

Chancel Repair Liability (updated on the 4th Oct)

PCC responsibilities

Each PCC should:

- 1) Understand the principles and ascertain their personal obligations as charity trustees
- 2) Find the parish in *'The Clerical Guide and Ecclesiastical Directory'* by Gilbert (available on line in Google books)
- 3) Look up the parish in the series of books called "*Victorian County History*" (some of this on the internet)
- 4) Obtain or view all the parish tithe files from the National Archives or local archives if present. If the parish has several tithe districts there will be a number of these files. The key files are:
 - Record of Ascertainments of 1936 found in IR 104 (Diocese may have a copy)
 - Tithe Apportionment file found under IR 29, which records mergers etc (or held in local archive)
 - Tithe file found under IR 18, which indicates whether there was any merger of land by deed. Some churches, such as Market Drayton, have dedicated sections.
 - Locate any deeds of merging of land and tithes (Tith 3) locate Rectorial glebe
- 5) Discover whether the parish underwent Enclosure files could be in national archives or locally held look on St Michael's links page for help.
- 6) Look up the parish in Tate's book *'Domesday of English Enclosure Acts and Awards'* if this fails.
- 7) If relevant, obtain or view a copy of the award to find out whether land was allocated in lieu of tithes or corn rents.
- 8) Locate the Enclosure maps and/or Tithe Maps for the parish, since a surveyor will need these to find any plots.
- 9) If the parish has any lay rectors such as the Church Commissioners and / or universities, contact them to ascertain whether they are aware of their liability.
- 10) Once all the research has been completed, the next stage is probably to engage a surveyor to determine the cost of locating the land.

Possible Outcomes

Outcome 1. There is a small amount of land with a high proportion of apportioned liability or the land has non-apportioned liability and the plots are easily identifiable.

Contact a surveyor to locate the land and engage a solicitor to gather the information to provide to the Land Registry, so that the liability can be recorded on the Land Registry.

Outcome 2. The amount of land is large in proportion to the liability

Prepare a cost benefit analysis to provide evidence to the charity commissioners that the costs of imposing the liability exceed the benefits.

To do this you will need to obtain:

- a surveyor's estimate of the cost to find each plot of land
- an estimate of the legal costs of registering the liability on the land and dealing with contested claims

The PCC should then consider:

- how much money the PCC has at present to cover the fees
- how often claims would be made on the lay rectors and what the return would be
- whether people will give less money to the church if they are upset about the liability, and if so, whether this can be proven

At this stage, the PCC could send a letter to the Charity Commissioners under s 110 of the Charities Act 2011, explaining the issues. If the Charity Commissioners do not agree with the proposals, it is possible to reapply, providing further information. There is no need to write to the charity commissioners in every circumstance or **outcome 3** but I would recommend in many cases to protect individual PCC members.

Outcome 3. The land is occupied by houses and to impose liability would hinder the charitable objectives of the church.

The Charity Commissioners have accepted this view and evidence would be needed to support this, and I think a cost benefit analysis would be helpful. A public meeting and letters from people affected to provide evidence would aid a PCC's case. Work with your local community including MP and councillors.

Outcome 4. Notify the liability on limited number of plots of the land because doing it widely is too costly

This could be a reasonable response if the plots are non-apportioned. It may, in fact, be the only option since some pieces will be untraceable or too expensive to trace.

Outcome 5. The land is impossible to locate and or the legal issues are opaque

This would be a possible argument when there are corn rents, where the merger documents are hard to understand or where the tithe or enclosure maps are poor. Some evidence from a surveyor and/or solicitor may be needed to support this option.

Outcome 6. Do nothing

This may apply where a non-land owning lay Rector has a large liability, where the liability has gone or where there never has been a lay Rector.

It may be necessary to get authenticated copies of the relevant documents for the Land Registry. The cost of copying a whole file from IR 29 from the Archives will be at least £100 from IR 18 at least £20. Copying inclosure awards costs a lot as well

Recording

The PCC should record the reasons behind their decision whatever it is and keep the supporting paperwork with the minutes. What they decide should be what is best for the charity if in doubt write to the Charity Commissioners. There will be instances where there is no need to write (i.e. 10% liability over 300 allotments)

Research Tip

Search terms to use on Google and local archives are inappropriate tithes, impropiator, great tithes, lay rector, Rectorial tithes, Glebe, merger of tithes, extinguishment of tithes, deed, commutation of tithes. Enter the current name of the parish but check also older names of the parish or alternative spellings.

Sources:

James Derriman 'chancel repair liability how to research it'

Websites for Truro Diocese, Rochester diocesan, Durham Newcastle, Lichfield diocese

National Archives website

A place to start your research is <http://www.stmichaelspenkridge.co.uk/chancel.html>

Written by Rev Greg Yerbury Rector of Penkridge