

Self-Managed Property duties

Dentons allows clients to manage their own commercial property within a SIPP or SSAS pension scheme provided it can be demonstrated that the necessary property management functions are being undertaken.

Once the property has been acquired (or for insurance purposes, on exchange), it's essential that it is properly managed. Dentons gives the client freedom to choose the solution that suits them best - whether to manage the property themselves or appoint an independent professional property manager to perform this task.

The role of a property manager is to oversee the ongoing running of a property on behalf of the owner, known as the landlord. Dentons' trustee company, along with the member(s), are joint landlords. In addition, the property manager will ensure that any tenant fully meets their responsibilities as detailed in the lease agreement.

Property manager duties include, but are not limited to:

- › Providing an interface between the landlord and tenant
- › Advertising tenant vacancies for the landlord and performing due diligence checks on tenants
- › Ensuring the property is adequately insured and, if applicable, public liability insurance is in place (this is the responsibility of the landlord).
Please note: Dentons will arrange for the property to be insured under a block policy arrangement unless alternative arrangements are required or the property is a leasehold and the freeholder arranges the insurance. Dentons will also request copies of all insurance certificates. The insurance policy should be held in the pension scheme name but if not, there must be a clause showing that the pension scheme has an interest in the property.
- › Invoicing rents and securing payment in accordance with the lease
- › Collection of rent and other income
- › Ensuring rent reviews and renewal of leases are carried out
- › Payment of expenses (on behalf of the landlord); these need to have been approved by Dentons
- › Completing VAT returns, if applicable, although Dentons prefers to carry out this duty
- › Ensuring an EPC certificate is displayed in the commercial premises as the property is rented. Minimum 'E' rating unless the property is exempt
- › Ensuring all legal duties are met such as environmental and asbestos management requirements and compliance with discrimination laws
- › Ensuring the tenant observes the covenants in the lease, e.g. payment of rates, taxes and insurance premiums
Please note: the pension scheme can lease the commercial property to anyone including to a connected party provided it is for business purposes and all transactions take place on commercial terms and at market rates
- › Monitoring the condition of the property and ensuring the tenant arranges for the necessary repairs and maintenance to be carried out to an acceptable standard in accordance with the terms of the lease
- › Address ongoing maintenance issues, including assessing who is responsible for paying for these - landlord or tenant
- › Manage construction, development and repair issues
- › Maintain proper records and books of accounts, which should be available for inspection.
Please note: if you self-manage a property, extra charges may be incurred if the duties of a property manager are not fully carried out, for example, if Dentons has to chase renewal of leases.

Letting requirements

- › Where the tenant is the business of a pension scheme member(s) or of a person(s) connected with a pension scheme member(s), they will be expected to enter into a full 'insuring and repairing lease' with regular rent reviews. If the tenant is an unconnected third party, the trustees do not require evidence of setting rental terms.
- › Where a property is leased to a connected person, it is essential to determine the open market rent payable based on the proposed lease terms. An independent professional surveyor who is a Member of the Royal Institution for Chartered Surveyors (MRICS) or a Fellow (FRICS) and is a "Registered Valuer" will be required.
- › If improvements to an existing commercial property are carried out outside of the normal repairing and maintenance terms of the lease, the rent may need to be reviewed.
- › Where the tenant is connected with the pension scheme member(s) and there is non-payment of rent or another debt is created, which is not repaid on 'arm's length terms', the member(s) or tenant and the pension scheme may be liable to tax charges.

Dentons' requirements (as joint landlord with the member(s))

Completion of Land Registry documents	In England and Wales, registered owners of the property will be Dentons' professional trustee company and up to three members. It is not possible to record more than 4 names at the Land Registry. Different rules apply in Scotland.
Liability of the professional trustee	This is limited to the assets of each individual scheme therefore a liability clause is added.
Property subject to VAT	Where the scheme is to acquire such property, it will need to register for VAT and 'opt to tax' the property. If there is an existing lease in place, the acquisition should be treated as a Transfer of Going Concern and payment of VAT on the value of the acquisition should not be applicable.
Joint purchase	Where a joint purchase of a property takes place, a Declaration of Trust will be required at the time of completion to record each party's beneficial ownership of the property.
Opening a joint property account	Required for the receipt and payment of VAT, receipt of rent and payments of sundry expenses. The account is not used for any other purposes other than property transactions. There must be no element of cross-subsidy.
Joint party - mortgage agreement	If any of the parties are taking out a mortgage to assist with their share a property purchase, they must have separate mortgage agreements, which include confirmation that the lender only has recourse to recover the party's debt from that party's interest in the property.
Mortgage documentation	Ensure that in any mortgage documentation for a scheme, the scheme trustees (as the borrower) are not jointly and severally liable and that the liability of the Professional Trustee is limited to the assets of the scheme.
Registering legal charge	The solicitor is responsible for registering any legal charge against Dentons' relevant trustee company at Companies House within the relevant time limit and confirming to Dentons that this has been done.
Monitor rental payments	Dentons has a fiduciary responsibility to monitor rental payments and, should they fall into arrears, to take legal action to recover what is owed.
VAT returns	Dentons needs to be kept informed and to receive copies of VAT invoices, as we must sign these off in our capacity as co-trustee. For this reason it is often easier if Dentons completes VAT returns.



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