CURTIS BANKS

CASE STUDY
PROPERTY TRANSFERS

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A 77 year old client fears that his age will cause problems for transferring his commercial property investment and limit his options going forward.

The Challenges

Alfie is 77 and has owned a commercial property – a retail unit – for many years. He originally owned the property personally, and ten years ago consolidated his pension funds into a SIPP and purchased the property from himself. In all the time Alfie has owned the property it has had the same tenant – a well-established local jeweller.

Unfortunately, Alfie is fed up with his SIPP provider. He thought the property should be relatively straight forward for the provider to administer and manage, but over the years there have been a number of complicated blunders over issues such as lease renewals and charges. These have cost Alfie and his tenant a lot of time and effort to set straight and they have both had enough.

Alfie and the tenant have recently begun to talk about extending the property to make room for a larger workshop. Alfie is deeply concerned that the development work will not run smoothly with the current SIPP provider, but is equally concerned that the tenant will leave to find bigger premises if the works can't be completed. The tenant understands that the errors have not been Alfie's fault, but he thinks this situation could be the tipping point.

The Actions

Alfie decides to contact a financial adviser, Carmen, about the possibility of moving his pension. He's worried it won't be possible – his sister tried to move her pension last year but couldn't find anywhere willing to open a new plan for someone over 75. Even if he can move the pension, he's not sure what it will mean for the property. He's worried that the transition will count as selling the property from his old pension and buying it with the new one, and that this could have implications for things such as Stamp Duty Land Tax (SDLT), Capital Gains Tax (CGT), or VAT.

Carmen assures Alfie that they will be able to find a solution and things aren't as bad as he fears.

Firstly, Carmen says that there are pension providers out there who will open new plans for over 75s. As a SIPP customer Alfie is well placed to find a good match for his requirements, as SIPP providers often specialise in offering as much flexibility as possible to their customers.

Carmen also confirms that moving the property between the two providers won't be treated as a sale and purchase – it is an *in specie* transfer of the asset. She explains that there are no SDLT or CGT considerations: as an aside, she also confirms to Alfie that there will not be CGT to pay if or when he does decide to sell the property from his SIPP, as this is one of the tax advantages of the pension wrapper.

Carmen also explains that the property is VAT elected with the current provider, which can mean that VAT is payable when the property is moved. However, as Alfie has an existing tenant who will remain in the property, it is likely that the transfer can be treated as a 'transfer of a going concern' (TOGC), meaning no VAT is actually payable. Alfie will need to seek professional advice to make sure that all the TOGC criteria can be met.

Alfie is pleasantly surprised, but he does have another question for Carmen about the building works. He has a reasonable float of cash within his SIPP and plans to pay for the building works using that money, but is well aware that costs can sometimes overrun and would like to understand his options if that were the case. Alfie is aware that he might be able to take out a small loan but would much prefer not to. He wonders if it would be possible for him to make a contribution if needed, but wonders if his age might be a barrier as this was something else his sister had problems with previously.

Carmen explains that it is possible to contribute to a pension after turning 75. However, after age 75 personal contributions are no longer eligible to receive tax relief and aren't tested against the annual allowance, and as such many providers won't accept these contributions. Even among providers who will accept them, such as the provider Carmen has chosen from Alfie, she knows there is growing concern about people contributing purely to avoid inheritance tax, which could become a tax avoidance issue in the future. That said, Carmen reassures Alfie that if he did need to contribute for a legitimate reason such as covering property-related costs, the chosen provider will accept this.

The Results

Alfie is able to move his SIPP to a Curtis Banks Your Future SIPP without creating any SDLT, CGT or VAT liabilities. Curtis Banks is able to explain the steps involved with arranging building works, and manages that process from beginning to end, supporting Alfie and his tenant throughout. The development cost does not go over the initial estimates, so Alfie is able to pay for the development from his existing SIPP funds. He is still reassured to know that he would be able to make a contribution to his SIPP if it was ever required.

Important points to consider

The value of pension funds may fall as well as rise. Your money is tied up until you take your benefits. Benefits can generally be taken any time after age 55, although this is due to increase to 57 in 2028.

This information is based on our understanding of current legislation, including (but not limited to) FCA, PRA and HMRC regulation. It does not constitute any form of advice.

Contact Details

If you'd like to speak to us about anything in this case study, please contact us on:

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We may record and monitor calls. Call charges will vary.

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Please remember not to send any personal, financial or banking information via email as it is not a secure method of communication.