Spring 2021

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THE INSIDE TRACK

Tax planning considerations to think about in the weeks leading up to the new tax year

A time for contemplation and collaboration – food for thought for the new year

How unlocking potential in the family business helps to aid succession and future plans

THE INSIDE TRACK

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Welcome to our Spring Newsletter

The days are drawing out, and the daffodils are starting to show themselves, giving us renewed hope that the darker months are behind us and that sunnier days are ahead.

On the theme of looking ahead, we have tried to focus this newsletter around thinking about the future, in terms of tax as well as the family business. The past 12 months have been some of the most challenging we have experienced, and so it is important not to lose sight of your business and your future. Rosie has written a piece outlining some important planning points to consider before the new tax year starts. It is also worth mentioning that the annual Budget is due to take place at the beginning of March and we will be updating you with any relevant changes as soon as we can.

We are delighted to have Matt Damant from Ashfords Solicitors as our guest writer, he has written a very insightful piece on the importance of having up to date Wills and their significance in business planning.

As always, we are here should you need our support.

Stay safe and look after each other.
Margaret

YEAR END TAX PLANNING THOUGHTS

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It is a common misconception that tax planning opportunities are only available in high income years or when big transactions occur, such as selling property, or selling a large amount of stock etc. However, just as tax planning is essential in those situations, it is also an important consideration during a difficult period. Not only will this help minimise tax liabilities, but it can also provide an opportunity to review your overall plans for the future.

Farming profits and losses

Profits in farming commonly shift and the volatility can result in irregular tax payments. Given the year we have had, profits are likely to be unusual, some businesses may be struggling, while others have adapted or taken advantage of new opportunities and may find their profits spiking. Timing of year end transactions should be considered if you think you have been particularly profitable in the year. Bringing forward planned expenditure before the year end or slightly delaying sales could be advantageous. If your business has been loss making there may be an opportunity to offset those losses against other income streams to reduce the overall tax payable.

For those who trade as a sole trade or in partnership, Farmers Averaging is available, which smooths profits over either two or five years, whichever is more advantageous. Farmers Averaging makes use of any available personal allowance (currently £12,500 per person) and can bring income into the lower tax bands where these have not been utilised, to tax income at the basic rate (20% for trading profits and 7.5% for dividends). This can mean a larger proportion of income can be taxed at a lower rate than before, resulting in a tax saving in the year or getting a refund of some of the tax paid last year. Farming businesses who trade through companies do not have the same option as their profits are taxed at a flat rate, which is currently 19%.

Annual Investment Allowance

The Annual Investment Allowance that gives an upfront tax deduction on the cost of plant and machinery remains at £1 million for the forthcoming year. Where hire purchase is used the items must be on the farm and in use at the year end to be able claim the relief.

Pension Contributions

Where cash is available, making pension contributions can be a good tool for tax relief, while also making provision for the future. When used to their full potential, pensions can enable you to be less dependent on the farm income aiding succession planning. The tax relief for an individual is achieved by extending the basic rate band by the gross amount of contribution paid. This means more of your income is taxed at the lower rates. Companies can make pension contributions on behalf of their directors and employees, with relief being achieved by a tax-deductible expense recognised in the trading accounts.

Pension contributions need to be considered carefully as there are limits to the tax efficient contributions you can make. The annual allowance is currently £40,000, and if you have not fully utilised your annual allowance in previous three years, this can be carried forward to allow you to have tax relief on up to £160,000. Pensions also have a lifetime allowance of £1.073 million and where the fund value exceeds this level there can be additional charges to tax when the funds are withdrawn.

Dividend allowances

Directors can choose when they declare dividends and extract wealth from their companies, and therefore partly control the timing of the associated charge to income tax. With a year of volatile profits, it is particularly important to look at income received outside of the company to optimise the level of dividends distributed.

Similar to dividends, if you have a family trust it may be sensible to consider the level of income distributions made to the beneficiaries before the end of the tax year, to maximise the utilisation of the tax rates and allowances of the beneficiaries.

Capital Gains Tax

Not only is it important to plan your income, but there are also reliefs available for Capital Gains Tax. Each year there is an annual exempt amount, which is currently £12,300. Gains on disposal of capital items up to the annual exemption can be made free of tax.

Some of you may hold investments in the form of shares. As a result of Covid-19, stock markets have moved dramatically and many of these shares will have a lower value. It may be worth considering selling these shares to crystalise the loss if you know you have planned future sales which may create a capital gain. Where your investments have increased in value, now may be a good time to cash these in to make use of your available annual exempt amount and the current low rates of tax. Investment decisions should not be tax driven and it would of course be sensible to take professional financial advice before reaching a conclusion.

If you are thinking of disposing of residential property, whether this be on the open market or via gifts to family members, it is crucial to remember that chargeable gains over the annual exempt amount need to be reported to HMRC and the tax paid within 30 days of the transaction completing. It is important we have enough time to prepare the calculations within the 30-day window, so please do get in touch if this is within your plans to avoid any penalties.

To summarise, following an unusual year it would be worthwhile reviewing the opportunities available to optimise your tax position. It is always sensible to think through the long-term implications of any Income and Capital Tax planning that is undertaken, to ensure that it compliments, rather than detracts from, the family's longer-term objectives.

If you would like to discuss the above, or any other pre-year end tax planning points, please do not hesitate to contact us.

PROTECTING YOUR FAMILY FARMING BUSINESS

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As if we didn't need a reminder, 2020 forced many of us to engage with our own mortality.

But when it comes to getting our affairs in order, such is our innate reluctance to think about death that many of us would rather put off something like making a Will "till tomorrow". Then when you add in a need to arrange a meeting with a solicitor (and pay for the privilege of course), the prospect becomes even less appealing. However, with 2021 already a month old, it is a prime time to be reviewing your affairs as we look to the future with renewed optimism. This applies especially to members of the farming community, where making a Will is a vital part of succession planning.

This article covers the basics regarding what happens to a person's estate where they die without a Will, and then highlights the specific benefits to making a Will for those involved in a farming business.

Intestacy

Essentially, not having a Will in place will put you at the mercy of the rules of intestacy. There are many comprehensive articles out there discussing intestacy in more detail, but in brief summary:

- If the deceased is survived by both a surviving spouse and children, the spouse will receive the first £270,000 of the estate, with the remainder being split – half for the spouse and half shared equally between the children.
- If there is either a surviving spouse or children, they inherit entirely as appropriate (e.g., a spouse would inherit everything / the children would share everything equally).
- Where there is no spouse or children, the estate passes down an order of priority, starting with the deceased's parents and ending with the Crown if no relatives remain.

The intestacy rules also raise the following key points:

- The rules are rigid and restrict the beneficiaries to specific classes of family members.
- The individual's wishes are irrelevant.
- If you are not married/in a civil partnership your partner will not automatically benefit under intestacy. There is no such thing as a common law marriage under the intestacy rules.
- Even if you are married, the spouse's entitlement is limited (see above).

- Step-children are not covered under the definition of children for intestacy (though adopted children are).

As is hopefully illustrated by this, the rules can result in an unsatisfactory distribution of the estate, particularly when the family circumstances are outside the norm – and in addition, there can also be a potentially significant negative Inheritance Tax (IHT) position for an intestate estate.

Farming Considerations

The risk of an unsatisfactory outcome under the intestacy rules is magnified further when a farm is involved, and it's not difficult to see why:

- A farm will contain some considerable assets: the huge increases in land prices in the 21st century can mean estates run into the millions of pounds.
- Farming is often a family affair, with multiple generations working together, often going back decades.
- There could be a type of business structure (whether formal or informal) such as a farming partnership, which will influence the succession of assets.

An estate administered under the intestacy rules could well break up a farming business if assets have to be sold to be portioned out arbitrarily, and the potential for an otherwise avoidable IHT bill is hardly the proverbial spoonful of sugar either.

A Will is therefore a crucial document, and if well thought out it can help limit, or avoid entirely, the problems highlighted above. Here are some important considerations a Will can plan for:

- Succession of farming assets where not all children are involved in the running of the business. A Will can ensure the farming assets are retained by the farming children, while non-farming children can be also provided for (perhaps with non-business assets or funds from life policies).
- Where a partnership or corporate structure is in place, a Will can ensure controlling shares fall to intended recipients (whoever they may be). Without such provision, you may be leaving behind a business partner who is not only dealing with your loss, but also now having to work with an unexpected business partner/shareholder who may be either unwilling or unable to engage positively with the future of the business.
- Making sure due care and attention has been given to the IHT position of the estate and that the very attractive reliefs available of Agricultural Property Relief (APR) and Business Property Relief (BRP) are fully utilised.

With an effective, well-thought-out, and regularly maintained Will, an individual can ensure the farming business they leave behind remains intact and ready to continue into the future, as well as potentially saving many thousands of pounds of tax.

If you need any help with Will drafting or estate planning, or if you have concerns about a potential Will dispute, please do not hesitate to contact me.

A TIME FOR CONTEMPLATION AND COLLABORATION – FOOD FOR THOUGHT

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So here we are at the start of the Gregorian calendar year, the end of a fiscal year, the middle(?) of a global pandemic, the dawn of Brexit and the advent of the path to sustainable farming…

There is much to contemplate and consider regarding the future and with so many variables at play and numerous suggestions being marketed and banded around, it can be difficult to identify the fundamental issues in point or where to start.

Let us go back around 10,000 years to the commencement of the Agricultural Revolution, when our ancestors appear to have become tired of their nomadic lifestyle of chasing calories around the countryside, and instead set about collaborating and creating systems and processes to make the collection of calories more efficient.

We began to work the soil, cultivate crops and rear livestock. As we became better at this and perfected our techniques, we were able to harvest more and more calories from a set area of land, feeding and supporting larger and larger communities. We even found ways to utilise animals, and subsequently machines, to do most of the manual work for us, giving us increasingly more time to spend thinking and developing other ideas and interests.

Collaboration and improving the efficiency of harvesting calories has been the agricultural paradigm the world over ever since. In fact, we have become so proficient at producing digestible calories across the globalised world that there are currently more people suffering from the ill effects of obesity than from malnutrition. This is despite the exponential growth of our species from around 600 million people in 1700 to almost 8 billion people today. That is not to say that there are no issues with food supply across the world and it should be noted that the systems are not perfectly balanced between wealthy states and developing nations.

The vast majority of research and development in agriculture has long been focused on maximising the production of calories from sunlight, be that growing plants to eat ourselves or to feed the animals that we consume further down the chain. The rails of progress that we have journeyed along have increased yields and brought down the cost of production, but at what broader cost? Have these rails guiding our advancement also been an inverted rut that we have been unable to dismount, encouraging us to constantly produce more in the quest to sustain profitability?

There is an increasing global focus on the environment and climate change. We are starting to properly recognise and understand the effects of soil erosion, reducing biodiversity and greenhouse gas emissions, and more importantly, we are starting to want to address these issues.

We are seeing an increasing amount of land taken out of production of digestible calories and used instead to produce indigestible calories from sunlight, in the form of solar panels to produce “clean” electricity.

We are also seeing more research and development into the merits of alternative land uses or “ecosystem services” and their implementation. There are an increasing number of initiatives based around the storage of water to attenuate flooding and create biodiverse habitats, nitrate and phosphate sinks to protect and improve drinking water quality and the sequestration of carbon back into the land to try to rebalance the carbon cycle we all learnt about during our primary education – we seem to have finally realised that the cycle is more balanced if we replenish more of the carbon we extract from the land in the form of organic matter, oil, coal and gas rather than allow it to drift off into the atmosphere.

The changes in global dietary trends and focus on climate change, together with the change in national agricultural policy and the ageing demographic of the farming sector are forming a perfect storm, with the seas of change once again starting to swell.

It seems as though we will see an increase in adoption of alternative land uses as subsidy is redirected from food production to other “public goods” and other “ecosystem services” are better understood and properly valued. We may see Government backed initiatives to establish new markets for carbon, nitrate and phosphate credit trading and engaging the public with the countryside, be that in the form of leisure, tourism, or education. These things seem likely but are not certain.

One thing is certain, however, the need for collaboration will remain. Pooling thoughts, ideas, energy, enthusiasm, capital, and appetite for risk is what will seek out and harness the opportunities that present themselves over the coming decade as the landscape changes.

It is perhaps, therefore, a time for deep contemplation regarding the long-term positioning of the family business. It may be worth reflecting on what assets are at your disposal and to which of the broader collection of “ecosystem services” they lend themselves? What are your passions and, possibly more importantly, what are the passions of your successors? Should unsubsidised food production remain the primary activity, or is there greater value to be created by alternative means? Where food production is to remain at the forefront, will this be based on the model of perpetual need for improved efficiency for the commodity markets, or repositioning production to deliver to value focused niche markets? With whom will you collaborate and through which structures or arrangements? Will you be able to offer environmental offset to other farming or non-farming businesses, or will you be required to “buy in” offset from elsewhere?

There are, very deliberately, no suggestions given to the questions noted above, as it is my belief that what is required will be bespoke to each family and business. The intention of this article is not to try to explain what one should do, but what one should think about. I encourage you to follow up your initial thoughts with conversation with those whom you trust, to collaborate and explore collectively, to be curious of what emerges.

COVID UPDATE

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We are continuing to be faced with the difficulties of the pandemic and support is constantly being reviewed and extended. Below we have identified some of the recent updates however, many of the other support schemes which have been available throughout the pandemic have been updated and extended.

Self Employed Income Support Scheme

We have already been made aware that the self-employment income support will have a fourth grant opening in March which will cover the months of February to April and can be applied for in the same way as you have done for the previous grants. Although the grant does not need to be repaid if you are eligible, it will be subject to Income Tax and self-employed National Insurance and must be reported on your 2020/21 self-assessment tax return.

Job Retention Scheme

The Coronavirus Job Retention Scheme was previously expected to cease and be replaced by the Job Support Scheme however it has now been extended until 30 April 2021. You can claim for employees who were employed on 30 October 2020 providing you were making PAYE RTI Submissions to HMRC, even if you had not previously submitted a claim in a previous period.

You can claim for 80% of an employee's usual salary for hours not worked, up to a maximum of £2,500 per month. As before, the employer is required to pay for employer National Insurance Contributions and pension costs. Employees can be flexi-furloughed, where you are able to offer them work for a proportion of their usual hours and for the hours not worked, they would be eligible for furlough. Alternatively, employees can be fully furloughed in which case they cannot undertake any work for you until their furlough ends.

Statutory Sick Pay for COVID-19

If your employee is unable to work due to coronavirus, they are eligible for Statutory Sick Pay (SSP) in the following circumstances:

- They are self-isolating due to:
- They or someone they live with has symptoms or has tested positive
- Having been notified by NHS that they have been in contact with someone with coronavirus
- Someone in their support bubble has symptoms or has tested positive
- Being advised by a healthcare professional to self-isolate before going to hospital
- Living or working in an area with restrictions in place
- They have been advised to shield

However, employees are not eligible for SSP if they are self-isolating after entering/returning to the UK.

The day on which SSP will begin will be dependent on the reason for which your employee is unable to work and the number of days which they are required to isolate or unable to work. SSP is currently payable at a rate of £95.85 per week which, under normal circumstances, is not reclaimable from HMRC however HMRC have made an allowance that employers can reclaim up to two weeks of SSP per employee if it is coronavirus related.

If you have an employee who tests positive for COVID-19 the important message is to ensure that NHS Track and Trace have been informed. They will notify any employees/contacts who are required to self-isolate but otherwise other employees should remain working unless they are required to self-isolate for another reason.

If you feel that you should be eligible for some support through this period, please do get in contact.

HOSPITALITY SUPPORT AND VAT

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Many businesses in the hospitality sector have struggled over the last year as they have adapted to national lockdowns, restrictions, and the inability to provide their services to the general public.

The Government has provided support packages by way of grants through local authorities, with many businesses, such as Furnished Holiday Lets, receiving £10,000 or £25,000 based on the rateable value of the premises.

There has been a lot of uncertainty amongst business owners regarding how these grant receipts should be treated for both tax and VAT.

Grant income is subject to Income Tax and Corporation Tax in the same way any other trading income is and will need to be reported on the appropriate Tax Returns.

Conversely, the grant income does not represent a payment for a supply of goods or services by the business to another party. These receipts are purely financial support for the business during this difficult period and as such are outside the scope of VAT; this income should not appear on the VAT return at all. In addition, for businesses that are not registered for VAT, this income does not count towards the VAT registration threshold, which is currently £85,000.

If you operate a hospitality business and would like to discuss the treatment of any of the financial support you have received over recent months, please do not hesitate to contact us.

AIA LIMIT REMINDER

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The Annual Investment Allowance (AIA) allows full tax relief in the year of investment on qualifying capital expenditure that may have otherwise received relief at 6% or 18% per annum.

From 1 January 2019 the annual limit for the Annual Investment Allowance was increased from £200,000 to £1,000,000. The increased limit was intended to be temporary until 31 December 2020, when it would revert to £200,000.

In November 2020, following our Autumn/Winter newsletter, the government announced that the increased annual limit of £1,000,000 would remain until 1 January 2022.

This increased Annual Investment Allowance gives business owners encouragement to invest in their plant and machinery whilst the increased limit still applies to maximise the 100% tax relief that may be restricted in future years.

Rosie covers the importance of this relief in her year-end tax planning article, and it is worth bearing in mind if you are planning large capital expenditure in the coming year.

UNLOCKING POTENTIAL AIDS SUCCESSION

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Succession is often the elephant in the room. It may be tricky but it is the most important discussion you can have, potentially impacting both the longevity of a business and personal happiness of everyone in it.

It can also be the keystone to unlocking the potential within the familiy resources and skill set. Get it right and success of the business will follow. Often different family members have differing, but equally valid objectives, and without good communication and understanding may end up pulling in different directions. Everyone meeting their objectives and feeling satisfied in what they do is immensely powerful but it can only be achieved if everyone is open and honest with one another and respectful of different objectives within the family.

Statistics show that there are 3 main reasons for succession failures:

60% – lack of communication
25% – heirs not ready for succession
3% – poor financial planning

This shows the keys areas to overcome if you are going to make it work for you and your business.

Communication

This is the most common and most difficult issue when looking at long term business planning! Here are some key points to help you.

Talk about it

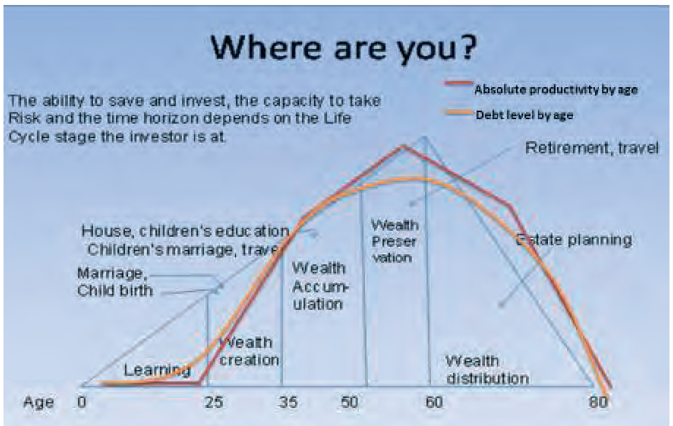
Set up a separate meeting to talk about long term planning. Avoid talking about day to day matters. Get a third party such as your accountant or consultant to help you if necessary, to keep the meeting focused and to ensure everyone is heard. It is critical that you are honest about what you want and also that you listen to others .

Set objectives for the people and the business

Get everyone in the business to set out their objectives for the business and themselves. It is critical here that everyone is honest and that you listen to others – Success is about understanding and meeting what everyone needs. Think about how different people at different stages in life will have different objectives and risk profiles and how you can harness that, to achieve what everyone wants to make a much stronger business. It is also really important to discuss housing requirements.

Resources

Think about resources that you have – the skill sets, interests, experience and capital available and how you can harness that for the success and satisfaction of everyone and success in business. Consider the broad stages that the parties are likely to be at and how that affects their wishes and approach to risk and you will then look at how you plan differently. No one is wrong for having their personal objectives and aims, however it is appreciating everyone elses position and thinking about how you can deal with this in your business structure that will really make a difference.



Set a plan

Try to structure the plan to meet all objectives as far as possible. For example if one generation wants to expand the dairy and borrow– they could take the bulk of the financial risk but the older generation could hold onto the assets and provide security having a fixed income for lower risk. There is never a single solution here but it is critical that you look at the objectives and risk profile and plan accordingly. If you have one generation who want to take risk and develop the business and the next holding back because they do not want the risk or hassle, if you do not deal with the concerns they will be pulling against one another and will hold the business back.

Tax is important and needs to be considered but only after you have a longterm plan that works for all.

Get the right legal documents in place

Once you have a plan then you need the key documents in place so that everyone knows where they stand and the right protection is there. The key documents are partnership or shareholders agreements, wills and land ownership documents. Don't forget to talk to the bank if you are changing ownership or security for lending.

Keep talking

Follow it up with annual meetings to monitor progress and to facilitate regular discussion about objectives and strategic direction. Make changes if required.

Prepare the next generation

Harness the power within the people and start early – we live in a technical world and it changes rapidly and the next generation are the key to staying ahead.

This could involve some or all of the following:

- Training and experience – they need to be ready for a very technical industry and to be at the forefront. Training should be both education, talking to others and experience.
- Give responsibility for parts of the business using their strengths e.g calf rearing, or even the paperwork!
- Moving capital (land and assets) can be separated from succession to the business to allow them to make mistakes without jeopardising capital.
- Being involved in day to day decisions and even longer term decisions especially as they are the ones that may be repaying the debt.
- Attending bank and accounts meetings so that they understand the business and the thinking and compromises it entails.

Protecting the business & its financial performance

Lastly it is important that there is a sound business to consider succeeding to. There is plenty of advice in this area but it is critical that the business is structured to get the best out of the assets and for there to be a successful business through the generations. This will involve constant change and development as Dan has highlighted in his article. You should embrace that where it improves the business for the long term.

The power in a generational business can be immense but communication is key. Be open and honest in a constructive manner and make time for the higher level discussions and planning on the strategy of the business.

STAFF PROFILE

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Accounting was never at the top of Ellie's possible careers choices, in fact, she initially applied for the Administration position soon after Evolution ABS was founded. Margaret, however, had other ideas, and offered Ellie Evolutions first trainee position, back in 2010, and Ellie has not looked back since.

She completed her studies and qualified as a Certified Chartered Accountant 5 years ago and currently manages a portfolio of agricultural clients which she thoroughly enjoys. Within the last 12 months, Ellie has taken on a separate internal role, leading the marketing committee. This includes editing the newsletter content, and we hope this year attending some agricultural shows – should Covid allow.

Ellie was born and bred on a dairy farm in Dorset, until her family moved to Devon in 1998. Although they were no longer farming, as the saying goes, you can take the girl out of the farm, but you cannot take the farm out of the girl. Ellie now lives with her husband and young son, on his family beef, sheep and arable farm, on the outskirts of Exeter. She enjoys helping with lambing their 350 ewes in January and hopes that one day little Joshua will share his father's passion of breeding pedigree Simmental cattle.

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EVOLUTION NEWS

Happy 2021! It's a New Year, National lockdown restrictions have tightened, tax return season is still upon us, but there are plenty of reasons to be cheerful here at Evolution ABS.

Our Zoom virtual Christmas party was a huge success thanks to the efforts of hosts Ellie and Rosie. We opened Secret Santa gifts, played games, did forfeits, and generally enjoyed ourselves, with the added bonus that nobody had to drive – cheers!!

Last November our 3 AAT trainees, Dani, Katie, and Emma-May, all passed their final Level 3 exams, no mean feat having had to study remotely for half the year. Well done girls! They have now all moved on to Level 4 and with the help and support of their tutors at Richard Huish College, hope to make good progress, despite still not being able to attend college in person.

Our most exciting news on the staff front is that Victoria and Glenn welcomed their first child in January. Mother and baby are doing well, and we are all looking forward to meeting him just as soon as restrictions allow; hopefully before his first birthday!

With national lockdown reimposed the office remains closed; however, staff are working remotely and are available between 10am-3pm. Should you have a query please call the normal office number on 01823 462908 and a member of our admin team will be happy to put you through to your manager or take a message to pass on.

If you have any queries regarding any of our articles, or would like any further information, please do not hesitate to get in touch.

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