

Simple Guide for PCCs wishing to register Chancel Repair Liability after Research

1. PCCs affected or potentially affected must take their own legal advice but in baldest summary any liabilities coming under Categories 4(c) and (d) of the Records of Ascertainment and any “pure” land (non tithe-based) liabilities are candidates for registration by the PCC.
2. If the PCC wishes to pursue this, then either (a) a caution (of chancel repair liability) needs to be entered against first registration of unregistered land; or (b) notice of the liability needs to be entered against registered land.
3. This note assumes that the PCC has managed to identify the subject land through one of the means available to it. For the most part (albeit greatly simplified) this will involve obtaining the relevant tithe maps (or plan of the liable land if it is a “pure” land case) and the related modern Ordnance Survey maps. Where tithe fields are involved, the PCC should prepare a record (preferably a spreadsheet) which will show each tithe field as a percentage of the whole.
4. The PCC or its Researcher should compare the historic plan of the area subject to CRL with the modern OS map. This is an essential step as it is only by getting a feel for the areas involved and their demography that PCCs can take an informed view on the right way forwards for them.
5. There is some material on this website (notably [the Opinion of the Church of England Legal Advisory Commission](#) and [CRL FAQs](#)) which will help the PCC take a view on the feasibility, practicality and politics of undertaking the registration process. There is also some helpful advice from the [Charity Commission](#).
6. Ultimately however, only the PCC can properly decide which course of action it wishes to pursue and it should do so after careful consideration of the factors involved, and reference to the Archdeacon and/or Diocesan Registry as appropriate.
7. A PCC **must** investigate the position where there is clear evidence that there is a third party responsible for their CRL.

PCC members are charity trustees and these financial responsibilities cannot be lightly set aside without careful research and thought. This is not to say that a PCC has to pursue a (or every) lay rector but that decisions not to do so have to be taken on an informed basis.

8. For example, if a PCC discovers that thousands of houses sit on land affected by CRL, it may well consider that the fractional sums that might be requested of each household make it entirely uneconomic to register CRL (the liability would have to be registered against **each** separate house title which would have heavy cost implications) and then pursue CRL.
9. Otherwise, PCCs will want to consider the risk of very real pastoral damage by registering CRL against an individual's land, especially if the liability had seemed dormant for many years. This might be seen to hinder the Church's charitable objectives.
10. Where a PCC concludes (after taking appropriate advice) that that it is either uneconomic and pastorally damaging to seek to register a liability, it would be wise for the PCC to seek the Charity Commission's advice that it is acting properly in not pursuing the matter. In accordance with the Commission's advice, the PCC will need to demonstrate that it has undertaken proper research and the reasons for its proposed course of action. If the Commission agrees with the PCC's position, PCC members will be deemed to have acted properly and not to be in breach of their charitable obligations.
11. Notwithstanding the cautionary points outlined above, the point made in Paragraph 7 above prevails as the default position.
12. PCCs will understand that the act of registration where the Commissioners are accepting the liability (or a share of it at least) in respect of an indemnity given at the time of a sale of some of our former land is altogether less sensitive. This is because the Commissioners are in effect underwriting the (share of the) liability connected to the land, and registration of the same will serve to ensure that the Commissioners will

continue to pay our share of the relevant CRL as long as CRL remains law. Clearly anyone whose land is having CRL registered against it in these circumstances should be informed by the PCC that the Commissioners sold the relevant property either with a specific indemnity against CRL or on a “free from incumbrances” basis.

13. Whatever the outcome of the PCC’s researches into CRL, it is essential that clear records of the outcome of those researches be maintained and, as mentioned elsewhere in this note, the Archdeacon and/or Diocesan Registry should be consulted, especially if a PCC is planning not to pursue registration.
14. For the most part, we strongly recommend that where possible PCCs should employ professional help to deal with the actual registration process, which is best undertaken by a Solicitor. This will clearly have cost implications (including if the Diocesan Registry is approached), especially for built-up areas where there is magnitude of individual titles.

Church Commissioners
Spring 2013