The sudden loss of a loved one can bring a time of tremendous sadness and shock for those left behind.

If the loss is that of a provider for the home the added uncertainty that can bring is at times, overwhelming. Embrace FARM has assisted many farm families who in the face of unimaginable grief must also navigate the financial and legal issues a sudden loss can present.

As well as the peer to peer and individual supports, Embrace FARM offers key practical supports to help alleviate the added burdens of financial and legal stresses that can occur in the aftermath of a farming tragedy and loss.

Simply knowing what to expect and the professional supports you need to navigate during this challenging time, can ease much of the stress and burden families may be facing.

When there is a sudden or unexpected loss on a farm - What Happens Next?

All sudden deaths go through the inquest process.

Coroner
Inquiry into sudden or unexpected deaths

There is a legal responsibility to report deaths to the coroner

Garda Síochana
Formal identification of deceased
Gather facts (statements around cirucmsances of of farm accident)

Post-Mortem
Medical examination of the deceased to determine the official cause of death

Health and Safety Authority
HSA has a duty to investigate all workplace accidents

Coroner's Inquest
A public inquiry to establish when, where and how the deceased has died.

A verdict of the cause of death is declared.

Death Certificate issued once inquest is complete.

All reports are publicly available.

Throughout the process it is advisable to consult and keep your family solicitor updated.

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Embrace FARM is governed by a voluntary board of directors.

Embrace FARM
Farm Accident Support Network

Our Practical Supports

Take our hand and we will guide you along the way

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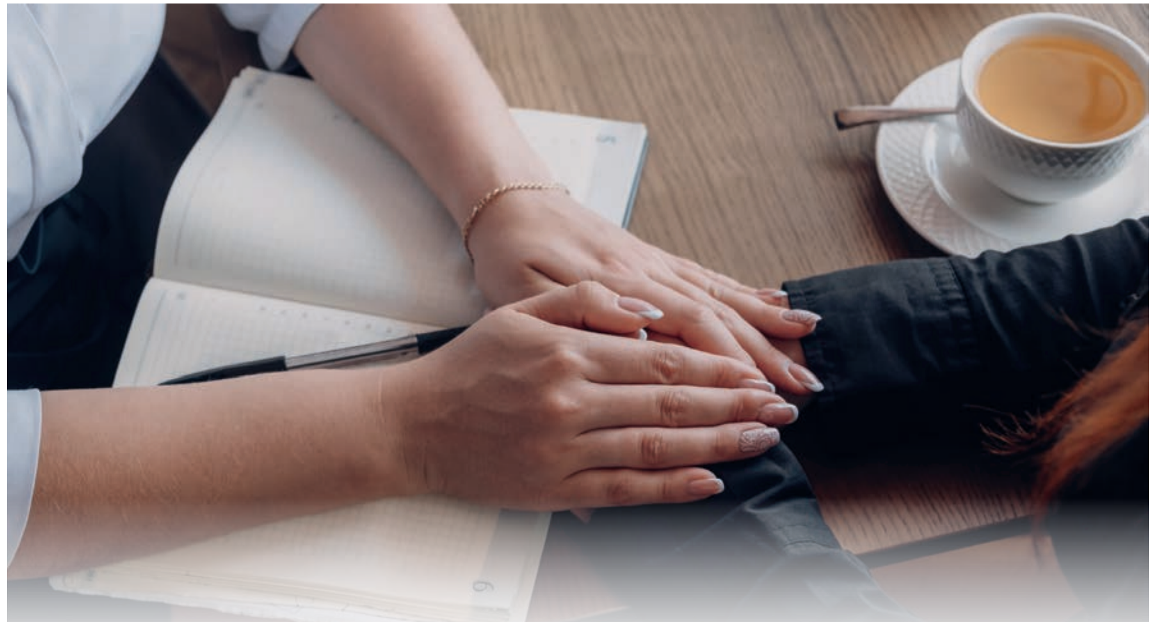

Legal FAQ's

What you need to do when tragedy strikes

Aisling Meehan, Agricultural Solicitors

The information in this article is intended as a general guide only. While every care is taken to ensure accuracy of information contained in this article, Aisling Meehan, Agricultural Solicitors nor Embrace FARM does not accept responsibility for errors or omissions howsoever arising.

Q1. How soon should I notify the deceased's solicitor after my spouse / partner has died suddenly?

Some people contact their solicitor shortly after death to enquire whether they have left any burial wishes with their solicitor. Generally these have also been communicated to the next of kin. People generally leave this until after the Month's Mind. There is a concept called Executor's Year whereby an executor cannot be sued for not progressing probate until a year since the death has passed.

Q2. What if the deceased didn't have a solicitor? Who appoints one?

The next of kin of the deceased (generally the spouse, child / children). Parents, if there is no spouse or children, or siblings thereafter.

Q3. Do I have to have a separate solicitor to look after my affairs?

Yes, the solicitor normally looks after the estate of the deceased. In the event of any conflict between your role as beneficiary or your role as executor of the will, you will need to instruct another solicitor to act for you in your capacity as spouse / partner / beneficiary.

Q4. What if there is no will in place? What are the consequences of this?

There will be costs and delays. The matter can generally be progressed quicker and cheaper where there is a valid up-to-date Will in place. It is difficult to quantify legal costs but the Citizens Information website quotes 3% of the value of the estate (or less on very large estates).

Another aspect that arises where there is no will, is that property is distributed according to the rules of intestacy which might not be in accordance with the wishes of the deceased.

The Encircle Programme Mentors

Q5. What if you weren't married and had no children but were a couple of many years?

If there was a Will, then hopefully provision was made for the surviving person. Where there is no Will, the property would be left to the next-of-kin, under the rule of intestacy, e.g. To the parents of the deceased or siblings of the deceased if the parents are also deceased.

A partner has no automatic right to any share in the estate under the rule of intestacy or under the Succession Act (Legal Right Share).

There is a Redress Scheme available under the Civil Partnership and Certain Rights and Obligations of Cohabitants Acts 2010.

The couple must have been living together in an intimate and committed relationship for 5 years or 2 years where there are children of the relationship. A claim would have to be made against the estate.

Q6. What if we weren't married and have children?

Guardianship laws would be relevant here. If a child is born outside of marriage, the mother is the sole guardian. The position of the unmarried father is not so certain. An unmarried father will automatically be a guardian if he has lived with the child's mother for 12 consecutive months after 18 January 2016, including at least 3 months with the mother and child following the child's birth. If there is a disagreement as to whether they have been cohabiting for the required length of time, an application for the necessary declaration can be made to the court. Where both parents are alive, if the mother agrees, the father can become a joint guardian if the parents sign a statutory declaration. It is very important if you are the guardian of a child, (especially if you are the mother and sole guardian) that you make a Will, appointing a guardian to act on your behalf in the event of your death.

Q7. What if the Will had been made before we married / lived together but it hadn't been updated?

If you marry or enter into a civil partnership, your Will is automatically revoked, unless your Will was made in contemplation of that marriage or civil partnership. If it was made after you were married but not updated, it is still valid but what is in it might not reflect your wishes.

Q8. If there is a Will may I take out probate myself or do I have to pay a solicitor?

If you are the executor or you are entitled under the rules of intestacy to take out administration of an estate and the estate is not complicated, you can make a personal application to the Personal Application Section of the Probate Office (or to one of the 14 District Probate Registries around the country).

Q9. The farmhouse (our home) and the land was not in joint names, what do I do?

It will be necessary to take out probate (where there is a Will) or letters of administration (where there was no Will).

Q10. How do I register the death?

A relative by blood, marriage or civil partnership should register the death. You do not need to be next-of-kin to do this. You must register the death within 3 months, when you have received the death notification form from the doctor. You do this at any civil registration office, no matter where in the Republic of Ireland the death occurred.

Aisling Meehan

Where to begin. What will happen to the farm business now?

Before making any decisions on the future of the farm, consider the following questions:

- Who will be the successors?
- What are their financial circumstances at the time of the gift or inheritance? Will they qualify for reliefs?
- What taxes, if any will arise on the asset movements?
- Is there pre-transfer planning that can be done to maximise relief potential?
- When is the best time to transfer assets? During your lifetime or by Will after your death?
- What are the income tax implications for your successors?

Embrace FARM recommends that you consult with your family solicitor, accountant and trusted family friend or relative before making any lasting decisions.

Embrace FARM works in collaboration with charities and organisations in supporting farm families and individuals in its network. Please visit the 'Supports' page www.embracefarm.com for further details.

If you or anyone near you feel the Encircle Programme can help please get in touch by emailing info@embracefarm.com or call us on 057 851 0555 / 085 770 9966

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