

CHANCEL REPAIR LIABILITY (CRL)

Update May 2012

This information should be read in conjunction with the earlier detailed reports which are in the Diocesan CRL Guidance Pack. This can be found on the Diocesan website under "Legal".

1. Summary of the Current Position

Parishes must investigate to see whether or not there is any land which has the burden of CRL whereby the owners of the land would have to contribute towards the repair of the chancel of their particular church. If parishes discover land with CRL, then if the benefit is not registered against the land by October 2013 the liability of the landowner to contribute towards the repair of the church is lost on any subsequent sale of the land.

2. Registration

If parishes have discovered land with CRL and do intend to register before October 2013 they must register a notice if the land is registered, or a caution if it is not. The relevant forms can be obtained from the Land Registry but care should be taken as registration must not be made without reasonable cause. Parishes are advised to take professional advice in lodging any application at the Land Registry. They should be aware that notice will be given to the landowner who may object, in which case the Land Registry will adjudicate. The onus will be on the parishes to provide the Land Registry with the evidence they have discovered to show that a particular parcel of land has CRL. If the application is made before October 2013 no Land Registry fee is payable.

3. If parishes have discovered land with CRL and do not wish to register against it, then they should apply to the Charity Commissioners (CC) under Section 110 of the Charities Act 2011 (which replaced Section 29 of the Charities Act 1993) for formal advice from the CC that the Parochial Church Council's (PCC) decision not to register is reasonable in the circumstances. PCC members acting in accordance with Section 110 advice are protected by law from personal liability for breach of trust. It is, however, important to note that misleading the CC by misstating facts or non-disclosure removes that protection. Accuracy and detail are therefore essential.

Each application is treated on its own merits but a number of points that the CC will need to see are given below:-

- (a) They will need to be satisfied that the PCC understands what CRL is; that they know how its liability is established and how liable payments are apportioned. They need to show that they understand how registration is effected and how liability would have to be enforced by the County Court if disputed.

- (b) The CC will need to see that the PCC have made a thorough investigation and have carefully considered the financial consequences of what they want to do. In particular they will want evidence of the PCC's current financial position; that it has addressed how repairs to the chancel will be funded in the absence of a contribution from a lay rector; that the PCC are aware and have considered the fact that English Heritage will not provide funding in respect of chancel repairs for which an individual has liability and that the provision of Section 110 advice by the CC to confirm a decision made by the PCC will not override that position.
 - (c) They will want evidence as to the current condition of the chancel. A recent Quinquennial Inspection or Surveyor's Report is essential.
 - (d) The CC will need to know something about the parish. They will want to know its size and location, whether it is urban or rural. They will also need to have details of the percentage of CRL and whether there is any continuing liability which does not need to be protected by registration.
 - (e) If the basis of the application is that the costs of registration would outweigh the potential benefit of a contribution from a lay rector to repair the chancel, then the CC will need detail. They will need to know approximately how many properties are involved against which individual applications to register would have to be made, and they would want an estimate of the costs of obtaining Land Registry office copy entries for each title and of making the individual applications. Care should be taken not to understate or overstate the facts.
 - (f) The fact that an application to register would in the opinion of the PCC have an adverse effect upon the Mission of the Church is not one that will stand alone in any application under Section 110. However, if it is relevant to a parish and is something the PCC have considered and have satisfied themselves upon then the application should refer to it. Practical reasons should be given saying what it is that the parish is doing which would be harmed were registration to proceed. The argument that registering CRL might cause people not to make voluntary contributions to the Church will not be persuasive.
4. Legal advice is available to assist in making Section 110 applications and in making applications to register and PCCs can consult -

Nicholas Thomas
Blain Boland & Co., Solicitors
The Green
Neston Road
Willaston
Neston
Cheshire CH64 1RA

Tel: 0151-327 1301
Fax: 0151-327 8360

Email: nicholas.thomas@blainboland.co.uk

or in the first instance should make enquiries of Nikki McVeagh at the Diocese -

Mrs Nikki McVeagh
Legal Liaison Officer
Diocesan Office
St Nicholas Church
Boley Hill
Rochester ME1 1SL

Tel: 01634 560000

Fax: 01634 408942

Email: Nikki.McVeagh@Rochester.anglican.org