



A Nuffield Farming Scholarships Trust

Report

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**NFU Mutual
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**Addressing the
Perceived Failings of
Short-Term Land Occupation**

Robbie Moore

August 2017

NUFFIELD UK

NUFFIELD FARMING SCHOLARSHIPS TRUST (UK)

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A Nuffield (UK) Farming Scholarships Trust Report

Date of report: August 2017



*“Leading positive change in agriculture.
Inspiring passion and potential in people.”*

Title	Addressing the Perceived Failings of Short-Term Land Occupation
Scholar	Robbie Moore
Sponsor	The NFU Mutual Charitable Trust
Objectives of Study Tour	<ul style="list-style-type: none"> ▪ To identify the perceived failings of short-term land occupation and in doing so, consider whether the length of the agreement is the root cause of the identified negative outcomes, or are there other influencing factors. ▪ Provide positive examples of situations and mechanisms which could be adopted to trigger longer term outlooks.
Countries Visited	<ul style="list-style-type: none"> ▪ Brussels, Belgium ▪ California, USA ▪ New Zealand ▪ Australia ▪ Brazil ▪ Uruguay ▪ Argentina ▪ The Netherlands ▪ France
Messages	<ul style="list-style-type: none"> ▪ The farming sector and professional advisors in particular need to broaden their outlook and be more imaginative when it comes to land tenure options. The whole spectrum of land partnership models should be considered. ▪ Relationships are king. Shared objectives, common goals and a clear vision should be aligned between a landowner and occupier to equate to success. ▪ A more informed understanding of soil health and wellbeing needs to be adopted by professional advisors who are in a position to influence the structural makeup of land tenure agreements. ▪ The triple bottom line should always be considered by both the landowner and the occupier for future proofing their business. ▪ The removal of unnecessary regulatory barriers and changes to certain capital taxation reliefs would help drive longer term planning. ▪ Short-term thinking is the real sin when it comes to farming, but that doesn't mean a short-term agreement is necessarily a bad thing. Flexibility should be a business requirement.

EXECUTIVE SUMMARY

Land occupation agreements are increasingly becoming short-term: the average length of a Farm Business Tenancy being just over 3 years for bare land. This means our most valuable asset, the land and soils which we rely upon to supply food, is progressively coming under strain.

The 'rape and pillage' scenario has long been associated with short-term tenancies. High rents are paid and no, or little inputs are applied resulting in soil degradation and weed infestation. Too often we witness insignificant investment in resources by the occupier combined with the maximum extraction of the 'goodness' of the land. Landowners focus too heavily on short-term financial gain resulting in the long-term wellbeing of their underlying asset suffering. New entrants or the next generation find it more difficult to get their 'foot on the ladder' when short-term agreements are offered.

The primary goal of this report is to address such weaknesses, and in doing so, understand whether it is the length of the agreement that is the root cause or if there are other influencing factors, such as tax and capital, or our culture and our outlook. As a practicing rural surveyor, I was also keen to explore what role my profession has in influencing the structural makeup of land tenure agreements.

I visited France and The Netherlands, where protective tenancy legislation strictly governs the operation of land tenure arrangements; Brazil, Uruguay and Argentina to understand their relationship with soil and their strong devotion to improving its health; and New Zealand, where a range of land tenure models are adopted. I also had a desire to understand the Maori culture, and their long-term approach linking people, relationships and land.

Within all countries, I found strong concerns about short-term occupation and seen potential mechanisms to address them but concluded that the duration of an agreement in itself is not the issue. Instead it is short-term thinking in farming businesses that is the real sin and this directly impacts the vitality of soil health and wellbeing; and diminishes the underlying assets long-term value.

The farming sector, and professional advisors in particular, need to broaden their outlook and be more imaginative when it comes to land tenure options. The whole spectrum of land partnership models should be considered and in doing so, both the landowner and occupier should have aligned objectives, common goals and a clear vision. Professional advisors need to also have a more informed understanding of soil health and wellbeing. The removal of unnecessary regulatory barriers and changes to certain capital taxation reliefs would also help drive longer term planning.

A good strong relationship driving longer term interaction between a landowner and occupier based on trust, accountability and commitment is absolutely key. Without doubt, both parties should give due thought to their triple bottom line and address it, if they, their business and their assets are to be considered truly sustainable.

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It is noted that this report is prepared on the assumption that the reader has a base level of understanding of the array of land tenure models that are available and the legislative workings of associated tenancy legislation.



1. PERSONAL INTRODUCTION

A cliché' perhaps, but my biggest fear in life, is looking back and thinking 'If only..... or, I wish I had.....'. I am incredibly conscious of just how short life is and therefore I am constantly thinking, what I am doing today, that will help improve things for tomorrow?

For farmers or those involved within the agricultural industry, the job description is surely the same. It is all about tomorrow. How can we best use our assets today as means for producing food that will leave those assets in an improved state for doing the same tomorrow?

As individuals, our outlook on life is important, as this shapes who we are, and when this is coupled with a strong work ethic, I believe there should be no boundaries.



Figure 1. Robbie Moore, the author being interviewed in The Netherlands about his study

Farming is in my blood. I was born in Stirling, Scotland where as a family we had a dairy, beef and sheep farm, before moving when I was aged 4 to Lincolnshire. We now farm 850 hectares of combinable crops and provide agricultural contracting services. In 2006, the farming business undertook a major diversification project setting up Agri-cycle Ltd, now a national business which collects and recycles a vast range of farm plastic waste, including spray cans, fertiliser bags and crop cover. In 2011 Agri-cycle Ltd received a Royal Warrant from HM The Queen.

Determined to steer my own path in life and not just follow other family members into farming, I didn't even consider studying agriculture when it came to university. Instead, I decided to embrace myself in a subject which I enjoyed at school; design and technology and went on to study architecture at Newcastle University.

The course activity encouraged verbal presentation and developed my ability to communicate new ideas in a convincing manner. My dissertation explored how architecture can support community, focusing on the neighbourhood of Byker in Newcastle. After graduating in 2007, I worked in an architect's practice for a year where I was involved in designing large housing regeneration schemes.

Summer of 2008 was decision time, and it was a tough one. If I wished to continue with a vocation in architecture, I had to go back to university fulltime for a further two years, but my heart wasn't in it.



So, after much debate and a period of reflection whilst driving the combine at home over harvest in 2008, I decided to get more involved in agriculture and land management.

I sent out many job applications to various rural surveying firms across the North of England, with no luck of even a response, let alone the possibility of an interview, apart from one. Hugh Fell, who was Managing Partner of George F White LLP at the time, invited me to a gruelling day long interview held in Alnwick, Northumberland. An experience I have never forgotten, but in being successful, one which took me onto the next stage in my life.

With excitement, I joined the firm in January 2009, and quickly went on to study rural surveying through the distant learning College of Estate Management programme where I gained a distinction. Shortly after, I became qualified as Rural Chartered Surveyor and gained fellowship of the Central Association of Agricultural Valuers (CAAV). Basing myself in Northumberland, but also acting for clients within the East Yorkshire and the North Lincolnshire region, I specialise in landlord and tenant matters, valuation work and providing farming clients with strategic business advice. My role as a Rural Surveyor puts me in a unique and trusted position, which exemplifies a weight of responsibility, to present, create and deliver opportunities to clients that enable them to explore and act on the bigger picture. I love my job and thrive from working with some brilliant clients and some great colleagues in what is an incredible farming industry.

I sit on the committee of the Northumbria and Cumbria Branch of the CAAV and take a specific role as Branch Education Officer, which I find very gratifying. It is a real pleasure organising tutorials and teaching other rural surveying students about our profession.

Away from work, I like a good challenge and have already cycled Lands' End to John O'Groats and Coast to Coast, and more recently I took part in a triathlon, which was, admittedly, tough work.

I am a proud Conservative and whilst undertaking my Nuffield at the age of 32, I was elected to represent Alnwick, Northumberland as a County Councillor. In addition to representing constituents, I sit on the Council's Health and Wellbeing Scrutiny Committee, charged with overseeing and scrutinising healthcare decisions made in Northumberland. I also chair the Council's Rights of Way Committee that deals with public access provisions across the county. My involvement to date has most definitely broadened my outlook on life and made me well aware, that if things are to change and improve, getting involved is the only answer.

My Nuffield Farming Scholarship has taken me on many life changing journeys, meeting some incredible people that are infused with energy and have some great ideas about improving the farming sector. It has been a fantastic learning curve and an emotional roller-coaster as I have really started to question my direction of life, my motivations and my ambitions for the future.

My wholehearted thanks go to my sponsor, The NFU Mutual Charitable Trust, for without their exceptionally generous support, my life would not have been changed today, in preparation for improving things for tomorrow.



2. BACKGROUND TO MY STUDY

Our most valuable asset, the land and soils on which we rely to supply food, is progressively coming under strain as land occupation agreements are increasingly becoming short-term. The average length of a Farm Business Tenancy (FBT) for bare land in the UK is just over three years. For an equipped holding it is just over 10 years, albeit a good majority of these agreements usually have a break clause in favour of the landlord, or both parties at the end of year five. A vast proportion of Contract Farming Agreements (CFAs) are normally drafted for initial fixed terms of three years but can be annual in many cases.

We constantly hear about the ‘rape and pillage’ scenario which has long been associated with many short-term tenancies. High rents are paid. No, or little inputs are applied. Insignificant investment is put into the holding, but maximum extraction of the ‘goodness’ of the land is sought by the occupier, and the landowner is charged with focusing too heavily on short-term financial gain, as opposed to the long-term wellbeing of their underlying asset. We also hear that new entrants or the next generation cannot get their ‘foot on the ladder’ when short-term agreements are offered.

We can all think of such scenarios, but what are we able to do about it? I was driven to study this topic, which is entitled ‘addressing the perceived failings of short-term land occupation’, for a number of reasons.

As a family, we farm 850 hectares of land in Lincolnshire. Approximately 30% we rent in on an annual basis. Developing longer term strategies which deal with matters such as investment, future proofing, soil health and weed infestation, particularly blackgrass, is much more of a challenge when absolute certainty of occupation over a longer term is not guaranteed.

On a day to day basis, I work as a rural practice surveyor specially providing clients with professional advice on an array of many different landlord and tenant, owner/ occupier structures. I see through my professional involvement the direct implications land occupation decisions can have on the underlying asset.

Thirdly, it is incredibly topical at the moment. It is twenty-two years since FBTs were introduced and we can now ascertain the possible impact the Agricultural Tenancies Act 1995 (ATA) has had on the English rental market. The Tenant Farmers Association (TFA) are actively calling for a minimum term of 10 years to be included within FBTs alongside certain tax incentives being awarded to the landowner. The Countryside Landowners and Business Association (CLA) are promoting more collaborative models such as share farming structures.

Frustration has also drawn me to look into this topic further, as without doubt, it is getting increasingly difficult for new entrants to enter the farming sector. Short-term agreements are often muted as being a contributing factor.

And finally, my study is grounded by a will to do something about it. This report seeks to identify and explore the implications of short-term tenure agreements on our underlying asset, and to provide positive examples of situations and mechanisms which could be adopted to trigger approaches of taking longer term outlooks.



3. MY STUDY TOUR

In addressing the perceived failing of short-term land occupation, I was keen to firstly understand and explore the issues other countries were facing that had similar parameters to England when it came to drafting land tenure agreements, i.e. those countries which had protective legislation governing the operation of such contractual relationships.

Secondly, I wanted to visit countries that had different land tenure markets with different influencing factors such as those with large scale production attracting large non-farming investment funds.

Thirdly, I was keen to visit counties that focused heavily on designing contractual agreements between a landowner and occupier which tried to eliminate the negative issues that have become associated with short-term tenure, by focusing on longer term strategies.

And lastly, but perhaps most importantly, I was keen to visit countries that had a different cultural outlook when it came to the occupation of farm land and gave as much weight to a landowner's and occupier's role as a custodian, as to that of a commercially minded food producer.

Figure 2 provides a diagrammatic summary of my travels and Figure 3 lists the countries I visited. I have provided a brief summary of the reasons why I thought it relevant to choose these destinations, but in all honesty, it was difficult narrowing it down. There is a whole host of other countries which I am sure would have been equally worthwhile to visit.

In addition to my personal travel, I was incredibly fortunate to have been awarded a place on a Global Focus Programme. This group travel element with 8 other Nuffield Scholars from different Nuffield countries brought with it a fantastic shared learning experience, which I have no doubt has provided a valuable contribution to this report.



Figure 2. A diagrammatic overview of my Nuffield journey



Figure 3. Study Tour Details – Where, When and Why

Where	When	Why
England	Various meetings throughout 2016 and 2017	<ul style="list-style-type: none"> • Understand key issues impacting decision making for current and new land tenure agreements. • Meet with various stakeholders to understand the implications of short-term agreements. • Investigate what improvements could be made that will have direct benefit. • Professional advisor and their role.
California, USA Central Valley,	March 2016 (1 week)	<ul style="list-style-type: none"> • Intensive production, large scale operations • Additional challenges impacting land tenure models – water shortage and labour. • Agri-superfunds purchasing land. Understand management of capital appreciation.
New Zealand North and South Island	April 2016 (2.5 weeks)	<ul style="list-style-type: none"> • Maori Culture – Long-term thinking with strong association to land and community. • Share-farming structures. • Joint Venture Arrangements. • Agreements with no boundaries – Manuka Honey. • Collaboration cross sectors.
Australia Queensland and Western Australia	May 2016 (1.5 weeks)	<ul style="list-style-type: none"> • Large agri-superfunds purchasing farmland to rent out on varying terms. • Large scale operations. • Fluid land market.
The Netherlands North Brabant, Utrecht, Gelderland, Overijssel and Flevoland	November 2016 (2 weeks)	<ul style="list-style-type: none"> • Understand legislation framework governing land tenure, together with associated issues with short-term land occupation. • Some of the most valuable land in the world is located here, desire to understand market. • Soil health and fertility. • Issues surrounding disposal of manure and problems this creates when occupying land. • Efficiency - The Dutch mind-set.
France Upper Normandy, Picardy, Nord Pas de Calais	December 2016 (1 week)	<ul style="list-style-type: none"> • Collaborative land tenure models. • Cooperative Farming. • Napoleonic Code - Inheritance structure and the implications of it with regard to agriculture. • State monitored purchase procedure for farms and associated impact on sector.



Figure 3 continued.

Where	When	Why
Belgium Brussels,	December 2016 (2 days)	<ul style="list-style-type: none">• European Landowners Organisation.• Understand the lobbying infrastructure.• European Parliament
Brazil States of: Rio Grande do Sul, Sao Paulo, Bahia, Pernambuco, Goias, Rio de Janerio and Parana	April 2016 and January 2017 (3 weeks)	<ul style="list-style-type: none">• Short-term lease agreements• Large agri superfunds purchasing land in areas where soil improvement is required.• Improve soil health to realise capital gain.
Uruguay States of :Cerro Largo, Treinta y Tres, Lavalleja, Canelones, Montevideo, San Jose and Colonia	January and February 2017 (3 days)	<ul style="list-style-type: none">• Soil Management Plans and associated legislation.• Terrace Farming.• High percentage of farmland is let out so need to understand landlord and tenant relationships.• Implications of high levels of foreign investment.
Argentina State of Buenos Aires	February 2017 (3 days)	<ul style="list-style-type: none">• Short-term lease agreements and resultant implications on agriculture.• Argentinian cultural outlook.



The dominant themes were:

- **Soil Health.** Our most valuable asset, which our farming industry relies upon, is increasing coming under strain as businesses look for short-term gain in an era of increasing price volatility and uncertainty in the market.
- **Weed Infestation,** such as blackgrass was also identified as a key concern and is undoubtedly linked to soil health and wellbeing.
- **Security, Business Planning and Investment,** all vital for a business to think within the commercial context, and to support decision making around future proofing their business.
- **High Rents,** although market driven, are undoubtedly viewed upon as being disproportionate to the related earning capacity.
- **Culture, Trust and Relationships** are all incredibly important especially between a landowner and occupier.

Whilst perhaps not being the most scientific approach, the answers I received to these two questions enabled me to delve deeper and to focus my report, whilst considering some of the main implications and associated weaknesses of short-term land occupation. However, the answers got me thinking further.

Before I set out on my Nuffield journey, I was initially convinced that by providing longer term security, with certain financial incentives built in for the landowner, and even the occupier, this would, in itself be enough to address all these concerns. Now I wasn't so sure. It soon became clear that the culture of the land tenure sector itself needed to be explored, and this would be a more holistic task.

As a practicing rural surveyor, I was also keen to analyse what role my profession has in influencing the structural makeup of land tenure agreements. In considering my interaction with landowners and occupiers, I was beginning to think that the role of a rural surveyor was seen by many in the profession too narrowly, as there was a clear feeling by many landowners and occupiers that advice provided focused too simplistically, usually meaning short-term lets referencing standard soil type classification data, rather than sound advice which took account of the actual state of the land to which the tenure agreement was going to impact.

Clearly, there was no better place than to start than with the consideration of the asset itself, the soil; and its health and wellbeing.



5. SOIL HEALTH AND WELLBEING

5.1 It all starts with an understanding of soil health

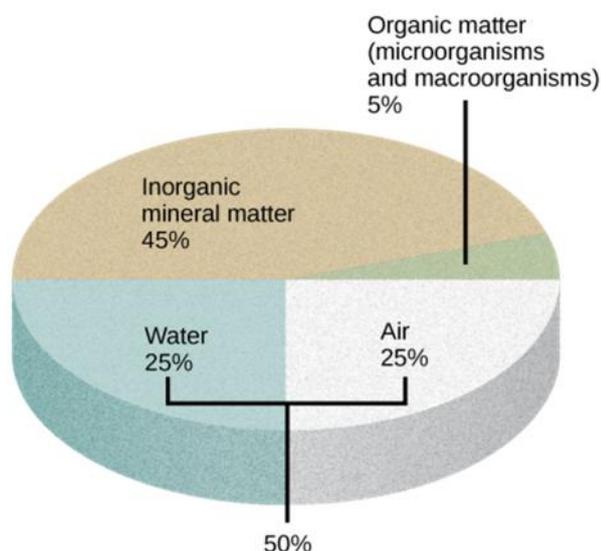
Soil is an incredibly complex structure. It has physical, biological and chemical properties that allow it to sustain living organisms, not just plant roots and earthworms, but hundreds of thousands of different insects and microorganisms. When these organisms are in balance, soil cycles nutrients efficiently; stores water, draining the excess, and maintains an environment which plants and life can thrive. Soil is alive and breathes and needs to be thought of as a living entity. Good, sound, healthy soil is critical for producing food, and as farmers, our understanding of it and how to maintain it in a healthy state, is vital for our farming businesses to thrive.

I met many farmers on my travels that were incredibly passionate about their soils regardless of whether they owned or occupied land. Two farmers stand out in particular, as it was their clear belief that knowledge of your soils is king and an understanding of how its health can be improved, is vital.

Rogério Ferreira Pacheco, a farmer from Passo Fundo in Rio Grande Do Sul State, Brazil likened soil to a car's engine, and organic matter to car's engine oil, commenting that a car will only perform well and produce speed if its engine is looked after. Oil lubricates and whilst only makes up a small part, it's vitally important, as ultimately speed, cannot be achieved without a healthy engine. In the same way, healthy plant life cannot be achieved without healthy organic matter content as this feeds the soil's organisms responsible for cycling and delivering nutrients to the plants.

At a very basic level, soil is made up of air, water, mineral particles, organisms and organic matter. Figure 5 illustrates the proportional makeup of soil, with organic matter only amounting to approximately 5%. However, despite being a small proportion of the soil, organic matter is absolutely critical in storing nutrients, feeding soil organisms and holding soil particles together.

Figure 5:
Pie chart illustrating the proportional makeup of soil.¹



(Source: The Soil, Soil Composition, Boundless Biology – Lumen)



Giving this explanation was how Rogerio started off our meeting. He likes to be known as the ‘worm farmer’ because that is exactly how he measures his soils health, by counting the number of worms he can find when scratching the soil’s surface. Rogerio farms just over 860 hectares of land, with approximately 400 hectares owned, and the balanced rented from a single landlord. 10 years ago, he previously farmed with his brother until each of them decided to go their separate ways and split the ownership. Rogerio adopted a no till system, and his brother who farms neighbouring land continued with conventional cultivation practices. Rogerio commented that adopting a no-till system is a long-term game, stating it takes normally 6 to 8 years to turnaround before you start to realise the true benefits and see an improvement to the soils health. With an organic matter content averaging 3.5%, Rogerio aimed to increase this by a further 1.5% by adopting a no till method.



Figure 6. Rogerio Ferreira Pacheco, otherwise known as ‘The Worm Farmer’ on his holding in the Rio Grande Do Sul State, Brazil



Figure 7. Rogerio Pacheco and his partner Gabriella with Dutch Nuffield Scholar Ruben Van Boekel and the Author, Robbie near Passo Fundo, in the Rio Grande Do Sul State, Brazil



Rental agreements within the Rio Grande Do Sul State are generally only for a single year, and are renewed annually thereafter, assuming all goes well. Longer term agreements are unheard of, but after Rogerio shared his vision for improving the soil's health with his landlord and demonstrated that he had the best knowledge and will power to deliver, Rogerio was given a 10 year lease across all the land he rented. Rogerio has now built up a strong reputation within the locality as being the 'worm farmer' who cares deeply about his soils, and as such, he is now being approached by neighbouring landowners asking him to take on and farm their land.

On the Canterbury Plains, New Zealand, I spent the morning with Tim Porter, who operates as an owner occupier on an arable unit using a no till system. Tim made it clear to me that knowledge of your soils is king, and without it, you are just working in the dark. Tim has spent several years getting to know his soils and described just how important it is to have a good, long-term strategy in place to help ensure soil health is looked after. Tim was convinced that his long-term approach through a no till system with good cropping rotations including cover crops ensured his soils were healthy. When digging deep with his spade on a hot dry day, he delivered a moist, well-structured sample of soil that smelt fresh and alive.



Figure 8. Tim Porter - Canterbury Plains, South Island, New Zealand



The contrast between good and bad soil management became most obvious when Tim took me to a neighbouring property. The stark reality was clear. We dug down with his spade into a dry, dust like composition that had no structure and when brought to the nose, had no smell. The land was being let out, and had been for some time, having exchanged hands between several tenants along the way. It was clear there was no long-term strategy in place.

This emphasised that an understanding of soil is absolutely key for all parties, including the landowner. Many of us talk about improving the organic matter content of our soils, but as I travelled meeting with various landowners and farmers, it soon became evident that not many had a clear plan in place to actually address it.

Throughout my Nuffield study, I asked all I visited about the makeup of soil on their own property, be that landowners or those occupying farmland. All would be able to comment on its texture, and its mineral makeup, stating quite easily which parts of the farm contained clay, silt or sand. The standard adjectives of 'heavy' and 'light' were normally used, and reference would also be given to those parts of the farm which lie wet, are easy compacted or require drainage. But yet, when I drilled down further about the makeup of their soil, and asked about their soil's current state of health, a much lesser number would be able to positively comment or provide explanation. Of course, I am being incredibly general in my observation, as I did meet a number of farmers who knew their soil data incredibly well and had clear plans in place for improvement. But, nevertheless there were a significant number who did not.

It would seem that our general understanding of our most valuable asset is weak and there is much room for improvement. I also found there to be a discrepancy between those answers provided in relation to land which was owner occupied and land which was rented. A much weaker, less informed response was provided from both the landowner and occupier in relation to rented land especially for land that was rented on a short-term basis.

5.2 Strong correlation between short-term tenure and poor soil health.

In my discussions, it was widely accepted that possibly one of the biggest failings of short-term agreements is the negative impact they can have on soil health. I summarise the responses I received across the world as follows:

- **Short-term commercial mind-set.** Many thought that all too often those renting land were only thinking about extracting the most out of the asset in the time available.
- **Education.** A vast number of landowners and occupiers admitted that their understanding of the soil on their holding was weak and could be improved. It is perhaps because of this lack of knowledge that many did not have a plan in place or any reference to maintaining soil health within the lease agreement.
- **Low capital investment** being committed to soil health improvement by landowners and occupiers.



- **No joined-up approach or joint thinking** was being adopted by the landowner and occupier in committing to improve soil health. I also experienced confused messages over who was actually responsible for maintaining its health. This was particularly worrying.
- **Not enough monitoring** of soil's health particularly on land which is rented out. It was common for no soil analysis data to be collected on commencement of the tenancy and therefore referencing the health of the soil on termination of an agreement was impossible. Those agreements which did have a reference to soil data, didn't regularly monitor it.
- **Poor advice** being provided by professional advisors in the drafting of occupational agreements. It was clear many rural surveyors didn't understand soil with many just repeating the DEFRA Land Classification² numbers, rather than having any knowledge of what it meant.

It was quite evident that a vast proportion of those which rent land on a short-term basis took it on with no actual desire to improve the soil's health over the duration of the agreement. If anything, their intention was just to maintain it at the status quo, if it could be referenced. Perhaps alarmingly from my point of view, there was a general lack of understanding and basic knowledge amongst the rural surveying profession of soil, with many only being able to comment on land classification, referencing Grade 1, 2, 3 or 4, and yet, it is this group of professionals that will be providing advice to landowning and occupying clients on the range of land tenure models which impact upon that very asset. It became evident that more education and training is needed regarding soil health amongst the rural surveying profession.

5.3 Standard obligations placed on occupiers to maintain soil health

Increasingly we are seeing more tenancies adopt terms which reference soil analysis results at the commencement of the agreement and place a positive obligation on the tenant to maintain the soil in that state throughout the tenancy. Such clauses then provide the landlord with the ability to charge a defaulting tenant for the cost associated in bringing the dilapidated soil back up to the standard observed at the commencement of the tenancy.

Such clauses are not only being adopted within FBTs but also in similar agreements in other countries. Discussing this with a land agent in the Netherlands, Mr Van Lanschot, he commented "*Maintained? – the agreements I draft normally include more ambitious clauses specifying improvement*". Throughout my interviews, these standard clauses on maintaining soil health were often suggested to me as being a solution by many land agents, but this was not the response I received from many landowners or occupiers. Many felt such clauses were simply a smoke screen, or a fall-back position. Many were favourable to a more pro-active approach, in which improvement of soil health was a key part of the agreement.



5.4 How much should government legislation stipulate soil health improvements?

When I set out on my trip to Brazil, I never initially intended on visiting Uruguay, until I met with Joao Antonio Martins, who said that I must go and learn more about the country's legislative protection concerning soil and its health.

Soil erosion is the main environmental problem in Uruguay linked to agricultural activities. Moreover, erosion not only affects soil productivity, it also distresses the surrounding water systems and water quality due to the increase in sedimentation and nutrient runoff.

Of the farming demographic in Uruguay, approximately 60% of farmers have owned and rented land, a further 27% solely farm rented land, and only 13% just farm the land they own. Figure 9 illustrates the breakdown in diagrammatic form.

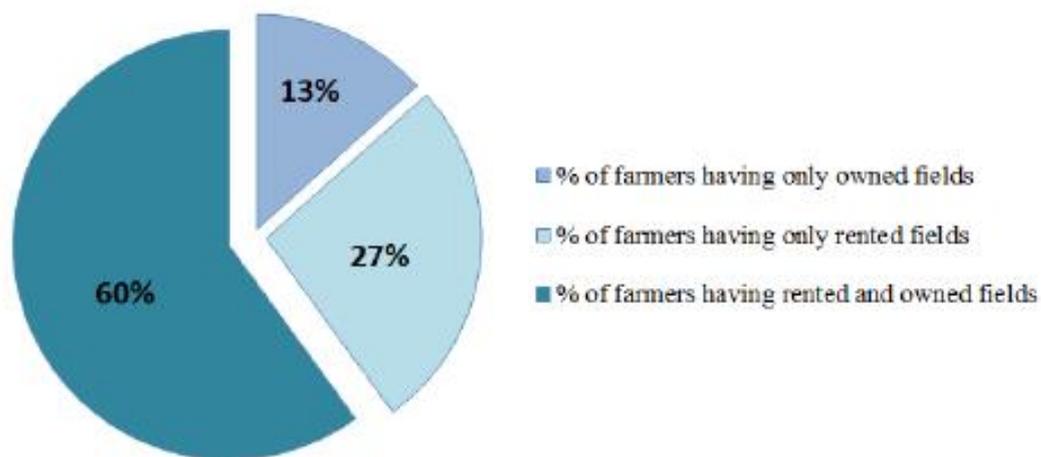


Figure 9: Percentage of farmers managing rented and/or owned fields in Uruguay ³

(Source: Land Management Style and Soil Erosion in the Western Area of Uruguay: Local Farmers v Foreign Investors, Lucerzia Canon.)

The land market also remains very fluid and it is common that in a 10 year period, land could have changed hands through up to 3 different owners.

A high proportion of the farming community farm others' property. In recent decades, this has partly been driven by an influx of foreign investment from Brazil and Argentina, not only in the purchase of agricultural land, but also in their contribution towards increasing agricultural intensity. Across Uruguay since 2000 there have been enormous increases in crop area and agricultural intensity, with farm sizes increasing and harvests now more intensified from 1 to 2, or 3 harvests per year.

A big concern has been around the mono cropping of soya, as illustrated within Figure 10 on the next page. The cultivation systems have also been of concern with large machinery and equipment being introduced from Brazil and Argentina.

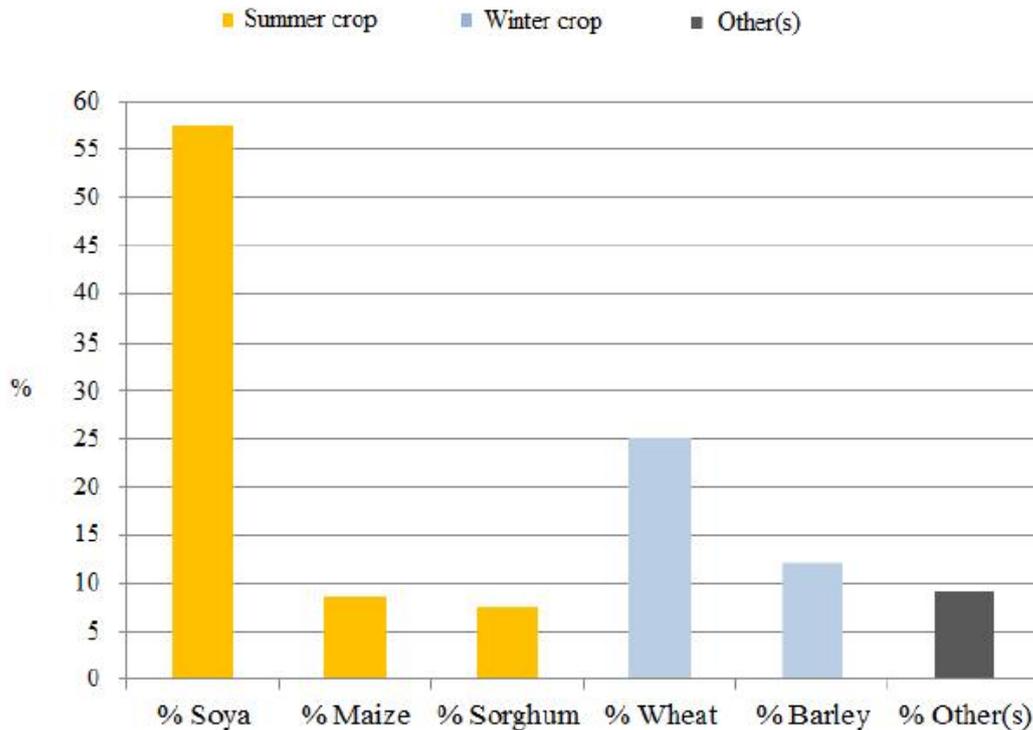


Figure 10: Percentage of the most western States of Uruguay (Paysandu, Rio Negro, Soriano and Colonia) cropping during 2013³

(Source: Land Management Style and Soil Erosion in the Western Area of Uruguay: Local Farmers v Foreign Investors, Lucerzia Canon.)³

Concerned about soil health, the Uruguayan government has implemented a national wide policy in which all landowners and tenants farming 50 hectares or more of cropped land are required to submit a soil management plan to the respective RENARE office, that is the appropriate office under the Directorate of Renewable Natural Resources within the Ministry of Agriculture and Fisheries. RENARE act as a government authorising agency, where the plans are either approved or declined by an accredited expert and also by a computerised simulator. Almost every field in Uruguay is electronically mapped by RENARE, with data held regarding the land's soil classification, texture, its gradient and its fertility. Each field parcel, based on this information, is classified by a soil erosion rating.

A soil management plan must contain the anticipated 6 year cropping rotation and information regarding the proposed cultivation techniques. RENARE hold standard data for the different crops regarding root structures, water absorption levels and whether they are nitrogen fixing. RENARE also hold information on soil cultivation techniques and how advantageous or damaging that technique can be for particular soil types. All this data will be then be cross referenced against the soil management plan and soil erosion rating before the plan is either approved, or, required to be revised and resubmitted until it is approved.



The estimated cropped area of Uruguay is 1.52 million hectares, of which 96% is covered by soil management plans. If any soil plan is not adhered to, the penalty lies with the landowner. Any lease agreement, regardless of the duration, must incorporate and refer to these soil management plans since a tenant signing up to a lease, is also confirming that they will agree to the specified cropping rotation and to use the pre-defined cultivation techniques. Since this legislation was introduced in 2013, terrace farming has started to develop and gain momentum as a mechanism to counteract the inflexibilities awarded by the soil management plan.

Landowners are adapting the physical topography of their farms to create perfectly flat fields as a field's gradient is one of the key factors which is taken into account when RENARE issues approval for soil management plans. Flat fields with their reduced soil erosion risk have become desirable, as ultimately the farmer becomes more in control in determining their own cropping rotations. Figure 11 illustrates the topography mapping which is starting to take place to design terrace farming. This was shown to me in a meeting I had in Montevideo with a company specialising in promoting terrace farming implementation.

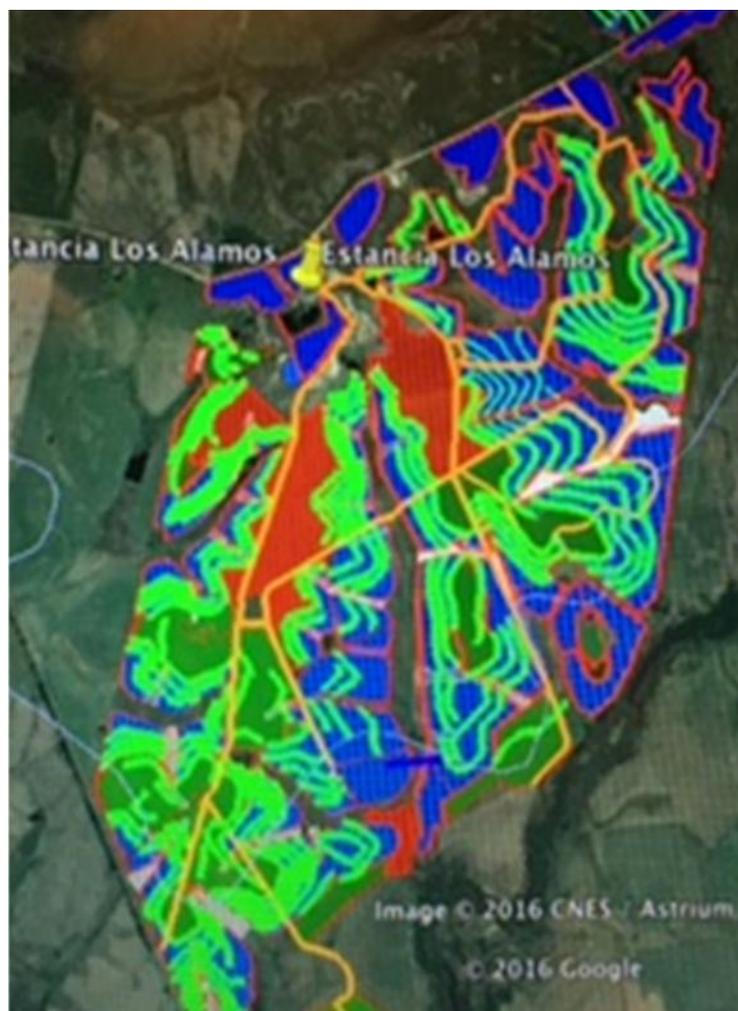


Figure 11: A computer model detailing terrace farming mapping data overlaid onto a google earth image of a farm in Uruguay. This was shown to me in a meeting in Montevideo.



Figure 12: Terrace farming in Uruguay.⁴

An unexpected outcome of the implementation of statutory Soil Management Plans.

(Source: nrcc.usda.gov)

Terrace farming across Uruguay (see Figure 12) is becoming increasingly popular. The company which I met with commented that it had a positive impact on rental arrangements which now sees rents for terraced land increasing by up to 15%. How true this is, I am unsure with no data to back this up.

This example of strong government intervention taking place in Uruguay has received a mixed reception by landowners and occupiers. Some believe that if nothing had been done then the negative implications of intensive agriculture would have got far worse and the soils health would have eventually suffered. Others see Soil Management Plans as an interference and have already started to work around it by implementing the measures I have illustrated above.



6. LAND TENURE ELSEWHERE

In addressing the perceived failing of short-term land occupation, I was keen to understand and explore the problems of drafting land tenure agreements in countries which, like England, have protective legislation governing the operation of such contractual arrangements. This took me to both France and The Netherlands.

6.1 France – and the protected tenant

Traveling to the Normandy region in France, I met with Stephane Laval, a farm business consultant working for CerFrance. He explained to me that the average size of a holding within the region was approximately 150 ha. Small land holdings across France have over time resulted from the inheritance criteria which are encompassed within the Napoleonic Civic Code. In simple terms, on death the value of the deceased estate has to be split equally between the siblings. Over time, this has resulted in a lot of land holdings being repeatedly divided. The Napoleonic Civic Code also brought about changes to their tenancy sector providing tenants with security of tenure. I hadn't quite appreciated it until that meeting but Stephane confirmed that approximately 80% of all French farmland was tenanted, governed by a Civic Code.

Leases can fall into one of four categories. The minimum duration of a lease is 9 years, but others have fixed durations that are either 18 or 25 years, or for a term which is for the career life of the tenant. Unless either party requests otherwise, the same term of the lease is automatically renewed once the fixed term comes to an end. This is very different to the Agricultural Tenancies Act 1995 structure in England where a lease will simply roll on annually once the initial fixed term comes to an end, if the initial fixed term is greater than two years. Stephane commented that the legislation provided the tenant with time to plan ahead, to invest and to reap the benefits of their hard work.



**Figure 13. Stephane Laval, Farm Business Consultant at CerFrance with the Author, Robbie.
Picture taken in Rouen, France**



Rental levels are state controlled, so that the ground rent first and foremost benefits the tenant. Then within each region, an additional top up over and above the base rent is paid. This 'top up' is aligned with the value of agricultural output per hectare. The current total rent average within the Normandy region is approximately 150 euros per hectare, much lower than it is when compared to neighbouring countries, including the UK. These tenancies also provide that the tenant will be entitled to compensation on the termination of the tenancy for any improvements they have made.

Furthermore, the tenant has the ability to claim a pre-emption right when the land is placed on the market for sale by the landowner. The tenancy is also able to be transferred within the family. After the tenant's death, the spouse, children or parents who can prove that they have actively taken part in agricultural work on the land have an entitlement that the lease can be transferred to them. The French tenancy legislation is heavily in favour of the tenants' rights, and Stephane was keen to express to me the benefits this brings to the sector. Every tenant can plan long-term, get finance relatively easy and of course play a real part in being a custodian on the land. There are no short-term concerns in France Stephane stated.

6.2 France – and the 'co-operators'

There are of course other considerations to be had. I also learned that given the relatively small nature of individual holdings, many tenants actually enter into cooperative farming arrangements, whilst having other jobs. I had the pleasure of visiting a farming family which was involved within such a venture. Laure Figeureu-Bidaud and her parents, along with 12 other neighbouring farmers had each entered into a cooperative structure, which, with all the holdings together, totalled 1,500 hectares, across some very open countryside.



Figure 14. Normandy, France – The vast open area without field margins or field boundaries which forms part of a cooperative structure which involves 1,500 hectares with 12 different farmers.



They share their machinery and labour resource. All implements are owned by the group, but tractors, the combine and self-propelled sprayer were owned by individual farms, but, under contract, committed to be used for the benefit of all. At the start of any year, as a group they would plan their cropping, so that individually they could all satisfy rules for subsidy, but also to plan ahead for their usage requirement of the cultivation equipment and contracting services that needed to be provided by those in the group owning the tractors, a combine and sprayer. When a decision needed to be made about the purchase of implements, they each would decide on their usage requirement, each of them would contribute proportionally towards its purchase. Their usage would then be monitored. The grains harvested simply belonged to the farmer whose land they had been harvested from.

The agreement was in effect an annual agreement, which rolled on, having been in operation for the last seven years. There was an opt-out clause but I was informed none of the 12 farmers had ever shown any indication of wishing to utilise it. This structure enabled all parties to share the risks, spread their costs, and was seen as a great collaborative agreement.

6.3 The Netherlands – and short-term tenancies

When in the Netherlands I learned that they are also experiencing some similar issues concerning short-term land lets. It was considered by many that the legislative framework which governs agricultural tenancies did not help alleviate the problem, in-fact the framework added to it. I met with Professor Bruil, who specialises in agricultural tenancy law, as I was keen to find out how the current legislative system operated and what improvements could be made.

As statute states, any new tenancy which is created with an initial fixed term of up to 6 years, the rent mechanism is able to be market driven. This is similar to the construction of the market rental provisions contained within the ATA.

For any agreement entered into, which is over an initial fixed duration of 6 years and up to 25 years, the rental level is statutorily managed, being reviewed annually to a capped level. The level is capped below that of market and linked in line with the related earning capacity of the holding. Each year a government agency adhering to statutory legislation issues the capped figures, and these will apply to the rents of such tenancies.

Inevitably, the majority of landlords prefer not to let their land for initial fixed terms greater than 6 years, simply so that they can continue to trigger the open market rental formula. I was informed that the vast majority of tenancies are much shorter, perhaps only 1, 2 or 3 years. Professor Bruil believed that the legislation actively encouraged a short-term mind-set amongst those wishing to let land, because landlords were in effect penalised for letting their land for a greater period beyond 6 years. I asked for his suggestion of how the legislation could be improved. Quite simply he suggested, just flip the rental mechanism, so that capped rents applied for the first 6 years, and then market rents could apply thereafter. Landlords would then be actively encouraged to let for longer. A valid point, and perhaps this is something we should consider with FBTs.



7. TAX – THE MAIN DRIVER?

From my own experience of interacting with clients and many whom I spoke to throughout my Nuffield, particularly in England, tax was highlighted as one of the key factors influencing decisions regarding the occupation of farm land. Some tax rules are currently seen by many landowners and occupiers as a barrier to certain decisions which would otherwise have been made. I outline a few which were mentioned by those I interviewed.

In its current structure, Stamp Duty Land Tax (SDLT) applies to leases which are created which have a net present value over £150,000. This is based on the total rent over the life of the lease. The SDLT liability can create a disincentive for longer term tenancies to be created, as the longer the initial fixed term, the more likely a SDLT liability will arise for the tenant. A SDLT liability can also arise on leases where the term rolls on year on year, and therefore can create an administrative challenge in calculating when the SDLT liability will apply.

Entrepreneurs Relief reduces the current rate of Capital Gains Tax (CGT) at 20% for higher rate tax payers to 10%. This popular relief applies to the capital gain achieved when farmland is sold, but this is currently not available on let land, only on land which is traded from. This means that a landowner wishing to sell his farm has a very strong reason not to let their land.

Likewise, Rollover Relief for CGT is only available on an asset which has previously been traded from, and providing that the funds from the disposal are being used to purchase farmland which is also going to be used for the purpose of trade. Thus, Rollover Relief is also not available on let land.

Another provision affecting decisions is that a lease for more than 7 years must be registered at the Land Registry against the landlord's title. Many respondents told me that this deters landowners from thinking longer term. Although they see no harm in registration itself, the practical and associated cost implications of registration are enough to make some landowners and rural surveyors prefer to advise their clients to favour the creation of tenancies which do not require registration.

In conclusion, many felt that these constraints unnecessarily prevented a landowner from considering a land tenure model which might suit their own interests or objectives. That said, the above is only one element of many factors which need to be taken into account when land tenure agreements are created and whilst I have highlighted a few implications of the current tax liabilities, I do not believe it should be an excuse for poor husbandry.

Many advocated changes being made to the prescriptions of these key tax reliefs, as well as the requirement concerning the registration of longer term leases, to give a landowner better options. Further, many stated that increasing the availability of let land onto the market may also benefit new entrants. Tax rules in many cases may deter letting arrangements and therefore result in less land being available for new or expanding farm businesses under the traditional landlord/ tenant model, however the rules which govern the tax liabilities outlined above do not remove the possibility for other, more collaborative land tenure models to be taken into account. This is something which I consider in my conclusion and recommendations at the end of the report.



8. NEW ENTRANTS

It is difficult for new entrants to get into farming and the high levels of capital requirement needed to start up a farming business are definitely considered a challenge. It is basic stuff, but funding providers don't like to lend to those which have no or little security, and if they do, because of the higher risks involved, the cost of borrowing will be more expensive compared to standard rates. Short-term lets have long been stated to hinder and frustrate this process. When asking the UK farming industry what their single greatest concern is regarding short-term lets, one of the answers given, particularly amongst the younger people I asked, is the negative impact these can have on the next generation in terms of entry into the sector.

I asked many people on my Nuffield journey whether providing longer term tenancies would resolve the issue. Perhaps surprisingly, many didn't think that this alone would be the best approach. In New Zealand, when traveling on my Global Focus Programme, I visited Jim and Marilyn Law who own Palliser Ridge, a 1,440 hectare beef and sheep holding located near Martinborough, in the South Wairarapa on the North Island. This visit had a clear synergy with my own personal study.

This business had a very clear vision, to create and maintain a large scale 15,000 stocking unit for sheep breeding and finishing, and a beef finishing unit which has long-term sustainability. The business model included a mission statement which was to have an empowered and motivated workforce operating in an enjoyable environment that communicates as a team. This statement was proudly communicated to me by Jim. One of the most interesting points which I learned on this visit was the nature of the equity arrangement which they had employed. Jim and Marilyn had children of their own, but they had non farming careers and had not shown an interest in coming back to the farm. Jim and Marilyn had a longer-term need, a strong CEO to sustain and grow the business. They employed Kurt and Lisa Portas, in their mid-twenties, and together they acted as joint farm managers, operating and running the farm.



Figure 15. Jim and Marilyn Law with Kurt Portas pictured centre with the author, Robbie and his fellow Global Focus Programme Group. Taken on Palliser Ridge, Martinborough, North Island, New Zealand



Jim and Marilyn realised that Kurt was keen, enthusiastic and excellent at his job. They wanted to keep Kurt and Lisa involved within their business as they could see potential. When a neighbouring block of 287 hectares came on to the market, Jim and Marilyn provided a personal loan to Kurt to finance 40% equity in a non-leveraged new company which then purchased the block of land. There is a long lease on the new block of land back to the main company at market rate. Kurt is paid a dividend from the new company which is sufficient for him to pay interest on the loan to Jim and Marilyn. They also have an agreement in place which states that the capital is repayable when Kurt is able. Kurt and Lisa are fully motivated and keen to press ahead with developing the business. It is clear that Jim and Marilyn, through thinking outside the box, have provided an opportunity for entry for Kurt into business equity and land ownership. Kurt would not have been given this opportunity through more traditional land tenure means. By these actions they have also given themselves and their main business of Palliser Ridge a very good chance of success by motivating an individual to hopefully secure its long-term sustainability.



Figure 16. Kurt Portas, Farm Manager at Palliser Ridge

Farming partnerships can be used to enable an owner to run a farming partnership operation with others where they are all business partners. These can often be used to involve family members, or other such as the case above. They can prove to be more complex legally and in terms of taxation but can create a longer-term vision for all parties involved.



9. CULTURE AND RELATIONSHIPS

9.1 Culture 'v' Strategy

The word 'culture' very rarely came up in the many conversations which I had on my Nuffield trip. In fact, within the farming community, it is not a phrase which many people talk about at all, but it is something which a lot of people I interviewed touched on without really realising it.

Very early on, at the Contemporary Scholars Conference held in Cavan, Ireland, I heard a phrase which has stayed with me. I now seem to be engrossed by it, so much so, that I feel it can apply to any situation.

“Culture will eat strategy for breakfast any day.”

And when we really think about it, it is so true. Any organisation, business or professional relationship can have the best strategy in place, be that one which is focused around financials or the delivery of specific targets. But, unless there is good overarching healthy culture in place, that well-planned strategy is never going to come to absolute fruition. People do business with people, and when you have a good working relationship, in the right atmosphere, better results will be achieved.

9.2 Maori and their long-term outlook

When in New Zealand, I was very keen to understand Maori culture, and their long-term outlook with regard to the land occupation and farming. I spent a great couple of days with Brad Tatere and his family. Brad works for 'Te Tumu Paeroa' otherwise known as the Maori Trustee.



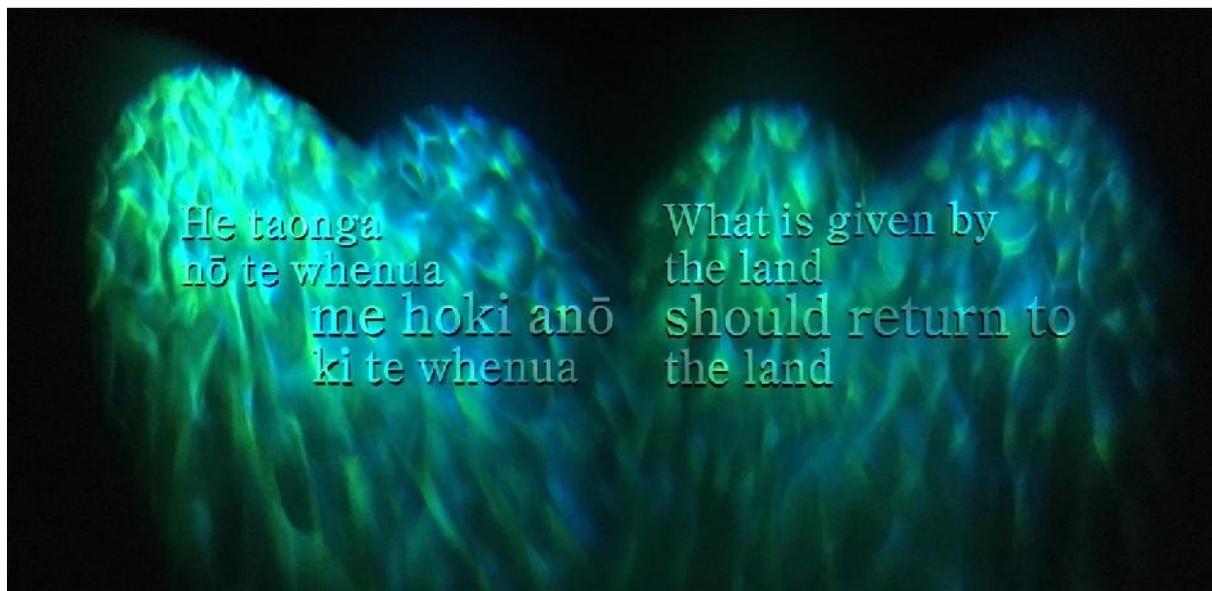
Figure 17. Brad Tatere from Te Tumu Paeroa



Traditional Maori land tenure was communal, carrying obligations to the wider community but also the reward of shared gain. As each new generation inherited the land from their families, the number of shared owners relating to a single piece of land rapidly increased. The result has been fragmentation. No single owner can practically have any means of absolute control to make decisions about the use of the asset, as their ownership share is so small due to there being so many owners. An ownership share applies to the whole asset, rather than a defined section.⁵

To better manage the asset, formal structures were needed because Maori owners increasingly owned scattered interests in numerous blocks of land across New Zealand. Throughout New Zealand, approximately 1.5 million hectares of land is Maori land, that is around 5% of New Zealand's total area.⁵ The vast majority of this land is used for farming. Approximately 50% of this is now administered by Maori Trusts responsible for making collective decisions about the management of the land in the best interest of the landowners.

The majority of Maori are absentee landowners given their collective ownership. Brad confirmed that some Maori could have an ownership share of less than 1%. But ownership of Maori land plays a major role in cultural identity. Land provides owners with their 'turangawaewae', their sense of belonging. Because land is so precious, and deeply embedded within their culture, owners are often risk averse, particularly when there is a chance that the use of the land may have a detrimental impact on its wellbeing. Maori's have a core belief that organisations should place as much importance on their social and cultural objectives as on maintaining commercial viability. This is a core thought process ingrained throughout their corporate farming businesses. Maori think about their 'quadruple' bottom line of profit, people, environment and community's business objectives, but Brad emphasised to me that without profit, nothing happens, and this is where his job, as a Maori Trust administrator comes in.



**Figure 18. Visiting the Te Papa Museum in Wellington
I took this photo of the words which greet visitors.**



When the Maori corporate farms are being successful, they like to invest in young people, making a significant contribution to their education. Many Maori farming businesses have struggled to employ Maori into their own businesses due to lack of skill, but through education and a mentoring programme this does look to be turning around.

The Maori's long-term view, which focuses on their appreciation of their asset and their relationships, is clearly deeply embedded within their culture. I got the stark impression that short-term thinking isn't even in their vocabulary. One of the most common Maori tribal symbols is the Koru, shaped in the form of an unravelling spiral. This had common reference in my discussions with Brad. I remember Brad drawing it for me, representing the unfurling of a silver fern, signifying hope, new life and a strong link to the land.



Figure 19: The Koru

9.3 Trust, openness and transparency.

In Uruguay, I met with Carlos Diaz whose family farms about an hour's drive just north of Montevideo. Their farm is 560 hectares of predominately arable, growing soya, sorghum, maize and producing alfalfa. They also have a small beef enterprise. The family rents approximately half of the land which they farm on an annual basis from a single landlord. Yet despite strong demand from other farmers within the area, the landlord has been prepared to renew the lease on an annual basis to them for the last 8 years. I was told that a good working relationship with their landlord has been absolutely key. But what made this relationship work?

Both parties initially shared their aspirations and long-term objectives with one another regardless of the fact that on paper, the parties had only signed up to a one-year agreement. The landlord had aspirations around improvements to soil fertility, and openly shared his desire to realise the capital gain in the future. The Diaz family shared their aspiration of bringing their son into the business, and to develop their beef herd. Both parties then understood one another's end game, and in the meantime could focus on the delivery of good results that would slowly contribute to each other's aspirations being realised.



Figure 20. Robbie with Carlos Diaz (centre) with his land agent Rafael Tardaguila (right)

The relationship was solidified around trust, openness and transparency. When results were good, the Diaz family openly shared information with their landlord regarding their margins they had achieved, even if it resulted in the rent being slightly increased. But when times were tough, and results were poor, the landlord understood and responded with some leniency. Both parties were committed to their ‘business’ relationship. The tenant was prepared to invest in the holding in the knowledge that he would be compensated fairly should the agreement come to an end, even if this was in a years’ time. Carlos commented that the parties had developed an understanding. It was clear that the relationship was far beyond that of a ‘traditional’ landlord/ tenant model of simply paying the rent to the landlord and receiving land in return. It was more like a co-operative business relationship, without it stating so on paper.

In essence, Carlos only held an annual tenancy agreement with his landlord, which was renewed year on year, but what made this different was the high level of openness and trust Carlos had with his landlord. Carlos had common objectives and goals with his landlord which were set over a greater period of time than the contractual annual agreement. These shared visions, common goals and objectives that focused on longer term necessities were written down within a ‘reference document’ which sat alongside the contractual annual agreement.



The structure which Carlos was operating is illustrated below within Figure 21. The reference document had no legal status, and was purely based on trust, but provided clear focus and an end game which both parties could strive for. Carlos would review the 'reference document' regularly with his landlord to make sure both parties were on track for achieving their shared vision, but also to ensure that the annual tenancy, the 'legal document' was drafted to contractually aid that.

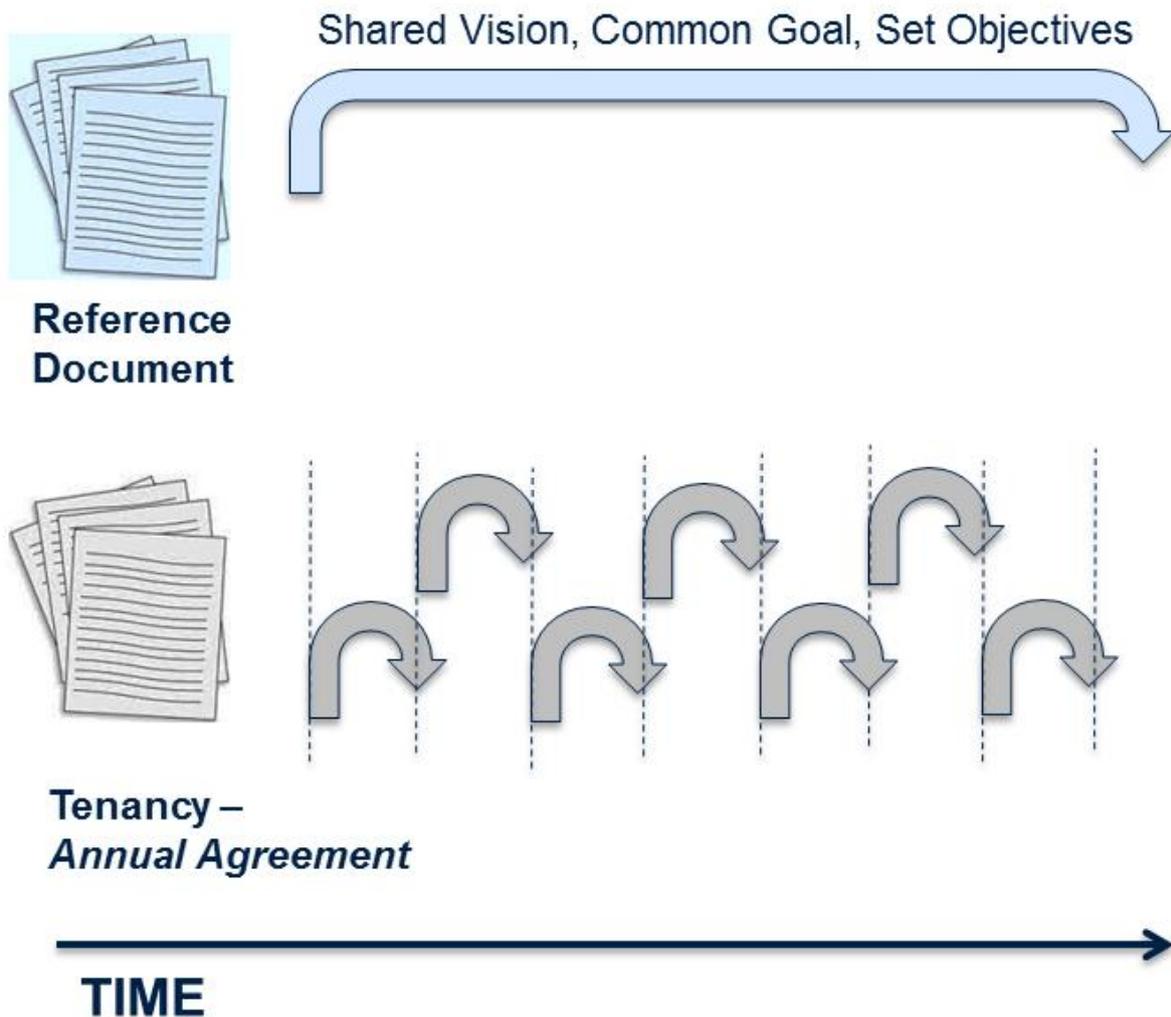


Figure 21. A reference to the landlord/ tenant structure which Carlos Diaz utilised with his landlord in Uruguay to solidify their landlord and tenant relationship



10. THE TRIPLE BOTTOM LINE

10.1 Making the most out of a situation

When traveling in Brazil, I met with the Arns family who farm in the Rio Grande Du Sol State near Vacaria. It was a family affair, with dad, mum, son and daughter all actively involved within the business. Together they farm 2,700 hectares of predominantly soya but also included maize, wheat and grass within the rotation, which included both winter and summer cropping. They employed 13 people.



Figure 22. The Arns Family from Vacaria, Rio Grande do Sul State, Brazil with Robbie, the author

The family rents their farm as an equipped holding from a neighbour under a fixed term of 10 years. When their tenancy commenced 5 years ago, a vast proportion of the farm, just over 1,500 hectares was previously classified as ‘new land’; low productive grassland, having never been used for arable cropping before. With market demand for soya ever-increasing, the family, with the landowner’s consent, intensified production and brought, where topography would allow, the ‘new land’ into arable production.



Across Brazil, rental levels are referenced against bags of soya, with a bag equating to 60 kg. The Arns family have recently had a good harvest achieving yields of around 62 to 65 bags of soya per hectare, but over the last 5 years, this has averaged around 50 bags. Their costs of production, including a rental figure of around 18 bags of soya per hectare also averages at around 50 bags, so margins can be tight. Generally speaking, their rent is reviewed annually.

The rental market within this part of the State is strong, with demand outstripping supply. With no certainty or guarantee that the holding will be available to them once the fixed term comes to an end, the family take the view that if they are going to give themselves the best chance of being granted a new lease over the farm, they need to ‘think differently’ and ‘farm differently’ to others within the area.

It was clear to me that all family members were driven and had a strong desire to succeed in what they were doing. The daughter, Ingrid, had a degree in Agriculture from the State University and specialised in soil health and fertility. Within only a short time of meeting her, I clearly understood that her ambition was to ensure the family were doing their best to maximise yield potential whilst looking after soil health. Ingrid’s passion for doing this shone through in our meeting. Under her direction, the family had implemented several trial plots in an array of fields across the farm. Some were located upon land which had been in arable production for years, and others across the ‘new land’. Year on year they had been carrying out various studies looking at varying fertiliser and chemical application rates, changing crop spacing alignments, using different cultivation and planting techniques, and altering crop rotations. Soil samples were taken where pH levels and aluminium exchange capacities were annually monitored. All this was done with a view of using the data to increase yields, but there was a clear understanding that this could only be achieved by having a closer eye on monitoring soil health, particularly across the ‘new land’ where it was fragile, the subject of soil erosion and its fertility in need of much improvement.



Figure 23. Photo of Ingrid Arns trial plots placed around the farm



As we drove around the farm, the father reiterated that even though they didn't own the land, they had a strong desire to ensure it was handed back at the end of the tenancy in a much better, more healthy and productive condition.

Throughout my Nuffield journey, I have met with a lot of farming hosts that rent land, with the vast majority talking about the need of maximising yield potential whilst looking after soil health. But not until now had I witnessed such a methodical full-scale data collection exercise being undertaken by a tenant farmer which considered these elements. Without doubt, the Arns family were focused on ascertaining data so that performance could be reviewed and measured, and improvement focused on.

Before I left, I asked the family what the most important question is that a business, like theirs should ask itself, and I received a three-pronged response.

1) Am I in the right business?

2) What will I have to show for it?

3) What are my risks?

Mitigating the ultimate risk of losing the tenancy as a tenant farmer is so difficult, as if the tenancy is not renewed, that's it, it's all over. The father did admit that he was constantly concerned that another farmer could come along in five years' time and offer a much higher rent than they could afford, and then all their hard work would be done in vain.

You need to 'think differently' and 'farm differently' were the words used by the Arns family when I asked them about how they intend to put themselves in the best position of being given a renewed tenancy. The family commented that as a tenant farmer,

"you need to ensure that your business is truly sustainable in every sense of the word, which is why we constantly try to review this and ensure that we have something to show for our efforts.

The economic operations of the business are easily measured. We can all work out our margins based on our yields, how much we sell our soya for and what the cost is of getting the soya to grow, but it is much more difficult to give proper consideration to the environment, our soils and water, and to the impact of the business on people, our family and employees. If we try and monitor these aspects also, as we are doing through our trial plots and ensuring that our work force are happy, then we are better placed to be able to prove to the landlord that we are making a positive difference on their asset, rather than it just all being about paying the highest rental figure to them. We see this as our unique selling point."



10.2 Considering the triple bottom line

Farmers did not talk about the triple bottom line until my visit to Brazil, where a number of farming businesses referenced the importance of measuring environmental and social considerations alongside economic profitability, so that they could truly determine how sustainable the business actually was. Admittedly, it was normally the larger farming businesses or co-operatives, particularly in the South of Brazil, that referenced such a concept, rather than your average farmer. The Arns family solidified this approach in my mind.

Sustainability is most definitely a 'buzz' word and we commonly see its reference being misused in circumstances where it is clear that the user has no idea on what it actually means. I found this when I visited a tomato grower through my Global Focus Programme within the Central Valley of California. The fields were vast in size and soil was exposed to erosion by wind. The soil's organic matter content was low and there was no plan in place to revitalise levels. Drip irrigation had just been installed within some fields, with others utilising flood irrigation techniques. There was no succession planning in place. But the farm was producing organic tomatoes and my host proudly deemed himself as sustainable, based on this fact alone. Looking back, I question whether his idea of sustainability was the same as the Arns family.

Consideration of the triple bottom line is all about managing the balance between the economic, environmental and social dimensions of the businesses performance.

It is all too easy for business to focus on their single bottom line concentrating on capital, cashflow and profitability. When many farming businesses talk about business performance, they are normally only referring to this, having their profit and loss account, their cashflows or balance sheets in mind.

There are of course two other bottom lines, which are more difficult to measure but equally play their part towards the success of a farming operation.

The second bottom line takes into account environmental considerations such as ecosystems, water quality, and soil health. Perhaps more so than any other industry, landowners and farmers are best placed to make a direct positive impact on their immediate surrounding environment. Therefore, there is no reason why quantifiable business objectives and aspirations should not be put in place when considering the management of land for environmental benefit. After all, as well as producing food, a farmer's role is custodial.

The third bottom line considers our social responsibility. It is all about relationships, interaction with people, community, employees, our landlord, and of course the next generation and beyond. Perhaps this is the most difficult bottom line to quantify, but without due consideration being given to it, future proofing the business will be difficult.



Only when all of these elements have been merged together with due thought, consideration and 'buy in', can the business then be considered as truly sustainably minded. Figure 24 provides a diagrammatic view of the triple bottom line.



Figure 24: The concept of the Triple Bottom Line

10.3 Creating a unique selling point as a tenant – Getting noticed by the landlord

Creating a different mind-set and a different outlook is important, as it is a competitive world. For a tenant farmer, contractor or occupier of farmland wishing to remain within an agreement or tender for a new one, it is important to have a market advantage. A farming business must be willing to give as high a priority to being a good custodian of land and being good with people, to that of being commercially minded and driven by profit.

I come back to my visit to the Arns family. Whilst they acknowledged that they perhaps wouldn't be able to offer the highest rent when their tenancy comes up for renewing, they instead focused on what they believed to be their unique selling point. Their advantage and uniqueness is in the integrity of their equal consideration to all three of these 'bottom-line' elements. Not just being singly focussed on economic efficiency.

If that integrity is ever compromised for the sake of financial mindedness, the uniqueness is lost and the market advantage is gone. This is what the Arns family hoped would get them over the line when the time came to renewing their lease. I think that both landowners and those occupying farmland can learn a lot from this, and should most definitely consider encompassing the triple bottom line in their outlook for true success.



11. THE PROFESSIONAL ADVISOR

11.1 In a unique position of trust

A rural practice surveyor is placed in a unique position when providing advice to their clients on land tenure models. Trust is placed in them, and they owe a great duty of care to provide the best and most appropriate advice for the situation in hand. The advisor must understand their clients' objectives, what restraints or restrictions may apply, and of course, have a well-rounded view on what the implications will be of the advice they provide.

Now, more than ever is it so important that good, sound professional advice is provided to landowning clients, as the demographic of landowners is slowly changing with more 'non-farming' capital is being invested in the purchase of farmland.

Agricultural land is seen as a safe, sound, long-term investment, especially when compared to other assets such as stocks and shares. Investors like it for this reason. It is tangible and as a finite resource, agricultural land in the UK has attracted capital appreciation. Figure 25 below illustrates this. Agricultural land attracts tax reliefs and acts a vehicle for tax mitigation for the purpose of Inheritance Tax and Capital Gains Tax.

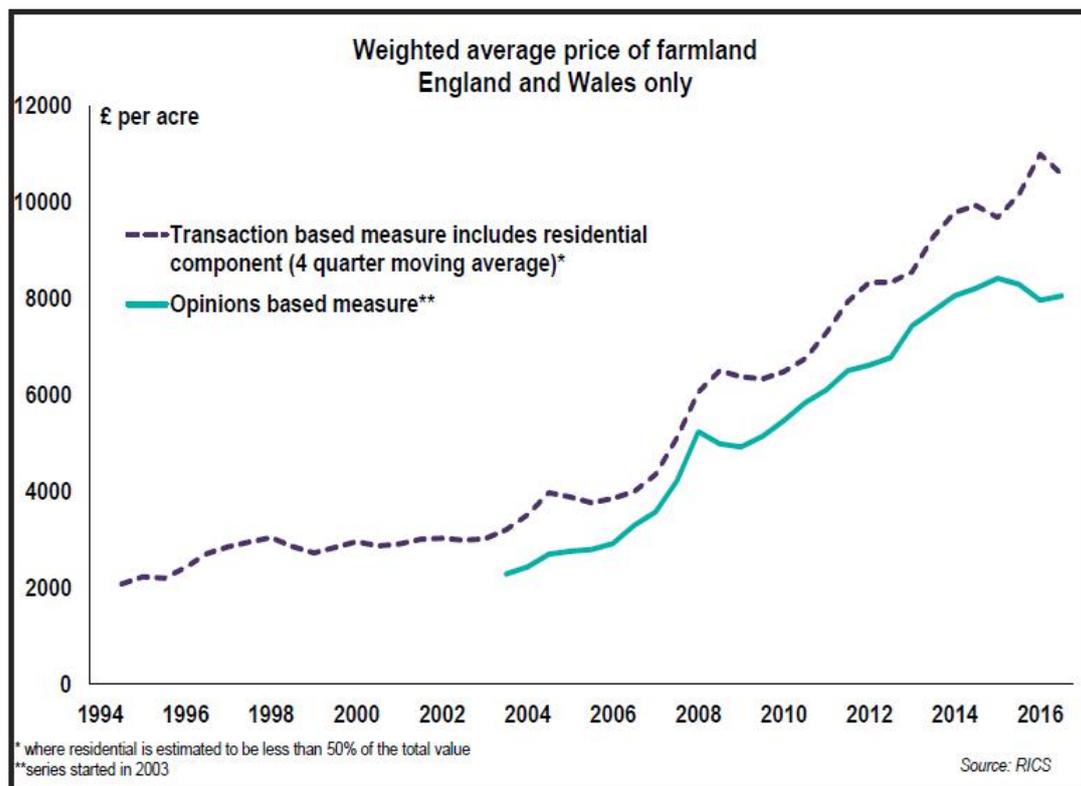


Figure 25: Royal Institute of Chartered Surveyors (RICS) Land Market Survey 2016⁶

(The RICS 'transaction' based measure of farm land prices is based on actual sales and includes a residential component, where that component is estimated to be worth less than 50% of the total value of the plot.

The RICS 'opinion' based measure of farm land prices is a hypothetical estimate of bare land long, i.e. it excludes the residential component. As a result, the opinion-based measure will tend to be less than the transaction-based measure.)



There are of course, generally speaking, two types of purchaser who are investing 'non-farming capital' in agricultural land.

- 1) a purchaser buying agricultural property purely from an investment point of view to realise the tax mitigation benefits together with long-term capital appreciation, and
- 2) a purchaser whose primary reason is to live from a desirable dwelling in the countryside which is accompanied by farm land.

One of the subsequent actions which inevitably results from the latter, is the agricultural holding is split, with the dwelling and perhaps some surrounding land being retained by the purchaser to live in and enjoy, before the remaining farmland and buildings are either rented out or farmed under some joint arrangement.

Under both scenarios provided under points 1) and 2) above, a rural surveyor's role of providing sound professional advice to 'non-farming' landowning clients regarding the various land management options has never been so important, especially when dealing with a client base whose knowledge of good agricultural practice, farming techniques and associated considerations to soil health is, perhaps, understandably lacking. In these circumstances, the rural surveying profession is therefore, at the front line when it comes to providing sound advice.

11.2 Are rural professionals 'thinking outside the box' enough?

Throughout my Nuffield study, I spent a significant amount of time interacting with the farming community, asking tenants, share-farmers, contractors and occupiers about their views of land tenure agreements and their associated concerns.

One commonality throughout all which I haven't covered in this report so far, was their dual concern of:

- a) land being purchased by 'outside' investors, i.e. by those with non-farming capital

coupled with

- b) poor land management advice being provided by the rural surveying profession.

Many were quick to reiterate that their concern singularly didn't relate to the fact that non-farming capital was being invested in agricultural land, but that it was a problem when this was coupled with poor advice regarding occupational agreements. It became clear that many did not trust the rural surveying profession and were quite happy to point their finger at land agents as being a guilty party that contributed towards the problem of 'short-termism'. As well as in the UK, I identified this as an issue in many of the countries which I visited.



Perhaps naively, and as a rural practice surveyor myself, this was not something which I was expecting to hear quite so strongly from those whom I interviewed. The questions which arise therefore are:

- is the rural surveying profession being as open minded, as outward thinking, and as holistic as possible when advising landowning clients about the range of land tenure options that are available to them?
- what is the profession's understanding of the implications of that advice on the underlying asset, such as soil and its health? and
- are these implications being communicated to their clients for them to then issue a well-informed instruction?

The answers to these questions are of course difficult to establish, as no land agent would ever admit to me that they were not having those holistic conversations with their landowning clients.

Throughout my Nuffield journey, I have had many good, open and in-depth conversations with land agents specifically about my Nuffield study. Many were quick to point out that there are of course other factors to consider when land occupation agreements are drafted, and therefore the suggestion that the profession being part of the problem is properly not justified, as the wider factors include the client's personal objectives surrounding tax, exposure to risk, their willingness or ability to invest, and their expected return.

Many rural surveyors indicated, that when drafting new legal frameworks, they normally take one of two structures, that of a FBT, or CFA. I only came across a limited few that actively had involvement in drafting share-farming arrangements, partnership agreements or joint equity business structures.

One of the very reasons why I decided to explore this Nuffield topic was because of the negative association FBTs have with short-termism. Friend or foe, over the past twenty two years, FBTs have been the contractual tool available to rural practice surveyors for letting of land. Of course, one of the huge benefits of the ATA is that it allows for freedom of contract. Both parties are free, in essence, to design a tenancy agreement between them which contains terms that aims to protect both parties' interests. The parties are free to vary the duration, rental mechanism, and repair and insuring obligations, and include positive clauses that detail husbandry responsibilities, agri-environmental stewardship obligations or issues surrounding rural diversification. Many other variations can also be included without compromising the clauses contained within the governing Act.

Despite the flexibility which is available to the parties, it would seem that a vast number of agreements that are entered into are simply based on standard templates, which are either issued by the RICS or the CAAV, with very little variation of the terms, apart from the obvious. Over time, this has created a homogenous approach, with a seeming reluctance by many land agents to draft a tenancy document which ventures beyond the normal terms.

This was highlighted by the University of Plymouth⁷ when they carried out their review of FBTs in 2002, commenting that 90% of land agents used pre-set published templates with only 48% varying clauses beyond those of the standard particulars.



But why is this? And it again raises the question, are professional advisors being as imaginative as they could when it comes to providing their clients with good, sound professional advice.

Many land agents sympathised that agreements were too short and commented that if the holding is not managed correctly by either party subject to the terms of an agreement, then negative implications may arise such as soil degradation. But those which I interviewed didn't accept that the reason for short duration agreements was to do with the advice that they had provided.

In fact, when referencing FBTs, some land agents commented that short-term durations, be it say even a year, shouldn't be seen as a disadvantage by tenants at all, as providing they did a good job, the landlord will be inclined to let the land to them again.

High rents contained within many FBTs were seen as a problem by occupiers, given their disproportionate link to the related earning capacity of a holding. Added to this was the concern that rental money was disappearing away from the industry and not being reinvested into the holding. I put this to the rural surveyors I have met as part of my Nuffield study. Of course, the common response was that market dictates and with demand outstripping supply, high rents are inevitable. Those who are in a position to spread costs developing efficient economics of scale will be best placed to tender higher rents, and this is usually the neighbouring farmer who is an owner-occupier. But when I asked if these high rents were sustainable and good for the industry, some land agents saw this as a mechanism by which the weak fell and those that had the managerial and practical knowhow would survive and do well.

Others said that of course the sector needs to be commercially minded, but we also need to consider that agriculture has other responsibilities attached to it, that of ensuring the asset is maintained for the next generation, which includes being socially and environmentally minded.

It shouldn't be forgotten that a rural surveyor is in a unique position in terms of providing advice to their clients. Observations from my interaction with the UK rural surveyors is most definitely that the profession could do much more in terms of providing more holistic, more innovative advice to clients that truly considers the underlying asset, so that clients are better informed to issue instructions in the knowledge of the true risks, benefits and consequences when it comes to creating contractual relationships.



12. DISCUSSION

When I initially set out to explore this topic, I thought my focus would be on producing a report that singularly considered the length of an agreement, and whether this was good or bad. I thought that I would be commenting mainly on the range of land tenure models that are available together with the benefits they can bring to certain situations.

I thought that I would be producing a conclusion which simply stated that longer, fixed term agreements are better for the occupier, the underlying asset and the soil's health. This, coupled with some financial incentives, such as capital taxation reliefs for the landowner, would be the best workable solution all round.

This is not what the report has ended up focusing on at all, or the conclusion which I have ended up reaching.

Instead I have ended up concluding that in essence it is actually short-term thinking which is the real sin, not short-term agreements.

The triple bottom line should always be considered, and both parties, the landowner and occupier should be open and transparent about their objectives with one another, so that a longer-term outlook can be adopted. It is this, together with improved, more holistic professional advice which will help address the perceived failings of short-term land occupation.



13. CONCLUSION

- The health and wellbeing of **soil is increasingly being put at risk** and suffering from ill health as a result of a short-term mind-set by many landowners and occupiers when entering into land tenure agreements. The notable degradation of soils, the **invasion of pests and disease**, coupled with **weed infestation** such as blackgrass are just a few of associated negative outcomes of short-term thinking. All require longer term strategies to deal to address these issues.
- There is an alarmingly **poor understanding of soil**, its contextual make-up and the factors which affect its health amongst those in a position to influence the contractual drafting of land occupation agreements, i.e. the rural practice surveying profession.
- A landowner and occupier are both **less inclined to invest** in a holding which is the subject of a short-term agreement.
- Meaningful **business planning is more difficult** under many short-term agreements.
- Short-term land tenure has helped foster a mind-set amongst many landowners and occupiers in which **far too much emphasis is placed on short-term financial gain** to the detriment and wellbeing of the underlying asset and its environment, together with the relationships between the parties involved.
- The **rural practice surveying profession need to take a more holistic approach and up their game** in terms of informing their clients about the range of land tenure options that are available so that clients can be best informed when issuing instructions. All too often just short-term Farm Business Tenancies and Contract Farming Agreements are promoted with little variation from standard templates.
- **Some legislative and tax requirements are viewed as unnecessary barriers** which hinder a landowner's willingness to enter into longer term land tenure agreements. Examples include the requirement to register a lease with the Land Registry if the term is more than 7 years, or the implications of Stamp Duty Land Tax on longer term Farm Business Tenancies. Other tax legislation removes a landowner's willingness to let land at all, such as the requirements to satisfy Entrepreneurs Relief and Rollover Relief under the Capital Gains Tax framework.
- Constant short-term thinking over a long period of time has **negative implications on the value of the asset**. The value of land is affected by many factors but increasingly the capacity to produce will be the dominant valuation factor. When the asset has experienced a long period of 'short-termism', the value of the asset will be more negatively impacted.
- **High rents** which are disproportionate to the related earning capacity of a holding are **strongly associated with shorter term agreements**. These rents lead to an unwillingness or inability by the tenant to invest in the holding.



- **Relationships above all else, are king.** Good relationships between a landowner and occupier, substantiated around trust, openness, accountability and commitment, are the overriding factor which drives extensions, renewals or new land tenure/ partnership agreements being entered into between the same parties.
- **Shared Objectives, Common Goals, and a Clear Vision** between the landowner and occupier are more important to sustain long term, high productivity of the land than the contractual length of a land tenure agreement.
- **Flexibility should be a business requirement** as much for a landowner as it is for an occupier. Short-term land tenure agreements can be an appropriate contractual structure in many situations.
- There is a **difference between a short-term agreement and short-term thinking.**
- **Short-term thinking is the real sin when it comes to farming.** But that doesn't mean a short-term agreement is necessarily a bad thing, providing that shared attitudes and objectives are adopted between a landowner and occupier which creates a longer-term outlook.



14. RECOMMENDATIONS

- **Obligations to improve soil health.** Reference should be provided within all types of land tenure models detailing the soils health on commencement of the agreement, with a clear undertaking provided by both parties that they **understand the soil** analysis data which is included. There should be positive obligations embedded into the agreement which stipulates **planned measures to enhance the soil's health.**
- Both a **landowner and occupier should give due consideration to their triple bottom line** when entering into a land tenure agreement. Equal weight should be provided to the importance of their income stream, the health of their asset and the wider environment, together with the nature of their relationship with the other party involved. Considerations should also be placed on other wider social factors such as implications on the next generation, and their neighbours.
- **Increase awareness of the range of land tenure agreements that are available** to landowners and occupiers so that the most suitable structure can be adopted which meets the parties shared objectives and goals.
- All **rural surveyors/ land agents should carry a spade in boot of their car, and use it** to help with their understanding of soil health and give due consideration to it when valuing, and drafting land tenure agreements.
- **Unnecessary legislative and tax requirements** which currently hinder a landowner from letting their land under longer term arrangements **should be removed**, such as the requirement to register an agricultural lease which is over 7 years with the Land Registry, and the requirement to pay Stamp Duty Land Tax on longer term tenancies. The prescriptions for Entrepreneurs Relief and Rollover Relief should be revised to include let land within their application to encourage more land to be let.
- As farms become more specialised through the reduced range of farming enterprises they undertake, the industry, and our soils would benefit from **better collaboration between farmers with different enterprises** so that best practice can take place on land which is best suited for its purpose. Better cross collaboration between the livestock and arable sectors for example. **Matching services should be better promoted** or adopted in areas where they currently don't exist.
- **Capturing the landowners and occupiers' long-term aspirations.** Regardless of the contractual nature of the land tenure model which is entered into, or its duration, **a side document should be agreed on commencement between the parties which details their objectives, goals and aspirations** relating to themselves, their business and their asset far beyond the contractual length of the agreement. This would help instigate a better long-term understanding between the parties and a more aligned longer-term outlook



15. AFTER MY STUDY TOUR

I am sure all would agree that short-term thinking is a sin when it comes to farming, simply because, as farmers, we are dealing with an incredibly complex asset which has taken hundreds of years to develop. As a finite resource, soil needs to be utilised in a manner which preserves it for the benefit of future generations.

As a rural surveyor, sitting at a desk, I fear that it is all too easy for the profession to forget this vital point when advising landowners or occupiers about land tenure agreements, especially when that advice has such direct consequences on their asset.

Since completing my Nuffield, I have become far more critical of my own actions and those of the rural surveying profession when advice is provided to clients on the range of legal frameworks that deal with land occupation. Placed in a unique position of trust, I am incredibly conscious that our role as professional advisors is to best equip our clients with open and transparent advice regarding land tenure, which is well thought through and considers the implications on our client’s asset and their objectives. Nuffield has most definitely broadened my outlook on the benefits that can be achieved to landowners and occupiers, and their asset by matching the right land tenure model together with long-term thinking so that its suits their requirements.

The debate surrounding the implications of short-term land tenure, particularly Farm Business Tenancies is increasingly gaining momentum as the associated negative impacts are becoming more openly discussed. Using the knowledge, I have gained through producing this report, together with the recommendations I have made, I plan to get heavily involved in that debate and personally ensure that the delivery of longer term strategies is achieved going forward.

Away from my topic, Nuffield has installed a weight of responsibly on my shoulders to ensure that I give something back through my actions to help improve the UK agricultural industry, but also life for others.

Nuffield ingrains confidence, and a ‘can do attitude’ so if you think you can do it, then just it do. My participation in Nuffield most definitely contributed towards my decision to stand for local election as a County Councillor in Northumberland, during my Nuffield study year. Being successful, it was a very proud moment when I had my official photo taken at County Hall and was able to wear my Nuffield tie.

Without doubt, Nuffield has most defiantly changed my life today, in preparation for improving things for tomorrow.



Councillor Robbie Moore



Figure 26: Shortly after being elected in May 2017 as a County Councillor representing Alnwick on Northumberland County Council



16. ACKNOWLEDGEMENT AND THANKS

‘Nuffield’ will impact each Nuffield Scholar differently. For me, it has been about ‘capacity’ building. It’s been about embracing myself within a country, understanding what makes that country tick, delving into the ‘bigger’ questions surrounding agriculture and sharing the experience with others. I have learned a lot about myself and met some brilliant people along the way.

The hospitality from all has been most generous, and the honesty in which people have answered my questions in meetings has made my visits all the more interesting. Incredible people are the catalyst that really turns the wheels of global agriculture, and Nuffield has only illustrated that to me even more. I started this journey picking up a phase in Ireland at the Contemporary Scholars Conference, **‘culture will eat strategy for breakfast any day’** and when you really think about it, it is so true.

Nuffield has, hand on heart been the best thing that I have ever done, and I don't mind admitting it, but the whole experience for me, has been overwhelming, and an emotional one as I have really started to question my direction in life and what I want to achieve. Now more than ever do I realise that life is short, and there is so much to get done.

This experience has been the best personal development programme that I could have ever wished to take part in. Through the experiences, the knowledge, the learning, the businesses, the culture, the families and individuals that I have met, my perspective on the world and life has definitely changed, and I would like to thank all that I have met along the way for that.

I shall be forever indebted to my sponsor, The NFU Mutual Charitable Trust for their generous support which has enabled my Nuffield Scholarship to take place.

My sincere thanks also go to the Nuffield Farming Scholarship Trust and to all members of the Nuffield Farming community which I interacted with throughout, for their thoughts and wisdom. In particular it has also been a real privilege getting to know my fellow 2016 UK Nuffield year group who are a brilliant bunch and it’s been great sharing the whole experience with them.

I would also like to thank the following;

The partners at George F White LLP who kindly allowed me to take time off work to undertake the scholarship and a specific thank you defiantly goes to my team members who managed my work load whilst I was away.

Hugh Fell, Stephen Fell and Louis Fell for their support and faith in me, and their ability to make me think harder and question things in life. My family and friends who have provided endless support, and Dad for engraining a strong work ethic in me.

And of course, a few key Nuffield travel companions that have made my Nuffield journey truly memorable. Together we had some great adventures, and through our shared experiences they have all definitely had a positive impact in shaping my outlook on life going forward. I provide a couple of photos of these people on the next page which highlights some great memories.



Figure 27: The 2016 Brazil Global Focus Programme Group, photo taken on Rogerio Ferreira Pacheco's farm near Passo Fundo in the Rio Grande Do Sul State in Brazil.

My fellow Nuffield Global Focus Programme Group; Suzanne Ruesink, Tom Skerman, Fred Appleton, Randell Wilksch, James Dempster, Liz Manchee, Angus Duddy and Tom Dinneen. Together with Joao Antonio Martins and Fabiano Paganella who accompanied me throughout my personal travels in South America.



Figure 28: A 'Nuffield' learning adventure, traveling in a Citroen Berlingo through the State of Bahia, Brazil.

And of course Ruben Van Boekel, Matt and Kalyn Fetcher, and the fantastic Sally Thomson, who's inquisitive nature and positive attitude is contagious. Thank you all.



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