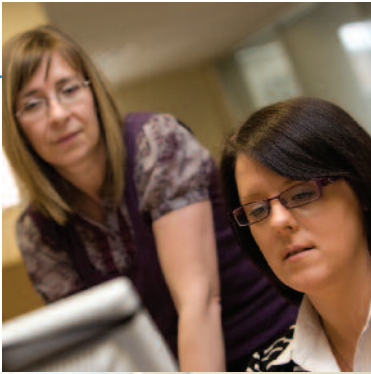


@sipp



## PROPERTY GUIDE

linking aspiration to expertise





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# INVESTING IN PROPERTY

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Established in 2001, @sipp is one of the leading names in SIPP. We are an independent organisation, free from the control of an insurance or fund management parent company. That means our focus is absolute – and matched only by a total dedication to the highest quality of service.

Self Invested Personal Pensions provide a tax-efficient, highly flexible vehicle for investing for the future. Although there is a vast range of investment options, many find commercial property\* one of the most attractive. With our experience, expertise and understanding, we can guide you through the process and help you find a secure and prosperous future.

Any property transaction through a SIPP is complex. This guide has been written to help you understand the process. It is, however only a guide and where clarification may be required please contact your financial adviser or @sipp for more information.

SIPP administrators must satisfy HM Revenue & Customs (HMRC) and other regulatory requirements which may change from time to time.

*\* For the purposes of this booklet, 'property' also refers to land.*

# BEFORE YOU START - A FEW GENERAL RULES

## Who actually buys the property?

We're not only here to administer the process, but also act on behalf of @sipp (Pension Trustees) Limited, the Trustee of the scheme. This means that we hold the property being purchased or transferred, as set out in the trust deed and rules for the scheme.

## What you can buy?

Through your SIPP, you can purchase commercial property in the UK – heritable (in Scotland), freehold or long leasehold properties. This includes:

- Industrial units
- Offices
- Retail units
- Warehousing
- Hotels
- Land (including agricultural land)
- Forestry

Some properties will require special consideration, for example where any residential element is included or if you're considering purchasing property through an auction. Also, if the property is of a specialised nature (e.g. a petrol station), we may not be able to proceed with the purchase.

If you want to purchase a leasehold property, it's essential that a limit of liability clause is included in the relevant documents – in addition to our usual requirements. This means that for existing leases, the landlord (and any superior landlords, including freeholders) will need to execute a deed of variation limiting our liability, while new leases must include our standard limitation of liability clause.

It's also important to note that if you're buying a property from (or selling to) someone connected\* to you in any way, the process must be conducted on a commercial basis, with the property's value determined by an independent chartered surveyor.

*\*'Connected' is defined in section 839 of the Income and Corporation Taxes Act 1988 – and includes relatives, as well as some business Connections.*

### And what you can't...

You can't buy a residential property through your scheme – though some properties, like hotels and manager's accommodation are allowed. If you need clarification on a particular property, get in touch.

Because we act on behalf of the Trustee – who will be the legal owners of any property purchased through your SIPP – it's vital that you don't enter into any agreement or contract to make a purchase before you consult us. Otherwise, we may not proceed, we would not instruct the solicitor to complete the purchase and you would have to complete the purchase personally.

It's your investment to choose, but we won't allow you to purchase a property with any unusual or difficult conditions or liabilities unacceptable to the Trustee.



# PROPERTY YOU ALREADY OWN

Contributions to your SIPP have to be in the form of a monetary amount. However, you can agree to a contribution to your fund, then settle the amount with a transfer of assets – in this case, a property. So, if you already own a commercial property, you can make what is called an 'in specie' contribution.

If you own the property personally, the 'in specie' contribution will be dealt with as a net payment into your SIPP. We will then claim the basic rate tax relief from HMRC in the normal way (for any higher rate of tax relief, you'll have to claim through your self-assessment return). However, if your employer (perhaps your own business) owns the property, their 'in specie' contribution to your SIPP is a gross contribution and is considered as a business expense – which can be relievable, subject to normal rules.

In order to contribute in this way, it's vital that an independent chartered surveyor carries out a valuation and survey report. It's also essential that you specify how much you wish to contribute – HMRC rules mean that you can't simply ask us to take the property and use whatever value it has, as a contribution.

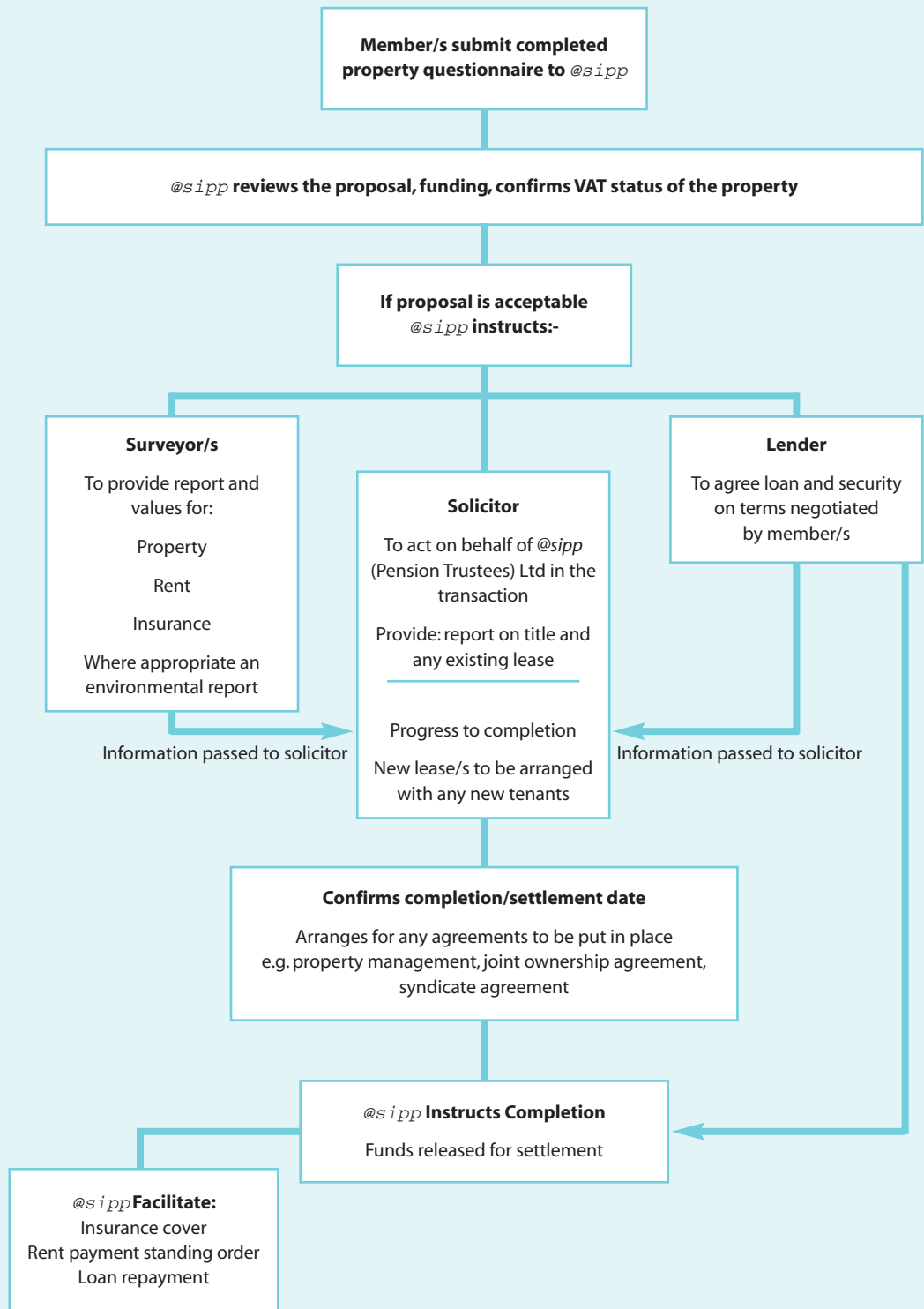
If your property has increased in value since you purchased it, you may be liable for capital gains tax (CGT) on its sale or transfer into your SIPP. It's recommended that you consult with a tax advisor on this matter.



# THE PROPERTY PURCHASE PROCESS

Of course, every purchase has its own unique challenges and circumstances, but the basic steps will be similar in most cases.

The flow chart below offers a simplistic guide to the process.



# VITAL EXPERTISE

## Solicitors

We're happy to use the solicitor you nominate, but we'd recommend that you nominate someone with experience of SIPP property transactions. It can be a complicated process and not all solicitors are familiar with it – if they don't have the right understanding, there can be delays and, sometimes, extra costs. Indeed, if we feel that more help has to be brought in to cover extra work, we may need to charge an additional fee.

Once you've found a suitable solicitor, pass us their details (via the property questionnaire) and we'll deal with them directly. Because the solicitor is appointed to act on our behalf (as the Trustee), we will be the client. Depending on the complexity of the transaction, we may insist that one of our panel solicitors is instructed to deal with the process.

When we instruct the solicitor, we provide them with an instruction pack, including:

- Instruction letter.
- Copy of the completed property questionnaire.
- Property valuation and survey report.
- @sipp standard lease (unless there is an existing lease).
- Property management agreement (where a member is to be the manager).
- Trust deed and rules.

## Surveyors & Surveys

As you'd expect, we insist that any surveyor is suitably qualified (ARICS or FRICS). If you're borrowing to fund the purchase, the Lender may require a surveyor of their choosing. If, however, you don't need to borrow to complete the transaction, then appointing a surveyor is up to you – and you should put their details on the property questionnaire so we can instruct a property valuation and report. In either case, it's vital that we receive the relevant documents – addressed to us, as the Trustee. If they are addressed to the lender, then we'll need a letter of reliance from the surveyor.

When we instruct the surveyor, we provide a formal letter of instruction, together with information from your property questionnaire. The surveyor should then provide the valuation and report, with details including:

- The open market value.
- The rental value for new tenants.
- The reinstatement value (including professional fees and site clearance costs) for insurance purposes.
- Whether a structural survey is recommended.
- Anything that has to be provided for in the title to the property – like access, services, common properties (and its maintenance).
- Any changes of use, erections, alterations or demolitions that demand statutory or title consents.

If the surveyor recommends an environmental survey, we'll do a desktop survey to determine the risk profile. This will highlight whether further investigation is required. The cost of this is met from your SIPP fund.

# BORROWING FUNDS

If you need more funds than you have in your account to purchase or develop a property, the Trustee can borrow what you need, though there are some conditions.

The maximum that can be borrowed is 50% of your (or the syndicate's) fund's net assets, minus any existing borrowing. While the loan is made to the Trustee, as the legal owner, it's usually secured against the property. Generally, loans are taken out on an interest and capital repayment basis – and, when the property is sold or transferred, the loan must be repaid in full.

## *For example*

You propose purchasing a second property, at a price of £400,000 including VAT and stamp duty.

The assets held in your SIPP are:

Cash: £200,000

Existing property: £650,000

You have an existing loan of £150,000 used for the first property.

Therefore, you have net assets of £700,000.

The maximum amount for borrowing is 50% of your net assets, minus existing borrowing – i.e. 50% of £700,000, minus £150,000 – which equals £200,000.

You could then purchase the second property using the cash in the SIPP and borrowing, without having to make any further contributions. (N.B. for the purpose of this example, legal and other costs have been ignored.)

## **Borrow from . . .**

It's important that loan arrangements are made only with commercial lenders. We already have agreed loan documentation with most of the major banks and building societies. You can, of course, use any suitable commercial lender – but this could delay the process and, if we feel that your lender's inexperience results in additional work, extra fees may apply on a time cost basis.

The lender is given standard security/first legal charge on the property as security, though a clause we require in all the relevant documentation means The Trustee's liability is limited to the value of the assets held in your SIPP.

## Paying off the loan

We'll arrange for the repayments from the SIPP bank account whether or not rent is being collected on the property (for example, if refurbishments were being carried out). That means it's vital that there is enough in your fund to cover the repayments – so we insist you have enough to cover three months' payments. If there are insufficient funds to service the loan and payments fall behind, the property may have to be sold to repay the loan.

While the lender usually stipulates the expected rent to repayment ratio, it's essential that the rental income produced from the property exceeds the repayments and other costs of dealing with the property – and that the tenant covers insurance, common charges and maintenance under the terms of the lease.

## The vital documents

When the time comes, we'll send your lender an instruction pack that includes:

- Instruction letter.
- Member agreement.
- Trust deed and rules.
- Our standard lease (unless one already exists).
- Copy of the property questionnaire.

In return, we should receive:

- Loan facility letter.
- Loan agreement.
- Standard security/legal charge.

# PURCHASING WITH OTHERS

## Syndicate Purchase

Purchasing a property together with another *@sipp* member (or members) allows you to spread the cost between two or more of you – we call this a syndicated purchase. This facility offers the option of purchasing larger properties with the investment returns split between you and the other members' SIPPs, or may be useful where a partnership is looking to purchase a property from which to run their business.

The individual members involved with the purchase can have investment at different percentages and will obtain a return on the same basis. You and the other members enter into a syndicate agreement, which regulates and documents the relationship – *@sipp* have a template which may be used.

## Joint Purchase

You can also buy together with someone who is not another *@sipp* member – referred to as a joint purchase. However, this can be a more complicated process and, therefore, a more costly option. We are prepared to consider joint purchases where there is a personal or business connection with the member.

This option may be useful where you currently own the property or where your business owns a property and you are looking for your SIPP fund to purchase it. If the fund is not large enough to purchase the property outright, it can instead purchase part of it – jointly owning it with you or your business.



## DEVELOPMENT & REFURBISHMENT

You can use your SIPP to fund the development of a property – but, as we act on behalf of the legal owners, it's vital that we have the chance to approve your plans and give written agreement before any work starts, while it's essential that you also obtain any necessary statutory or title consents.

Before you start, we'd ask that a qualified project manager is appointed, not only to manage the process, but also to keep us informed of the progress and to send us any invoices directly (if we receive invoices from someone we're not aware of, we might not pay).

Of course, any developments or refurbishments must be intended to increase the property's value – and it's essential you have the funds to complete the project. And, because we're the main contractor on any project, we'll need certified copies of construction industry scheme certificates from any subcontractors, while you'll need to ensure that any building contracts and professional appointments include our limitation of liability clause.

Finally, if you lease your property to your own business, then it's vital that your business – as the tenant – does not carry out any material enhancements or refurbishments without notifying us, as there may be tax implications. Where tenant improvements are agreed, the rent must be reviewed and increased if appropriate.



# TAXES

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## VAT

On purchase of a property there is more often than not VAT to be paid on the purchase price. You should take this into consideration when looking at the funding and borrowing requirements of the SIPP.

It is possible for the Trustee to elect for VAT on the property. This allows for the Trustee to reclaim any VAT paid back into the fund. However, if the property being purchased constitutes a rental business, it may be considered as a 'transfer of a going concern' in which case VAT on the purchase does not need to be paid or reclaimed. The solicitor would confirm whether the transaction falls under this heading.

Whether or not the property had been elected for VAT, you can choose to do so when it is purchased through your SIPP. Where it is elected, VAT will be added to the rental – though the tenant may be able to reclaim this. It also means that we can reclaim the VAT paid on the purchase price, associated fees future developments and refurbishments (as long as they're funded through your SIPP).

If you decide to elect a property for VAT, it must be done before the purchase – and we'll need to know as soon as possible, ideally on the property questionnaire. If you don't, VAT incurred may not be recoverable. You should also note that once it has been opted for VAT, it will remain that way for 20 years – or until it is sold. On the sale of a VAT elected property the sale price would be subject to VAT.

You can decide not to elect for VAT – whether or not the previous owner elected the property for VAT. So, while no VAT will be added to rent, we will be unable to reclaim anything on the purchase price or other associated payments. The property can be sold without a VAT element.

## Stamp Duty Land Tax

Stamp duty land tax is payable on property purchases and transfers, at a rate depending on the value of the property. Details of stamp duty rates are available from the HMRC website – [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

## MANAGING THE PROPERTY

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A property manager is appointed to carry out the day-to-day administration of the property. We would prefer a professional firm of property managers but we do allow the member or a member of a syndicate to be the property manager.

We have a standard property management agreement, which formalises the appointment. This is normally completed at the same time as the purchase is made. If, for some reason, a property management agreement is not in place at the time of purchase, the property management defaults to the member.

The primary duty of the property manager is to make sure the rent is collected. We will facilitate the rent collection via a standing order directly into the member's (or members') trustee account or property account. It is, however, the duty of the property manager to keep up to date with the administration of rental payments and any lease reviews – and to take action where necessary.

If the rent is unpaid for any reason, we're obliged (either via the property manager or directly) to pursue the tenants for the arrears – if that means resorting to the help of a solicitor, your SIPP will incur their costs.

Under the terms of our standard lease, a qualified surveyor should undertake a review every three years to determine the value of the property and to review the rent.

# PROTECTING YOUR INVESTMENT

Because the Trustee is the legal owner of any property purchased through your SIPP (or transferred to it), it's our responsibility to make sure it's properly insured. Unless there are special reasons for us not insuring the property, we will arrange appropriate cover through our block policy. Any property not insured through this facility may incur an additional administration fee to cover the cost associated with comparison and recording.

Bespoke cover for properties held for @sipp members is provided under the block policy with the additional benefit of more stable premiums in the future. The cover provides that which is required by the Trustee and individual properties benefit from economies of scale available under the policy.

Premiums will benefit from streamlined documentation and administration and from a premium stability clause provided by the insurers. We have negotiated wider cover than is normally available for individual property cover. This is evidenced by the extra cover provided for material damage to buildings and for loss of rent.

In addition, improvements have been made to cover potential underinsurance. Where each property is surveyed as part of the rent review process the 'average' condition will be waived. The rent review process is an integral part of the @sipp lease.

Cover for terrorism and legal expenses have been included in addition to improvements in cover for property owners liability and for cover of unoccupied properties.

As a condition of our standard lease – which is on a full insuring and repairing basis – the cost of the insurance lies with the tenant. Where they fail to pay or there is no tenant (for example, if the property is being refurbished) then the cost will be deducted from your SIPP account.

# ONGOING COSTS

As we've already noted throughout this guide, it's absolutely vital that you have enough liquid or easily realisable assets in your SIPP to cover all the costs. You should be careful to ensure you're aware of all the ongoing costs that your SIPP will incur – including solicitors' fees, loan repayments, VAT on rental income and insurance.

Our own costs are outlined in the schedule of fees, which we'll be happy to send you – and which is also available on our website, [www.atsipp.co.uk](http://www.atsipp.co.uk). These, plus any costs for non-standard administration, are deducted from your SIPP when they are due or incurred.

# VITAL DOCUMENTS

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## Setting up an @sipp Plan

- Application form
- Member agreement form
- Transfer form (where other pension funds are to be transferred into the SIPP)
- Money laundering form

## For Property Purchase or 'In Specie' Transfer in

- Property questionnaire for each property

## 'In Specie' Transfers

For transfers from a SSAS or another SIPP, we'll need the same documents listed above, plus:

- A copy of the discharge form (or equivalent) for the ceding scheme, confirming the member's intention to transfer from the existing SIPP/SASS.
- A schedule of all assets to be transferred.

## Property Details

It's essential that we have full details so we can assess the viability of the property you want to transact into your SIPP. That means we need:

- A completed property questionnaire.
- Copy of any recent valuation and survey report (if available).
- Terms of any existing leases in place.
- These details have to be accurate, or the process may be held up.

## Conclusion of Missives

Before we can conclude the missives, we'll need:

### From the Surveyor:

- A survey and valuation report confirming the property's open market value, rental value and its reinstatement value. The report can be addressed either to us or to the lender (provided we receive a letter of reliance from the surveyor).

### From the Lender:

- The facility letter
- The loan agreement
- Standard security/legal charge

### From the Solicitor:

- Signed copy of the duplicate letter of instruction
- Report on title (factors affecting the property such as existing leases and environmental issues)
- Report on any existing lease/s
- Approved version of the following documents;
- Dispositions/transfer deeds
- Long lease (for leasehold properties)
- Occupational lease (all properties)
- Deed of variation (for purchases of existing leaseholds)

## Completion

- Executed dispositions/deed of transfer
- Executed long lease (new leasehold properties only)
- Executed occupational lease (unless a lease exists already)
- Executed deed of variation (existing leasehold properties only)
- Property management agreement (all properties)
- Syndicate agreement (if purchase is with another member)
- Joint agreement (if purchase is with a non-@sipp member)
- Executed standard security/legal charge if borrowing is involved
- Any other documents the solicitor deems necessary, including any consent required, like statutory or title consents.

This document is our understanding of legislation at the time of publishing. This document is for 'Information Only' and professional advice should be sought.



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