

DO ALL THE KIDS GET THE SAME AMOUNT? UNPACKING FAIR VERSUS EQUAL

Most often the greatest wish of the retiring generation is that the result is fair for all. But for this desire to be met, there will likely be an unequal distribution of assets.

If the outcome of succession planning is to ensure the farm remains an intact and viable business, it is very unlikely that assets will be divided up equally. Rather, a fair outcome becomes the overall goal.



Are fair and equal the same thing?

They can be, but most often are not. By definition:

- **Fair:** Every party receives a just or appropriate considering all the circumstances.
- **Equal:** Equality means a balance of 1:1 whereby everyone receives the same amount.

When it comes to farm succession planning, splitting things equally more often than not, is unfeasible as it will render the family farm and business nonviable. Equal treatment only works well if all siblings have contributed the same amount, all on- and off-farm assets are exactly the same in terms of value, liquidity and opportunity, as well as the 'pie' being large enough to cut equally without causing one party (often the sibling staying on farm) to be seriously disadvantaged and the farm no longer being generationally viable.

Equal is often objective and concrete, whereas fair is more subjective and emotional. The nuance between 'fair' and 'equal' can be difficult to navigate in family succession planning, but not impossible!

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- Rabobank Head of Succession Planning Rosemary Bartle



Survey Findings (Rabobank, 2019)

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How to address the fair vs. equal conversation?

Addressing the issue of fair versus equal division of assets early in the process is crucial, especially if non-farm family members are involved. Some tips:

- Reframe succession conversation from 'let it be equal' to 'help everyone be successful'.
- The principle of fairness should first be applied to the parents. If their wish is for the farm to continue on into the future as a successful business, this must be central to the family's succession plan. They must also have sufficient allocation of income and assets to live the remainder of their life in the manner they wish.
- Ensure everyone is aware of what a fair outcome looks like from a theoretical point of view. It means that assets will be allocated so the generational farming business is secure whilst enduring all children are provided with a fair share (but perhaps with less than equal allocation of the asset share.)
- The result must be fair for the child taking over the farm, which means the business is remains operationally and economically viable.



A farm is not a piece of pie.

"This means the critical mass of assets need to stay with the farm owner or shareholders. Create another wealth bubble for your non-business heirs or have great agreements that allow access to the land for the farm operation.

Parents are not responsible to ensure that all of their adult children are economically equal. Many adult children have wealth creation goals that don't demand large gifts from hard-working founders.

Perhaps if you sat down with your children you'd discover that their main desire is for you to have some rewards now to be able to enjoy the fruit of your labour."

- Elaine Froese

Succession is a formidable challenge because it has to be done while simultaneously protecting the farm as a business, setting up the succeeding child for a successful career, ensuring that the parents retain a reasonable lifestyle and making sure non-succeeding family members are content with the outcome.

- Farm Succession MyMilk

How do you determine what is fair?

This is the million dollar question when dealing with succession planning because if you put 10 people in a room you would more than likely come up with 10 different answers as to what is a fair for the siblings or included parties!

What is fair depends on factors such as the family dynamic, business viability and asset base.

In many cases fairness is achieved when each party has to compromise from their highest and best position and their interests are balanced against the interests of each other part. This is still difficult to achieve.

Working through a structured process with the assistance of experts helps the family determine what is fair. This includes working with each party on they believe is fair for both themselves and other members involved. From here you can work towards finding common ground and workable solutions.

Make a point of starting with Mum & Dad and making sure they are taken care of, after all without them the other parties wouldn't be here!

What happens if a decision is never reached?

When families cannot reach their own compromises, they essentially leave it up to the courts to decide. And the track record shows that when the courts get involved, they decree absolute equality, which may render the future of the farm nonviable.