

Autumn Bulletin 2026 for CAAV Members



Farm Succession - Protecting your Professional Indemnity Insurance

At MFL Insurance Group, we have looked after the Professional Indemnity Insurance arrangements of Rural Consultants for a period now approaching 30 years and we would highlight what we have found to be perhaps one of the most complex and costly claims a rural professional might face; farming succession planning.

As a professional adviser, you will be aware that your farming business clients will at some point need a clearly defined plan to implement farm succession, though implementing that plan may take some persuasion when many farming clients will instead seek to rely on their own informal, commitments to future generations whose input to the business may have varied greatly. Those future generations might then face an unwelcome shock when their expectations are not met.

It is then a reality that very sizeable claims might follow, alleging negligence against the professional adviser, these claims often being in the millions. Whether the claim itself is either wholly or partly successful will depend upon the circumstances involved and crucially the defences available to the professional adviser. In addition to the cost of any recompense to the claimant, there will undoubtedly be significant legal defence costs incurred.

Examples of such claims, including where there might have been a successful defence, often around 'proprietary estoppel' (reliance on a promise), can be found online and we don't propose to repeat these here. Instead our focus is on prevention.

Defending such claims will be reliant upon good risk management. We'd urge members to bear this in mind and would highlight a few key points which might be taken into consideration:

- The farm business may need some persuasion to implement a strategy for their planned changes which may indeed take many months, even years, to put together.
- Other professional advisers, in particular legal and taxation, will likely be required and whilst you would be working closely with them as part of a team given some of the overlap, appropriate retainers, directly with the client, should be the way forward for all parties and all at an early stage.

- Can you realistically act for more than one party? If so, how would your terms be agreed and how would conflict be managed? Complexities can arise here and, whilst long-term relationships with the farming family will naturally mean you want to help all parties, this may be impractical.
- What is your client's intention/end-point, e.g. retirement, bringing younger family members (or others) into the business, provision of housing for family members, distribution of assets to non-farming family members, an ongoing successful/diversified business?
- How will this intent be legally documented? Intent can be difficult to prove either between family members, with HMRC and especially post-death. It may be worth considering Power of Attorney.
- How is the farm, business assets and housing structured currently? Any tenancies/succession rights, development rights, occupancies etc? A register of ownership should be a key starting point.
- A diversified business will face additional issues whether around tax implications, Agricultural or Business Property Relief, sporting rights/access to land, etc.

Aside from the direct costs involved with such claims when made, whether damages and/or legal defence costs, there can also be significant indirect costs incurred through your own time, time which might otherwise be spent on other aspects of your own business.

Whilst we appreciate you will of course be well aware of the issues raised here, we nonetheless hope you find the above to be useful in giving some consideration as to how you might prevent these type of claims coming your way.

If you wish to discuss further, please contact one of the team who would be happy to help.

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