



Napthens' Rural team: Andrew Holden, Lorraine Lister, Tania Williams, Melissa Taylor, Geoff Tomlinson

Move for Napthens' Rural team

The specialist Rural team at Napthens has opened its doors in Blackburn after a relocation from its former offices in Preston.

The team of three solicitors, led by partner Geoff Tomlinson, along with solicitors Andrew Holden and Melissa Taylor, is one of just 16 legal panel firms for the NFU.

It has moved from Preston to Blackburn, to the firm's new offices at Challenge Way, Whitebirk, which were officially opened in September this year. The state of the art facility, with more than 4,510 sq ft of space across two stories, gives staff a



Blackburn office

modern working environment and clients easier access to the firm's experts.

Previously the Rural division had been based in the firm's Preston

head office. However, the move to Blackburn will allow the team to better serve its rural clients, particularly those in East Lancashire and West Yorkshire.

The Rural team provides a range of advice supporting and advising farmers, their families, employees, landowners and rural businesses on issues including the sale and purchase of farms, succession planning, employment law and pollution.

Geoff Tomlinson said: "Preston has historically been a great location for the team. As we continue to expand our services, Blackburn will be far more accessible and central for all our clients and we will be better placed to act for the rural community."

"We are looking forward to this new stage in the development of the Rural team and to welcoming visitors to the new offices which are very well served by the area's excellent transport links and onsite parking."

For more information, the team can be contacted on:

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Welcome



Geoff Tomlinson

It's all change here in the Rural team at Napthens.

Melissa Taylor has qualified as a solicitor and, along with the partners and staff from our old Blackburn office, we have moved to splendid new premises on the outskirts of Blackburn.

We have been here for a couple of months now, and it already feels like home. The office is very conveniently located, with plenty of parking spaces next to the door, so if you haven't had a look at us yet please do pop in. Please also note our new direct dial phone numbers, which all appear elsewhere in this bulletin.

As usual, we have a mix of articles in this bulletin looking at topics including planning for marriage, the Localism Act and the Agricultural Wages Order. I hope you enjoy reading them and that they will give you some food for thought.

As ever, if you need our help please get in touch.

Best regards,
Geoff Tomlinson

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Planning ahead before marriage is key for those in rural industries

Prepared for your 'Big Day'?

Thinking about Wills and pre-nuptial agreements may seem to take the romance out of planning a wedding. But for those in the rural industry, they are an important consideration before your big day.

A farm may be passed down through generations of a family. It is therefore vital to make sure that a Will is in place to set out what should happen to this estate and make sure it is dealt with in the correct manner.

If you die without a Will, your spouse is not automatically entitled to inherit your estate. Instead, the law will decide, with other family members often entitled to make a claim.

However, even for those with a Will already in place, there are circumstances where it may be revoked and a new one will need to be prepared. Marriage is a case in point, as it will automatically revoke a previous Will.

It is possible, therefore, to look at creating a Will in advance, expressed as being made 'in contemplation of marriage' which will then continue to remain valid

after the wedding. A solicitor will advise you on the wording to ensure that this is made clear, and to express that you did not intend for the Will to be revoked by marriage to your spouse.

An additional protection for engaged couples wishing to ensure their estate is dealt with properly is the creation of a pre-nuptial agreement setting out how their assets should be divided if the marriage fails. This can include business assets and is a particularly important consideration for farmers.

There may be little romance in a 'pre-nup', but these agreements have increasing weight in courts following a major legal ruling which took place last year. As a result, more and more couples are turning to pre-nuptial agreements, although they are certainly not binding in many situations. For instance, if a couple has children,

the needs of those children are prioritised.

I would stress that anything, from a pre-nuptial agreement to a new Will, should be made in plenty of time before a wedding and the correct legal advice should be sought.



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Our new look

We hope you like the new look Rural Law.

In an effort to be more environmentally friendly, we will now be producing our newsletter twice a year. However, to make sure our readers stay up to date with the latest legal updates affecting the farming world, we will be sending out regular email updates.

To sign up, please email marketing@napthens.co.uk or call 01772 904397.

New planning rules create opportunities for rural development

Land use planning is set for a big shake up which should create opportunities for a range of rural development schemes.

The Localism Act, which recently received Royal Assent, will lead to the replacement of almost 900,000 words of planning guidance with a single National Planning Policy Framework.

This Framework will seek to enable growth and will include a new presumption in favour of sustainable development. Local Planning Authorities will be expected to put in place strategic Local Development Plans which reflect the national framework but which also take account of the aspirations and ambitions of local communities.

Parishes will be able to create their own planning policy, which, if supported by a simple majority at a local referendum, will become binding and will be used to determine planning applications.

These changes are likely to make life complicated for planning authorities in the short term, and will lead to a relative policy vacuum in some places. In the absence of any valid local development plan

policy the presumption should be in favour of development.

Do not expect planning suddenly to be a free-for-all however, far from it. It will still be necessary to make a powerful case and to provide the necessary supporting evidence and specialist reports. However, the shift in emphasis will bring with it opportunities for rural development.

The removal of detailed national and regional planning policy will mean that applicants who are able to present a strong well argued and evidenced case that aligns with the National Planning Policy Framework will be in a strong position.

Added to this, the lifting of the housing moratorium means that residential conversion of traditional farm buildings is back on the agenda. The need for economic development means that viable rural diversification schemes are also likely to be favourably considered, particularly those that offer wider local economic benefits.



The Localism Act will shake up planning rules

All this means that now is a good time to consider working up proposals and to make sure

that you are fully aware of any development potential that your land and buildings may offer.

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Rural solicitor qualifies

Melissa Taylor, a member of the Rural team at Napthens, has qualified as a solicitor.

Melissa, of Burton in Lonsdale, joined Napthens as a trainee in 2009, and quickly became an integral part of the department, led by partner Geoff Tomlinson and solicitor Andrew Holden.

A member of Burton in Lonsdale Young Farmers Club since she was 10, Melissa studied Law at Leeds University, before her Legal Practice Course in Manchester.

During her time as a trainee at Napthens, Melissa has spent time working alongside colleagues in the Litigation and Wills & Estate Planning teams to strengthen her knowledge.

As a member of the Rural team, she will now be involved in a range of issues including land

registration, possession claims, rights of way and purchases and sales, and is already working on deals with a seven-figure value.

Melissa, a member of a dairy farming family, and daughter of a previous NFU group secretary, said: "I have a keen interest in rural matters and have thoroughly enjoyed my time spent qualifying as a solicitor with Napthens."

Head of department Geoff Tomlinson added: "Melissa has been a valuable asset to the Rural team since she joined Napthens. I have no doubt she will play an important part in the future of the department."



Melissa Taylor

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Agricultural Wages Order 2011: What you need to know



The Agricultural Wages Order sets employment conditions and minimum wages

In July, the Coalition Government announced plans to abolish the Agricultural Wages Board (AWB).

The AWB was established by the Agricultural Wages Act 1948 (AWA) and is made up of eight agricultural workers nominated by the NFU and five independent members appointed by the secretary of state for the environment.

The AWB has the power to make an agricultural wages order, the most recent being the Agricultural Wages (England & Wales) Order 2011 (AWO) which was effective from October 1, 2011. Under the AWO minimum terms and conditions of employment apply to agricultural wages.

Under the AWO certain rights will be dependant on how long the worker has been continually employed. Full guidance can be found on the Defra website (www.defra.gov.uk) but

some points that are dealt with in the AWO include:

- Minimum hourly wage rates. There are also applicable set overtime rates determined by the grade of the agricultural worker.
- All workers aged 18 and above are entitled to rest breaks of at least 30 minutes where their daily working hours exceed five and a half hours. The AWO also provides for compensatory rest for a worker who is required to work during a rest break period, eg during lambing.
- The holiday year begins on October 1 and ends on September 30. Workers who work the whole annual leave year for the same employer will be entitled to minimum holidays.

- Those working on a public holiday must be paid at the overtime rate applicable to their grade or category regarding the actual hours which they have worked.
- If a worker has been continuously employed by the same employer for 52 weeks immediately prior to the commencement of a period of sickness absence, under the Agricultural Sick Pay Scheme (ASP) the worker shall receive at least the appropriate agricultural minimum wage as per the hours worked, which would include any guaranteed overtime if applicable.

The AWO is currently in place and it will be important to keep an eye on the Public Bodies Bill coming into force for the abolition of the AWB. Employers of agricultural workers are advised to consider implementing written terms and conditions for the workers they employ.



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HMRC success



Earlier this year we were asked by the NFU to give a second opinion on an inheritance tax issue to the family of a deceased farmer.

When head of department Geoff Tomlinson learned the facts of the case he was surprised that the solicitors who had been advising the family had not challenged the decision of HMRC to refuse important tax reliefs and to charge tax of approximately £200,000.

Geoff and Chris Evans of our Wills & Estate Planning Department were firmly of the view that there were good grounds for the reliefs being granted, and advised the family to contest the issue.

Quite lengthy correspondence then followed, but the outcome was that HMRC relented, and the family got their money back!

We obviously can't promise that we will always have such success in cases, but what happened on this occasion does emphasise the vital importance of farming families instructing specialist solicitors like ourselves.

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