

TAKE FIVE

Your farm's legal
health check



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Thrings' Legal Health Check

Thrings' Legal Health Check has been created by our specialist Agriculture team specifically to identify a farm's vulnerabilities and issues that need to be dealt with now, and to spot the potential for problems that may occur in the future.

Here are five of the most common issues we find.

1. Partnership agreements and contracts

If you're in any farm partnership and there is not a recently updated partnership agreement in place, that's a huge red flag that can cause problems down the line.

A partnership agreement can cover a whole range of fundamental and practical issues including who owns what in a business, how much money is taken out by each of the partners, how much holiday can be taken, who else can join the partnership, and how someone can be removed from it.

Many of the partnership agreements we see involved in disputes are historic, and that can make them ineffective if circumstances have changed over the years. For example, an old agreement between parents and their children formed decades ago may not be of much help when the parents die if the estate is left to siblings who disagree about how land should be used.

Legally sound contracts with external parties are also vital. All too often we see farms lack contracts with suppliers, customers or, almost as concerning, they use standard terms that are not tailored for the task at hand and are not nearly enough to protect them in the event of a problem. A Legal Health Check identifies these weaknesses and the if you are an NFU member and subscribe to its Legal Assistance Scheme the NFU is willing to contribute to your legal costs of having your contracts checked.

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2. Estate and succession planning

Many farmers keep working well into their later years, and some are reluctant to discuss what may happen after their death. A failure to plan for succession, and to discuss this openly with family members, can sadly lead to bitter disputes.

If everyone involved knows in advance what they will receive in inheritance, and what the expectations are about their future role on a farm and its related businesses, arguments are far less likely to occur when the time comes.

Having effective succession planning in place also avoids the possibility of a member of the family believing they have been made an assurance or promise that they will be left land or assets - known legally as a [proprietary estoppel](#) claim. These claims are on the increase and we can help you avoid them.

The succession planning process can also help ensure that assets are handed down in a tax-efficient way. This can include gifts made during the farmer or landowner's lifetime in certain circumstances.

3. Powers of attorney

Farmers can often stay in charge of their land and agricultural businesses into their later years. This makes it prudent to plan for the possibility that one day they may no longer be able to make the day-to-day decisions involved in running the business.

This may happen through illness, injury or the onset of a mentally incapacitating condition such as dementia. Like all business owners, farmers should have a Lasting Power of Attorney (LPA) in place so their business and personal financial matters can be executed on their behalf, by someone they trust, if necessary.

Planning for this possibility - however remote it may seem - can be a lot more straightforward than trying to address the problem when it arrives. As with succession planning, having an LPA organised now can avoid unpleasant disputes in the future. Find out more by downloading our [Guide to Lasting Powers of Attorney](#).

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4. Understanding the property you own

Farmers can own land for decades, yet still find there are surprises when it comes to exactly what they know about it. Rights of way are a common example.

A private right of way always involves access to or from your land, to or from a neighbouring property. Sometimes a farm has the benefit of a right of way over a neighbour's land, and sometimes it's the other way round. In either case, a check can discover that what a landowner assumed was a legal right of way is not formalised in the deeds for the land.

Public rights of way can also be a problem - a lawyer may need to look at where they stop and start, and whether they are legally defined.

A right of way can accrue if a route is used, unchallenged, over time by users such as ramblers, horse riders or cyclists. This may have a significant impact on the valuation or future use of land, so it is sensible to seek advice well ahead of that becoming an issue and you can protect against future claims.

As with any property, boundaries can also be the cause of disputes, and if a family has owned land for a long time this may not come to light until the point at which the land is to be sold or used for a diversification project. A Legal Health Check can identify those potential issues in advance.

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5. Planning

In challenging times, and with the phasing out of agricultural subsidies from Europe planned for 2028, there is increased pressure for landowners to find new streams of income.

Farmers are becoming increasingly creative when it comes to diversification, using land for leisure and tourism projects such as holiday lets, glamping, camping and caravanning - and for activities as wide-ranging as motorsports and go-karting; shooting, fishing and even dog walking.

There is also increased interest in using land for housing, especially as the planning regime allows some opportunities for the conversion of barns into houses without going through the full legal planning process.

For any activity on your land, it is important to make sure that the right planning permissions and insurances are in place - and that the responsibilities of the landowner and any operators (for example, third parties providing hazardous activities such as shooting) are clearly defined.



Would you like to know more?

These common issues and many more are addressed in Thrings' Legal Health Check which is free of charge. For more information, visit our Legal Health Check page [here](#).