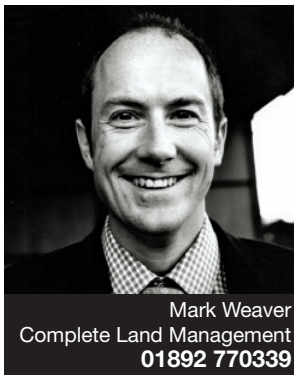


Death is always a surprise

Tim Calcutt died suddenly on the 31 January 2009. It was a lovely sunny morning, last day of the shooting season and Tim was taking his favourite early morning walk on the farm in Withyham, writes Mark Weaver of Complete Land Management Limited.



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He and I worked together for nearly fourteen years. First with me as "boy", latterly with me running CLM which we started together in 2004. My colleagues and I valued Tim's own brand of (mostly) quiet advice which was always based on previous experience from years of farming.

It is not often someone practices absolutely what he preaches, but Tim was quite often unique and in preparing for "that moment" he was as ready as he suggested we might all be in his South East Farmer article below.

Neatly prepared for his family and I was given a file with instructions; very clear instructions. What and who and where for his memorial and how and who for all other parts of what is now our complicated modern life. The file included details of the insurance man, stock broker, solicitor, accountant. Do your family know all the names and phone numbers of the professionals that you use?

Bereavement is a 'funny' thing and quite intelligent people can find themselves in a thick fog. Help them by preparing your wishes clearly and enjoy planning a celebration of your own life.

This was Tim's view, written for the South East Farmer in 2006. I stumbled on the original draft when clearing out Tim's office desk – the irony was not lost on me.

Tim wrote; If you have achieved the biblical lifespan of three score years and ten, you might consider it is too late to do anything about your affairs. You are wrong. You have left it late but not too late for some things. If you are a clean living non-smoker you probably have ten or so years to go. However now is the time to sort out your priorities, which you could and should have done twenty years ago.

The first priority must be to provide for your old age and that of your partner especially if he or she survives you.

- Do you want to stay in your present house until you die, or do you want to move into a smaller one, perhaps with no stairs?
- Can you afford to pay for a full time carer when either can no longer manage?
- Can you afford to pay the fees for a retirement and then possibly a nursing home?

Your second priority will be to decide to whom or to what you would like your estate

to pass on your death. On the assumption that you will wish to leave the bulk of it to your children, then you will need to decide, if there are more than one, how much and what will go to each. If you want your business to continue you may wish to leave it to one child, with some compensatory bequest to the others. Obviously life-time gifts would appear more tax effi-

cient, but they suffer from the drawback that once you have given it away it is out of your control. The creation of family Discretionary Trusts and other such tax efficient devices is the realm of specialist tax advisors, and outside the scope of this article.

Whatever you decide to do you will need to make a will. Most people apparently do not: if you die without making a will you will die 'intestate', without having outlined your wishes as to who should act as the executor for your estate and distribute your assets. Your assets will then be distributed under the terms of The Administrations of Estates Act 1925.

Your solicitor is the first and natural choice to produce this, but a word of caution. While a solicitor should certainly draft your will, it is unlikely that he will be fully conversant with your farming business, your personal objectives and those you have for your family. It important that you involve someone with a detailed knowledge of capital taxes and, most importantly, someone who understands you. It would be a wise move to run a draft past an accountant who is a specialist in these matters. You might also consider discussing the principles of your proposals with your farming adviser for muddy boot thoughts, and your children so that there are no nasty surprises when you are gone.

Does your current will:

- Give clear legal and tax efficient instructions as to where you want your assets to go?
- Does it take into account transfer of CSS,SFP, ELS etc payment entitlement? Whatever you do, you should review/revise your will
- Every five years
- Before any significant family events. If any of your beneficiaries marry. If you re-marry, any previous will becomes invalid.
- Whenever the Chancellor brings in any relevant tax changes.
- On the death of your spouse or partner.

A note here on solicitors with whom many of us have a love-hate relationship. Your solicitor may well be a friend of your own age with whom you created a good working relationship in your youth. If he retires at 60 or so, but you don't, and before the time of transfer of your assets, you will have to create a new working relationship with a younger man as you move into your old age and find change more difficult to accommodate. You should also ask yourself whether your 'old friend' is really up to date with the difficulties of transferring your business where you want it to go. It may be painful but you might find it sensible to transfer to that younger man sooner rather than later.

While for most of us 'Old age comes with bent back and silent foot', for many of us it comes with declining mental acuity also. If you add to this the risk of accident, stroke or heart attack, you might consider granting an Enduring Power of Attorney (EPA) to preferably more than one person of the next generation, perhaps one of your children and a family friend or business associate. You should perhaps combine this with a 'Living Will' (sometimes called an Advanced Directive) which will give others power to take the best action to ensure your health and wellbeing. The new Lasting Power of Attorney (LPA) now available, is an alternative to both of these.

You might also think it prudent to create a Bank Mandate which will authorise others, probably those to whom you have granted an EPA, to sign cheques on your behalf if you become incapacitated.

Whatever you do 'Never send to know for whom the bell tolls...', but ask yourself 'Is my financial house in order?'

If it is not, do it now.

Timothy John Calcutt, who died peacefully on 31 January, aged 75 years, whilst walking his dogs on the farm. Beloved husband, father and grandfather. A tower of strength who will be greatly missed by all.

