

## **Protecting Your Assets: Five Essentials for Landowners' Autumn "To Do" Lists**

*(prepared for the Rural Market Seminar, Kelham Hall, Notts, 26 November 2013)*

### **1. Do a Landowner Statement**

- Protect yourself in advance from tactical town and village green claims in the event your land is earmarked for development. Statements are good for 20 years (they need to be renewed within that period) and bring to an end any 'as of right' periods of recreational use.
- Do your Highways Statement at the same time and on the same form. As from 1 October 2013 sworn statutory declarations are no longer necessary.

### **2. Check your Shooting Agreements**

- Protect your position. We have seen a number of shooting leases where the landowner has inadvertently granted a business tenancy with a right of renewal because the procedures for contracting out of the Landlord & Tenant Act 1954 have not been complied with.
- Watch too for TUPE and housing consequences of changes in gamekeeper arrangements.

### **3. Double-check official notices (e.g. about chancel repair/mineral rights)**

- Ask the party responsible for the notice to provide evidence. We have recently seen a 'manorial rights' notice removed once it became clear there was no documentation to support the applicant's claim.
- It can be worth checking pre-registration deeds and documents. In a recent case, a landowner who received a chancel repair notice from the Land Registry was able to produce an old deed under which a predecessor had bought out ("compounded") the liability.

### **4. Watch for tenancies and contracting agreements that bridge 1 January 2015**

- Make sure your agreements build in the flexibility needed to cater for life under new CAP regime – in relation to both direct payments and rural development.
- For example, do the definitions cover the Basic Payment Scheme and greening? Is there a requirement for the tenant to renew his "ELS" agreement in due course? (not possible!)
- In longer term contracting agreements, who is responsible for making sure greening requirements are met? Who carries the cost of greening measures?

### **5. Short-term cropping and grazing: tear up old documents!**

- For 2014-15 arrangements, documents should anticipate and reflect the new CAP rules and language (the broad framework rules will be adopted in mid-December).
- Subject to the final implementing texts, the regulations allow for more flexibility than before as far as qualifying agricultural activity goes. Agricultural activity includes *maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods...*
- Save on photocopying costs and invest in up-to-date, regime-ready agreements!