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## Chancel Repair Liability

### What is Chancel repair liability?

Chancel Repair Liability (CRL) is an historical form of local church tax, where the church could recover the cost of repairs to the chancel (roughly the space around the altar (including the choir stalls) at the east end of a traditional Christian church building) of the church from the owners of certain properties which were formerly church owned. The church must be a mediaeval church.

This liability falls within a group of matters affecting property known as “overriding interests”. These are, briefly, interests which exist in respect of land but which were not previously required to be registered at the Land Registry. Among other similar interests would include the right of a non-owner occupier to reside in a property and fishing or shooting rights.

The legal case which changed everything was that of Mr and Mrs Wallbank who lost an appeal in the House of Lords against a demand to repair the Chancel of a medieval church in nearby Aston Cantlow, under an archaic and arcane law known as Chancel Repair liability. The judgement found them liable for a bill for repairs totalling £186,986, plus VAT and costs, which brought the total up to approximately £250,000. This was in addition to the £200,000 they spent over the years fighting the case. The rather sad end to the story was that in 2008 Mr and Mrs Wallbank were forced to sell their farm in order to fund the Chancel repair.

The Land Registration Act 2002, may provisions of which came into force in October 2003, requires a number of overriding interests affecting land to be registered against the appropriate property, failing which the interest would no longer bind the land. The Land Registry stipulated that any such interests had to be registered no later than 13 October 2013 otherwise there could be no claim. Obviously, those entitled to the benefit of such interests will have to, by now, protected them by applying for registration.

The Church of England has recognised that it may lose out financially if CRL is not registered and it has therefore made its own enquiries in parishes where there is a medieval church, to identify properties which may be subject to the liability, and should have made application to register the liability at the Land Registry against such properties.

You may have heard that Chancel Repair Liability (CRL) cannot be registered against a property after 13 October 2013. This is, in fact, not true.

The legislation states that where a piece of land was not registered with the relevant entry on the title of the property by 13 October 2013, but is subject to potential CRL, the land will remain subject to that

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potential liability even after that date until the eventual sale of the property for “valuable consideration”. The disposal of a property by way of a gift, undervalue, inheritance or divorce does not count as one for “valuable consideration”.

After 13 October 2013, the current overriding Chancel repair obligation will not bind a purchaser of land for “valuable consideration” if the right to demand the Chancel repairs has not been noted on the register of title to a property at the Land Registry of a registered property, or if there is no caution against first registration of an unregistered property.

Churches across the country will have, therefore, been busy checking their records to establish and investigate existing Chancel repair liabilities which can be protected before the deadline so that they may enforce such liabilities in the future.

As noted above, the Church can protect its right to recover payment for Chancel repairs by registering a Notice against the registered title to a property or by entering a Caution against first registration (where the property is unregistered). Any purchaser buying a property after 13 October 2013 will then be aware of the CRL before they buy.

However, it is important to note that a failure on the part of any Parochial Church Council (PCC) to register a Notice or Caution against a property by the deadline will not render the CRL void against existing owners of properties subject to CRL until the owners dispose of the property for “valuable consideration”. However, all new owners who buy a property after 13 October 2013 for “valuable consideration” will purchase free from liability.

To bind new owners the PCC would have to register their Notice or Caution before the land changes hands for “valuable consideration”, even if this is after 13 October 2013.

In other words, after 13 October 2013 a purchaser of property will not be liable for CRL if the right has not been formally noted against the property and the property was bought for “valuable consideration”. However, if land is

conveyed after 13 October 2013 and no consideration is paid (as defined above) the land will continue to be subject to CRL even if the liability is not protected by either a Notice or Caution.

It is also important to note that the Church can request payment from only one parishioner if it chooses and it would then be up to that parishioner to try to get payment from all of the other parishioners which could prove very expensive and time consuming.

To protect your asset from potential CRL we recommend putting in place CRL Indemnity Insurance.

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## What to do:

We will receive up to date copies of the entries registered against the property at the Land Registry when we receive the draft contract papers from your Seller's solicitors, which will reveal whether there is any Notice or Caution registered against the property at that time.

We have negotiated a policy with Stewart Title Limited and, for the sum of £12.22, cover can be obtained for the full purchase price of the property, up to £1m. This policy will cover properties of any value for 25 years and will cover your successors in title and any mortgage lenders, PROVIDED that the area of the property (and included land in the title to the property) is no more than 5 acres. The price of the policy will increase if the property is over £1m however we will confirm this to you once a quote is obtained.

We have not trawled the whole of the insurance market as we have an agreement with Stewart Title Limited to provide this insurance policy. The reasons why we have chosen this policy are;

- The policy is provided by a specialist insurer with knowledge of the market
- The policy covers the risk identified, the premium is competitive and the policy is available at short notice.

If you are taking a mortgage then the policy must be taken out. However, if you are a cash buyer then you should instruct us if you do not wish to take advantage of this policy. If we do not hear from you in writing to the contrary before we exchange contracts then we will automatically take out the policy on your behalf and you will be responsible for the premium payment, which we will collect from you on completion.

The reason for doing this is that, the Church can still apply to register a Notice or Caution against the property unbeknown to us between exchange and completion and we would not get automatic notification of this. At the time of taking out the Indemnity Policy, therefore we would be able to confirm to Stewart Title Limited that there was no pending application by the Church.

## Notice

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Neither Fletcher Longstaff, nor Stewart Title Limited have any direct or indirect interest in the other.

**We must point out that we cannot be held liable under any circumstances should any claim not be met by the Insurers.**