SIPP

Property administration and risk warning notice

Read time 20 mins

This warning notice sets out the risks and costs of buying a property through a pension fund. You must sign it before we (your SIPP administrator) go ahead with the purchase.

You should carefully consider whether an investment such as this is suitable for you. Investments in property are intended to be long term, and we would normally expect them to be held for a substantial period of time.

- There is a greater risk associated with property investments as they are not readily realisable. This means that the property would have to be sold, and you would need to find a willing buyer. This could affect the amount of benefits you take from your SIPP and when you take them, or the timing of investing the proceeds of the sale. There are also other risks you should consider. Generally, property can take longer to sell than other types of investments.
- If the property is your SIPP's main asset, it would leave your investments poorly diversified, which can increase the risk of investment loss.
- The opportunity to sell a part-share in the property is limited.
- In some circumstances, or due to market conditions, you may have difficulty selling the property at a reasonable price.
- The value of the property may fall as well as rise, so the value of your SIPP is not guaranteed. You would need to consider the likely future resale value.
- Rental income is not guaranteed as tenants may move out of the property, fail or you may have to accept a lower rate of rent if the market has fallen.
- If you have difficulties with the tenants (for example, if they stop trading or go into administration or liquidation or break the terms of the lease), your SIPP may have to pay considerable costs associated with recovering the rent or may ultimately have to lose this income.
- It is your responsibility to make sure there are enough funds in your SIPP to meet the liabilities associated with the property, such as mortgage payments, VAT, third-party bills (including service charges, business rates, utility bills and insurance) and your SIPP fees. This is particularly important if the property is vacant, as your SIPP will not be receiving any rent.

- At the start of any proposed property purchase you will have to pay legal and professional charges. You must pay these whether the purchase completes or not.
- We and the trustee company cannot guarantee that you will be able to use your SIPP to buy a property. All documents must be checked by our solicitor, and the sale can only complete once they have confirmed to us that everything is in order.

Property administration

You have told us that you want to use your pension to buy a property – **Please fill in the property questionnaire and return it to us as soon as possible.**

We will give you all the help we can and would ask that you help by getting things in place in good time. Working together will ensure the transaction is completed successfully. Every property transaction is different and the time it takes to complete a transaction depends on many factors. Buying a property in a pension scheme can be a highly complex transaction, so please make sure you understand our requirements before going ahead.

The following list of requirements may not be a full list, as we have found that individual properties may occasionally have particular requirements that only become clear after the legal work has begun. We cannot be responsible for any extra costs you have as a result.

If you have any questions, please contact us. Our details are at the end of this document.

1. Legal ownership

We (Talbot and Muir Ltd) are your SIPP operator and are responsible for the administration and the day-to-day running of the SIPP. The assets of your SIPP are owned by the SIPP trustee, who holds them in trust for your benefit. The SIPP trustee is not Talbot and Muir, but one of the following companies set up for the purpose of acting as trustee – TM Trustees Ltd, MYSIPP Trustees Ltd or Pensions Partnership SIPP Trustees Ltd.

The SIPP trustee will be the legal owner of the property, and it will be the trustee's name on the property title deeds and the relevant Land Registry documents.

2. Environmental screening report

The Environmental Protection Act 1990 was amended in 1995 to place a duty on local authorities to inspect all land in their areas for problem sites that come within the legal definition of contaminated land.

While whoever polluted the land is responsible for cleaning it up, the ultimate responsibility may be with the owner or pension fund trustee. To protect your interests, we will arrange an initial environmental screening report for all new property purchases.

We will not go ahead with the purchase until we receive a satisfactory screening report and confirmation that the property can be insured.

3. Insurance

The property must **always** be insured. You are responsible for making sure insurance cover is in place. Often the cost of this can be passed to the tenant where there is a fully repairing and insuring lease in place. In some cases, the lease terms may confirm the tenant or freeholder (where applicable) is responsible for arranging insurance.

Neither we nor the trustee is responsible for arranging insurance or renewing existing cover. We can arrange insurance with Arthur J Gallagher & Co through a block insurance policy which is designed for commercial property and meets the trustee's requirements. If you need more details about this, please contact us.

We will receive and retain a commission payment from the insurer.

You do not have to have the block insurance. If you want to arrange your own insurance, there will be an extra charge of £150 plus VAT per year. This is to cover the administration costs for reviewing this cover, to make sure it meets our minimum conditions.

Our minimum conditions for insurance cover

- £10 million property owner's liability cover
- 36 months' loss of rent cover
- Terrorism cover
- Core perils (e.g. fire, flood and subsidence) are covered in the policy
- SIPP is named as the policyholder (or joint policyholder where applicable)
- The total sum insured value is based on a reinstatement value as required by your chosen insurer

We have the right to delay the exchange of contracts on the purchase until we are satisfied with the wording of the policy you have taken out.

In order to meet the requirements of insurers, you must ensure that vacant property is inspected in line with their terms. For any properties insured on our block policy, vacant inspections are required on a monthly basis to ensure it's in a good state of repair and protected from intruders or damage. This could include ensuring windows and doors are secured and locked, alarms activated, combustible materials secured or removed, mains services switched off and water drained if appropriate. Please arrange a professional third party to carry out any repairs at the property if required. It might be possible to make a claim from either our insurance policy or those held by any Head Landlord, if applicable, for any damage caused. If you would like to find out more about this or are unsure about what is required, please speak with a member of our property team.

If you arrange your own insurance, you must give the trustee copies of the insurance schedule and written confirmation the policy is in place as soon as possible. You must also confirm each year that you have renewed the policy.

The property must be insured when contracts are exchanged. Completion will be delayed until you produce the insurance documents. It is your responsibility to make sure the property is insured at all times.

Please be aware, once the property has been held within the SIPP for 3 years, where the property is insured on the block insurance policy, Reinstatement Cost Assessments (RCA's) will be undertaken 3 yearly via our chosen provider, you will be contacted by us in relation to this. These costs would be borne by your SIPP.

4. Solicitors

We will instruct one of our panel solicitors who is experienced in this type of purchase to carry out the necessary legal work. The trustee will be the solicitor's client and all instructions to the solicitor will come from us. All legal costs of the transaction are paid for out of your SIPP. You will be allowed to opt to use solicitors not on our panel for ongoing activity not relating to the purchase or sale of the property, to include lease transactions.

If a lease is being granted to your business, a solicitor cannot act on behalf of both you and the SIPP. This is because there is a possible conflict of interest between you as the owner and occupant of the property. You may want to consult a solicitor about the conditions of the lease in your capacity as a tenant.

If you will need a mortgage and the lender instructs their own solicitor, you will be responsible for their fees, and the panel solicitor appointed on behalf of the SIPP may also charge for dealing with them.

5. High-value transaction

If a transaction becomes very complicated or involves more than one owner, we can increase our charges, as set out in our terms and conditions.

6. If a transaction does not complete

The solicitors will keep you fully informed about the progress of the transaction, and you will be able to ask them for advice or information at any time. If the transaction does not complete, you will have to pay a solicitor's fee (plus any costs). This will normally depend on the amount of work already carried out and will be paid for out of your SIPP. This applies even if the transaction has to be ended because it cannot meet our legal requirements. We have the right to charge our property transaction fee in these circumstances.

7. Survey and valuation

You need to be satisfied that the purchase represents value for money.

Unless you are buying the property from a connected party or selling or letting it to a connected party, we will not need to see a survey or valuation report and we will never instruct a surveyor. (A 'connected party' is any member of your family or any company or partnership connected with you or a relative.)

The conveyancing solicitor will produce a 'report on title' but will not inspect the property so will not include an opinion on the state of repair or whether the purchase price is fair or reasonable. For your own protection, we recommend you arrange a survey, which should be carried out by a RICS member (or equivalent). The cost of this can be met by the SIPP.

All transactions with a connected party must be on an 'arm's-length' basis. This means we must

follow our standard processes, with all transactions dealt with on an independent commercial basis, otherwise your SIPP may become liable for tax charges if treated more leniently. A survey must be done. The surveyor, who should be a member of RICS (or equivalent), must inspect the property. We need a basic assessment of the condition of the property, a recommendation on whether a full structural survey is necessary, the market value, and a rebuilding valuation for insurance purposes. If the tenant is also a connected party, we also need a recommended current market rent (which HM Revenue & Customs (HMRC) say we must charge). For these purposes, the valuer will need to know your proposed term for the lease and whether there will be any break clauses (which allow you to end the lease before the end of the term).

The report must be addressed to the SIPP trustee but arranged by you. The property and rent must be revalued whenever necessary to meet HMRC requirements. The cost of this will be met by your SIPP.

8. Fees

As well as the legal and surveyor's fees set out in section 4, we will also charge a property fee (see our Fees and Services schedule). In exceptional circumstances (for example, if the property is being developed), we have the right to increase our charges and to charge for any work which is outside of our standard responsibilities. We will normally tell you about this before we start any work.

9. Commercial property

The property **must** be commercial property (for example, an office, shop or factory) when you buy it, **not** residential property (including properties used for holiday lettings). This is because HMRC do not allow a SIPP to hold residential property. You can apply to alter it to a residential property and alteration work can be carried out while the property is held in your SIPP. However, once a property is classed as residential, you must sell it before it is considered suitable for living in as a home, otherwise you will have to pay considerable tax charges (from your SIPP). You **must** tell us about any planned development or reclassification of a property owned by your SIPP so that we can calculate, and tell you about, any possible tax charges.

Please note your SIPP cannot purchase a property defined as a High Risk Building under the Building Safety Act (2022) - i.e. is at least 18 metres high or is a minimum of seven storeys and in either case contains at least two residential units under the freehold title.

You can usually use your SIPP to buy development land and agricultural land. You can't use it to buy hotels and guest houses (because it is difficult to establish which parts of them would be classed as residential), or properties that may cause management and legal liability problems (for example, with landfill sites and sites which may have been contaminated in the past).

We must make sure that our responsibility to the developer is limited to the assets of your SIPP. This means we need to be satisfied that there will be enough funds in the SIPP to meet all the development costs and that the developer accepts that neither we nor the trustee will be responsible for making good any shortfall.

A project manager (a qualified surveyor or architect) must be appointed to protect our interests.

This is a heavy responsibility for us, and we have the right to refuse to allow development in certain circumstances. Buying property at auction causes particular problems. Please contact us **before** the auction.

We allow you to buy amenity land (for example, land for fishing or hunting) and any land or property next to land or property owned by you or any connected party. However, the valuer must confirm these are physically and practically separate and that no additional value has been created by the purchase. HMRC may investigate any amenity rights or any other leisure or recreational activities on the land. They will do this to make sure scheme members (or connected parties) cannot directly benefit from these activities, without paying the appropriate market rate, once you have bought the land.

Holding a property within a SIPP is intended to be a long term investment. Where a property is purchased with the intention of developing for profit and then sold, there is a risk that HMRC may deem this trading and apply a tax charge accordingly. It is recommended you consult a financial adviser or tax specialist if you have any concerns around potential trading.

10. Land near to residential property

You are allowed to own land near to a residential property owned by you or any connected party. However, you may have to meet the following further requirements to make sure this is a legitimate investment under HMRC legislation.

- The solicitor for the case must confirm that the land would not be seen as residential under HMRC pension scheme legislation.
- You and your adviser must confirm that the investment is commercial, including the commercial benefit for the pension scheme and all expected investment returns and growth.
- Once we have agreed how the land is to be used and that the tenant is a legitimate commercial organisation, we must agree a lease. This can be with a connected party, but the requirements under section 7 apply.
- The land would have to be individually insured. The cover cannot be included as part of the existing residential property insurance.
- If the property is used and maintained by a connected party, they must provide evidence each year that it continues to be used for the purpose agreed at the start of the process.

11. Freehold

The property should normally be freehold **not leasehold,** unless the lease is a long one with a **low ground rent** and there are no conditions that may restrict or limit the use of the property and be difficult or expensive for the SIPP to meet. Very often, because we act as the trustee and the legal owner of the property, our requirements to do with ownership and so on may be more demanding than if you were buying the land yourself. For example, we have to be careful if there are high service charges or demanding maintenance duties which we could be liable for, and so we may need certain indemnities from you. This means that, as the legal owner of the property, the SIPP trustee will be liable for service-charge payments if your SIPP does not have the funds to pay them. The indemnities are your written confirmation that you will reimburse the trustee with any

costs that cannot be paid for from the SIPP. If an existing lease is not being transferred, there must be a formal lease. The solicitors will prepare the lease, which will include terms that have been negotiated, and give it to the tenant or their legal advisor. The lease will be a normal commercial one. If the property is being leased to a connected party, **the rent must be at the full market rate,** and you are responsible for making sure it is paid in line with the terms of the lease. You cannot decide to charge or pay a reduced rent, for example, just to cover any mortgage payments. If the landlord has to meet certain conditions of the lease, the trustee may not be able to carry out or meet those conditions and may need an indemnity from the tenant or the person who holds the lease. An indemnity is a written agreement that the trustee (as landlord) will not be held responsible for failing to meet all the terms and conditions in the lease.

If the property is let to you, you must pay us the rent a few days before the mortgage payment is due. All payments must be by standing order into the separate SIPP property bank account. We will not be responsible for any late payments or interest charges if we do not receive the rent on time.

12. Vacant property

Vacant property is not permitted at purchase. There are some exceptions to this, for example if an Agreement for Lease is in place or if the asset is land intended for development.

We understand that there are times when the property may become vacant, where this is the case, it is important that vacant properties are regularly inspected in line with insurance requirements.

Should inspections not be carried out, we and the trustee reserve the right to inspect any land or property. These inspections will be carried out by a third party arranged by the trustee, and the costs will be met by your SIPP.

Additionally, you'll need to ensure there are sufficient funds within your SIPP property bank account to cover ongoing expenses such as insurance, third-party and SIPP charges and if applicable service charges, business rates and loan payments.

Where the property is vacant, you also have a duty of care to anyone who enters the building, whether they have permission or not. Carrying out a risk assessment will help avoid the risks to the building itself and anyone who enters the property. Your risk assessment should ensure compliance with:

- The Regulatory Reform (Fire Safety) Order 2005
- Health and safety legislation
- Environmental legislation
- Public liability legislation

Asbestos

Arrangements must be made with any outgoing tenant to obtain the asbestos survey and management plan. If one has not been completed or can't be located, you should consider whether an asbestos report needs to be prepared. While it's your responsibility to consider whether an asbestos report needs to be prepared and obtained, if we determine that such a

survey is required and you have not organised this, it may be commissioned by us directly. In either case it should be paid for from your SIPP and any invoice addressed to the SIPP trustee. If asbestos is identified, you must take appropriate action immediately and costs may be met from your SIPP.

Fire risk assessment

Please ensure you comply with the Regulatory Reform (Fire Safety) Order 2005, and associated regulations and legislation. Arrangements will need to be made with any outgoing tenant to obtain a copy of the Fire Risk Assessment, and this will need to be updated regularly. If one has not been completed or cannot be located, you should arrange for one to be obtained. By removing all combustible materials, you could help to minimise the risk of the vacant property being targeted for arson.

13. Buying property through a partnership

If several SIPP members are buying one property, you usually only have to pay one initial property transaction charge. We will set up a separate SIPP for each member (which you will have to pay our full annual property charge on). We will also keep a separate account for the property itself. This account will receive the rent and distribute any balance into each member's SIPP. The amount paid to each member will be in line with their shares in the property. We need to know at the start of the process what your share will be (it will normally reflect the amount of contributions you have made to buy the property). You cannot give part of your entitlement to another partner.

We recommend that you enter into a partnership agreement to cover issues such as death, retirement or new partners being brought in. We cannot help you with a partnership agreement, and recommend you get professional advice. Even if a member is only entitled to a percentage share in a property, each member's SIPP is fully liable for the mortgage if any member fails to make repayments. Each member cannot take a loan that is larger than their share of the property, as they cannot commit another member's share of the property as security for their loan.

14. Finance arrangements

You should make sure that you have arranged any necessary finance to buy the property **before** solicitors are instructed. You will be required to make £3,000 available on account prior to us issuing any instructions to third parties for a new property acquisition. This is to ensure we have sufficient funds available to meet known third party costs from the outset.

Where the purchase is an in-specie transfer in it is acknowledged that this may not be possible and funds will need to be transferred after the property purchase completes.

Additionally, where there are potential tax consequences and contribution restrictions or potential impacts on Lump Sum Allowance / Lump Sum & Death Benefits Allowance Protection, we may be able to consider an alternative approach.

Please supply a copy of your mortgage offer, **which should be addressed to us,** when you return the property questionnaire. If this is not possible, please ask the lender to let us have a copy as soon as possible. Contracts cannot be exchanged until we have received the mortgage offer or have enough money in place to cover the purchase price.

This may cause difficulties if an early exchange is needed (which is sometimes the case, particularly in Scotland). **We insist that the offer letter contains a clause limiting our liability to**

the value of your fund. Some lenders will not accept this and, if that's the case, the borrowing cannot go ahead. Some lenders insist on conditions which are unacceptable to us, for example, a floating charge over our assets or an assignment of the rent. (An assignment is where the lender wants the legal right to a share or all of the rent income). If this is the case, you will need to find alternative finance. Also, some lenders appoint their own solicitors, which you will have to pay for.

All leases must have a minimum rent of £3000 per year in order to sufficiently meet ongoing costs associated with managing a property.

Problems may arise if the rental income is not enough to cover the mortgage payments. For example, if you have already made the maximum pension contribution allowed in a tax year into your SIPP, you may not be able to justify making further contributions to cover the shortfall. **All mortgage payments, both capital and interest, must be paid from the fund and must not be paid direct to the lender.**

A SIPP can borrow up to 50% of its net asset value, minus any existing borrowing.

15. Property management

Although the trustee is the legal owner, we do not hold the keys to the property, and we do not visit the property or check on its condition.

We are not the managers of the property and, if there are no alternative arrangements, this responsibility falls to you.

However, if the property is being leased, we have the right to appoint a property manager to collect rent and make sure repairs and tenants' duties under the lease are carried out. We will tell you if this is the case with your property. These costs will be met by your SIPP.

We do not monitor rent payments. This is your responsibility or that of the property manager (if one has been appointed). This means we do not collect unpaid rent or tell you about rent arrears. All rent goes into the SIPP property account and these payments are shown on your annual SIPP statement. It is your responsibility to make sure the correct amount of rent has been paid, and the rent is up to date. If you ask, we can give you a copy of the SIPP bank statement each month.

Once the purchase is complete, if the property has no tenant, you are responsible for telling the relevant local authority and utility providers that the registered owner of the property is the trustee. You must also tell them that any invoices should be addressed to the trustee and sent to us at 55 Maid Marian Way, Nottingham, NG1 6GE.

Where there are responsibilities that cannot be given to the tenant under the lease, for example where there are common (shared) areas (for example, corridors, stairs, kitchens, shared grounds and car parks) we may need to appoint a property manager.

16. VAT

It is normally possible to arrange to opt for VAT where appropriate (for example, if you are buying a new property where the purchase price includes VAT or where major renovations are proposed). You should get **advice from a qualified VAT specialist before registering for VAT** (neither we nor the trustee are VAT specialists). We recommend that the VAT application and quarterly returns are dealt with by a VAT specialist. We can do these tasks if necessary, but we do not accept responsibility for any fines or charges set by HMRC as a result of anyone giving us false information. These will be paid by your SIPP. There is a further quarterly charge (every three months) if we have to fill in and file VAT applications for registration and do quarterly returns.

Please remember it takes a few weeks to reclaim VAT. If it has been paid on the purchase price or the invoiced rent before the rent is paid, you must make sure there are enough funds in the SIPP bank account to cover any temporary shortfall. Successfully registering for VAT does not necessarily mean that you will be able to claim back VAT. As mentioned above, you should get advice from a qualified VAT specialist before registering.

As the trustee is responsible for VAT liabilities, there will need to be an indemnity agreement between you and the trustee. This is a written agreement to confirm that you accept you have ultimate responsibility for any VAT, and that you will reimburse the trustee if they have any VAT related costs that cannot be met out of the SIPP.

17. Forcing the sale of a property

If you do not make enough cash available to meet costs we or the trustee has told you about, we may need to force the sale of the property. If this is the case, to make sure that further liabilities are kept to a minimum and the property is sold or transferred quickly, it would be put up for auction.

18. Energy Performance Certificates (EPCs)

Since 2008, certain properties have needed to have a valid Energy Performance Certificate (EPC) before they are sold or let. Since 1 April 2018, leases for commercial (non-domestic) properties in England or Wales have only been granted or amended if the property has an energy performance rating of A to E or is exempt from the regulations. If the property doesn't hold a minimum E rating and is not exempt, one of the following must apply.

- Building work to gain an energy performance rating to 'E' or better If a lease is to be granted or amended, the work needed to reach the minimum energy standard must be completed before we exchange contracts on a purchase or agree to any lease or amendments. You may want to consult an energy assessor (or give us the name of one to contact) to see whether building work is practical.
- An exemption from minimum energy efficiency standards (MEES). If the property qualifies for an exemption, we will need evidence of this. Most exemptions are temporary. If this is the case, we will need you to tell us before the exemption ends how you will achieve the minimum rating.

We recommend that you consult with a qualified EPC Assessor should you have any concerns regarding your property meeting MEES regulations now and in the future.

Client Declaration

1. I/We have received the Talbot and Muir Property Administration and Risk Warning Notice for property purchase through our SIPP and confirm we understand the requirements therein and the risk warning notice above.
2. I/We undertake to settle legal and professional fees incurred by or on behalf of Talbot and Muir in respect of any proposed property purchase, irrespective of whether such property purchase is completed.
3. I/We understand that Talbot and Muir will not take responsibility for collection of rental arrears or monitoring incoming rent.

Member name		Signed	
Member name		Signed	
Member name		Signed	
Member name		Signed	
Date		Signed	

For literature in alternative formats, such as Braille, large print, audio or E-Text, please call us on 0115 841 5000 (or via Relay UK on 18001 0115 841 5000).

55 Maid Marian Way, Nottingham, NG1 6GE | t. 0115 841 5000 | f. 0115 841 5027 | e. enquiries@talbotmuir.co.uk | talbotmuir.co.uk

"Talbot and Muir" is the trading name for Talbot and Muir Limited (TML) (registered in England, number 02869547), MYSSAS Trustees Limited (MYSSAS) (registered in England, number 06536701), MYSIPP Trustees Limited (registered in England, 05960426) (MYSIPP), MYSIPP Trustees (Property) Limited (MYSIPP(P)) (registered in England, number 05342981), Pension Partnership SSAS Trustees Limited (PPSSAS) (registered in England, number 05762695), Pension Partnership SIPP Trustees Limited (PPSIPP) (registered in England, number 05635197), Pensions Partnership SIPP Trustees No 2 Limited (PPSIPP2) (registered in England number 08677314), Oval Trustees Limited (OTL) (registered in England, number 02711042), T M Trustees Limited (TMTL) (registered in England, number 03094287), The Ward Mitchell Trustees Limited (registered in England, 03006247) (TWMTL). TML, MYSASS, MYSIPP, MYSIPP(P), PPSASS, PPSIPP, PPSIPP2, OTL, TWMTL, TMTL, have their registered office at Suite B & C, First Floor, Milford House, 43-55 Milford Street, Salisbury, SP1 2BP. TML (in respect of its operation of self-invested personal pensions) is authorised and regulated by the Financial Conduct Authority. TML and TMTL are members of a VAT group with VAT registration number 514 0358 80. All companies are wholly owned subsidiaries of Nucleus Financial Platforms Limited (registered in England, number 06033126) whose registered office is at Suite B & C, First Floor, Milford House, 43-55 Milford Street, Salisbury, SP1 2BP, and are members of the Nucleus Group. Further details of the Nucleus Group can be found at nucleusfinancial.com. (12/25)