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Autumn 2025

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Welcome to this edition of AgriLore with a mini focus on sustainable agriculture.

With so much happening in the sphere of sustainable agriculture, this edition offers a mini focus on the topic. There is an ever-increasing need to farm in a sustainable way that protects environmental health, economic stability and food security, even though these issues often conflict. In this edition we focus on some of these issues including succession applications, the rules of good husbandry and the future of UK farming.

The Law Commission recently announced that it will be reviewing agricultural tenancy law with the aim to modernise it. It is thought that we could see greater collaboration between landlords and tenants and a focus on diversification. We are watching closely for updates.

With the Autumn budget looming, clients together with their advisors should take time to evaluate their financial and legal affairs. Molly Wills discusses some of these issues on page 11. Farmers remain frustrated by the government's failure to acknowledge the damage that plans to tax inherited farms, cut subsidies and reform planning, will have on the farming community. Against a backdrop of disappointing growth figures, growing public debt and budgetary constraints, it is unlikely that Rachel Reeves will concede anything to farmers. However, due to the recent cabinet reshuffle we have seen the appointment of a new DEFRA secretary, Emma Reynolds, who has vowed to provide farmers with 'certainty and confidence' thereby offering some hope of change.

For a long time now, estates have offered employees assured shorthold tenancies knowing they can regain possession easily when the employment terminates. The Renters Rights Bill is set to make things harder for landlords, abolishing section 21 notices and requiring landlords to provide statutory grounds for eviction. Before the Bill comes into force, landlords should review their workforce alongside their housing to ensure they protect their position.

For employers, the new employee rights offered by the Employment Rights Bill, will generate further challenges. Combined with the mounting pressures of increased national insurance contributions, it is likely that employers will be looking to cut costs possibly by reducing the workforce or passing costs onto consumers. This in turn could trigger food inflation, or indeed inflation on a wider scale.

Back in the office, we are very pleased to announce that we have two newly qualified solicitors; Henrietta Bullock has joined our Private Property and Landed Estates team, and Helen Norman has joined the Agriculture team.

We were delighted to partner with the CAAV to deliver the 20th Annual National Tutorial for 150 members hoping to take the Fellowship exams. Thanks to Jake Rostron for writing the case study and leading the day and the rest of the team for the delivery. Good luck to everyone with their exams.

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Succession Applications:

What makes a 'suitable' applicant?

When applying to succeed to an Agricultural Holdings Act 1986 (**AHA**) tenancy, the Tribunal historically applied its wide discretion in deciding whether an applicant met the 'suitability' criteria.

Under the old succession rules, which apply to applications for succession where the date of death or retirement notice is pre-1 September 2024, the suitability criteria was relatively straightforward and reasonably understood.

The new 'suitability' rules widen the matters the Tribunal is expressly directed to regard. However, most of the criteria is principally familiar. In respect of those considerations, is the Tribunal to raise the bar against which the applicant is assessed?

Aspects of the new criteria that are less familiar relate to considerations of 'high standards of efficient production and care for the environment'. In the absence of reported Tribunal cases providing guidance on how the new test is being applied, what can applicants and landlords expect and how can they best prepare?

The new suitability test

When looking at the suitability of an applicant, the Tribunal must still consider 'all relevant matters', including:

- their capability and capacity to farm the holding commercially, with or without other land, taking into account the need for high standards of efficient production and care for the environment in relation to managing that holding;
- their experience, training and skills in agriculture and business management;
- their financial standing and their character;
- the character, situation and condition of the holding; and
- the terms of the tenancy.

In addition, the new rules introduce a hypothetical test; the Tribunal must be satisfied that if the applicant had applied in an open competition for a tenancy of the holding, a prudent and willing landlord could reasonably be expected to regard the applicant as among the candidates to whom they would be willing to grant the tenancy.

What has changed?

1. Farming commercially

The express requirement to farm commercially is new. However, the requirement to run a commercial operation from the holding has always been a requirement of an AHA tenancy as the legislation requires the holding be used for the purposes of a trade or business.

In considering the applicant's capability and capacity to farm the holding commercially, the Tribunal is directed to consider 'the need' for high standards of efficient production and care for the environment. The wording compels the Tribunal to place significant weight on those matters. Such an assessment is likely to be both subjective and uncertain.

Applying broad industry standards to efficient production will not always be appropriate and it will be subject-holding specific. In terms of 'care for the environment', will it be

sufficient for the applicant to show that they intend to and are able to join environmental schemes? Will the applicant need to demonstrate a clear pathway towards regenerative farming practices? Expert evidence will be needed to assist the Tribunal in determining what is practicable and reasonably achieved on the holding.

Past performance of the farming operation under the management of the outgoing tenant, should not hinder the applicant. Showing that the applicant has the skills (and means) to effect that change, will be central to satisfying the Tribunal that the farming operation can meet the standards required.

There has always been an expectation that the applicant submit a business plan setting out how the business would run if the applicant was to secure the tenancy. The robustness of that document will be key to informing the Tribunal of the matters now central to the suitability criteria.

2. Experience, training and skills

Previously, the wording of the suitability criteria directed the Tribunal to consider the extent to which the applicant had been trained in or had practical experience of agriculture.

The Tribunal will now, however, look at the applicant's experience, training and skills in business management as well. It will be even more important for applicants to show that they have been actively involved in the management of the farming business and have the skills to manage the business going forward.

3. Financial standing

The financial standing of the applicant is a familiar part of the suitability test. It is already subject to considerable scrutiny in the first limb of the succession criteria (the eligibility test), with the applicant having to prove they meet the 'principle source of livelihood test.' The financial standing of the applicant will be considered as part of the Tribunal's assessment as to how the holding is to be farmed commercially going forward.

4. Hypothetical test

With regards to the hypothetical tendering test, this goes to the very heart of the suitability test. It is the litmus test for all succession applications- based on the new or old rules.

The revision of the suitability test, with a focus on commerciality, is intended to encourage productivity and the development of the farming sector. This is reflected in a further change to the succession criteria that tenants who are farming a 'commercial unit' are no longer precluded from applying to succeed to an AHA tenancy.

Planning and Preparation

When the Tribunal considers an application for succession, it is, primarily, an assessment of the years leading up to the tenant's death or the service of the retirement notice. How the applicant has performed in that time, will form the basis of the applicant's case. Planning, organisation and the appropriate structuring of the business operation and finances, remain key to any anticipated succession.

Preparation for succession must be undertaken with the new suitability criteria firmly in mind. It remains the case that the timing of a retirement notice is a key strategy for tenants who wish to secure the holding for a close relative. This has only been enhanced with the abolition of the retirement age for the outgoing tenant. Tenants and their successors need to think about succession to AHA tenancies, as part of their lifetime planning not only on death.

Thorough and strategic planning will allow tenants and their successors to demonstrate a clear case for succession thereby providing families with the opportunity to negotiate a succession tenancy with their potential landlords.

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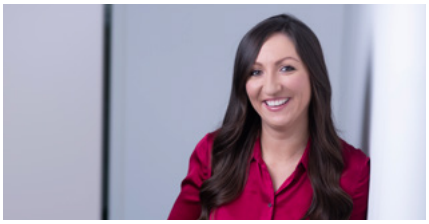

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Arbitration Act 2025:

What it means for landlords, tenants and professionals

The Arbitration Act 2025 (the **AA 2025**) came into force on 1 August 2025 and marks the most significant update to the UK's arbitration framework since the original Arbitration Act 1996 **(AA 1996**). The AA 2025 modernises procedures, enhances efficiency, and reinforces the UK's position as a global leader in arbitration.

For the rural sector, especially for landlord and tenant disputes, arbitration is the most common forum. Arbitration allows the appointment of a specialist surveyor or lawyer engaged in an agricultural specialism expertly to manage and resolve disputes, in a more flexible and adaptable process than the civil courts.

What key changes does the AA 2025 bring for the rural sector?

1. Summary disposal powers

The AA 2025 introduces section 39A, granting arbitrators the express power summarily to dismiss claims or defences that have no real prospect of success. These changes mirror the court's powers to dispose of claims and defences summarily.

This will reduce costs and streamline proceedings by allowing early disposal of weak claims. It could also deter tactical claims or defences brought simply to cause delays or exploit the negotiating positions.

For landlords, this might make the process of resolving Case B notices to quit for developments more straightforward, particularly when all the requirements are met.

Tenants might opt to use this procedure where a particular oppressive landlord is asserting pressure on the tenant without any legal merit.

For those advising the parties, it provides a more cost effective route to dispute resolution.

2. Jurisdictional challenges

The AA 2025 tightens the rules around jurisdictional challenges under Sections 32 and 67 of the AA 1996. Courts are now restricted from rehearing evidence already considered by the arbitrator unless it is in the interests of justice. Furthermore, parties cannot seek a court ruling on jurisdiction e.g. if the Agricultural Holdings Act 1986 applies or not, if the arbitrator has already made a determination.

These changes will prevent duplicative litigation and offer parties increased certainty.

3. Arbitrator's duty of disclosure and immunity

A new statutory duty requires arbitrators to disclose any circumstances that might reasonably give rise to doubts about their impartiality, including those they ought reasonably to be aware of. Furthermore, arbitrators are now immune from liability for resignation unless it is unreasonable, and they are protected from cost orders unless bad faith is proven.

This should encourage arbitrators to take on complex cases without fear of personal liability or exposure and give the parties greater comfort on conflict issues. Arbitrators are often appointed in the local rural area where they are familiar with the parties. This means that arbitrators must report conflict concerns at the outset of the matter.

4. Court powers

The AA 2025 has widened the powers that the court has in relation to the conduct of arbitration. Courts can now issue orders not only against parties to the arbitration but also against third parties, enhancing the ability to preserve evidence, freeze assets or compel witness testimony.

Conclusion

The AA 2025 will not provoke radical changes for the agriculture industry. However, it will allow greater efficiency for running disputes.

Parties will benefit from increased certainty both from the outset, given the risks of summary awards (where tactical referrals or delay tactics may be used) and after a decision is made, given the barriers now to overturning decisions.

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Sustainable Agriculture: the future of UK farming:

Interview with Dustin Benton from Forefront Advisors

Agricultural land in the UK faces an immense balancing act – namely, addressing food security, climate change and nature. These interests have often been framed as competing; be it the roles of synthetic fertilisers and cattle in food production, or adjusting land usage to accommodate schemes such as re-wilding. Discourse on these issues is often highly emotive, pulling on economic, political and cultural chords.

Dustin Benton, Managing Director of Sustainability at Forefront Advisers, is a policy expert on the natural environment and food strategy. His 'Three Compartment' model suggests that food security, climate change and nature need not compete. The underlying principle is that efficient land use that can recognise the distinct potential of different parcels / swathes of agricultural land. With 70% of land in the United Kingdom dedicated to farming, the successful implementation of the model would have a dramatic effect on carbon sequestration while protecting food production.

Below, Dustin addresses the model in further detail, commenting on its interplay with the Environmental Land Management (**ELM**) schemes, dietary habits, and farmers' sense of pride in the work they do.

What is the ambition behind the 'Three Compartment' model, and why is it helpful to divvy up agricultural land into compartments?

The idea is to try to make the most of what an individual parcel of land is good at, thinking about all the things society wants: good food, clean water, carbon removal, abundant wildlife, and rural culture. Because it's nearly impossible for a single parcel of land to provide all these things at the same time, it's helpful to separate land into three broad categories.

In England, the least productive 20% of farmland produces less than 3% of the food. Trying to make this 'unproductive' land – much of which is in the uplands – grow food means it can't do other things. Using that land as woodland or peatland habitat, to store carbon, and to store water to reduce flooding and drought, makes the most of what it is good at. That's the first 'compartment' – land for nature.

The second compartment is the most fertile soils which can grow lots of food. It's very hard to grow lots of food and store carbon on the same land. So, we should forego carbon storage and habitats on this land and instead use it to grow lots of food.

What land usage does the model foresee for land which is neither the most productive nor least productive for food production?

The third compartment – land that is only moderately fertile – can provide some food and some habitat. Because it's doing both food and nature, it's not as good at either as the first or second compartment, but it's important for farm-adapted species and to produce the landscapes and lifestyles that define the character of the British countryside.

Ultimately, the 'Three Compartment' model tries to get the best mixture of 'land sparing' and 'land sharing' by doing a bit of both. If you run the numbers, you get more food, more nature, and more carbon storage by using three 'compartments' than other approaches.

The model therefore sees some agricultural land being taken out of food production to focus on the environment. Is a change in dietary habits anticipated by the 'Three Compartment' Model?

Eating less meat and dairy frees up more space for land sharing on moderately fertile land. The reason is that animals, while tasty, are inefficient: feeding 100 calories of grain to a cow produces just 3 calories of edible beef. Chickens, the most efficient farm animals, would produce 12 calories. If you eat a lot of animals, you need a lot more land than if you eat only a moderate amount.

Across the UK, eating 30-50% less would mean that the majority of farmland could be farmed at low intensity, in an organic or agroecological way. If we want to eat lots of meat, then you're forced to intensify farmland to grow more meat and feed, as well as increasing the area of forest to offset higher farm emissions.

The ELM schemes, to some degree, were anticipated to address the friction between food production and environmental protections on agricultural land. In your opinion, do the ELM schemes achieve this?

The ELM schemes could have addressed this issue, but they did not as the last government got the balance between the three ELM schemes wrong.

Too much emphasis was put on the Sustainable Farming Incentive, which mostly supports highly (food) productive land with limited benefit for climate, nature, and for farmers in the uplands. Although it's a bit of a caricature, Countryside Stewardship would be well suited to supporting moderately fertile farmland to produce a bit of food and some nature. Similarly, Landscape Recovery can support low productivity land to provide the climate and nature services that farmers currently can't get paid for, and which often require large areas of contiguous land to be managed in a similar way – both for wildlife and to manage water at catchment level.

You and I have both attended events where the suggestion is that some farmers fall between the gaps of the ELM schemes, with little-to-no support aimed at the type of land they manage. For example, upland farmers. How could this be managed?

A better ELM scheme would have lots for upland farmers! Modelling I've been involved in suggests that, at a carbon price of £75/ tCO_2, upland farmers reforesting or rewetting the peat on their land would at least double their incomes based on carbon payments in a Landscape Recovery scheme. For those farmers that wanted to, they could keep a small flock of sheep to graze in the forest – enough for the local butcher, but not enough to supply mince for supermarket moussaka!

A more philosophical one to finish on… You have previously floated the idea that food production, rather than the protection of the environment, underpins a farmer's sense of pride in their work. Do you anticipate this being an obstacle to the implementation of the 'Three Compartment' model?

It's a huge obstacle. Farming is a vocation – not just a job. It's about more than money. Of course, farmers should be proud to grow food, but we do farmers a disservice by pretending that producing food at any cost, which made sense during the second world war, is what society wants today.

Farmers should feel pride in producing abundant nature and landscapes that store carbon too. Society should both pay them a fair price for doing all this, and respect the expertise needed to do it well.

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Autumn Budget 2025:

What to expect

HM Treasury has confirmed that the Autumn Budget will take place slightly later than usual this year, on 26 November 2025. Tax rises are expected due to the growing public debt and there has been much speculation as to what form these could take.

The Government has pledged not to increase income tax, VAT or employees' National Insurance, but a number of other measures are reportedly being considered, including further possible changes to inheritance tax (**IHT**), capital gains tax (**CGT**), property taxes and tax on pensions.

Inheritance Tax (IHT)

The Autumn Budget 2024 introduced a number of significant changes to IHT, including:

- limiting Agricultural and Business Property Relief as from April 2026
- bringing pensions within the IHT net as from April 2027
- freezing thresholds until 2030.

The Treasury is now reported to be considering further reforms to IHT, targeting the rules on lifetime gifting. Currently, an individual can make outright gifts of unlimited value free of IHT if the individual survives for a period of seven years after the gift (known as 'Potentially Exempt Transfers' or 'PETs'). If the individual fails to survive seven years, IHT reduces on a sliding scale from three years onwards (known as 'Taper Relief').

There is speculation that the government could either abolish PETs altogether, or change the rules concerning lifetime gifting by increasing the seven-year time period, imposing a cap on the value of lifetime gifts, or amending the taper rules.

Capital Gains Tax (CGT)

At the last Budget, the Chancellor raised the lower rate of CGT from 10% to 18% and the higher rate from 20% to 24%. It is possible that the rates could be raised again. There has also been reports of a possible CGT charge on the sale of higher-value homes, which are currently exempt due to Principal Private Residence Relief (**PPR**). The Chancellor is said to be considering a "mansion tax", which would see houses above £1.5 million no longer benefitting from PPR relief. There is also some nervousness about the future of CGT holdover and rollover reliefs, which commonplace and often extremely valuable in a rural business context.

Property Taxes

There have been murmurings of other reforms to property taxes too, including new council tax bands on higher-value homes and potentially replacing stamp duty land tax (**SDLT**) with a new property tax.

Pensions

Pensions also look to be vulnerable to attack again, with reports that the tax-free pension lump sum will be reduced from the current 25% or £268,275 cap to possibly as low as £100,000. Restricting the benefits of salary sacrifice for employee pension contributions in exchange for reduced pay also seem to be a possibility, as does standardising pension tax relief at 20%, thereby removing the higher rates currently enjoyed by higher and additional-rate taxpayers.

Conclusion

At this stage, it is all speculation and making decisions purely based on rumours is not advisable. That said, it is sensible to review your financial and legal affairs before the Autumn Budget to help you take advantage of existing allowances and reliefs before they are altered.

We are advising many clients in relation to how to structure their succession plans in light of the forthcoming changes to APR and BPR from April 2026, and to take advantage of the potential "window of opportunity" for planning before then. Please contact a member of our Tax, Trusts & Succession team for further advice.

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Good Husbandry:

What does it mean today?

Farming practices are changing and what may have been good farming practice many years ago may not be considered as such today.

Farmers today face an uncertain world. Their uncertainty is rooted in climate change, rising costs and reduced funding, against a backdrop of technology advancements, growing initiatives for regenerative farming and evolving Environmental Land Management Schemes (**ELMs**).

It is against this unprecedented volatile environment that farmers (and particularly tenant farmers) must still grapple with the doctrine of good husbandry.

Origin of 'good husbandry'

The doctrine of good husbandry originates from the Agriculture Act 1947 (**AA 1947**) when the priority of the post-war economy was to increase food production. Whilst most of the provisions of the AA 1947 have since been repealed, the provisions of good husbandry remain on the statute books. The overarching principles are set out in section 11(1) of the AA 1947.

The occupier of an agricultural holding should maintain a 'reasonable standard of efficient production' in the present whilst also keeping the unit in a condition to enable a reasonable standard of efficient production in the future.

Section 11 (2) does provide some helpful guidance as to the kinds of things that would demonstrate compliance. These include the following farming activities:

a) Keeping permanent pasture mown or grazed and in a good state of cultivation, condition and fertility;

b) Keeping arable land maintained in a clean state and good condition;

c) Keeping the livestock properly stocked;

d) Ensuring crops and livestock are free of disease and pests;

e) Ensuring harvested crops protected and preserved; and

f) Carrying out necessary maintenance and repair works.

Failure to comply

A tenant may risk losing their tenancy if farming practices fail to meet the requirements of good husbandry. There are two ways this could happen:

1. Notice to Quit (NTQ)

In the case of AHA tenancies the landlord can serve a NTQ under the Agricultural Holdings Act 1986 (**AHA 1986**). This can happen in the following ways:

- Case C: Used where a landlord first obtains a certificate of bad husbandry, then leading to an NTQ. This is the most likely option that a landlord would pursue.
- Case D: Used where there is a provision relating to good husbandry in the terms of the tenancy. A landlord can serve a Case D Notice to Remedy prior to a Case D NTQ.

- Case E: Used where there is damage to the holding caused by a tenant's failure to adopt good husbandry practices which is now irremediable.

2. Forfeiture

Under both AHA and FBT tenancies, the Landlord can technically use the forfeiture provision (if there is a validly enforceable one within the tenancy) if the tenant breaches the covenant to comply with good husbandry (although this is a less common route in practice).

Farming today

The competing demands within section 11 present a challenge for farmers today.

Many farmers are considering the adoption of modern farming practices which may see a temporary short-term reduction of efficient production output to preserve the future profitability of the land. Farmers are also being encouraged to explore ELMs based upon environmental outcomes rather than on efficient short-term production.

Consequently, many farmers today focus on farming land in a more environmentally friendly way whilst contributing towards food production. For farmers seeking to combine sustainability objectives with the requirement to maintain 'efficient production'; the potential consequences of not getting the balance right can be very worrying.

Section 11 states that the 'character and situation of the unit, the standard of management thereof by the owner and other relevant circumstances' will be considered when assessing the principles of good husbandry. This recognises that local conditions such as soil type, terrain and cropping types can vary considerably and that these variations should be considered when assessing whether a tenant has complied with good husbandry.

A key question however is whether the long-term goals of biodiversity, food security and sustainable farming are likely to be considered as a 'relevant circumstance' for the purpose of section 11.

Recent case law suggests that an arbitrator or Tribunal will still seek evidence of 'efficient production.'

The case of *F J Snook & Sons Limited v Gerald Roy Cruse* [2017] is a sobering reminder that land taken out of production for an environmental scheme will not always be considered 'efficient production', particularly in circumstances where the landlords' consent has not been obtained for that use. In that case, whilst it was recognised that the nature of agriculture had changed since 1947, the Tribunal did not accept that an income produced from an environmental scheme would satisfy the definition of 'efficient production'.

Conclusion

The advice for tenants must, therefore, be to proceed with caution and be ready to demonstrate 'efficient production' alongside any environmental and sustainability schemes.

Whilst it is recognised that farming practices have changed, what is deemed to be 'efficient production' remains broadly the same as when the AA 1947 was enacted.

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Whistleblowing Protection:

Not just for current employees

The Employment Rights Act 1996 provides a variety of protections to whistleblowing employees who disclose employment related malpractices.

A recent Employment Appeal Tribunal judgement has clarified that protection from detrimental treatment for whistleblowers is not limited to current employees, but can extend to former employees, provided the alleged detrimental treatment is closely connected to the ex-employee's employment and the protected disclosures.

Day v Lewisham & Greenwich NHS Trust (2025)

In this case, Dr Christopher Day was employed by Lewisham and Greenwich NHS Trust (the **Trust**) between 2013 and 2014. During his employment, Dr Day was concerned about patient safety and under staffing in the Intensive Care Unit and reported this to the Trust on several occasions.

After these disclosures, Dr Day alleges that he was unfairly dismissed by the Trust and so brought a claim in the Employment Tribunal (**ET**) alleging unfair dismissal and whistleblowing detriment. The claim was settled in October 2018.

Following the settlement, the Trust made a series of public statements in response to media interest around the case, prompting Dr Day to bring a new claim in the ET. Dr Day alleged that the statements made were defamatory and claimed the statements were detrimental actions in response to the protected disclosures he had made during his employment.

The ET found that only one of the alleged detriments suffered by Dr Day had been established but the Claimant had failed to establish 'causation' – in other words, that that the detrimental act was done in response to the whistleblowing disclosure. Furthermore, the ET found that the claim failed as the detrimental treatment occurred after Dr Day had left the Trust's employment, stating that whistleblowing protection was reserved for employees.

Dr Day appealed to the Employment Appeal Tribunal (**EAT**) who found that the ET had been wrong to rule the claim was outside the scope of whistleblowing protection. The EAT confirmed that the statutory protection against whistleblowing detriment applies not only to current employees, but also to former employees where the alleged treatment is closely connected to their employment and the protected disclosures.

Despite this, the EAT dismissed the appeal finding that the ET's conclusion on causation was correct, and the Trust's statements were not motivated by Dr Day's disclosures, but instead in response to media interest and reputational management.

Key takeaways for employers

Although this case arose in a different context, the same principles apply to rural businesses.

- When dealing with whistleblowers, employers must ensure that they continue to respect the protections for whistleblowers even after the employee has ceased working for a company. Former employees can still bring detriment claims against the employer if the detrimental action is closely connected to their previous employment.
- The EAT decision reconfirms the importance of causation to such a claim. Employers should keep and maintain careful records for any management of whistleblowers and decisions around actions and communications connected to them, even after employment. Maintenance of such records should put employers in a stronger position to demonstrate that any action deemed as detrimental, was not motivated by the whistleblowing.

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Proprietary Estoppel:

Highlighting the breadth of remedy

The remedy hearing in the case of *Armstrong v Armstong* [2025] exemplifies the court's expansive jurisdiction for proprietary estoppel claims. Not only was the claimant awarded the promised farm but its existing debts were split proportionately between the parties.

Background

The case centred on an inheritance dispute between two brothers over two farms (North Cowton and Allerton Grange).

When their father died, Richard was disinherited, and his brother Simon and Simon's son inherited the family farms. Richard claimed that his father had promised him North Cowton and he relied on this, living, working and managing the farm.

The 2024 judgment found in favour of Richard's proprietary estoppel claim.

The Court was satisfied on the balance of probabilities that Richard had been promised North Cowton, he had relied on this to his detriment and it was unconscionable for Richard to have been disinherited.

For a reminder of the facts and analysis of the decision on liability please see our previous article **here**.

Armstrong v Armstrong [2025]

The latest decision dealt with the remedy for Richard's claim.

- The Court followed the approach in *Guest v Guest* [2024] - relief to be granted in proprietary estoppel claims should be determined based on *'prevention or undoing of unconscionable conduct, not expectation fulfilment or detriment compensation.'*

- Fulfilment of the promise was the starting point, i.e. awarding Richard the promised farm, North Cowton, without any debt. The judge noted, nonetheless, that *'practicality, justice between the parties and fairness to third parties may call for a reduced or different award.'*

- Richard argued he should receive North Cowton unencumbered by any debt or receive a lump sum equating to its unencumbered value. He asserted that the loans taken out by Simon without his knowledge or agreement, should not be his responsibility.

- Simon argued the starting point should be North Cowton burdened with a reasonable proportion of the combined debts which had accrued on both farms. Simon claimed that if Allerton Grange was burdened with most of the debt, it would not be a viable business. The Court tended to agree, finding that Richard was promised to inherit North Cowton, but not to inherit the farm free of all or most of the debt.

Conclusion

The parties never agreed how debts should be proportioned between them and therefore, the Court held that the debts should be divided proportionately to the comparative value of the farms.

As North Cowton was valued at £3.128 million, 50.81% of the combined value of the farms, the Court considered it 'just and appropriate' for Richard to take liability for 50.81% of the combined debts. Simon would take responsibility for the remaining 49.19% of the combined debts plus a £250,000 loan taken out by Simon and his son without Richard's knowledge or consent.

This case displays the discretion of the Court in proprietary estoppel cases to arrive at decisions based on a general sense of fairness. Each judge may have a unique interpretation of how to best remedy the unconscionable conduct while striking the balance to achieve justice between the parties.

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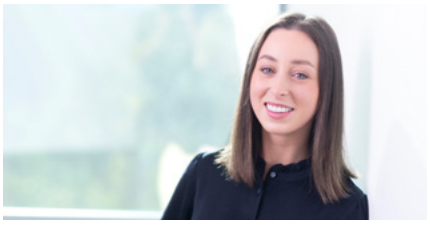

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