



## partnership agreements - a necessity for farmers

**Many farming families do not have a partnership agreement in place. This can be problematic if there is a dispute or a partner leaves, wants to retire or dies.**

The partner concerned or his immediate family often have no idea where they stand and uncertainty can lead to insecurity. This can affect not only the business - and potentially its viability - but also family relationships.

Increased asset values, particularly land values, and trading profits will exacerbate what is potentially an already difficult position. It is vital that families analyse where they are in terms of asset ownership and where they want to be in the future, particularly with regard to the younger generations.

A number of members of one family may well need to be accommodated - in residential terms - on the farm. Tenancies may be held by certain individual partners but the land within the tenancy may be used for the benefit of the partnership as a whole. Freehold land occupied by the partnership may be treated as owned by the business when it is actually held as separate property by one or more of the individual partners. This can have serious implications from an inheritance tax perspective and a land law perspective as well.

Even if families do have partnership agreements in place they may have been signed many years ago and will no longer be appropriate – those agreements need to be revised.

Partnership agreements may also have some interplay with the wills of the individual partners. Wills that have already been made may have become obsolete with the passage of time and may need to be reviewed and updated.

An analysis of the use and ownership of the assets of the partners or the partnership should also be undertaken to establish whether the conditions and the criteria for Agricultural and Business Property Reliefs (for Inheritance Tax purposes) can be met. Increasing land values make these reliefs not only valuable, but crucial.

In terms of retirement provisions, it is important that these are relevant and appropriate to the size of the business and the size of the individuals' capital accounts. If a partner is to retire, what impact is that going to have in the context of the business or remaining partners being able to afford to pay out a retiring partner's capital?

With partnership agreements it is never a case of "one size fits all". Each business is unique and will have its own particular issues whether in relation to personalities, the ownership of assets, the age profile of partners or the objectives of the partners and their families. It is important that these issues are addressed.

We have a checklist intended to help clients and potential clients compile an accurate and comprehensive summary of their requirements which is essential before any farming partnership agreement can be prepared. The checklist, named "Your Partnership Agreement Check List" can be found on the Latimer Hinks website .

**For further information contact [Anne Elliott](#) or [Luke Busbridge](#)**