



Arnold·Thomson the field leader

2019–2020 edition

Merry Go ‘Round...

Succession planning is about legacy, about dedication and continuity

Farmer Family

Exploring the legal needs of a fictional family.

A step by step summary of some of our services

Generation Rent

The bank of Mum & Dad.
The future of Millennials and Generation X

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Director's Welcome

After many months of Parliament debating the UK's exit from the EU, agreement has been reached between the UK and the EU to a further delay for Brexit until 31 October* this year in the hope that Parliament can agree the government's proposed Brexit deal (or an agreed version) in advance of this new deadline. However, uncertainty still looms large in the absence of any agreed form of Brexit. We will no doubt continue to witness many proposals over the coming months, but the delayed exit date does hopefully provide an opportunity to agree the best possible framework for Brexit and post-Brexit relations with the EU.

Despite this period of both economic and political uncertainty, my colleagues and I all find ourselves as busy as we can remember and have in the last twelve months expanded our commercial, private client and residential departments. The agricultural team has dealt with some interesting transactional work whilst also advising our farming clients on succession planning matters. The commercial property team has seen both commercial and residential development projects continue despite the "B" word. The only change that I continue to see is that nothing ever seems straightforward

anymore – we face more and more challenges on matters we deal with but I am confident with the team we have here that we are equipped to give our clients the best possible advice and achieve the desired outcome.

It will be interesting to see where we are in twelve months' time (Brexit may be resolved and England may have won two sporting world cups!) – there will no doubt be challenges for us all but hopefully this also brings opportunities. I hope in the meantime that you enjoy the articles that follow – do please feel free to speak to my colleagues and me about any points that are raised.

Finally, just two further points worth mentioning:-

- We will be at the Blakesley Show on Saturday 3rd August and hope to see you there; and
- As always, my colleagues and I hope that you find this edition of our Field Leader useful and any feedback is welcome.



Matt Hawkins – Director
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(*this was the current position as at the time of writing)

Contents

ARNOLD THOMSON

- 06 Merry Go 'Round**
Remi Stumpenhuisen

- 18 Brief Introductions**
Morgan Baines and Thomas Hazlewood

- 19 Let's Keep in Touch**
Paula Annetts

PROPERTY & PRIVATE CLIENT

- 04 Wolf Run: The Ultimate Diversification**
Mike Thomson

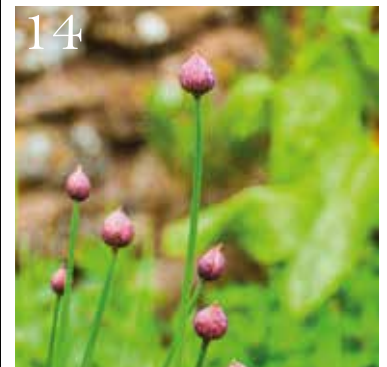
- 08 The Legal Needs of the Farmer Family**
Meet the Farmers
Matt Hawkins
Promotion Agreement
Matt Hawkins
Land Registration
Michael Gray
Partnership Agreement
Kate Austin
Thinking Ahead: Succession Planning
Nadiya Virani-Bland

RESIDENTIAL PROPERTY

- 16 Generation Rent**
Alberta Reid

For expert legal opinions on current matters, visit the latest news section on our website from your phone, tablet or PC: arnoldthomson.com

If you would like to receive this newsletter by email please visit our website and subscribe to our newsletter on the newsletter tab.





WOLF RUN The Ultimate

Our congratulations to Charlie and Will Moreton on winning the Farmers Weekly Diversification Farmers of the Year award

Based at their family farm in Warwickshire, Charlie and Will set up the Wolf Run in 2011

The Wolf Run is an approx. 10k off-road run featuring a series of man-made and natural obstacles located throughout the course. There are currently four events throughout the year (Spring, Summer Autumn & Winter). The concept behind the Wolf Run was to re-create the feeling of running in natural terrain – a wild run that would allow people to experience natural, raw running conditions as far as possible whilst also presenting runners

with a challenging, interesting and enjoyable event.

The courses are a unique mix of great running trails across open ground and through woodland. There are a series of physical challenges using man-made obstacles with the run course also featuring a huge number of nature's finest obstacles, from lake swims to mud pits, fallen trees, boggy ground, ditches, hills and dense foliage, making



“ a
challenging,
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event ”

e Diversification

the run more organic and recreating a natural, wild run.

The design of the obstacles is overseen by a fitness professional with a Masters in Sports Science and years of experience in functional fitness training. This ensures that the entire body is challenged by the design of the course, providing an excellent all-body workout that will leave you fitter, stronger and more confident.

The next Wolf Run takes place at Charlie and Will's home base in Warwickshire on 7 and 8 September 2019. If you fancy something more than a walk in the park go to:

<https://thewolfrun.com/entry/>



Mike Thomson – Director
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Merry Go 'Round ...

I was at the Law Society annual conference in London recently. I won't even bore you with my take on London and the very infrequent trips I make there these days. Each time I venture into the famous metropolis that I once called home, I am astounded afresh at the stark difference between the tempo there and my little slice of heaven here in a tiny (by comparison) Northamptonshire village. Anyway, I digress ever so slightly, as I'm told I'm prone to do now and again.

Back to the conference that took me to London. One of the topics of discourse which I found of particular interest was on succession planning as it affects and as is applicable to a Law Firm. Succession planning of course cuts across every industry and every business where continuity of existence is desired. Being a legal gathering however, the focal point was on law firms. Much emphasis was laid on the need for the partners/directors, experienced and knowledgeable lawyers to ensure that their wealth of knowledge and significant experience is shared with the younger generation so as to pave the way and to prepare them for taking over at the right time. Career progression track, how to quantify the value of a business and other related aspects of succession planning were discussed at great length.

As I sat there listening, enraptured, it occurred to me that none of what was being said was new. Yet there was much to be learnt from putting otherwise abstract thinking into vivid perspective and breaking the topic down into such practical terms as to simplify it all into achievable steps. I imagined and was humbled by the thought that at some point or the other, those from whose experience and knowledge I have benefited over the years were also once sat somewhere similar, listening to more or less the same theories and debates. A country song I am a little partial to came to mind, something to do with life going round and round on a merry go round, with nothing new under the sun.

That's an accurate summation, isn't it? Ecclesiastes tells us that there is a time for everything and a season for every



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“ succession planning...
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dedication and continuity,
the desire to see what one
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next generation ”

activity under the sun. And so when it is our time to plant in others the seeds of interest and aspirations, commitment and other necessary tools of whatever trade we find ourselves in, surely we must water and cultivate their minds so as to stand a better chance of reaping a bountiful harvest. Our farming clients will understand this analogy perfectly, I'm sure. These were my mental visuals of succession planning as I journeyed back home and a grateful sigh escaped me as the train rolled back into Long Buckby.

Succession planning, as my colleagues articulately spell out in subsequent articles, is about legacy, about dedication and continuity, the desire to see what one relentlessly laboured over pass seamlessly to the next generation, to a safe pair of hands. I would even add that where succession planning has been successfully and effectively executed, it should actually be a safer pair of hands. Those following in our footsteps, who we hope to someday inherit the fruits of our labour should not only aim to emulate and recreate or indeed surpass our successes but should also learn from our mistakes (for surely none of us as is human is infallible) just as we once learnt at the feet and by the sides of those before us.



The Legal Needs of the Farmer Family



Matt Hawkins – Director
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Many of our clients will attest to the fact that, wherever possible, our aim as a Firm at Arnold Thomson, is to provide wraparound solutions to their legal needs. Our Private Client, Agricultural, Commercial and Residential Property Teams often work together to this end. Since the Firm's inception in 1990, we have had the pleasure of serving the needs of our clients both within and outside of the agricultural community.

During this time, a number of factors including the ever-increasing demands of the housing market, the introduction of new (and the development of existing) legislation and farming diversification have seen us acting for clients in a variety of situations and across all our specialist areas.

The following case study (split across our Agricultural, Commercial and Private Client Teams) provides an insight into some of the ways through which my colleagues and I are able to attend to your legal needs.

MEET ‘THE FARMERS’

The Farmers are our fictional family. They are faced with some issues surrounding their farm and personal affairs. They have approached us for legal guidance.

The Farmers own a 400 acre farm in Northamptonshire. The farm has been in the ownership of the family for generations and is currently farmed by Mr & Mrs Farmer in partnership with their eldest son, Adrian, who has recently joined the partnership. Mr & Mrs Farmer live in the farmhouse, whilst Adrian lives in another property on the farm. The house Adrian currently occupies was previously an agricultural building developed in accordance with class Q permitted development rights. Some of the farm buildings are now used for other purposes as the family have diversified in order to raise further cash. As Mr & Mrs Farmer are elderly, the younger Mr. Farmer, Adrian, is becoming increasingly involved in the operation of the farming business on a daily basis.

Mr & Mrs Farmer also have two other children (Chris and Emily) who are not involved in the farming business. They live locally and assist their parents with several day-to-day tasks.

Due to the increased demand for housing in the local area, Mr & Mrs Farmer have been approached by a promoter wishing to promote 100 acres of the farm for residential development. Draft heads of terms for a promotion agreement, setting out the proposed basis of the agreement, have been circulated to all parties for approval. The Farmers would like to know exactly what this means and if/what they stand to benefit from entering into a promotion agreement.





PROMOTION AGREEMENT

First and foremost, we explain to the Farmers in summary that promotion agreements allow promoters to agree to apply for planning permission for the development of a landowner's property. The land/property may then be marketed by the promoter once the relevant planning permissions have been obtained. If the property is sold for development, the promoter receives an agreed proportion of the net sale proceeds. If the promoter is unable to obtain planning permission for any number of possible reasons, the promotion agreement will terminate on a certain date as agreed between the parties. With a promotion agreement, a developer applies for and obtains planning permission for the land at its own risk and cost and at no cost to the landowner, i.e. Mr & Mrs Farmer.

It is most advisable for landowners who find themselves in the shoes of our Mr & Mrs Farmer to seek robust legal, accounting and

agency advice – particularly in view of the on-going Brexit uncertainty – to ensure that their position is effectively protected. With expert advice and skilful guidance, the Farmers should be primely positioned to achieve the maximum price possible and to protect their interest throughout the promotion period, particularly if market conditions should become unfavourable. A few of the important points to consider would include:

- Mr & Mrs Farmer's ability to carry on farming the land during the promotion period;
- agreement of a minimum price and some control over the promoter's costs; and
- any significant decisions (such as the detail of the planning application itself) should be referred to Mr and Mrs Farmer for prior approval.

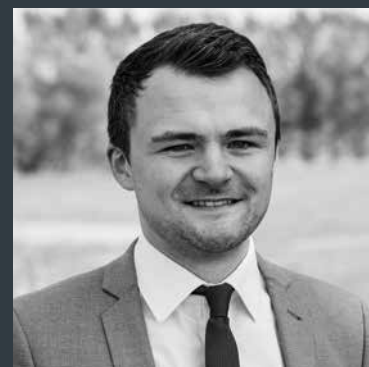
Here at Arnold Thomson, we have a team of experts who regularly deal with promotion agreements on behalf of our clients and we are familiar with the unique issues which can arise for agricultural clients when terms are being considered. While providing the Farmers with the necessary advice on entering into the proposed promotion agreement, it became apparent that some of the land in question may be unregistered. This is an issue which our Commercial Property Team routinely deal with on our clients' behalf.

LAND REGISTRATION: IS THE FARM REGISTERED?

Mr & Mrs Farmer have confirmed that although the farm has been in their ownership for many years, there are large parts which are yet to be registered in their names at the Land Registry. Usually, this is not an insurmountable problem. Whilst the vast majority of land in England and Wales is now registered, it is not uncommon for agricultural land which has been in the ownership of one family for generations/many years to remain unregistered.

Our advice to Mr & Mrs Farmer would be for them to consider submitting an application to the Land Registry for the voluntary registration of the unregistered land in readiness for the potential development sale under the promotion agreement. This is due to the fact that prospective purchasers or developers may not accept an unregistered title and they may insist on the title deeds being registered before proceeding any further. This is of particular importance if the plans attached to the deeds are historic or old and may no longer meet the Land Registry's requirements. With voluntary first registration, Mr & Mrs Farmer will have the opportunity to resolve any issues with mapping, so that no undue delay is experienced if planning permission is obtained and a buyer is found.

One of our areas of specialty here at Arnold Thomson is complex first registration, which also includes applications following loss of title deeds, adverse possession claims and rectification of titles and plans where there is an error requiring rectification. We would therefore be able to assist Mr & Mrs Farmer with the registration of their unregistered parcels of land.



Michael Gray

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PARTNERSHIP AGREEMENT Based on their instructions to my colleagues, it is evident that Adrian Farmer has recently joined his parents in the farming business. As the business is currently run as a partnership, it is most advisable that the parties should formalise things and enter into a written partnership agreement.

It is imperative that any partnership agreement accurately sets out the way in which the business is intended to operate. If a partnership is operated without a written agreement in place, the partners of the business run the risk of having default provisions enforced by legislation which in a number of cases may not be suitable to their needs/circumstance. In particular, upon the death of one of the partners, legislation provides that the

partnership comes to an end and this can result in banking and other administrative difficulties. If, as is the case in this hypothetical matter, Mr & Mrs Farmer did not already have a written partnership agreement in place, Adrian joining the farming partnership would be an opportune time to have an agreement drawn up.

For businesses with existing partnership agreements, it is essential that the agreements are reviewed regularly to ensure that they remain fit for the intended purpose. For instance, assuming that they already have one in place, Mr & Mrs Farmer may wish to vary the provisions of the existing partnership agreement to cater for their son's entry into the partnership.

“it is essential that the agreements are reviewed regularly to ensure that they remain fit for the intended purpose”



The Farmers should also be mindful of the provisions of the partnership agreement and any conflicts which may exist with the provisions in their Wills. A partnership agreement can override the terms of a Will. If there are two conflicting documents in place then ultimately it could be costly to resolve issues between different parties. The agreement should also clearly identify which assets are partnership assets, and this should be reflected in the Will drafting. In addition, Mr & Mrs Farmer should ensure that they have an up to date Will in place. We would recommend that Wills are reviewed every five years in any event.

The designation of partnership assets can also have significant tax relief consequences, including Agricultural Property Relief and Business Property Relief for Inheritance Tax purposes. It is advisable therefore for partnership agreements to be viewed from a tax planning perspective in the same way as Wills. We work closely with our clients' accountants and tax advisers to ensure that the desired tax outcomes are achieved wherever possible. Drawing up a clear partnership agreement, taking detailed advice from an accountant and a well drafted Will is more than likely to make a real difference when dealing with Inheritance Tax planning for the future.



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THINKING AHEAD: SUCCESSION PLANNING

Without a Will, Mr and Mrs Farmer's assets will be divided in accordance with intestacy rules, which set out a designated way to divide assets on an individual's death. Should either Mr or Mrs Farmer pre-decease the other without a valid Will, under the rules of intestacy, the survivor of the two would not necessarily inherit everything. Our Private Client Team will provide the Farmers with skilful guidance on how best to ensure that their interests and their children's interests remain protected.

Mr & Mrs Farmer are advancing in years and they find themselves depending more on their children, Adrian, Chris and Emily. As they become more reliant on their children to look after their affairs, we would strongly advise Mr & Mrs Farmer to draw up Lasting Powers of Attorney (LPAs). The purpose of an LPA is to formally vest power in others to look after your needs. There are 2 parts to an LPA. The first is the Property and Financial Affairs LPA which effectively authorises appointed attorneys, (in this case, the Farmer's children), to assist the donor (their parents), with tasks such as paying bills and operating their bank accounts. There is also a Health and Welfare LPA, which as the title suggests, authorises the appointed attorneys to make decisions on the donor's behalf

regarding their day-to-day care and medical matters. In the case of the Farmers, Mr & Mrs Farmer would be the donors while their children, Adrian, Chris and Emily (should they wish to appoint all 3), would be the attorneys.

Understandably, the thought of putting documents in place to allow others to help deal with our otherwise private affairs, either now or at some point in the future when one may no longer have the capacity to manage such affairs, may not be an entirely comfortable one. It is however important to be conscious of the possible repercussions of not having such an arrangement in place. If Mr and Mrs Farmer do not have LPAs in place and either of them were to lose capacity, no family member or loved one would have the legal authority to make decisions on their behalf unless an application is submitted to the Court of Protection for a Deputyship Order. Not only is the application costly but it is also time consuming and could therefore jeopardise progress on the promotion agreement and subsequent development of the Farmer's land. In the absence of an LPA or an appointed deputy, none of the children would have the legal right to agree to and sign any documentation on behalf of their parents.

As this hypothetical case touching different aspects of the Farmers illustrates, there are usually different factors to consider when dealing with property and personal affairs. Some of these factors often overlap and have implications for a number of different decisions. We work closely with our clients' accountants, land agents and other professional advisers to ensure that both your present and long-term interests are successfully protected.



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17th – 21st June 2019



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Generation Rent

I have been giving serious thoughts to how my 2 teenage children will fare in their future attempts to get on the first rung of the housing ladder. Whilst I obviously love my children greatly, becoming an “empty nester” is not without considerable appeal. According to a recent report by the Resolution Foundation, I may however have much longer to wait. Apparently 40% of “millennials” – those born between 1980 and 1996 – live in rented accommodation by the age of 30, twice as many as “generation X” – those born between 1965 and 1980. The report concluded that up to a third of millennials face renting their entire life and/or remaining at home with their parents far longer than their predecessors did.

‘Generation rent’ as millennials are aptly referred to, require far more financial assistance to plant a foot on the much coveted property ladder. They are also strong advocates for more affordable homes for first-time buyers to be built, as well as better protection for residential property tenants. Renting for those with children does not provide the security needed to raise a family. The report further reveals that 1.8 million families with children rent privately, up from 600,000 15 years ago. Millennials are reportedly paying a record share of their income on housing in return for living in smaller, rented accommodation.

It’s not all negative news though. There is help to be had for those who know where and how to look. For instance, there have been some steps recently to support property development and first-time buyers. First time buyers purchasing properties up to £300,000.00 no longer pay stamp duty but young people are still having to save for years to raise the deposit for a house or rely on “the bank of mum and dad.”

Purchasing your first home is a big step and an exciting time. At Arnold Thomson, we are here to assist you and guide you through the process. We will provide guidance and advice on how to manage your Help to Buy ISAs, stamp duty savings and gifts from family.

Alberta Reid – Director
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Hello

BRIEF Introductions



Name: **Morgan Baines**
Qualification: LLB (Joint Honours)

JOINED ARNOLD THOMSON: 3 September 2018

AREAS OF EXPERTISE: Residential Property – I deal frequently with sales and purchases and have experience dealing with the Help to Buy Scheme.

CAREER HIGHLIGHT TO DATE: I would say exchanging my first matter was a career highlight for me. I will always remember the feeling of gratification and sheer happiness for the client! I am also proud to be completing the Legal Practice Course whilst working full time and managing my own case load.

CHILDHOOD ASPIRATIONS: I initially wanted to be a Police Officer! I soon realised that I had a passion for law and pursued a legal career.

DOG, HORSE OR CAT? Cat & Dog! We have two cats, Shia and Sheba, and a dog, Hugo.

FAVOURITE ACTOR: Rachel McAdams and Melissa McCarthy. Melissa McCarthy never fails to make me laugh!

BEST MOVIE: About Time – it is such a feel-good movie. I also enjoy watching Superhero movies and my favourite is Captain America The First Avenger (as well as all the Marvel Superhero movies).

ADVICE TO CLIENTS: We are here to help. Please feel free to ask us any questions, no matter how trivial you think it is. With conveyancing, there are a lot of important documents you will need to sign. I would recommend that you read documents carefully before signing and, again, please ask for any assistance.



Name: **Thomas James Hazlewood**
Qualification: LL.B (Hons); LL.M; LPC, Solicitor

JOINED ARNOLD THOMSON: 2nd January 2019

CAREER HIGHLIGHT TO DATE: Joining Arnold Thomson. It is a very friendly firm with a host of very lovely and loyal clients which makes it feel like a home away from home.

CHILDHOOD ASPIRATIONS: As a child who loved history and politics I always wanted to be an archaeologist.

DOG, HORSE OR CAT?: I currently have an incredibly fluffy, friendly, loyal and in all respects dog-like cat called Jasper. I think I would therefore struggle to pick between the two.

FAVOURITE ACTOR: Geoffrey Palmer in 'As time goes by' with his very dry sense of humour, or Sean Bean in the 'Sharpe' tv series.

BEST MOVIE: 'Moana'. I recently had a child to make my love of children's films more acceptable.

ADVICE TO CLIENTS: Wills and Lasting Powers of Attorney are easy to put off. They are however like insurance policies. Once they are in place it offers that peace of mind, hopefully you will not need them, but if you do, it is much easier.

ANYTHING TO ADD?: If you have a question or something isn't clear, just ask. I'd much rather you ask lots of questions as it shows you are thinking about what you are doing. It also comforts me that you will then fully understand what you've put in place. Equally, if you have questions after the meeting, let me know. There's nothing worse than thinking of a burning question just after you leave and not feeling you can get an answer!

Let's Keep in Touch

We hope that you have enjoyed this edition of the Field Leader and that you wish to continue to receive it. Please also let us know if you have any feedback for us. The GDPR regulations that came in last year mean that you now have to opt in to receive marketing information and event invitations from us. You can update your preferences at any time by sending an email to enquiries@arnoldthomson.com.

So please let us know if you would like to join or stay on our mailing list by OPTING IN. You can do this by any one of the following:

- 1) E-mailing me at paula.annetts@arnoldthomson.com
- 2) Completing our specially designed postcards which are readily available from our Reception
- 3) Indicating your preference on our revised Terms of Business which you will receive when we open a new matter for you; or
- 4) On our feedback forms at the end of a transaction.



Paula Annetts – Office Manager
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The Blakesley Show

3rd August 2019

We are proud to be attending the 135th Blakesley & District Agricultural Show again this year. Come and have some refreshments and a chat with us, we'd love to see you.

Supporting the Air Ambulance

We are extremely proud to be ongoing supporters of the Air Ambulance Service in 2019. The Air Ambulance Service are a non-government funded charity that flies two local air ambulances, across the counties of Warwickshire, Northamptonshire (WNAA) and Derbyshire, Leicestershire & Rutland (DLRAA). What many people don't realise is that they're only able to continue with their crucial services because of generous donations.





AT Arnold · Thomson

- The information in this newsletter is not intended to be exhaustive of the topics covered. Specific advice should be sought on the application of the law in any particular case.
- If we do not have your correct details please also inform us of any changes so that we may update our records.

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Cover photo: View from Bury Mount, Towcester.