

Small Self-Administered Scheme (SSAS)

Property Guidance Notes

Timescales

As the property will be purchased in the name of the Small Self Administered Scheme (SSAS) Trustees, the Director's Premier SSAS must be in place before the purchase can proceed.

A property purchase will normally take three months to undertake the exchange of contracts/conclusion of missives. If the SSAS Trustees require the use of funds currently with other pension providers in the form of transfers as part of the purchase price, then the timescale to undertake the purchase to exchange contracts/conclude missives will normally take around five months.

Leasehold properties will generally require more consideration and investigation than Freehold properties. In particular, the SSAS Trustees need to consider the return on the investment before agreeing to proceed. Factors affecting this are as follows:

- The length of the lease and the number of years before it expires. It would be expected that the lease period be long to give as much security as possible to the Trustees.
- The amount of yearly rent the SSAS Trustees will have to pay the landlord. It would be expected that this rent be a nominal or 'peppercorn' amount.

What property can be purchased

As the option for the SSAS to buy property is attractive, HM Revenue & Customs (HMRC) have certain rules that must be met before the purchase is allowed. The following points are a brief description of HMRC rules:

SSAS Trustees may generally only invest in commercial or industrial property.

Residential property may not be bought unless it forms part of a commercial property and is occupied:

- by an employee unconnected with the SSAS as a condition of employment (eg a caretaker), or
- by someone unconnected with the SSAS in connection with his or her occupation of the business premises (eg a shop with a flat above).

The market value should be paid by the SSAS when purchasing a property.

Borrowing

As set out in the Finance Act 2004, SSAS Trustees can borrow up to 50% of the value of the Scheme's net assets less any existing borrowing.

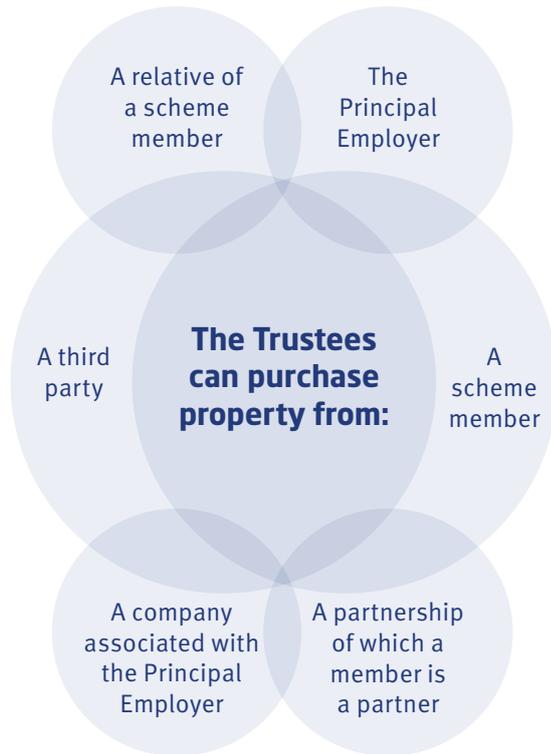
Those leasing the property must pay a commercial rent and the SSAS Trustees will enter into a formal lease with the tenant.

Where the SSAS Trustees have invested in property, they must ensure that they have sufficient other funds available to purchase scheme member pensions. This means that property purchase may not be appropriate for a SSAS where the scheme members are close to retirement, or where one or more members are in receipt of retirement benefits from the scheme. The SSAS Trustees must take advice in order to decide whether this kind of investment is appropriate in their circumstances and will be acceptable to HMRC. However, Standard Life is unlikely to accept property investment where one or more members are within 10 years of retirement.

Any property must generate income.

Any investment in property must be made by a unanimous decision of the member Trustees of the SSAS. In addition, Standard Life Trustee Company Limited (as the Administrator Trustee) must be recorded as joint owner (Scotland) or have a restriction recorded at the Land Registry (England, Wales and Northern Ireland).

Who the property can be purchased from



There are special circumstances for joint property purchases.

Excluded purchases within a SSAS

There are a number of types of property that are specifically excluded or to which Standard Life has attached special conditions. Examples are:

- Holiday accommodation and caravan parks
- Overseas property. Properties must be located within England, Scotland, Wales or Northern Ireland
- Nursing homes. As the business liability could fall on the landlord should the business fail, Standard Life does not allow the purchase of nursing homes
- The purchase of any property at auction
- The purchase of any property on which the member has already exchanged contracts but the purchase has not completed
- All land purchases

- Any property directly adjacent to any land or property owned by the SSAS member, or any party connected with the SSAS member, can only be bought if it is to be used for the 'sole purpose' of accruing and providing pension benefits - the SSAS member should not benefit in any other way from the assets held within the SSAS
- Any property which has been "knocked-through" to an adjoining property that is not allowed by the SSAS
- 'Flying' freeholds will not usually be allowed. This is when a property's foundations are supported by, or are dependent upon, another property. This is because there is a risk of the supporting property not being adequately maintained
- Leasehold property where the remaining term of the lease is less than 50 years
- ApartHotels
- Property subject to an agricultural tenancy agreement

Surveying the property

The SSAS Trustees will require the services of a surveyor at several points during a scheme's involvement with property. Standard Life, and the lender if applicable, will also have survey requirements. Standard Life's requirements will be issued along with the documentation to set up the Director's Premier SSAS and a survey should not be instructed until it has been established if the property purchase is feasible. The lenders requirements should be obtained before the survey is instructed.

Energy Certificates

Since 1 October 2008, all buildings in the UK that are constructed, sold or rented out need to have an Energy Performance Certificate, in accordance with the European Energy Performance of Buildings Directive.

The certificate provides a rating for the building, showing its energy efficiency and its environmental impact on a scale from A-G (where A is the most efficient and G the least efficient), in graphical format. It also contains recommended ways to improve the building's energy performance.

Environmental considerations

The SSAS Trustees may appoint any firm of chartered surveyors to undertake the survey provided that it is carried out by a Member (MRICS) or Fellow (FRICS) of The Royal Institution of Chartered Surveyors (RICS) in accordance with the RICS Appraisal and Valuation Standards (5th Edition) (the 'Red Book').

The Trustees of the SSAS should be aware that property/land investment could lead to liabilities falling on the scheme under environmental legislation. Under Part IIA of the Environmental Protection Act 1990, the costs of cleaning up any pollution must be met by the polluter.

However, in practice it is often difficult or impossible to find the polluter. If this is the case the occupier or owner will be responsible. The owner is defined in part IIA of The Environmental Protection Act 1990 Section 78A (9) as:

'a person (other than a mortgagee not in possession) who, whether in their own right or as trustee for any other person, is entitled to receive the rack rent of the land, or where the land is not let at a rack rent, would be so entitled if it were so let.'

The liabilities will, therefore, fall on the SSAS Trustees as individuals. Such liabilities can be considerable.

Due to potential environmental risks, Standard Life will require all surveys to be checked by a specialist environmental surveyor. Page 5 gives further information.

It is extremely important that financing details for the property are available at an early date, due to the possible need for dis-investment of existing SSAS assets. In such cases, arrangements need to be made in advance to ensure the funds are available in time.

Borrowings will need to be checked to ensure they are within the maximum amount permitted by HMRC. All documents relating to borrowing will need to be agreed and signed by Standard Life.

Borrowing must be on a capital and interest repayment basis.

Allowance must be made for the costs associated with the purchase of the property. Typically this could be 7% of the estimated purchase price but the actual amount could be higher or lower.

Solicitors

For a Director's Premier SSAS with Standard Life, the SSAS Trustees must agree to the use of the solicitor recommended by Standard Life and the standard lease and property agreement drafted by them, if the purchase is to proceed. Standard Life will provide the SSAS Trustees with a specimen letter of engagement for the solicitors along with the documentation to set up the Director's Premier SSAS. Page 6 gives further information on the Solicitors.

For any subsequent legal work associated with the property after purchase, the SSAS Trustees must once again agree to use the solicitor recommended by Standard Life.

The Solicitor's costs start to accrue from the time they are instructed to act. These costs together with all other property related costs, where possible, must be paid by the SSAS Trustees even if the property purchase does not proceed.

The Exchange of Contracts/Conclusion of Missives should not go ahead until:

- All parties including Standard Life have agreed to the transaction.
- It is certain that all the funds required at the completion date will be available.

Insurance and other information

The SSAS Trustees have a duty of care to ensure that the property is fully and correctly insured at all times. Standard Life's minimum insurance requirements are detailed on page 8 and these must be adhered to at all times while the property remains an asset of the scheme. The requirements of a lender, if applicable, must also be met.

Standard Life will insist that all requirements of The Control of Asbestos at Work Regulations 2002 (CAWR 2002) are met.

A minimum regular payment to Standard Life's insured funds is required. The minimum regular payment is £5,000 a year for the first member and £2,500 a year for each subsequent member.

Standard Life reserves the right to refuse a property for investment within a Director's Premier SSAS. However, any costs incurred at this stage, where possible, must be met by the SSAS Trustees.

Selling the property

When the property is to be sold, the SSAS Trustees must ensure that there is no residual liability for any of the involved parties. The SSAS Trustees must once again agree to use the solicitor recommended by Standard Life and engage the specialist environmental surveyor if required when the property is sold to ensure a clean bill of health.

Property can be difficult to sell, so you might not be able to sell your investment when you want to. The valuation of property is generally a matter of a valuer's opinion rather than fact.

Property management

While the property is held as an asset of a Director's Premier SSAS there is a duty on the SSAS Trustees to ensure that appropriate property management processes are put in place and adhered to. The member Trustees could carry out these duties themselves, or they could appoint property agents to undertake this role.

The duties that must be carried out will include:

- ensuring rental payments are collected when due, carrying out rent reviews as detailed in the lease and dealing fully with rent arrears situations
- ensuring mortgage payments are made when due
- ensuring the minimum required insurance cover is in place (see Appendix 3)
- ensuring payments are made when due, and collecting this cost from the tenant (subject to lease)
- maintaining up to date records, books of account and correspondence
- ensuring that all terms of the lease are met, whether landlord or tenant obligations
- ensuring the property is maintained in a satisfactory condition
- ensuring that no pollution or environmental contamination is occurring
- visiting and inspecting the property regularly (yearly)

- having the property valued regularly (at least every 5 years)
- dealing with issues raised by the tenant
- taking appropriate action when a property falls vacant, which may include but is not limited to, changing the locks and making the property secure, notifying the insurer, inspecting the property regularly (weekly), marketing to obtain a new tenant or marketing to sell.

The above list gives an indication of some of the property management duties to be carried out, but it cannot be seen as being exhaustive.

The member Trustees have good reason to ensure the property is properly managed – in addition to acting prudently as Trustees, they are safeguarding an asset that forms part of their pension fund.

Standard Life Trustee Company Limited (SLTC) as Administrator needs to know that the property is being managed correctly to minimise the risk for itself and the other SSAS Trustees. If SLTC has concerns on this matter these will be raised with the member Trustees, but could ultimately lead to SLTC taking action itself – this could involve, for example, appointing a property manager or effecting property insurance. The costs involved (including SLTC's costs) would be met from the Scheme.

With particular reference to environmental contamination issues, Standard Life Assurance Limited (SLAL) will request information regularly on the property itself, the use it is being put to and the property management processes that are in place. While this is an ongoing issue it is likely that SLAL will ask for specific points to be addressed by the surveyor when the property is subject to its triennial valuation.



SLAL will expect all parties (the Scheme Trustees and the tenant) to take all steps necessary to ensure the property is maintained in an environmentally sound condition.

Costs

All costs related to the purchase of a property must, where possible, be paid by the SSAS Trustees from the scheme funds.

If the purchase is abandoned for whatever reason before completion, where possible, all costs incurred up to that point must again be paid by the SSAS Trustees from the scheme funds.

Standard Life's current Property Investment Charges are:

- Property Purchase Charge - £300 plus VAT per property
- Annual Management Charge - £285 plus VAT per property
- Property Sale Charge - £150 plus VAT (for properties purchased after 1 October 2007 only)

These charges are detailed in Standard Life's 'Charges Sheet' (SAS12) and will be subject to review.

Value Added Tax (VAT)

If the SSAS is to register for VAT, Standard Life cannot undertake to register the SSAS. The SSAS Trustees will need to seek professional advice on this matter.

The SSAS Trustees will need to pay VAT from the assets of the Scheme. Should borrowing be required to finance the property purchase, then the amount of VAT payable must be included in the total purchase price used in the borrowing calculation.

Standard Life will require an indemnity from both the SSAS Trustees and the Principal Employer against any claims, costs or penalties arising from the VAT registration and this will be issued along with the documentation to establish the Director's Premier SSAS.

Specialist Environmental Surveyor

Argyll Environmental Ltd are an independent firm of Chartered Environmental Surveyors who have been retained by Standard Life to protect the interests of all the SSAS Trustees.

Argyll Environmental Ltd will require a copy of the surveyors' report(s) and will review this/these report(s). A charge of £87.50 plus VAT, payable up front, will apply.

If there is nothing in the surveyors' report(s) that warrants further investigation Argyll Environmental Ltd will write to Standard Life to confirm this. An initial report, with any recommendations, is provided to the Trustees.

If it is believed that a potential environmental risk may exist, arising from either historic land use or the existing occupation of the site, Standard Life will be advised of the recommendation that a further, more in depth 'Screening Report' be carried out. A charge of £360 plus VAT will apply. For properties in Northern Ireland the charge may be higher, and the full cost will be advised up front.

Both reports have been developed in accordance with The Royal Institute of Chartered Surveyors (RICS) guidelines.

The conclusion of the Screening Report(s) will lead to three outcomes:

- The property is acceptable and as long as all other requirements are met Standard Life will agree to the SSAS Trustees continuing with the purchase.
- The property has some problems that could be resolved. Ideally the vendor will carry out the necessary work before the SSAS Trustees buy the property. This may result in a further report or on-site investigation. The cost of this work will be estimated at the outset, and is payable by the Trustees.
- There are environmental problems or issues with the property that lead Standard Life to reject the investment. As a result, the purchase of the property would be abandoned.

There may be additional charges for obtaining information from the Environment Agency/SEPA and other environmental data and the SSAS Trustees will be advised of these charges before any work is carried out.

When the property is to be sold, there must be no residual liability for any of the involved parties. Argyll Environmental Ltd may be required to act again on behalf of the SSAS Trustees to ensure a clean bill of health when the property is sold.



Please note that at all times Argyll Environmental Ltd will report to Standard Life who will then liaise with the SSAS Trustees, the solicitor or the SSAS Trustees financial adviser.

Our solicitors will also act on behalf of the SSAS Trustees in relation to the standard lease that must be adopted, including any changes once the lease is in place, and the sale of the property.

Solicitors

Standard Life will be required to deal with several parties in relation to a property investment.

We have chosen to work with dedicated business partners (see overleaf for details) who we believe will enhance our dealings in commercial property for the following reasons:

- Dedicated resources aligned to Standard Life ensures that a team of experts is on hand who will understand our SSAS product
- Efficient processes and procedures have been designed, with agreed turnarounds, standard documentation, administration and accounting systems. These will
- ensure the financial adviser and SSAS Trustees should benefit from quicker and smoother transactions.
- Pricing has been agreed up front and is fixed for many transactions
- All our business partners share our customer service principles

We reserve the right to appoint any business partner at any time we deem it necessary to protect the property or to comply with legislation. All costs will be paid from the SSAS.

Our solicitors will deal with all legal aspects of the property purchase and their duties could include:

- Ensuring that the vendor has a good title to the property (ie that he is entitled to sell it)
- Ensuring that all necessary legal documentation is completed and that conditions of the offer are fulfilled
- Report matters which might adversely affect the borrower's rights over the property or his enjoyment of it
- Report anything arising from the title, which might concern the lender with regard to the property to be mortgaged
- Complete the purchase transaction between the vendor and applicant
- Complete the mortgage transaction

Additionally, our solicitors must:

- Advise when buildings insurance requires to be effected
- Issue a Report on Title to the lending institution
- Obtain redemption figures from any existing mortgage and other loans, which are to be paid off with the advance monies if this is a condition of the mortgage.
- Agree the form of transfer of the property
- Carry out the official search at the Land Registry and other registers as appropriate
- Advise on any matters of concern arising from the legal diligence
- On completion they will:
 - Receive the deeds from the vendor's solicitor
 - Deal with the appropriate payment of stamp duty etc. Discharge any existing mortgage using appropriate forms
 - Authorise the release of the keys to the purchaser

Property solicitors

England & Wales

Womble Bond Dickinson LLP

St Ann's Wharf
112 Quayside
Newcastle upon Tyne
NE99 1SB

www.womblebond Dickinson.com

Northern Ireland

Wilson Nesbitt

City Link Business Park,
Albert Street
Belfast
BT12 4HB

www.wilson-nesbitt.com

Scotland

Morton Fraser LLP

145 St Vincent Street
Glasgow
G2 4JL

www.morton-fraser.com

It will not be possible to use any other Solicitors' firm to arrange the property purchase or for any other legal matters associated with the property.

Solicitor charges

As all property transactions are unique, we will work with you and update you if there are any changes or new requirements. Our solicitors will also provide a quote in each case when we formally instruct them to proceed, in line with the information you provide in the Property Questionnaire (SAS52). If you then wish to abort the transaction there will be a solicitor's charge in respect of their input to this point.

Our appointed Solicitor's charges (including Conveyancing, Lease and Property Sale charges) are all subject to VAT and are deducted from your SSAS on completion of the services provided.

Disbursements (e.g. searches, Land Registry fees etc) and Stamp Duty Land Tax are deducted on completion of the purchase of the property, or earlier if the property purchase is terminated (and only where these costs have been incurred).

We confirm that we have a commercial arrangement with Womble Bond Dickinson LLP for all property purchase transactions in England and Wales. Pursuant to this arrangement, a £250 payment is made by Womble Bond Dickinson to Standard Life to cover the costs incurred by Standard Life in supporting the purchase process. We are bound to advise you of this referral arrangement in accordance with the Solicitors Code of Conduct 2007.

Minimum standard of required insurance cover

This standard only relates to the property insurance and the liability cover associated with it. If any other insurance covers are included in the same policy, these should not interfere with the cover provided for the building.

Risk Covered:	Those risks covered by a standard commercial property policy including fire, lightning, explosion, terrorism, impact and storm. A standard commercial 'all-risks' policy would include these risks. Cover should also include Public Liability/Property Owners Liability cover.
Sums Insured:	The building should be covered for full rebuilding value but not less than the value as indicated by the survey carried out in relation to the investment. Public/Property Owners Liability should be covered for at least £5m.
Insurer:	The policy should be insured with an insurer of good standing with a financial security rating from Standard & Poor's of at least A-.
Notice:	Standard Life Trustee Company Limited should be noted as owners/joint owners of the building on the policy.
Changes to Policy:	Notice should be made to Standard Life Trustee Company Limited of any unexpected change in the insurance, which affects the protection given to the premises. This would include any change in insurer, decrease in sum insured, additional warranties, etc.