

The Church Commissioners have inherited a liability for the repair and maintenance of a number of chancels throughout the country and the Pastoral Division is responsible for administering this liability. Chancel repair liability is a civil rather than an ecclesiastical matter and we are unable to identify who might have a liability for the maintenance of a particular church chancel (other than where we are liable).

The Land Registration Act 2002 has meant that PCCs have to consider registering any chancel liabilities arising from land at the Land Registry.

In considering what approach to take in this matter, dioceses and PCCs will want to consider the likely cost of seeking to identify the correct land to register liabilities against and, perhaps, the pastoral implications of seeking to (potentially) enforce liability against a party who through no fault of their own is ignorant of any liability. This is particularly the case where the liability is a tiny fraction of the whole.

Any PCC wishing to pursue registration of liability against the Church Commissioners' property or property they formerly owned are strongly encouraged to contact us before sending any such applications to the Land Registry, as we may be able to offer the PCC a Deed of Indemnity against the liability instead. Some guidance to our policy on these documents can be found below.

Where land liabilities are or may be involved, PCCs are strongly advised to consult their archdeacons and/or diocesan registrars, as there are potential pastoral implications.

It may be possible to come to some arrangement with identified lay rectors to redeem liability on their land via a capital payment. A PCC should take legal advice before agreeing to any such deal or proposed figure. A basic guideline to the Commissioners' position on the matter can be found below. The Commissioners are only involved in compounding cases as a final referral from the diocese.

Some PCCs do approach the Charity Commission to seek its confirmation that a planned decision not to register or enforce chancel repair liability is correct and in accordance with the PCC's charitable duties. In such cases, PCCs need to present a substantive case in writing, explaining how they have arrived at the planned decision. They also need to demonstrate that there is a real likelihood of that decision being challenged. The Charity Commission's general advice on this subject can be found [here](#).

PCCs are advised to read the notes below before consulting their archdeacons and registrars.

[Want to know more?](#)

What is chancel repair liability?

Chancel repair liability (CRL) is a long-standing and legally enforceable liability to repair – or to contribute to the cost of repair of – the chancel (usually the easternmost part) of a parish church.

Some chancel repair liability is attached to the ownership of particular pieces of land. That is because the land in question originally formed part of a rectory (an endowment including land to support the priest who serves a parish) or because it otherwise represents property that originally formed part of a rectory. During the middle ages monasteries acquired a large number of rectories. Following the dissolution of the monasteries under Henry VIII, a large amount of property that had belonged to rectories came into lay ownership. The relevant Acts of Parliament made it clear that the new, lay, owners of the land held the land on the same terms as the former monastic owners. That included the obligation to repair the chancel of the parish church.

When a person acquires land to which CRL is attached, that person becomes liable to repair – or to contribute to the cost of repair of – the chancel of the parish church. CRL was formerly enforceable only in the church courts but in 1932 Parliament passed legislation – the Chancel Repairs Act 1932 – which provided that in future CRL was to be enforceable in the county court instead. The Chancel Repairs Act 1932 provides that the responsible authority for enforcing CRL is the parochial church council of the parish concerned.

Is it not unfair that home buyers can find themselves subject to chancel repair liability even if they were not aware of it when they purchased their property?

While in theory this might have been a problem, we are not aware of any recent case where someone has bought property without knowing it was subject to chancel repair liability and has subsequently faced a demand for payment.

In any event, the issue has now been addressed by government legislation. In future CRL will need to be registered against the title of the affected land if it is to bind a purchaser of the land. Since 14th October 2013 purchasers, by inspecting the registered title of a property, have been able to discover definitively whether it is affected by chancel repair liability.

Are PCCs obliged to register and enforce the repairing obligation?

A PCC is a charity so its members are subject to the usual duty of charity trustees to exercise their powers in its best interests. They cannot therefore simply choose not to register or enforce chancel repair liability. However, as Lord Scott noted in the *Aston Cantlow* case, there may be circumstances in which a PCC can properly decide not to do so. A PCC could, for instance, in an appropriate case take into account the possibility of excessive hardship that might be caused to those liable if the obligation were enforced, or the damage that enforcing it could do to the mission of the Church in the parish. But the decision is one for the individual PCC.

Is the Church nationally co-ordinating the registering of chancel repair liability?

No. It is a matter for individual PCCs, with the benefit of advice from their diocesan registrar.

Is the Church nationally co-ordinating the chasing of chancel repair payments?

No. It is again a matter for individual PCCs.

Are grant-making bodies such as Historic England insisting that parishes pursue chancel repair liability before they will make grants to those parishes?

The policy of Historic England has been that it will not provide grant aid to a PCC in respect of repairs to the chancel of a church where there is a lay rector who is responsible for its repair. However, responsibility for grants for places of worship was taken over by the Heritage Lottery Fund (HLF) in 2013. HLF have said the following:

“One of these key alterations to the grants repair scheme to be introduced from 01/04/2013 will be the way in which we assess financial need. Whilst we will still look at the value for money applications offer, we will no longer follow the highly detailed financial needs assessment model as currently used. Neither will we continue with the blanket policy that considers chancel repairs where there is a lay rector to be outside the scope of grant aid. Instead, we will take account of the financial needs of the applicant with regard to future development plans for the long-term sustainable use of the building. We will also be realistic about their ability to fund raise, and therefore we will not encourage the PCC to pursue Chancel Repair Liability on occasions where it is evidently unreasonable for them to do so.”

Will the Aston Cantlow case lead to a flood of similar claims?

No. The principles involved were established in 2003 when the House of Lords gave judgment. We are not aware of any increase in the number of chancel repair claims since then.

Is it right that the Church of England continues to benefit from this historic liability?

Church of England has financial responsibility for 45% of the nation's Grade 1 listed buildings and many other architecturally important churches. 70% of repair bills are met by local fundraising, with only a minority coming from English Heritage, lottery funds and other non-church sources. This places a considerable financial burden on PCCs, which largely rely on voluntary giving to support their work. Against that background, the Church cannot be expected to forego sources of funding to which it is entitled unless it receives adequate compensation.

[Church Commissioners' policy](#)

The Church Commissioners have moved away from registering land-based CRL against land we still own, and instead offer affected PCC's a Deed of Indemnity. There are two main types of these that we can offer, and details about them kind be found below.

To find out more about our Bilateral Deeds of Indemnity [click here](#).

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For any PCCs who have carried out research into CRL and are wondering where to go from there, we have created a Simple Guide for their possible options which you can find [here](#).

Compounding Chancel Repair Liability

It is possible for a lay rector to seek to compound his liability under [s.52 of the Ecclesiastical Dilapidations Measure 1923](#) (as amended). The sum to be paid has to be agreed by the Diocesan Board of Finance after consultation with the PCC. The Board has the right to refer the matter to the Commissioners. The Commissioners have rarely been asked to agree a figure. Our formula when asked to do so is as follows:

1. the cost of putting the chancel in good repair at the time of the request, plus fees and any non-recoverable VAT;
2. the estimated cost thereafter of annual maintenance of the chancel plus fees and any non-recoverable VAT, capitalised at the appropriate years' multiplier.
3. the estimated annual cost of insuring the chancel for a sum adequate to reinstate it after destruction by fire, also capitalised at appropriate years' multiplier.

NOTES

It is the Commissioners' policy that the appropriate link for the capital multiplier is the average yield on the FTSE 100 Index. At the time of writing (15th May 2018) the yield is 3.83% thereby giving a multiplier of 26.11

Dioceses will want to take their own legal advice on the wording of any receipts issued under S.52(4). If (as in many cases) a fractional liability only is compounded, the receipt should state very clearly that it is only that fractional liability being compounded and that any other liabilities pertaining to the person compounding the relevant fraction and others so liable remain extant.

- 1 Current What can we help you with?
- 2 Complete

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Indicates required field

Your Name

Email Address

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Your query:?

