

commercial property

One of the key advantages of Self-Invested Pensions is the ability to purchase commercial property. A typical scenario will be one where a Member of a SIPP is looking for new or expanded commercial premises for their business, and they are able to use the funds held in their pension scheme to assist in the purchase of a property. Once purchased, a lease is put in place and a commercial rent paid to the pension scheme.

Where to start

Typically, the purchase of any commercial property in a SIPP will be driven by the Member. A common scenario will be one where the Member is looking to expand or re-locate their business, either as a consequence of a lease coming to an end, their own property being up for sale, or because they require a new commercial unit to cope with increased business or demand.

There can be other scenarios, however, where SIPP Members are looking at investing into commercial property because they perceive it to offer better returns than some traditional forms of investment – but again, the starting point will usually be the Member.

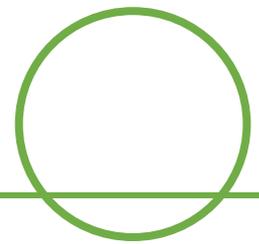
What types of property can be purchased

A registered pension scheme can only own interests in commercial property. Broadly, holding an interest in residential property attracts significant tax charges, and HM Revenue & Customs defines residential property as any property 'capable of being used as a residence'. Therefore, if the property is not capable of being used as a residence, it should fall into the classification of commercial property.

Many types of property can be acquired, ranging from offices, shops, factory units and so on, to land, forestry and more varied or unique acquisitions. Freehold and leasehold property can be acquired, and it is also possible to own parts of property as well.

How does the process work

The starting point, once a property has been chosen is usually the valuer. Trustees of a pension scheme will normally expect a report and valuation to be undertaken by a chartered surveyor, and that report will provide commentary on the condition of the property, its market and rental value, reinstatement costs as well as commentary on environmental aspects and any obvious issues.



The next step is to appoint solicitors who will act on behalf of the SIPP Trustees. The solicitor should ideally be experienced in pension scheme property acquisitions. They will undertake the usual property searches, provide a report on title and any leases, and essentially confirm that the property has good and marketable title. They will also point out, and help resolve, any issues that might affect the property (such as access rights, or any onerous covenants that might affect the property).

Funding the property

The purchase, including all associated costs, fees and disbursements, will need to be funded by the pension scheme. It is important to ensure that sufficient funds are going to be available at the point of completion. It is therefore not just simply the purchase price that needs to be considered and an estimate of all the associated costs should be incorporated into any funding plans.

It is possible for a pension scheme to borrow 50% of its net assets to assist with the purchase. A pension scheme worth £100,000 can, for example, borrow £50,000, allowing a property of £150,000 to be bought (including costs). Borrowing is normally undertaken on a commercial basis through a bank or building society.

What are the timescales

Timescales are largely dictated by the legal processes involved. A typical purchase could take 6-8 weeks to complete, but this timescale can be extended if the property is subject to complications, or where there is borrowing involved. It is important to consider a broad estimate of timescales when entering into the contract to purchase the property.

Property Management & Leases

Once the property is purchased, a fully commercial lease should be put in place. This lease will be prepared by the solicitors who are acting on behalf of the pension scheme, and will normally be a 'FRI' lease (a fully repairing and insuring lease). The terms are not set by legislation, and can be negotiated between the parties, provided they remain commercial.

Connected Party Transactions

In many situations, a transaction will be undertaken with a 'Connected Party'. This is broadly the Member, the Member's Company, a close relative and so on. It is perfectly acceptable for the pension scheme to transact with a Connected Party but it is vital to demonstrate that the basis of the transaction is commercial. This reinforces the importance of having a valuation undertaken, and also having a FRI lease where the tenant is connected.

This note is for general guidance purposes only and is based on Odyssey Pensions' understanding of rules relating to pension schemes. It is vital that specific advice be sought prior to any transaction being undertaken and Odyssey Pensions does not accept any responsibility for transactions based on the content of this document.

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