



Napthens' Rural team has expanded to Kendal

## Cumbria expansion supports NFU members

**Napthens' Rural team has announced a major expansion to further support agricultural clients in Cumbria.**

Napthens has unveiled a new office in Kendal, to operate in addition to its North Cumbrian office in Penrith, and which will act as a base for growth in the south of the county.

The office will be led by new appointment James Todhunter, who joins from Lloyds Bank Commercial as Napthens' Head of Cumbria. To ensure that the Rural team has capacity it has also recently appointed Diane France.

Napthens is NFU panel firm for Lancashire and Cumbria, and Andrew Holden, Head of Rural at the firm, said the announcement

will further support clients including NFU members in the area.

He explained: "Our existing office in Penrith is doing a great job supporting NFU members and other sections of the agricultural business community in Cumbria.

"As we built our client base in the region, it became clear we needed to expand our offering in Cumbria, and the new office in Kendal will provide a great location for advising those in the south of the county.

"The core Rural team, consisting of Andrew Holden, Melissa Taylor,

Alexander Sykes, Diane France and James Stocker, spends significant time working in Cumbria already. The office will also be home to a number of specialists from other departments including the Litigation, Employment, Residential Conveyancing, Commercial Property and Wills & Estate Planning teams.

"Farmers and other sections of the agricultural community will have access to a full range of legal services for businesses and individuals from our new office in Kendal, as well as our existing Penrith office.

James Todhunter added: "Napthens already has a fantastic client base in Cumbria so the platform is strong to take the offering much further.

"Clients and the professional market alike have told us that there is a need in the region for a proactive, full service law firm so I will be very proud to be leading Napthens' expansion and future success in the area."

The new office opened in January 2016.

## Welcome



Andrew Holden

I write following several wet months and the recent floods that have had such an impact to the industry all over our region.

If you need any help or support in these difficult times with any issue, please pick up the phone. We are happy to help our farming clients with any issue including tasks such as completing insurance claims forms. It really is great to see the rural community pulling together in these difficult times.

On a more positive note you will see that Napthens has further expanded into Cumbria with our Kendal office opening. This has also led to the appointment of Diane who you will see is introduced in more detail later on.

Diane is from a farming background herself and is a great addition to the team. She will be assisting me in dealing with property transactions in Lancashire and the surrounds.

Finally, you will see the comments on our link-up with the Farmers Guardian. As always we still offer a free initial consultation for all our clients, so if you have any issue at all no matter how big or small, feel free to give me or one of the Napthens' team a call.

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# Hazardous trees – who is to blame if something awful happens?

Do you have trees on your land? Are they in places where people might pass close by? Have you inspected these trees – and if so, have you done anything with the results?



As an occupier of property, whether as owner or tenant, you have a responsibility to exercise a duty of care to others who come on to that land – invited or not. Trees can pose a serious threat of injury or death. If you have trees, especially elderly trees on your land, think about the risks they might pose – and take advice.

### Why trees are important to consider

Trees have many values – environmental, landscape, habitat, timber. But if those trees are on land that is accessible to the public or adjacent to a public right-of-way and are suffering from certain mechanical defects, they represent a hazard.

Bits can fall off or trees fall over and people (including yourself) can get hurt or killed. Occupiers of land must be aware of tree-related dangers and understand the need to inspect trees to identify if any remedial action is required.

The occupier of the land on which it stands is likely to be liable in law for the damage or personal injury if a tree is:

- unsafe because of decay or structural weakness
- the signs of this are apparent, and
- property is damaged or somebody is hurt or killed by the tree.

This liability stems from a duty of care that the occupier has towards people who enter the land, whether invited or trespassing.

### Reducing the risks

Where there is a duty of care you need to take reasonable steps to understand the nature of the hazard and the risks posed.

Do a risk assessment on:

- The value of whatever is judged to be at risk and the likelihood of it being harmed if the tree fails

- The magnitude of the hazard – how big is the tree which might fall?
- The probability of such a failure occurring. You will need knowledge of different tree species, site factors, the impact of different types of defect.

It is possible to recognise signs of weakness without training but if you don't have the skills, and the value and hazard are high, you will be expected by the courts to have taken professional advice and followed it.

### In Summary

Trees will always fall down and shed branches, but if you have taken professional advice where needed and done what you can to assess risks and minimise them, then if an accident does happen it won't be your fault.

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# Landowners face 'unlimited fine' for conservation area damage

Landowners must be aware of an increase to the penalty for breaching an act designed to protect important conservation areas.

Status as a Site of Special Scientific Interest (SSSI) grants legal protection to areas of land under The Wildlife and Countryside Act of 1981.

Specifically, Section 28 of the act advises it is an offence for a person to 'interfere with or cause damage to' an SSSI, without permission from Natural England, the statutory body.

Previously, the maximum fine for breaking these rules was £20,000. While this limit remains for cases settled in a magistrates court, if cases now go to a crown court, the landowner involved could face an unlimited fine.

Currently there are around 1,400 sites in England.

Warwick Alabaster, solicitor in the Litigation team, says the revised

fine will affect decisions made by landowners when purchasing or planning on land which borders an SSSI.

He said: "It's important for landowners to be fully aware of the changes to the law before undertaking any work that may have an impact on an SSSI. If an offence is committed, it could end up being very expensive for the landowner.

"The fine could vary depending on the area of land related to a particular offence, so it's vital to seek legal advice before making any decisions which could lead to a breach of the act."

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**Currently there are around 1,400 sites in England.**



Penalties for putting conservation areas at risk have increased

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## Meet the team

### Diane France, Rural Business solicitor

I joined Napthens' Rural team in October 2015 as a solicitor specialising in property matters.

I advise clients on legal issues involving the sale and purchase of properties and land, easements, licenses, farm business tenancies and finances. I work on all stages of a case from the initial conversation to assess a client's needs and gathering of detailed instructions, right through to completion.

I am delighted to have joined the Rural department as this is an area of law that lies close to my heart, having been brought up on a farm in Chipping. I am still actively involved in the farm, helping my parents out where possible, especially at lambing time when help is needed most.

Napthens is also the firm that originally attracted me to the legal sector after undertaking work experience with them when I was at secondary school.

Prior to joining Napthens, I studied Law at Lancaster University and then completed the Bar at Manchester Metropolitan University where I qualified as a barrister. Thereafter I trained at Keoghs in Bolton and cross qualified as a solicitor specialising in commercial matters involving property, debts and disputes.

I am now enjoying meeting our many clients – the long-standing as well as the new - and assisting them wherever possible.



**Diane France**

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# David Hall appointed new NFU North West regional director

Saddleworth-based sheep farmer David Hall is the next NFU North West regional director.



David Hall

David, 49, has lived his entire life at Cherry Clough Farm in Denshaw, Saddleworth. He currently keeps 250 Lleyn sheep, half of which he finishes, with the rest sold as

store lambs. Twenty suckler cows from a neighbouring farm are also summer grazed at Cherry Clough.

Succeeding Robert Sheasby, now NFU regional director for East Anglia, David joins the NFU from the beef and lamb arm of AHDB (Agriculture and Horticulture Development Board) – formerly known as EBLEX, where he was regional manager.

David said: "I'm looking forward to working with a great team alongside the region's sector boards and the group secretary network. I'm keen to hear about the concerns of NFU members and will do my utmost to achieve the best for the region alongside my new team."

Throughout his career David has built good relationships with farmers across the North West, starting at Myerscough College as a lecturer in business management. This role morphed into a more hands-on project management role working with farmers as the college's successful Rural Business Centre was established.

He then worked as a regional manager for European Farming and Food Partnerships (EFFP) working across sectors including horticulture, dairy and cereals. David added: "I have only really had three jobs but have also been involved in other initiatives that benefit the industry, many working alongside the NFU."

I have maintained my farming activity throughout my career – this keeps me grounded and retains my empathy for those in the industry."

David's life has been dedicated to farming since losing his dad at the age of 16. He left school, and alongside his mum, continued the farm and butchery business his father had built.

He wholesale butchered for eight years before studying for an HND in Agriculture at Myerscough where he graduated in 1993.

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## Farmers Guardian legal advice service

Napthens is announcing a new partnership with Farmers Guardian, the leading publication serving the UK agricultural industry, to offer subscribers a new legal service.

The phone-based service will offer Farmers Guardian VIP members half an hour of free legal advice on any single topic, and can be used for any number of legal queries.

The service has been developed to help subscribers tackle legal issues facing their business.

Napthens' Rural team is recognised across the agricultural sector for the quality of its advice, and is one of just 15 NFU panel firms in the UK.

James Allison, partner and Head of Real Estate at Napthens, added: "We are delighted to be asked to pioneer another area of legal

services in serving the Farmers Guardian readership. This is yet another example of how we adapt to the needs of the legal services market and how we service our client base."

The helpdesk can be accessed via [www.fginsight.com/accesslegal](http://www.fginsight.com/accesslegal)

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