

Member's responsibility for self-managed properties (SSAS)

This document aims to help you understand your responsibilities in respect of self-managed commercial properties that are held in a SSAS. If there's anything you're unsure about, please don't hesitate to contact us on ssasproperty@curtisbanks.co.uk.

The property is self-managed by you and that means, we're not responsible for the day to day running of it or carrying out the general management of the property. If you haven't appointed a property manager, then the responsibility for managing the property sits with you and you'll need to ensure, at all times, the Property is managed in accordance with good commercial estate management practice.

To make things easier, we've outlined some of the key responsibilities that you or your property manager will need to take on:

Let the property

Where the property is let you will be responsible for responding to all tenant queries and ensuring compliance with landlord's covenants in the Lease where appropriate.

Lease terms:

If the property is occupied there must be a formal tenancy agreement, such as a lease, ideally this should be a full repairing and insuring (FRI) lease to ensure that your SSAS is protected from liabilities connected with owning and maintaining the property. This means that the tenant will be responsible for maintaining the property demised to them in the lease and adhering to all legal obligations set out within this.

Lease events:

For any lease dealings such as a new lease, lease renewal, lease expiry, assignment, subletting and / or surrender it will be your responsibility to agree heads of terms with an unconnected tenant and provide instructions to the relevant professionals such as a solicitor and valuer. You will need to ensure any lease events are recorded and managed commercially and in accordance with property law and the provisions of the Lease documentation. Please send all copy correspondence to us in order that we, as landlord, may approve and sign.

If you are connected to the tenant company any lease must be on terms as advised by a RICS qualified surveyor to ensure compliance with HMRC regulations.

Rental Income:

You will be required to monitor ongoing rent payments. We do not collect unpaid rent or tell you about outstanding rent arrears. All rent is due into the SSAS bank account and these payments are shown on your annual Year End report. It is your responsibility to ensure the correct amount of rent has been paid as per the terms of the lease, and the rent is up to date. Please refer to your copy bank statement for the SSAS bank account.

You will also be responsible for collection of any other sums due under the terms of the Lease, such as insurance and service charges (where applicable), ensuring such sums are collected in a timely fashion.

If you are connected to the tenant company, you must ensure you pay any rent as tenant in line with the terms of your lease to ensure compliance with HMRC regulations.

Rent review:

It is your responsibility to ensure the rent review is undertaken as per the terms of the lease. For any rent review due, please provide instructions to any relevant professionals such as a solicitor and valuer. Please send all copy correspondence to us in order that we, as joint landlord, may approve and sign where required.

If you are connected to the tenant company any change in rental value must be on terms as advised by a RICS qualified surveyor to ensure compliance with HMRC regulations.

Common Areas:

Common areas are shared parts of the property that are not formally let to a tenant. They are typical in multi-let properties and can include areas such as stairs, shared kitchens, communal receptions etc. If there are common areas in the property it is your responsibility to ensure these are managed and maintained in line with the applicable health and safety legislation. See 'Member's Responsibility for self-managed properties - Vacant Property Requirements' below for further information on the types of legislation that would apply.

Energy Performance Certificate (EPC)

An EPC is required for all commercial property to be offered for sale or to rent. You are responsible for obtaining this where an existing EPC has expired. If an exemption applies you will need to ensure the exemption remains current and valid. Please contact an accredited energy assessor to prepare the certificate.

MEES (Minimum Energy Efficiency Standards) regulations for commercial properties in England and Wales require landlords to ensure that let properties have a minimum EPC rating of E. From 1st April 2023 the scope of MEES expanded to include existing tenancies, making it illegal to continue letting properties with an EPC rating of F or G. You are responsible for ensuring that the property complies with MEES regulations.

Member's responsibility for self-managed properties (SSAS) (continued)

Building works

You can build, develop or renovate property in your SSAS, by using funds from your SSAS or arranging borrowing. Any works to be taken forward by the Landlord will need to remain compliant with HMRC regulations, meaning a valuer will be required to determine whether it is reasonable for your SSAS to pay for the work. Planning permission must also be obtained if appropriate. Quotes from contractors will be required and the rent may change as a result of the completed works. Please contact our SSAS Property Team who will be happy to discuss our detailed requirements with you.

Insurance

Block policy insurance:

To keep your investment secure, you must tell us about any changes which may impact the insurance policy as this could have an impact on any future claim. Please refer to the insurance notes on the literature page of our website.

Off block insurance:

For those SSAS properties not insured on the block policy, please ensure you provide us with an up-to-date insurance certificate each year. It is your responsibility to ensure you have read and understood your chosen insurer's requirements or guidance. As a self-managing member, it is your responsibility to ensure you always adhere to such requirements.

Leasehold properties

If the Property is held on a long lease, ensuring compliance with tenant covenants within that lease.

Financial obligations

Outgoing charges:

It will be your responsibility to monitor outgoings such as service charge, ground rent and Head landlord insurance.

Loan:

Where there is a loan, it is your responsibility to ensure liquid funds remain available to cover such expenses. All loan payments, both capital and interest, must be paid from the fund and must not be paid direct to the lender.

Third party invoices:

The pension fund will be responsible for the payment of any third-party invoices, please ensure copies of invoices are provided to us promptly in order that we may arrange settlement.

Selling the property

If you wish to sell your property, it is your responsibility to agree Heads of Terms with the buyer and provide us with a completed and signed Property Disposal Instruction Form. We will issue our standard instructions to the relevant professionals such as a solicitor and valuer. Please send all copy correspondence to us in order that we can work with the third-party professionals and sign the necessary documents to approve the sale.

If you are connected to the buyer, any disposal must be on terms as advised by a RICS qualified surveyor to ensure compliance with HMRC regulations.

Pension regulations

While we hold the property in your SSAS, you'll need to work with us to make sure the property is managed in line with HM Revenue and Customs (HMRC) requirements. Failure to do so can incur tax charges to you and your SSAS. It is important that HMRC taxable property and connected tenant regulations are robustly adhered to. More information can be found in the Pensions Tax Manual at gov.uk.

Member's responsibility for self-managed properties - Vacant property requirements (SSAS)

If the property or any area within the SSAS's ownership falls vacant, you will be responsible to ensure the property is secure and properly maintained. If appropriate you will need to take any meter readings and contact the Local Authority to notify them the property is vacant. We have detailed below your primary responsibilities for managing a vacant property:

Insurance requirements

You will be required to notify the insurers as soon as the property becomes vacant.

For those SSAS properties not insured on the block policy, please ensure you have read and understood your chosen insurer's void or vacant property requirements or guidance. As a self-managing member, it is your responsibility to ensure you always adhere to such requirements.

For properties insured on the block policy, please refer to the best practice guidelines outlined within the insurance notes. Please ensure you adhere to the insurers requirements to ensure the insurance policy is not invalidated or any future claim negatively impacted. Please refer to the insurance notes on the literature page of our website.

Access/security

You will be required to hold the keys to the property and visit the property to check on its condition.

Arrangements need to be made with any outgoing tenant to collect the keys and ensure the property is secure. If an intruder alarm exists, you will need to obtain the code and/or keys for the system. Whilst the property remains vacant you will need to grant access to any third parties as appropriate, to include valuers, building surveyors and agents etc. You must also arrange for any on-going maintenance contracts to be placed in the name of the Trustees or cancelled as appropriate. Please ensure you share these contracts with us where required. The Insurer may also require further security such as security window and door screens or CCTV.

Vacant inspections

The property should be regularly inspected in line with the insurer's recommendation to ensure that the building or unoccupied portion is secure and that no damage has occurred.

You will be responsible for the general upkeep of property and boundary areas.

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

Marketing

To ensure that the property remains income producing it is important that steps are taken to re-let the property as soon as possible. You should instruct a letting agent of your choice to market the premises. The level of fees payable to the agent can be agreed by you but will be payable from your pension fund.

Dilapidations

It is likely that the lease contains repair obligations for the outgoing tenant to meet. You may wish to consider appointing a Chartered Building Surveyor to act on behalf of the Trustees and your SSAS to ensure that those obligations are met.

Asbestos

Arrangements need to be made with the outgoing tenant to obtain the asbestos survey and management plan. If one has not been completed or cannot be located, you should consider whether an asbestos report needs to be prepared.

It is your responsibility to consider whether an asbestos report needs to be prepared and obtain one if necessary. If, however, we determine that such a survey is required and you have not organised this, it may be commissioned directly. In either case it should be paid for from your SSAS and any invoice addressed to trustees of the pension scheme.

Member's responsibility for self-managed properties - Vacant property requirements (SSAS) (continued)

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 the 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.

Utilities and rates

It is your responsibility to obtain a final meter reading from the tenant for all utility supplies (electricity, gas and/or water, as applicable) and notify the relevant supply authority. You should continue to read the meters on a regular basis (we would suggest monthly) and advise the billing authority of the readings, at least quarterly, to ensure that utility invoices remain accurate. You will need to negotiate the charge rate with the relevant supplier and ensure that all invoices are addressed to trustees of the pension scheme.

Reducing the risk of gas and water leaks can be achieved by disconnecting supplies from the source and not leaving water tanks full.

The responsibility for payment of void Business Rates will fall to your SSAS to pay from the expiry date of the lease. You will need to notify the local Rating Authority of the date that the previous lease expired and that from the following date, void rates will be payable by trustees of the (insert name of pension scheme). You may wish to consider seeking to appeal the level of Rateable Value applied to the property. More information can be found at www.voa.gov.uk/business_rates/index.htm.

Your SSAS terms and conditions will help you identify the name of the trustee to whom these documents should be addressed.

We understand that managing property within a SSAS is a complex process. If you're unsure about any of the above, please don't hesitate to get in touch.

For literature in alternative formats, such as Braille, large print, audio or E-text, please call us on 0370 414 7000, or via the Typetalk service on 18001 0370 414 7000.

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