

## **Assets and Divorce – More Uncertainty**

The division of assets on divorce has always been a lively area for litigation and this is particularly so where the assets comprise inherited assets in the form of family farms.

In a recent case, prior to their divorce a husband and his wife of 18 years worked in partnership on the farm he had inherited. On divorcing, the wife sought a settlement of forty per cent of the family assets (which were over £2m) plus a lump sum towards their children's school fees.

The husband wished the farm to be passed down to the next generation and offered £340,000 plus child maintenance and school fees, the offer being limited by his inability to raise capital without selling the farm.

The judge awarded the wife £575,000 based on the wife's reasonable needs for housing and income and to provide a fund for the children's school fees. While this was a substantial departure from the more common '50/50' approach, a larger award would have necessitated the sale of the farm and left the husband without the wherewithal to make a living.

The assumption of an equal split of assets on divorce is not by any means realistic in all cases and while inherited assets are part of the equation, the extent to which assets not created during the marriage are to be included will depend on the facts of each case. In such circumstances, the best results are achieved by having an experienced and professional legal advisor to guide negotiations.