

Lease Questionnaire

Barnett Waddingham Self Invested Personal Pensions

Guidance notes

This questionnaire is for leases and tenancy agreements for all commercial property, including bare land. Please complete it in full when you would like to arrange a new lease for a property except where it is in the process of being bought for your SIPP. Throughout this questionnaire, words or phrases which are in bold italics are explained in the Glossary contained in our Property Guide, which you should refer to when completing this questionnaire.

Please note that property may only be leased on behalf of your Barnett Waddingham SIPP if the terms of the lease are acceptable to the **trustee**. Neither the **trustee** nor the **operator** can advise on the suitability of a property or lease as an investment for your scheme. The **trustee** and the **operator** accept no responsibility for any loss arising from your investment in commercial property.

A solicitor will be required to act on behalf of the SIPP for all leases and tenancy agreements. If the proposed tenant is a **connected party** the terms of the lease must also be supported by the advice of an independent and unconnected RICS surveyor, dated within six months of the lease start date.

Some types of property, particularly residential property, are considered to be 'taxable property' by **HMRC**. Investment by a **SIPP** in taxable property will result in tax charges of 40% of the value of the investment being imposed on the policy holder and 15% being imposed on the **SIPP**. If the value of the taxable property is more than 25% of the total value of the **SIPP**, a further 15% tax charge will be imposed on the member. Ongoing tax charges will also apply in respect of income received from taxable property, calculated at the greater of the actual income received or a 'deemed income' equivalent to 10% of the property's value, per annum. You must keep us informed in advance of any proposals to make any changes to the property or tenancy, as these could affect the property's tax status. It is your responsibility to understand these requirements and the circumstances that may lead to such charges being imposed.

Please complete this form in full using BLOCK CAPITALS and black ink and return this, with all supporting documents, to your usual client manager. Any incomplete information or missing documents may lead to delays.

1. Participating member(s)

Member(s) name	Member(s) SIPP Number

Please provide details of the member who is the primary point of contact in respect of this property and lease:

Name:

Address:

.....

..... Postcode:

Contact name and telephone number:

Email:

2. Property details

Property address:

.....

..... Postcode:

Description of property (e.g. warehouse, office, industrial unit, shop, agricultural land):

Current authorised use of the property:

If the proposed use is to change under the new lease please provide details below, including confirmation of whether you or the tenant have already submitted a change of use application to the local authority:

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What interest does the SIPP hold in the property? ☐ Freehold ☐ Leasehold ☐ Other

If "other", please provide details:

If leasehold, how many years are left on the head lease?

Title Number/Land Registry Reference (if known)

Does the property have any residential element? ☐ Yes ☐ No

Is the property currently registered for VAT? ☐ Yes ☐ No

If 'No', is the property to be 'VAT Opted to Tax' now? ☐ Yes ☐ No

3. Lease information

Is this the renewal of an existing lease or a new tenancy? ☐ Lease renewal ☐ New tenancy

Is an existing lease or tenancy agreement being terminated early in order to accommodate this arrangement? ☐ Yes ☐ No

If yes, please provide details of the agreement reached with the existing tenants, including any premiums payable:

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3a. Tenant details (If there is more than one tenant, please provide details separately)

Name of tenant:

Type of organisation: ☐ Sole Trader ☐ Partnership ☐ Limited Company (inc. LLP, LP and SLP) ☐ Other

If "other", please provide details:

Address:

.....

..... Postcode:

For Sole Traders or Partnerships, please provide evidence of the address (e.g. a recent utility bill or bank statement).

For Limited Companies, please confirm the Registration Number:

Contact name and telephone number:

Email address:

Nature of tenant's business:

What will the property be used for?:

Name of tenant's solicitor:

Solicitors Address:

.....

..... Postcode:

Contact name and telephone number:

Email:

Is the tenant a **Connected Party**? ☐ Yes ☐ No

If the tenant is connected, the property's rental value must also be supported by a professional market rate valuation, which should also reflect the intended terms of the lease/tenancy agreement. A copy of the rental valuation should be submitted to us with this Questionnaire.

3b. Lease terms

Type of tenancy agreement: ☐ Lease ☐ Farm Business Tenancy ☐ Tenancy at Will ☐ Other

If "other", please provide details:

Annual rent payable by the tenant, exclusive of VAT: £

Frequency of rental payments: ☐ Annually ☐ Half-Yearly ☐ Quarterly ☐ Monthly

Payment dates:

Proposed lease term:Years.....Months

Frequency of review periods (rental reviews usually occur every three to five years and will be 'upwards only' unless stated otherwise and supported by a valuation report):Years.

For properties in England/Wales, is the lease to be excluded from the terms of the Landlord and Tenant Act 1954?
We would expect underleases and prefer leases to **connected** tenants to be excluded from these terms.

☐ Yes ☐ No ☐ N/A

If any of the following terms are to be included in the lease please provide details below:

Break clauses? ☐ Yes ☐ No

Details:

Service charges? ☐ Yes ☐ No

Details:

Rent-free period? ☐ Yes ☐ No

Details:

Rent deposit? ☐ Yes ☐ No

Details:

Rent guarantee? ☐ Yes ☐ No

Details:

Sub-letting? (Only permitted with the Landlord's express permission) ☐ Yes ☐ No

Details:

Assignable interest? (Only permitted with the Landlord's express permission) ☐ Yes ☐ No

Details:

4. Energy Performance Certificate (EPC)

Is there a valid EPC in place for this property? ☐ Yes ☐ No ☐ Property exempt

Please note that, for properties in England & Wales, an EPC with a rating of E or greater is required to enter into a new lease. If the property is exempt from the requirement to produce an EPC we will need confirmation of this in writing from the solicitor, surveyor or an EPC provider.

5. Solicitor

Please indicate which Barnett Waddingham panel solicitor you would like to use below:

Scottish Properties: ☐ Morton Fraser

English Properties: ☐ Birketts

☐ Charles Russell Speechlys

☐ Gunnercooke

Northern Irish Properties: ☐ McKees

☐ Shean Dickson Merrick

If you wish to use your own solicitor, please provide their contact details below:

Solicitor name:

Address:

.....

..... Postcode:

Contact name and telephone number:

Email:

6. Surveyor

Have you already requested a rental valuation for the property? ☐ Yes ☐ No ☐ N/A

If so, please forward a copy of the report with this, fully completed, questionnaire.

If you would prefer Barnett Waddingham to request a valuation for you, please provide the contact details of your preferred RICS surveyor below. Please note that the lease may be delayed while we await the report:

Surveyor name:

Address:

.....

..... Postcode:

Telephone number:

Email:

Contact details to enable the surveyor to gain access to the property:

Name:

Telephone number:

Email address:

7. Proposed works

Are there any proposed works to be undertaken as part of the lease agreement? ☐ Yes ☐ No

If 'Yes', who is to cover the cost of the works? ☐ Landlord ☐ Tenant ☐ Split between Landlord and Tenant

Details (including expected costs):

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8. Agreement and Declaration

The following Terms and Conditions are supplemental to the Barnett Waddingham SIPP Terms and Conditions and/or Barnett Waddingham Flexible SIPP Terms and Conditions, which form a legally binding agreement when you take out your **Barnett Waddingham SIPP**. Copies of these documents are available on request.

Please note that we cannot proceed with the lease until this Declaration has been agreed and signed by all participating **SIPP members**:

1. I/we confirm that we have read Barnett Waddingham's "Property Guide" and "Property Terms and Conditions" and have had the opportunity to raise any questions or concerns. I/we undertake to be bound by any provisions contained therein.
2. I/we understand that commercial property investments are illiquid investments and the value of the property may rise or fall. As such I/we acknowledge that I/we may not be able to access any funds invested in commercial property at short notice, which may delay the receipt or taking of pension benefits.
3. I/we authorise **BW SIPP Trustees Limited** to arrange the lease for the above property on my/our behalf as part of my/our **SIPP** fund assets. All documentation in connection with the lease will be signed by **BW SIPP Trustees Ltd** and me/us (if applicable) on the understanding that all terms and conditions have been agreed in advance by me/us.
4. I/we acknowledge that the **trustee** will appoint the chosen solicitor to act on behalf of the **trustee(s)**, in its/their capacity as **trustee** of my/our **Barnett Waddingham SIPP**. The lease will be held in the name of the **trustee(s)** as an asset of my/our **Barnett Waddingham SIPP**. The **trustee** and **operator's** liability will be limited to the assets of my/our **Barnett Waddingham SIPP**.
5. I/we accept that the **trustee** and/or **operator** can refuse to proceed with the lease if their due diligence process finds it to be unsatisfactory or that it may give rise to punitive tax charges under **HMRC** rules, or if additional information comes to light which means they need to change their decision.
6. I/we accept responsibility for arranging valuations of my/our property investment(s), which may be required for legislative or other reasons, including:
 - When **BW SIPP Trustees Limited** have to review the pension income payable to me/us
 - When my/our benefits must be tested against the lifetime allowance
 - To review the rent payable in accordance with the terms of the lease
 - The fifth anniversary of the date of the most recently received property valuation
7. I/we acknowledge that if I/we do not arrange a valuation when requested, **BW SIPP Trustees Limited** may arrange for a valuation to be carried out on behalf of my/our **Barnett Waddingham SIPP**. The cost of any property valuations will be met from my/our **Barnett Waddingham SIPP**, in proportion to the ownership of the property.
8. I/we agree to take advice regarding any potential tax implications with a relevant tax expert.
9. I/we confirm that all documentation and information held by **BW SIPP LLP** in respect of personal details, my/our **SIPP** details, and property details, can be provided as necessary to my/our chosen solicitor and surveyor.

10. I/we confirm that if **connected** with the tenant, I/we will fully state this at the outset and subsequently ensure an independent market rental valuation is obtained, dated within 6 months of the lease start date. I/we will adhere to the values stated in the valuation report and will ensure all **connected** transactions will be done on an **arm's length** basis.
11. I/we acknowledge that, in the event of the lease not completing for any reason, all costs incurred up to the point that **BW SIPP LLP** and any third party providers receive notification of the cancellation, will be met from my/our **SIPP** funds. Third party fees (e.g. panel solicitor) will be settled by the relevant **SIPP** fund(s), in proportion to all co-owners.
12. I/we acknowledge that, unless I/we have made separate arrangements with the prior approval of **BW SIPP LLP**, **BW SIPP LLP** will arrange for the property to be insured and that **BW SIPP LLP** will be entitled to retain any commission it is paid in respect of the property insurance policy, as notified.
13. I/we indemnify **BW SIPP LLP** and **BW SIPP Trustees Limited** against all costs, expenses, fees, losses or liability incurred by either or both of them in relation to the management and holding of the property. If any such costs, expenses, fees, losses or liability occur, I/we understand these will be payable to **Barnett Waddingham** either from funds in my/our **SIPP(s)** or if insufficient funds are held within that **SIPP(s)**, I/we agree to meet them from personal funds outside of my/our **SIPP(s)** which I/we shall transfer to **Barnett Waddingham** immediately on request.
14. I/we acknowledge that **BW SIPP LLP** and **BW SIPP Trustees Limited** do not monitor the property on an ongoing basis and that it is my/our responsibility to do so.
15. I/we accept responsibility for arranging for landlord's insurance to be put in place on the property in accordance with the minimum requirements as detailed in **Barnett Waddingham's** "Property Guide". I/we also accept that, if I/we fail to arrange adequate cover the **trustee** and/or **operator** reserve the right to arrange cover under their block insurance policy at the expense of my/our **Barnett Waddingham SIPP**.
16. I am/we are aware that the **trustee** reserves the right to appoint a surveyor or property manager to act on its behalf to ensure that the pension scheme fully complies with its duties and obligations as landlord of the property, if they consider this necessary. The fees for such a surveyor or property manager will be met from my/our **Barnett Waddingham SIPP**.
17. I/we confirm that **BW SIPP Trustees Limited** shall have no personal liability under any covenants or obligations on its part contained in any documentation, whether expressed or implied, related to the property and the liabilities of **BW SIPP Trustees Limited** shall be limited to the value of the assets of the **SIPP(s)** at any given time.
18. I/we have read the guidance note at the start of this application and have had the opportunity to raise any questions or concerns regarding the tax penalties that could arise in respect of the lease and/or property investment if certain changes are made to it. I accordingly agree to keep **BW SIPP LLP** informed of any proposed changes to my/our **SIPP** property investment, prior to any such changes being made. Such changes include, but are not limited to, a change of tenancy, change of use permission and any development or building work to be carried out at the property.
19. I/we declare that every statement made in this Questionnaire is to the best of my/our knowledge and belief true and complete and that I/we have not knowingly withheld any information in relation to this property or this transaction. I/we accept full responsibility for the accuracy and completeness of the information provided.

To be signed by all participating **members** as agreement of the above (duplicate if necessary):

Signed:

Print name:

Date:

Signed:

Print name:

Date:

Signed:

Print name:

Date:

Signed:

Print name:

Date:

Signed:

Print name:

Date:

Signed:

Print name:

Date:

Panel solicitors

Our options for leasing a property with your SIPP have been designed to be as flexible and streamlined as possible. As part of these options, our panel of solicitors has been carefully selected for their experience of dealing with property transactions within a pension scheme environment and we have a choice of solicitors for transactions across Scotland, Northern Ireland or England and Wales. The costs for carrying out this work will be agreed in advance on a case by case basis.

We have worked closely with these companies to put in place streamlined processes for their appointment and ongoing transactions. Please see below for further details on each of our panel partners.

Birketts

Birketts LLP is a long established and highly successful law firm, holding a place in the Lawyer's Top 100 UK law firms and recognised in the industry's leading independent directories as a top tier regional heavyweight. With a total headcount of 530 it is large enough to provide specialist skills in most areas of law but small enough to maintain a highly personalised service.

Birketts' property team is one of the best regarded in the east of England, serving clients nationwide and is noted in Chambers as being "the strongest property team in East Anglia".

It comprises around 100 specialists dealing with all types of commercial property transactions, supported by colleagues with construction, planning and commercial expertise. The depth and range of expertise means the team can work together on major and complex transactions on cost effective terms and also deal with high volume and bulk transactions.

Birketts' specialist and dedicated SIPP and SSAS property team is led by Oliver Crichton and deals with all elements of commercial property transactions involving SIPPs and SSAs to include acquisitions, disposals, leases and mortgages.

Collectively our dedicated team of five fee earners have over 30 years' experience of working within the SIPP industry. This gives them a full understanding of the regulations faced by our clients and also their day to day challenges. Birketts pride themselves in delivering high quality levels of expert service and providing their clients with true value for money.

CRS Charles Russell Speechlys

Formed in 2014 by the merger of Charles Russell and Speechly Bircham, their aim is to be the leading English law firm combining specialist business law and private wealth advice internationally.

Charles Russell Speechlys LLP provide transactional, regulatory, advisory and litigation & dispute resolution services to major corporates and privately owned businesses. They have significant strength in real estate and construction, transactional expertise across financial services and specialist litigation and dispute resolution, employment, intellectual property and commercial teams advising in healthcare, retail and leisure, sport and TMT.

At the heart of the new firm is their commitment to private wealth. The merger reinforces their ability to provide a seamless service for wealthy individuals, family offices, private banks, trustees and wealth managers and large, privately held businesses, combining advisory skills, developed in the world of private wealth, with their business law expertise.

Whatever the specialism, all their lawyers are focussed on delivering solutions and personal guidance supported by legal insight and commercial judgment.

Charles Russell Speechlys LLP work with several leading SIPP and SSAS trustees in relation to all aspects of commercial property, pensions, corporate and litigation advice.

gunnercooke

gunnercooke is an award-winning full service law firm, founded in 2010, to challenge, improve and evolve the way that legal services are delivered. At present, we are more than 225 expert partners, operating nationally and internationally via offices and hubs. In November 2018, we were delighted to be named Large Law Firm of the Year at The Law Society Excellence awards, in recognition of the services we deliver to our clients.

Our Real Estate team comprises some of the most senior advisors in the market. We work with developers, traders, corporate occupiers, investors and investment funds and lenders, and there are few scenarios that our team will not have encountered. We take a commercial approach, taking time at the outset to understand our clients' objectives and timescales, and to meet them on time and within budget.

Our aim is to develop a long-term relationship with each of our clients and to become a trusted advisor. In fact, our clients have rated us with an NPS score of +84, placing us at the highest end of global law companies in recognition of excellent client service.

The Real Estate team have worked closely with some of the largest SIPP and SSAS providers advising on all aspects of property matters including co-ownership structures

+McKees

Their Pension Property team is led by Andrea McCann, who has 20 years experience working in SIPP and SSAS commercial property work. Their team acts for a number of leading SIPP and SSAS providers in the UK for their Northern Ireland property portfolios either on an exclusive panel appointment or a preferred recommended solicitor basis. They are proud of their working relationship with their SIPP and SSAS provider clients, IFAs and members. Their team can also offer finance and lending support, being a panel firm for all local banks.

Their expertise includes commercial property purchases and sales, in-specie transfers, leases and lease renewals, property litigation including rent arrears and unauthorised payments, SIPP and SSAS lending and loan back schemes.



MORTON FRASER SOLICITORS

Morton Fraser has its own dedicated Property in Pensions team, one of the largest of its kind in the country which acts for a large number of SIPP, SSAS and other pension providers, structures and arrangements throughout the United Kingdom and has extensive experience in this field built up over many years.

The Property in Pensions team acts in all types of pension real estate transactions, from all aspects of property acquisition, management, leasing and disposal to funding/security models and also in relation to syndication and multi member arrangements.

Morton Fraser completes hundreds of SIPP/SSAS transactions every year delivering clear technical advice and keeping to agreed fee levels and timescales to meet the requirements of each client.

Morton Fraser is a thriving, top ten Scottish law firm delivering clear advice to businesses, the public sector, individuals and families. With over 260 people working with us, we provide highly rated legal services across the UK. Our people work from our three offices in Edinburgh, Glasgow and London advising clients throughout the UK as well as internationally.

The firm has one of the country's top rated Commercial Real Estate Divisions covering all aspects of commercial real estate work and servicing all client requirements in this sector from its bases.

SDM

Shean Dickson Merrick solicitors are an established commercial and private client firm in practice for over one hundred years. Based in the heart of Belfast city centre, they cover the whole of Northern Ireland. They have acted for a number of large pension providers, resulting in a known reputation in the pension property field and close ties with financial advisors in the province. They are often the first port of call to assist with queries or unusual cases.

All cases are handled by one of the directors in the firm, who have vast experience in this field, to include property acquisitions (both SIPP and SSAS), securitisation of property, leases and multi member agreements. They are more than happy to have initial contact with prospective members up front, which can often provide clarification and assistance at an early stage.



If you would like to discuss anything relating to this property purchase please contact us as follows:

 0344 443 0100

 propertyteam@barnett-waddingham.co.uk

www.bwsipp.co.uk

Barnett Waddingham LLP is a body corporate with members to whom we refer as "partners". A list of members can be inspected at the registered office. Barnett Waddingham LLP (OC307678), BW SIPP LLP (OC322417), and Barnett Waddingham Actuaries and Consultants Limited (06498431) are registered in England and Wales with their registered office at 2 London Wall Place, London, EC2Y 5AU.

Barnett Waddingham LLP is authorised and regulated by the Financial Conduct Authority. BW SIPP LLP is authorised and regulated by the Financial Conduct Authority.

October 2021