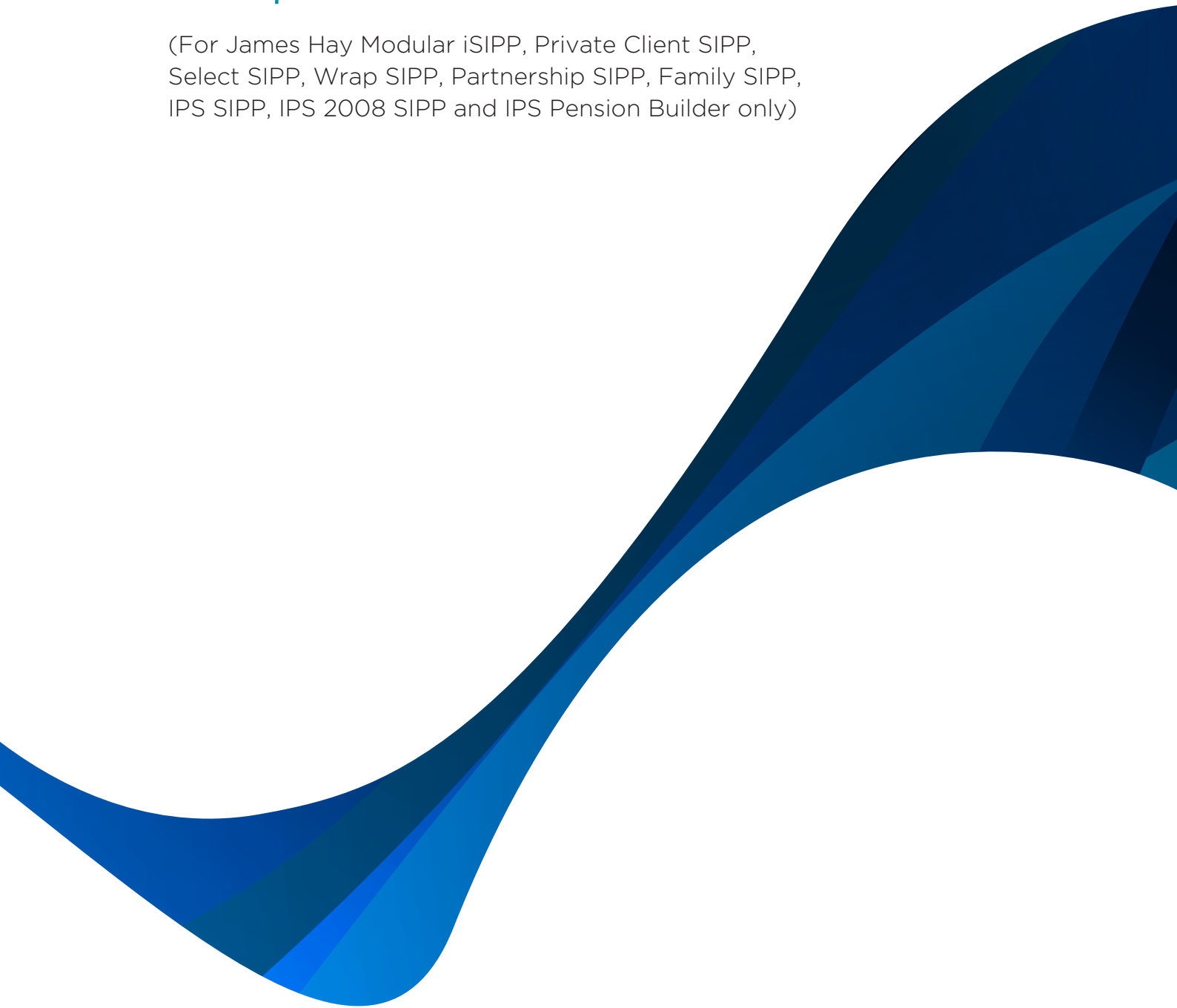


# Commercial Property Disposals Guide

(For James Hay Modular iSIPP, Private Client SIPP,  
Select SIPP, Wrap SIPP, Partnership SIPP, Family SIPP,  
IPS SIPP, IPS 2008 SIPP and IPS Pension Builder only)





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Property disposals through a Self Invested Personal Pension (SIPP), whether by way of sale or transfer to another SIPP provider, are complex transactions.

This guide has been written to help you understand the processes involved. It is, however, only a guide. All property transactions must satisfy all HM Revenue & Customs (HMRC) and other regulatory requirements, as well as James Hay Partnership's requirements. These may vary from time to time.

Please read this guide carefully.

If you have any further questions please call your Account Executive if you are a Financial Adviser, or our general helpline 0845 850 4455 if you do not have a Financial Adviser.

Please note that throughout this document:

**'We/us'** refers to any of the Trustee Companies associated with James Hay Partnership

**'You'** refers to the SIPP member(s)

**'Valuer'** means a person who is a qualified member of the Royal Institution of Chartered Surveyors or equivalent body

**'SIPP'** will mean any of the relevant SIPP products offered by James Hay Partnership, as detailed on the front page of this document.

The term **'connected party'** is used in this document. A connected party is defined in the Income and Corporation Taxes Act 1988 section 839. Connected parties are members, close relatives, partners or any company associated with a member or their family.

This guide covers any property transaction undertaken by IPS Pensions Limited, IPS Partnership PLC and any other company in the James Hay Partnership.

**Please complete the Property Disposal Form at the end of this guide to provide us with the information we need to progress the disposal of the property.**

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## Marketing the property

You can market the property with an agent of your choice, and the agents fees can be paid from the SIPP. If your agent requires terms of business to be signed, please check that you are happy with them and that you have agreed the fees,

then forward the terms of business to us for signing. Alternatively, you can negotiate the terms of the sale with the potential purchaser directly, however, we will need evidence of the reasonableness of the terms from an independent valuer.

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## Solicitors

We will normally instruct a panel solicitor to act on behalf of the SIPP who will also ensure that any loan on the property is repaid on completion from the sale proceeds. In certain circumstances we may agree to use your choice of solicitor. If you wish to use your own solicitor, please give full details in section 13 of the Property Disposal Form. You should note that in order to avoid a conflict of interest, the same solicitor cannot act on behalf of the SIPP and the buyer.

Please note that all legal costs and disbursements connected with the sale of SIPP property (but not of any tenant's interest) are payable from your SIPP fund. These are usually dealt with by payment from the sale proceeds of the property. Please note that should the transaction abort, fees may still be payable.

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## Existing Occupational Lease

If there is a tenant in the property and the term of the lease still has some time to run, you will need to let us know whether the sale or transfer is subject to that tenancy or whether you intend to sell with vacant possession. If the sale is to proceed with vacant possession, we will assume the lease will be surrendered immediately prior to completion of the sale, and the solicitor will be instructed to deal with this issue accordingly.

We will need to establish if the tenant is paying a premium to surrender the lease.

If the tenant is unconnected to you, the amount of this premium (if any) may be whatever has been negotiated with them for the surrender of the lease. However, if the tenant is your business, or is connected with you, we are required (by the regulations laid down by HMRC) to recover the open market value of the surrender (if any) for the benefit of the SIPP. Therefore, a Valuer must be appointed to advise what premium or reverse premium would be payable if the surrender were an open market arms length transaction.

We, as Landlord, must act within regulations laid out by HMRC, and subsequently we must adhere to rules and guidelines which stipulate how we act as a commercial landlord in respect of the recovery of rent and/or insurance arrears, particularly when the member is connected to the tenant. We must ensure that all rent and insurance arrears are cleared before the sale can proceed to completion. Any delay in the payment of rent and/or insurance arrears may result in a delay to the completion of the sale. We can give no preferential treatment if the tenant is you, or a party connected to you.

If the tenant is in liquidation or administration and the property is to be disposed of with vacant possession, the lease must be properly brought to an end prior to disposal of the property. Termination of a lease will require the involvement of the solicitor acting.

If the property is vacant, or will be by the time the disposal completes, it is your responsibility to ensure that accurate meter readings are taken at the point of sale.

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## Valuation

We require a valuation of the property from a Valuer, addressed to the relevant Trustee(s) for your SIPP confirming that the sale terms are fair and reasonable. You are at liberty to choose who undertakes this valuation. You should confirm on the Property Disposal Form the name of the Valuer you intend to instruct. Please note that any fees incurred will be met from your SIPP. The Valuer's invoice should be addressed to the relevant Trustee for your SIPP and forwarded to us for payment.

If the property is to be sold subject to the existing occupational lease, then the Valuer should tell us the market value of the SIPP property on that basis.

If an existing lease is to be surrendered, then the Valuer should also advise what premium (if any) should reasonably be paid and by whom, having taken into account the terms of the lease and any surrounding circumstances which might benefit the landlord and/or tenant as a result of their early release from their lease obligations. Please note that a surrender premium in excess of £150,000 will attract a liability to Stamp Duty Land Tax which will be payable by your SIPP.

**Please bear in mind that if the net sale proceeds receivable by the Trustee(s) are insufficient to repay any mortgage on the property, then it may not be possible to sell the property at this stage, unless you have surplus funds available in your SIPP fund to pay the mortgage balance.**

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## Connected Parties

We are required to report transactions with connected parties to HMRC. For such transactions

the price paid must be as advised to us by an independent Valuer.

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## VAT

Where a property has been opted to tax and is being sold with vacant possession, VAT will be added to the sale price. Should the property be sold with the benefit of the existing lease and be registered for VAT in the hands of the new owner prior to completion, the property could

potentially be a transfer of going concern and VAT may not be applied. HMRC has very specific rulings regarding the treatment of VAT, therefore it is important to seek your own guidance on this before proceeding.

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## Energy Performance Certificate

It is a legal requirement to produce an Energy Performance Certificate (EPC) for the sale and letting of commercial properties and this must be available within one week of marketing commencing. You should therefore, where appropriate, arrange

to obtain an EPC which will be payable by your fund as soon as possible. The marketing agent should be able to provide an EPC or you may choose a consultant.

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## Disposal of Part

If you wish to dispose of part only of the SIPP property, we will require a plan marked by the valuer defining the area to be sold. A copy of this plan will need to be verified by you to confirm that the part has been correctly identified.

We will also require the Valuer's confirmation of the market value of the area to be sold. If there is a tenant, they must also comment on whether there will be a premium payable by or to the tenant in respect of the part of the property they will be giving up. In relation to the part to be retained in the SIPP, we will require confirmation of the market value, market rental value and reinstatement figure for insurance purposes.

If there is a mortgage and the sale proceeds are insufficient to redeem it in full, then the solicitor will have to obtain the bank's consent for the sale. Please be aware that the bank may want the money to be used towards the discharge of the loan. If there is a mortgage and only part of the loan is discharged the new rent must be sufficient to cover the current level of mortgage payments.

The part sold must be separate from the SIPP property (including separation of any shared services).

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## After the Disposal Completes

### **Where the property is sold**

We will expect the solicitor to send us a completion statement, which not only shows the sale proceeds but also details any invoices that have been deducted from the sale proceeds. This will typically be the solicitor's fee and agent's fee if they marketed the property. A copy of the completion statement will be forwarded to you.

### **For an in-specie transfer**

Where the property is transferring to a new pension provider, there will be no completion statement, and we will pay invoices received for the costs incurred directly from SIPP funds. Please note; the transfer cannot be completed until there are sufficient funds held in the SIPP to meet all associated costs.

### **Closing the SIPP Property Account**

Once the solicitor confirms to us that the disposal has completed, we will ensure that all invoices

have been paid from the SIPP, that all rent and any insurance apportionments have been dealt with and that, if applicable, all VAT payments/receipts have been paid or received. Please be advised that this process may take several weeks to months, particularly in respect of obtaining insurance refunds from 3rd parties and finalising any VAT issues (if applicable).

Once all these aspects have been resolved, we will check that the property account has been fully reconciled, and, once confirmed, we will proceed to close the property account and transfer the balance to your trustee cash account. If applicable, funds will then be transferred to your new pension provider. Partial transfers of funds whilst we are awaiting information may be possible, in which circumstances we would retain some funds in the SIPP property account to meet any outstanding costs.

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## Fees

In addition to the Valuer's and solicitor's fees indicated above, please note James Hay Partnership's current fees for administering

the disposal are given in the Charges Schedule for your SIPP. Please note that fees may still be charged should the transaction abort for any reason.

**These notes are for your guidance only and do not constitute advice. We will administer each case taking account of its particular requirements.**

## Commercial Property Disposal Form

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**1. Name of pension product in which property is held**

Family SIPP

Private Client, Select SIPP

Partnership SIPP

IPS SIPP, IPS 2008 SIPP,  
IPS Pension Builder

Modular iSIPP

Wrap SIPP

**2. Property address**

**3. Member's name(s) and number(s)**

**4. I confirm the proposed sale of the above property and the agreed sale price is**

£

**5. The property is to be sold:**

With vacant possession

Subject to the current occupational lease

**6. Is the lease to be surrendered prior to disposal?**

Yes

No

(if the tenant is not connected to you, please advise what terms have been agreed)

**7. Current rent arrears:**

8. I will instruct (name and address of Valuer)

to undertake a Market Valuation of the property. The Valuation Report and invoice will be addressed to James Hay Partnership.

9. Buyer's name and address:

10. Buyer's solicitor's name and address:

11. Is the buyer connected to you?

Yes  No

12. Is the disposal expected to be a transfer of going concern?

Yes  No

13. Solicitor to act on behalf of the SIPP Trustees.

Please instruct your panel solicitor to act for the Trustees.

Yes  No

If 'No' please give details:

Company Name

Contact Name

Address

 postcode



I confirm that my SIPP will meet all fees in connection with this transaction.

Signed by Member(s) - please continue on a blank sheet if needed

Date

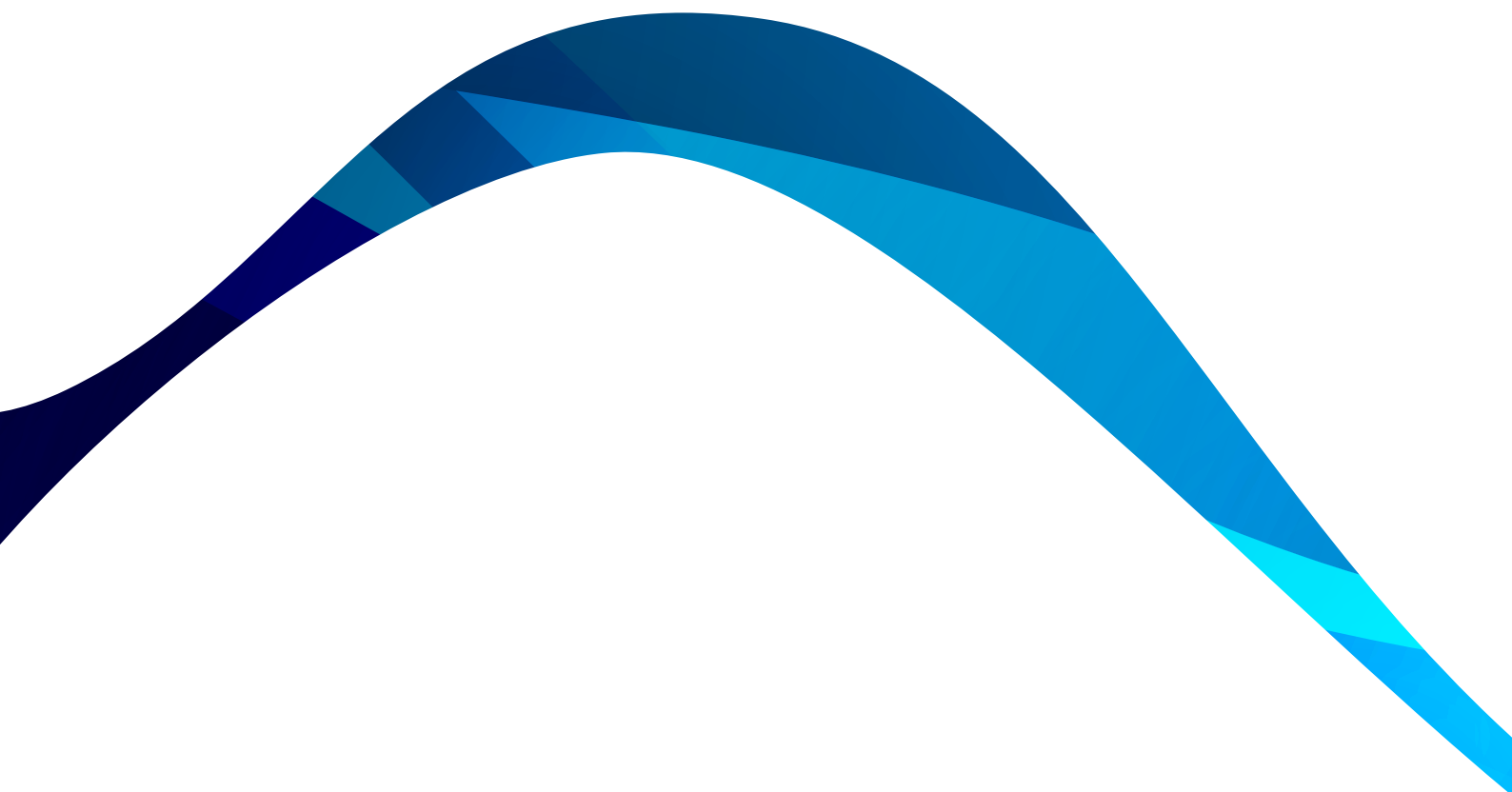
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### Important Information

This guide is issued by us for use in connection with products provided by James Hay Partnership. James Hay Partnership does not accept any liability if the information provided in this document is used for any other purpose. This fact sheet is based on our understanding of current UK legislation and HMRC practice at the date this document was produced. We cannot be held responsible for any action you may take as a result of reading these notes. We recommend that you seek financial advice. The tax treatment depends on the individual circumstances and may be subject to change in the future.







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