

Chancel repair liability

Chancel repair liability is the responsibility on some property owners in England and Wales to pay for repairs to the chancel of their local church. The Chancel is the part of the church reserved for the use of the clergy or choir, and where the altar is placed.

History

Historically, the responsibility for the upkeep of a church was divided between the rector (the clergyman in charge of the parish) and the parishioners (the members of the parish). Subsequently, parishioners' responsibilities were transferred by legislation to the church, but rectors were still responsible for the upkeep of the Church Chancels. When the rectors' land later became privately owned, the responsibility to repair the chancel passed to the new owners of the land in question.

How is liability enforced?

Under the Chancel Repairs Act 1932, a Parochial Church Council ("PCC") has the power to serve a demand for the cost of repairs, which can be enforced through the courts. Liability is "joint and several" which means that any one owner of land can be responsible for the whole repair. The reality of the risk is highlighted in the case of the Parish Church Council of Aston Cantlow and Others v Wallbank in 2003. In this case, the property owners were held liable for over £95,000 for chancel repairs.

How will I know if my land is affected?

Up to one third of parish churches may be entitled to claim chancel repair costs from local land owners. The land need not necessarily be adjacent to the church for the owner to be responsible for chancel repairs. Rectory land is often broken up into fragments and, for that reason, it can be difficult to tell whether you would be liable. In many cases a clue is in the name of a property, for example the words "Vicarage", "Rectory" or "Glebe" would suggest potential liability.

For the reasons above, it is important that, if you suspect that your property may be affected, you protect yourself against potential costly repairs which you may, unwittingly, be responsible for.

A service was introduced after the 2003 court case, which checks through data obtained from the

Ware & Kay LLP in YORK



Address
Sentinel House
Peasholme Green
York, YO1 7PP



Tel
01904 716 000
Fax
01904 716 100

National Archive to establish whether a property may fall within an area with a potential chancel repair liability. If the check reveals a potential liability the land owner can consider an insurance policy. This will be a "one off" premium (for cover that lasts indefinitely and covers future owners and mortgage lenders) and will be in the region of £50 - £100 for residential properties *.

Making enquiries of your local PCC to find out if you have potential liability is not advisable, as this may alert them to the need to register their interest, and insurance would not then be able to be obtained.

Legislation and how this affects land owners and purchasers of land with potential liability for chancel repairs

Legislation is now in place requiring Parochial Church Councils to register Chancel Repair Liability against affected property titles before 13th October 2013. This would be by way of a Caution against First Registration (for unregistered land) or by registering a notice (for registered land). The property owner would be notified by the Land Registry and would be given the opportunity to object.

A purchaser who purchases affected land after 13th October 2013 will not be liable for any repairs if the PCC have not registered their liability.

When acting for purchasers of land which may be in an affected area, we offer our clients the option to carry out a search to reveal a potential liability and, if one exists, highlight the option of insurance to the client.

Conclusion

If you suspect that your land could potentially be affected by Chancel Repair Liability, and a search was not carried out at the time when you purchased your property, it is advisable to obtain insurance (the cost of which is low in proportion to the potential cost of Chancel Repairs) before the PCC's interest is potentially registered.

* figures obtained from countrywide legal indemnities, prices vary depending on the value of your property, the circumstances and the level of cover required, and different providers may offer different premiums.

More information

If you have any questions about the content of this checklist, please contact a member of our Residential Property Team on York **01904 716 000** or Wetherby **01937 583 210**.

Ware & Kay LLP

good on paper, even better in person

Ware & Kay LLP in WETHERBY



Address
The Aire Suite
Brunswick Court
Victoria Street
Wetherby, LS22 6RE



Tel
01937 583 210
Fax
01937 587 556