered by death.

“Where there is no plan in place, such an event can throw a well managed and ordered business into confusion.”

Experts from solicitors Burges Salmon have said a realistic appraisal of a farm's long-term financial health is fundamental to any succession decision, something echoed by Mrs Desmond.

She added: "Debt and associated security are part and parcel of many farm businesses.

"Long-term factors – such as income from new technologies, including Feed-in Tariffs and the Renewable Heat Incentive – are increasingly a part.

"Virtually every farm business has its complexities; all of which make succession planning, difficult though it may seem, absolutely essential."

And she suggested there often needed to be a close correlation between the content of a will and the aims of the succession plan.

ESSENTIAL

"Many families now recognise making a will is essential rather than optional," she said. "In a similar vein, a succession plan in existence can always be amended in the light of a key family event, illness, a change in business direction, or simply the passage of time, but a succession plan 'on-the-hoof' and forced by circumstance is never the ideal."

SIMPLE GUIDE TO PLANNING

- ➔Consider the assets you own and list these, together with their estimated values and income potential (or annual cost)
- ➔Consider your ideal destination for assets
- ➔Consider who it would be appropriate to share your succession planning thoughts with, and who might be able to help craft thinking
- ➔Think about timing of the transfer and whether this should be over a period of time or on a specified date
- ➔Organise a family meeting to discuss your plan and the reasoning behind it
- ➔Either implement your plan or ensure it is kept up-to-date as circumstances change, keeping those who are involved informed
- ➔Ensure other documents, such as wills, reflect the plan

WHEN CONSIDERING SUCCESSION, CHARTERED ACCOUNTANCY PRACTICE SAFFERY CHAMPNESS PROVIDES SOME ELEMENTS TO CONSIDER:

➔WHAT IS IT ALL ABOUT?

Succession planning is essentially about who gets what and when. Timing can be sensitive and a balance needs to be achieved between passing assets on early enough for the next generation to take the business forward enthusiastically, and the fact a successor (or successors) may already be well down their own career paths in a completely different field.

It may be they are too young to take things forward at this stage.

➔BARRIERS TO TRANSFER

There are a number of physical and psychological barriers to succession, not least the prospect of retirement and whether the 'donor' parent or parents will remain in receipt of sufficient income once they are out of the business.

It could involve a change of living arrangements as there is a natural tendency not to wish to let go and this can be a cause of friction.

Family stability, or lack of it, can also act as a disincentive. How secure, for instance, is the marriage of the successor and what might a future family divorce mean to the farm?

➔FAMILY CHARTER

An additional way to protect a business is through a 'family charter' which looks beyond the physical aspects and highlights its 'ethos' and reasons why the business has survived or thrived. This will also lend weight to the direction of future succession and the next generation.

➔TOUGH CHOICE

Ultimately, the succession plan may in fact propose the assets are best realised, the farm or business sold, and the proceeds apportioned, either at the time of retirement or through a will.

In certain situations, this may be the only route, but there are usually options.

FAMILY FOCUS: ENSURING PROFITABILITY

Securing the future of Beeston Hall Farm in Sowerby Bridge, Ripponden, West Yorkshire, is at the heart of everything Stephen and Rachel Hallos do.

The couple have farmed beef and sheep on the Yorkshire Water-owned land since they took over in 1994.

Now, with their own two children, the couple are working to ensure the growing enterprise is in 'the right place' for when Sam, 17, and Anna, 14, take the reins.

Mrs Hallos says: "We are of the opinion that if your children do not really want to do it and are not passionate, then there is absolutely no point in forcing them.

“Sam came to us and said he wanted to farm and Anna is also very interested in the sheep side of things, so it is down to us to make sure it works for them.

“Eventually we want the children to earn a decent living from it and if they come to work full-time, we want to be able to pay them a decent wage.”

The couple have already made vast changes to the business. Mr Hallos’ parents ran a small dairy producer retail business and Stephen was milking cows right up until 2002.

The milk retail business was in major decline and the couple were faced with either investing in dairying or pulling out altogether. Since then, they have built up an 80-strong pure-breed Salers suckler herd and lamb about 240 Blackface cross ewes.

LANDLORD

Another important step is the family’s strong relationship with its landlord Yorkshire Water, which has invested in new cattle buildings.

Sam, who is studying for his level three diploma in agriculture at Askham Bryan College, already has big plans for the farm.

He says: “I would like to build up the Salers herd because they suit this land very well. It is a very hardy breed and does well on

> IF PEOPLE COME TO THE FARM WHO HAVE NOT BEEN HERE FOR 10 YEARS, THEY ARE GOBSMACKED BECAUSE IT HAS CHANGED SO MUCH
>
> **Stephen Hallos**

the rough terrain we have here. They are also very easy calvers and are generally easy to deal with.

"We have the right system for the cattle. I think this is why I enjoy it so much and why it works well. We need to try and do the same with the sheep."

Sam's sister Anna is equally ambitious and would like to become an agricultural journalist, as well as running the sheep side of the business.

A keen young farmer and horse rider, Anna shows sheep for other people and helps to organise her parents' charity events, which are held at the farm.

Mrs Hallos says: “We think it is really important to show the children there is a world out there and give them the opportunity to try other things.”

Mr and Mrs Hallos are aware their children may want to do some things differently.

“Sam comes home from college with new ideas all the time and tells us what he wants to do and where he sees the farm going,” says Mr Hallos.

“If people come to the farm who have not been here for 10 years, they are gobsmacked because it has changed so much.”

BEESTON HALL FARM FACTS

➔Beeston Hall spans 20 hectares (50 acres) and was taken over by Stephen Hallos’ parents in 1966

➔In 1992, the family added the tenancy of the adjoining 728ha (1,800-acre) Batings Farm, which is also owned by Yorkshire Water

SUCCESSION TIPS

➔**Think about a family constitution:**
A family document which sets out in writing the aims of the business in future years and what may happen to its assets can stop uncertainty and allow all members to be clear about the way forward

➔**Plan for the long-term:**
Planning should map out the next 15-20 years rather than just the medium-term

➔**The business is not the same as the assets:**
A young member of the family can take over the operations at an earlier date than taking on the land and machinery in an official setting

➔**Pre-nuptials:**
Pre-marital agreements are not for everyone, but are useful to map out the succession of the business in the event of relationship breakdown

SOURCE: NFU CONFERENCE

FACING UP TO TOUGH DECISIONS

Bringing in the next generation while respecting the work of the current head of the farm is a process often fraught with a great deal of tension.

Figures have highlighted succession was not viewed as a key consideration for many farming businesses.

In a survey by the NFYFC which was reported in FG, only 9 per cent of members said there was a succession plan in place within their business.

FG's own hill farm survey suggested more than half (51 per cent) were without a formal plan for the future of their farm.

For Jim Aveline, partner at Burges Salmon and a solicitor specialising in farm succession, the need to make tough decisions about the future of the business was crucial for its long-term viability.

PRESSURES

He said: "Market pressures, increased competition and the state of the economy all influence whether a business will survive.

"In the current climate, can businesses of a particular scale continue? Is there a future in a particular sector? What is happening to others in the industry?

"A head-in-the-sand approach, while not uncommon in farming, is a dangerous one when assessing viability."

Mr Aveline stressed each business will have specific issues, be it the ability to service debt, especially if interest rates rise, or rent reviews, succession issues and a lack of capital for tenants.

He added: “Farmers should look at the trend for the business over the years. Has it really been struggling for a long time and in decline, but only kept going through savings, sales, lack of investment or working for free?

“Just because it has supported the family for years and all would love to see it continue, it does not make it fair to pass it to a child and make it their problem and eventual failure.”

He said while an assessment of the business’ long-term health was crucial, so too was considering whether the next generation had the right skills to prosper at the head of the farm.

“There may be no limit to what a driven and entrepreneurial child can do, but what is in fact the nature of the likely successor?

“Put bluntly, does he or she have what it takes to take this business forward?

“These are very difficult questions for any parent to answer, but ignoring them could be worse for the children in the long run.”

HYPOTHETICAL CASE STUDY

➔TO DIVIDE THE FARM EQUALLY OR UNEQUALLY - THAT IS ULTIMATELY THE LINGERING QUESTION...

Simon and Barbara Carter are struggling with their succession planning.

On the upside, their partnership and business is large and relatively profitable and they have two children, Amy and Ben, who are involved and ready to take it forward.

INVOLVEMENT

On the downside, Amy and Ben do not always get on. They have another son, Chris, who fell out with the family and went his own way, but is back and wants his share of the business and even to be involved in it.

➔HOW CAN SIMON AND BARBARA MANAGE THEIR SUCCESSION?

The first step is to decide about Chris' involvement. It is tempting for Simon and Barbara to leave the business equally to them in the rose-tinted hope they will be able to make a go of it together.

However, they must think of the harm this could cause Amy, Ben and the business.

Realistically, they cannot work with Chris and putting them in that position would lead to disaster. With regret, they conclude Chris cannot join the business.

➔WHAT SHOULD BE CHRIS' SHARE?

They decide he should have 10 per cent of the value of the business and will borrow to fund this payment to him as soon as possible.

NO GUARANTEE

Chris gets less than the others, but he gets it now rather than in the future. After all, perhaps on his parents' death, there will be no guarantee there would be anything to pass down.

➔HOW SHOULD THEY INCENTIVISE THE REMAINING CHILDREN?

Amy and Ben need to be reassured the business will eventually come to them and they will be incentivised to work in it.

Simon and Barbara explain it will be theirs equally in due course and bring them in as partners now as a vote of confidence.

The actual ownership of the farm assets and land may then be passed during Simon and Barbara's lifetime if they can afford to live without them or it may happen on the death of one or both of them.

If it passes on death, then maybe a third party trustee will be brought in to work with Amy and Ben until it is clear they can work together and the future of the business is assured.

SOURCE: BURGES SALMON

TAX & TENANCIES

When considering succession, it is vital to weigh up the tax implications associated with the handover process, a legal expert has said.

Melissa Taylor, a solicitor at Napthens, said owner-occupiers and tenants often faced different succession challenges.

When considering owner-occupied farms, she said giving the farm as a gift before death could incur a large tax burden.

She explained: "An alternative could be to rent the farm to the next generation and pass the farm on death.

"However, in today's market, if funds are required by the younger generation to progress the business, they often need the ownership of land to secure appropriate lending. Therefore, careful consideration needs to be given to the nature and structure in which the succession takes place."

ASSETS

Ms Taylor said while tenant farmers did not have large capital assets to consider, it was worth looking at the implications of tenancy succession upon death.

She said: "It is important to plan ahead if the tenancy is an Agricultural Holdings Act 1986 tenancy with further successions. This is due to the fact an application to succeed the tenancy must be made within three months of the tenant's death.

“There are strict requirements for a succession to a 1986 Act tenancy and it is therefore important to plan well ahead to ensure potential successors have the best opportunity of succeeding.

“Similarly, it is important to plan ahead if successors are to take over the business and a new tenancy needs to be negotiated with the landlord.”

Ms Taylor said it was often the case succession was not a key consideration for farm businesses.

She added: “Often, death is the first time succession is actually considered. If there has been no succession planning, a deed of variation of an intestacy or a will could be completed within two years of the date of death to assist with managing the succession at that stage.

CIRCUMSTANCES

“Whether this is possible will very much depend on the circumstances. Sometimes this is not possible and it can then mean the end of the business which the farmer, and often also the successors, worked hard to build up.

“As such, if there are successors to the farming business, then succession planning should always be put at the top of the to-do list.”

ALTERNATIVE OPTIONS

Succession planning can be tough for any farm business. However, when there are no immediate relatives willing to take over, those looking to retire can feel as though there is nowhere to turn.

But there are options for those thinking about retirement other than grass letting and this was the theme of a meeting organised by The Farmer Network at Newton Rigg College, Penrith.

Rob Hitch, partner at Dodd and Co chartered accountancy firm and a director of The Farmer Network, said many farmers simply did not know enough about arrangements such as contract farming, share-farming agreements and partnerships.

"These arrangements give an incentive for the farm to continue to work and be productive," he said. "You have got to have willing partners so each party has to be willing. All parts need to trust each other properly."

MR HITCH GIVES HIS THOUGHTS ON THE OPTIONS:

➔CONTRACT FARMING

"If a farmer does not want to simply rent out the land, contract farming arrangements allow him or her to offload a proportion of the work to the contractor. The contractor can have a fee and a share of surplus profit can also be agreed.

"The farm owner can carry on doing as much of the financial or day-to-day working on-farm as they wish."

➔SHARE FARMING

"In share farming, the gross receipt is shared between the parties. If the income of the farm goes up, everybody benefits, but if the income goes down, everybody loses out.

"Share farming agreements work a little bit like a partnership but protect both parties. If one party goes bust, it does not affect the other.

"You need to work out who is putting in what costs. If you are thinking about a share farm, what proportion of the profit can you afford to give up to entice a new party into the agreement?"

➔PARTNERSHIPS

"Partnerships can just be two people working together in one business. It is a way of working together, but it can tie you together legally.

"If you are looking at a partnership as a way to bring somebody into the business, a limited liability partnership can mean nobody loses their house if things start to go wrong."

CASE STUDY 1

CONTRACT FARMING AGREEMENT

Andrew Smith and his wife farm 430 dairy cattle at Cotehill Farm, Brampton, Carlisle.

They farm under contract for the landowner. The Smiths' cows are leased to the agreement and they provide labour and machinery. They receive a management fee and a share of the farm's profits.

The contract runs for three-year terms and is reviewed at the end of each term.

"It allowed us to get a foot on the farming ladder and put our money into assets," Mr Smith said. "It gives us the ability to be part of a large farming enterprise. It also means we have some financial interest in how the business does.

"The landowner gets some profits and does not have the stress of day-to-day management. He is still classed as a farmer and this has tax benefits."

CASE STUDY 2

YOUNG ENTRANTS

Jenny and Max Burrows milk 80 cows at Whin Yeats Farm, Newbiggin, Carnforth.

With no family wishing to take on the farm, they came into contact with Claire and Tom Noblet, a young couple looking to get into farming.

The two couples set up a partnership and, with Mr and Mrs Noblet already owning a small number of cows, they put these cows toward the partnership.

Mr and Mrs Burrows have drawn up a long-term lease for the young couple to take on the farm when they eventually retire.

CASE STUDY 3

LIMITED COMPANY PARTNERSHIP

In partnership with his wife, Carl Walters runs about 800 sheep and 40 suckler cows on Bampton Common, near Penrith.

Mr Walters said he wants a new challenge and is looking for someone to slowly take over the daily running of the farm, although he is not looking to pass over the reins completely for some time.

Jim Campbell took part in the National Centre for the Uplands Fresh Start scheme and was eager to take on an uplands farm.

The three decided to set up a limited company, in which Mr Walters, his wife, and Mr Campbell were shareholders.

Mr Walters loans his stock and machinery to the company. Mr Campbell earns a wage and gradually builds up capital in the company with a view to gaining ownership.