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# Myerson **Real Estate**

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**Our guide to SIPPs as property investments**

0161 941 4000 | [myerson.co.uk](http://myerson.co.uk) | [lawyers@myerson.co.uk](mailto:lawyers@myerson.co.uk)

# Welcome

## Why Myerson?

At Myerson, we are experts in dealing with residential property. Putting our clients and their families at the heart of everything we do means we establish long term relationships across generations and act as trusted advisers.

As a Top 200 UK Law Firm, we are also proud to be ranked in many legal disciplines as '**Top Tier**' in the prestigious international directory **The Legal 500**, providing a truly bespoke and personal service.

Our specialist Commercial Property solicitors handle the full range of property-related assignments. We have particular experience in sales and purchases of real estate for business owners and investors, landlord and tenant work and commercial property development.

Our service to you is prestige. We have a small, close-knit, team of qualified solicitors who have the knowledge and experience to advise and assist on a wide variety of commercial property matters.



# SIPPs as Property Investments

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We understand the importance of saving early, having control over investments and securing financial stability to provide peace of mind for the future. Increasingly, business owners and individuals are using tax efficient pension schemes as part of their retirement-succession planning and Myerson is here to help.

## What is a SIPP?

A SIPP is a Self Invested Personal Pension and is a type of pension scheme that offers individuals greater control over how their pension savings are invested. Unlike traditional pension plans, where the provider decides where your funds are placed, a SIPP allows you to select your own investments.

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SIPPs are usually provided by insurance companies or specialist SIPP operators and are regulated by the Financial Conduct Authority.



# What is the difference between a SIPP and a SSAS?

A SSAS is a Small Self-Administered Scheme. SSASs are generally set up by small companies for senior staff, such as directors and senior employees, to invest in. They are similar to SIPPs in that the SSAS members have control and flexibility in relation to contributions and investments.

For the purposes of this Guide, the main focus is on SIPPs.

## Investing in commercial property, advantages and disadvantages

One of the most common SIPP investment choices is property as this can generate a steady rental income that is paid directly into the pension fund (exempt from income tax) and the property can potentially be sold at a later date at a profit (exempt from capital gains tax). In addition, the property will not currently form part of your estate for inheritance tax purposes, though the government is planning to change this from 6 April 2027.

There are various options available, which include:

- Purchasing a property outright
- Transferring a property you already own into your SIPP
- Purchasing a property jointly with other investors

A SIPP can own commercial properties, such as shops, hotels, warehouses, offices and industrial units, but it cannot own residential properties. If a property is mixed use and has both a commercial and a residential element, it may be possible to structure the purchase so that the SIPP only owns the commercial part, however, you would need to discuss this with your pension scheme administrator first. We can help by devising a suitable legal structure for them to approve.



The property can be purchased with vacant possession or with an occupational tenant already in place. If the property is vacant when it is acquired by the SIPP, a lease can be granted to a new tenant and the rental income will flow back into the pension fund.

There are some disadvantages to investing in commercial property. The property market can fluctuate, affecting both rental income and resale value, and selling property can be more difficult and time-consuming than selling other types of investments. Also, strict HMRC rules apply and professional tax and financial advice is essential.

## How can a solicitor help?

The SIPP must first be set up with an insurance company or specialist SIPP operator and a suitable property identified before instructing solicitors to assist with the property transaction.

If a SIPP is purchasing property from an unrelated third party, the same solicitor would usually be able to act for both you and the pension scheme administrator in connection with the purchase, provided there is no conflict of interest. If you already own the property and plan to transfer it into the SIPP, then separate legal representation may be required.

The pension scheme administrator will require that full due diligence is carried out on the property, which is standard for anyone purchasing a property, even if you already own the property personally. They will need to review the title report prepared by the solicitor to satisfy themselves that they can comply with their regulatory obligations. If any issues with the property are discovered, you may be happy to take a view on them, but the pension scheme administrator may not and so you must liaise closely with them throughout the transaction.

A SIPP can borrow from a commercial lender to fund the purchase, but borrowing is capped at 50% of the SIPP's net asset value at the time of the loan. Solicitors can deal with the funding element as part of the purchase transaction. This would involve dealing with the lender's requirements and reporting to you on the loan and security documentation.



Once the transaction completes, the solicitor will submit an application to the Land Registry to register the transfer. The legal title to the property will generally be held jointly by the pension scheme administrator and you, as trustees for the SIPP scheme.

There are no specific Stamp Duty Land Tax (SDLT) reliefs available for purchases by pensions schemes and so SDLT will be payable on the transfer to the SIPP.

If you or your company will be occupying the property once it has been transferred to the SIPP then your pension scheme administrator will need a lease to be put in place between your pension scheme as landlord and you/your company as tenant. The rent must be at the open market rental value. You will also need to consider other heads of terms such as how long the term will be for, whether there will be any rent reviews and break clauses, whether the lease will be capable of assignment and/or underletting and whether the tenant can carry out any alterations to the property.

You will need a surveyor to advise you and the pension scheme administrator on the valuation of the property and the commercial terms of the purchase and any lease. We can help you with advice and commentary on the legal aspects of the heads of terms and put them into action, guiding you through the transaction as smoothly and efficiently as possible.



# You're in safe hands!

If you would like further information about how we can help you with **SIPPs as property investments**, or if you have any questions, please don't hesitate to contact a member of our **Commercial Property** team today.

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Call: 0161 941 4000

Click: [myerson.co.uk](https://myerson.co.uk)

Email: [lawyers@myerson.co.uk](mailto:lawyers@myerson.co.uk)



#### Myerson Solicitors

Grosvenor House, 20 Barrington Road,  
Altrincham, Cheshire, WA14 1HB

Tel: 0161 941 4000 | [lawyers@myerson.co.uk](mailto:lawyers@myerson.co.uk)  
[www.myerson.co.uk](https://www.myerson.co.uk)



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