

CHANCEL REPAIR LIABILITY

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. With effect from 14th October 2013 purchasers, by inspecting the registered title of a property, will be 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 [paragraph 137], 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.

Advice from the General Synod's Legal Advisory Commission is available here:
<http://www.churchofengland.org/about-us/structure/churchlawlegis/guidance.aspx>

Advice from the Charity Commission is available here:
http://www.charitycommission.gov.uk/Charity_requirements_guidance/Specialist_guidance/Faith/chancel_repair.aspx

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 English Heritage insisting that parishes pursue chancel repair liability before they will make grants to those parishes?

The policy of English Heritage 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 is to be taken over by the Heritage Lottery Fund (HLF) with effect from 1st April 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?

The 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.