



The Xafinity Self Invested Personal Pension (SIPP)

In-specie Property Transfer Guide



If you require this document in another format for ease of reading, please let us know.

This document has been written for The Xafinity SIPP. However, if you have a Xafinity Self Invested Personal Pension Plan it is still correct in its technical content but there are some minor differences.

You can find out what SIPP you hold by looking at your Policy Number. The table below explains the differences to consider when reading this document.

Policy Number	SIPP Name	Differences in this guide
1nnnnn (6 digits starting '1')	The Xafinity SIPP, and SimplySIPP	None
5nnnn (5 digits starting '5')	Xafinity Self Invested Personal Pension Plan	<ul style="list-style-type: none"> • The SIPP is not Defaqto rated; and • The SIPP Provider is Bank of Scotland

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Important Note

This document is updated regularly. Please ensure you are referring to the latest document, by downloading it from Xafinity.com.

Property investment is not available with the SimplySIPP. If you have a SimplySIPP and wish to invest in property, please contact us about moving to the full Xafinity SIPP.

1. In-specie Property Transfers – An Overview

Background

In-specie transfers of commercial property from one registered pension scheme to another can be complex. This guide helps SIPP members, Financial Advisers and other parties through the many stages of an in-specie commercial property transfer to the Xafinity SIPP.

All property transactions must satisfy HM Revenue and Customs (HMRC) and other regulatory requirements, which may vary from time to time. This results in certain requirements, which are detailed in this guide.

Please note that Xafinity reserves the right to decline a transaction before completion.

Member Considerations

Commercial property/land is generally viewed as a long-term investment. With this in mind, especially when a member is within 10 years of their selected retirement date, the member must give serious consideration (and obtain suitable advice) as to whether property/land is a viable investment. As a guide, the member and their advisers should consider: -

- (a) When the member actually intends to retire;
- (b) Whether or not there is/will be sufficient liquidity in the SIPP to fund the member's intended retirement option(s);
- (c) When the member intends to take their benefits and purchase an annuity; and
- (d) That the property/land may need to be sold to help fund the payment of a member's benefits (e.g. on death or retirement).

This does not constitute advice but these are points that should be considered when the member is within 10 years of their normal retirement date.

Our Role

Our key role is to ensure that any transaction is acceptable to, and meets, HMRC and other regulatory requirements. In addition, we are here to help co-ordinate the various property transactions and assist all parties through the various stages.

Timescales

It will generally take up to 3 months to complete an in-specie commercial property transfer to the Xafinity SIPP. Please ensure that all interested parties are aware of the likely timescales.

There will be a number of parties involved in this transaction and co-operation is vital to ensuring the in-specie transfer is completed as quickly as possible.

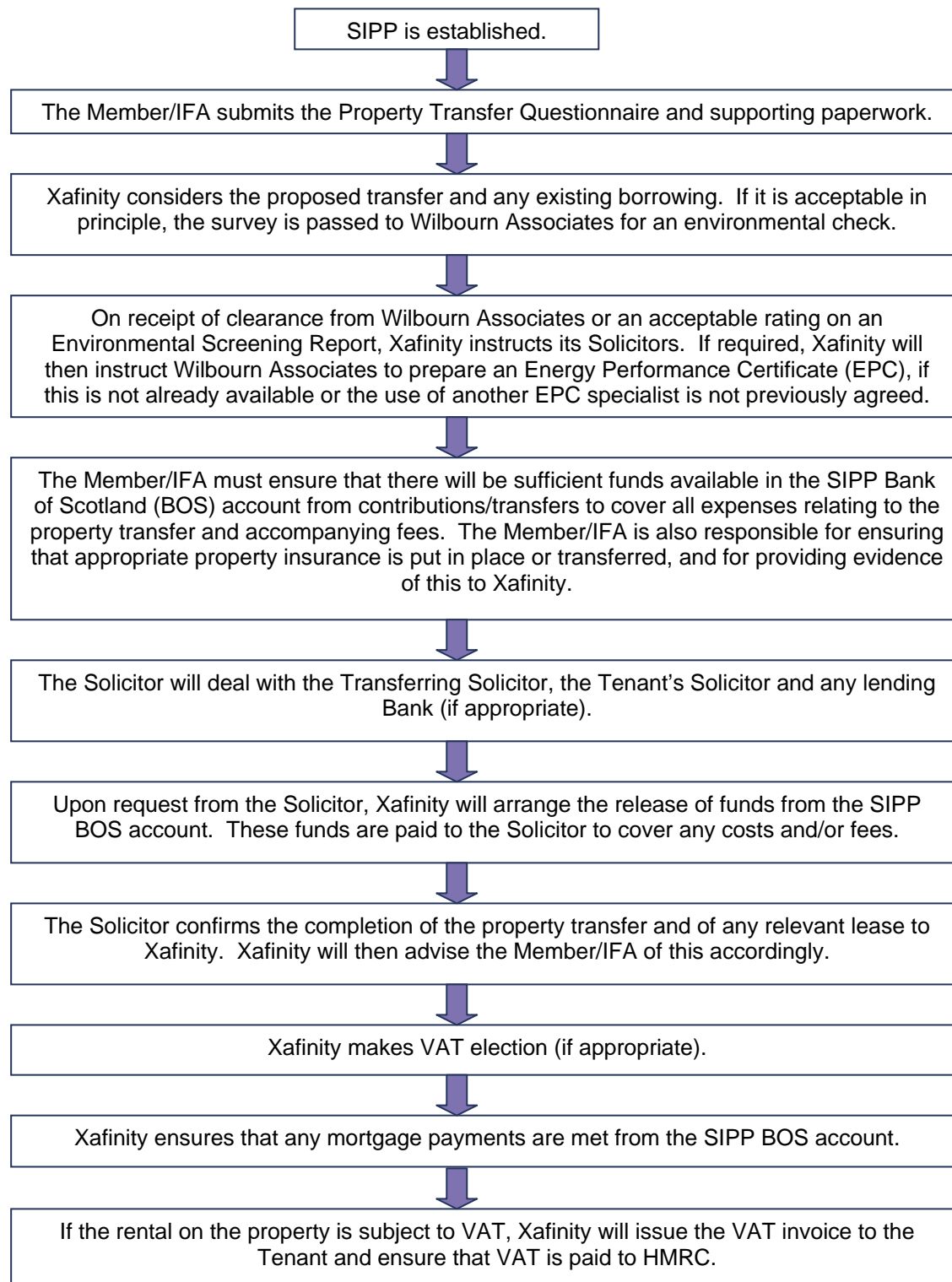
2. Commercial Property / Land – Key Points

This section outlines the key points to consider when you are looking to hold a property as an asset of a Xafinity SIPP.

- A SIPP can be used to hold freehold or leasehold commercial property and/or land. For a leasehold property, the lease should have at least 50 years remaining at a nominal ground rent with no onerous covenants in place.
- Residential property and any property outside the UK cannot be held under a Xafinity SIPP.
- Once owned by the SIPP, a property can be leased to, and/or sold to, a connected person or a connected party (e.g. a SIPP member's employer). All of these transactions must be on an arm's-length basis to satisfy HMRC legislation. To satisfy this requirement the rental amount or sale price must be supported by an independent open market valuation. If this is not satisfied, an unauthorised payment charge may be payable to HMRC.
- A property under a SIPP can be sold to a SIPP member on an arm's length basis. It is also acceptable for the property to be leased to a SIPP member on an arm's length basis, although normally it will be to the SIPP member's business and not the SIPP member as a named individual on the lease.
- A property under a SIPP can be leased to and/or sold to an unconnected third party. These transactions do not have the same arm's-length requirements.
- Upon finalising the transfer the Trustee of the SIPP, Xafinity Pension Trustees Ltd, will be the legal owner of the property. As this places certain responsibilities upon us, we must be satisfied with the purchase before committing to ownership. With this in mind, although it should not be possible, a SIPP member (or advisers) must not commit the SIPP to any transaction without our specific written agreement.
- It is not acceptable for a Xafinity SIPP to purchase any fixtures or fittings within a property or on land. Only the actual bricks and mortar or land is acceptable.
- Xafinity reserves the right to refuse any proposed property transaction under the SIPP where we foresee significant problems or issues for the SIPP or the member.
- Any proposed in-specie transfer must have environmental clearance from Wilbourn Associates before Xafinity can give the go-ahead. In some cases, this may involve the need for an Environmental Screening Report (ESR) to be carried out. Where this is the case, a fee is payable to Wilbourn Associates for the site visit and production of the ESR.
- Environmental matters such as the possible presence of asbestos and the property/land being contaminated can be of considerable concern to us. Any such problems must be found and dealt with prior to ownership or dealt with immediately if they are discovered once owned.
- Xafinity's chosen Solicitors, who are Bevirs Solicitors (England & Wales), Harper Macleod (Scotland) and Shean Dickson Merrick (Northern Ireland), will carry out any legal transactions under the SIPP in relation to the property. Further information about our chosen Solicitors is provided later in this guide.
- Up to 50% of the net value of a SIPP fund can be borrowed. Where there is existing borrowing also to be transferred, this is included within this limit. Any VAT loan is also included within this overall limit, which is set by the governing HMRC legislation. The member must ensure that borrowing repayments can be met from liquid assets and/or rental. The rental income must be at least 125% of any mortgage payments.

- A SIPP can borrow from any individual, company or financial institution. However, in practice, the lender is normally a bank or building society. For the Xafinity SIPP, any loan must be made or transferred to Xafinity Pension Trustees Ltd and the lender must agree to limit our liability under the loan to the assets of the member's SIPP.
- The property will need to be surveyed and valued on various events such as purchase, transfer, rent review, benefit crystallisation and sale. Any such inspections must be by a member of the Royal Institution of Chartered Surveyors (RICS). The report should be produced in accordance with the relevant sections of the RICS appraisal and valuation manual at that time and take into account any environmental requirements that may set.
- Generally, the RICS Surveyor will be at the choice of the SIPP member. However, there maybe occasions when either a bank (e.g. for lending purposes) or Xafinity (e.g. to ensure the appropriate rent is being paid) will need to instruct a Surveyor. Any costs associated with this will be met from funds held under the member's SIPP.
- It is possible for a property to be held as an asset of more than one SIPP. Each member's entitlement will depend on the amount that each member's SIPP has paid towards the property purchase. A central joint bank account is established to accept rental payments and pay any property related bills, such as a mortgage. Each member's share, together with the position on such events as retirement, death, disputes and sale are legally documented under a Joint Ownership Agreement.
- It is important to allow for additional costs such as legal costs and our fees. The SIPP member and their advisers must ensure that there will be sufficient funds available in the SIPP bank account to cover these. Stamp duty will not be payable on an in-specie property transfer. VAT will also not be payable provided the transfer in-specie can be treated as a "Trade of Going Concern" (TOGC) for VAT purposes.
- If required, on transfer, Xafinity will arrange to make the property subject to VAT. However, the member should consult their advisers on whether it is appropriate to opt for this or not.
- In some circumstances, a transaction may need to be aborted at a late stage. On doing so, our fees and legal fees may still be payable. Also, if a SIPP has been set up and contributions paid to meet the costs of any proposed transaction, the SIPP cannot simply be cancelled and contributions refunded (unless within the Statutory Cancellation period).
- The property must be fully insured at all times and the member (or advisers) is responsible for ensuring this. Xafinity will not permit uninsured properties under its SIPP. The insurance must be in the name of Xafinity Pension Trustees Ltd as owners. The insurance should include rebuilding costs cover, public liability cover, malicious damage cover, terrorism cover, legal expenses cover and 3 years loss of rental cover.
- If Xafinity does not receive evidence that suitable property insurance is in place when the SIPP acquires the property and by subsequent insurance renewal dates, Xafinity will arrange this through Barbon Insurance (t/a Cadogan Keelan Westall) with the cost of the insurance being payable from SIPP funds. Xafinity will receive a commission payment equivalent to 25% of the premium paid for insurance set up through Barbon Insurance.
- The lease in respect of any property should be for a minimum of at least 3 years. Where the property has a lease in place for over 5 years, rent reviews should be in place for at least every 3 years of the term. A property can be transferred subject to an existing lease, on the basis that the terms of that lease are acceptable.
- In relation to a purchase, sale or a lease to a new Tenant it is important that the member is aware of the requirement to produce an Energy Performance Certificate (EPC). For an in-specie property transfer, it is not clear from legislation whether or not an EPC is required prior to transfer. It will be a decision for the ceding trustees to take. Our view is that an EPC is required, and where we are the ceding scheme we will require an EPC to be produced before the transfer can complete. In other cases, i.e. where we are the receiving scheme, it will be up to the ceding scheme to consider its position.

3. Commercial Property/Land Transfer – A Summary



4. Environmental Risk & Concerns

Overview

Environmental law has developed rapidly. Land provides an important repository for many pollutants in their transport within the wider environment. As a result, it has become essential for those concerned with property to be aware of the impact of environmental law and the measures that need to be taken.

From April 2000, Local Authorities have been under a duty to inspect their areas to determine whether any land should be recorded as being contaminated. Every Local Authority in England, Wales and Scotland has employed contaminated land officers, who often form part of their environmental health remit to undertake these inspections.

Under the law, environmental issues can give rise to liabilities for the owners or occupiers of a property. These liabilities can be punitive, in the form of fines or imprisonment, and financial, in relation to costs or damages for remedying the environmental problem.

Wilbourn Associates

Wilbourn Associates are an independent firm of Chartered Environmental Surveyors who have been appointed to protect the interests of Xafinity and its SIPP members.

Xafinity will provide Wilbourn Associates with a copy of the Surveyor's report that is prepared in relation to any proposed in-specie transfer. Details of what this Survey must cover is provided within our "SIPP Surveyor's Guide", which will be provided for any in-specie transfer, or is available upon request from Xafinity.

For the avoidance of doubt, Xafinity receives no financial incentive for using Wilbourn Associates.

Environmental Risk

If Wilbourn Associates believe that a potential environmental risk may exist, arising from either historic land use or the existing occupation of the site, Wilbourn Associates will recommend that an Environmental Screening Report (ESR) be carried out. Where Xafinity receives this recommendation, the proposed in-specie transfer cannot be agreed until an ESR is carried out and an acceptable rating obtained.

Xafinity and Wilbourn Associates have agreed a fixed fee for carrying out this work. In most cases, this is £750.00 plus VAT. This fee is applicable throughout the United Kingdom, apart from Northern Ireland, where the fee is mostly £850 plus VAT. The higher cost for Northern Ireland is due to additional disbursement costs.

In certain cases, an additional charge of £150.00 plus VAT will be required for the Environment Agency/SEPA and other environmental data. Also, where environmental studies of the property have already been undertaken and the member would wish the information they contain to be considered and reviewed, an additional charge of £150.00 plus VAT would be applicable.

If there is nothing within the Surveyor's report that warrants further investigation, Wilbourn Associates will confirm this to Xafinity. For these cases, no fees are payable and an ESR is not required. Around one in three properties will require an ESR.

Acceptable Level of Risk

For cases where an ESR is required and produced, Xafinity will accept a risk level of "Low Risk" or "Low to Medium Risk".

5. Property / Land Development

On transferring the property, the member may wish to develop or renovate the property and/or land that the SIPP owns. If so, Xafinity must be fully involved as the owner. The member must consider and follow the steps shown below: -

- The member should obtain and consider proper advice. This advice must be in writing from someone who is qualified and experienced in both financial matters and pension scheme investments. Xafinity do not require a copy of this written advice.

However, Xafinity will require the member(s) to sign a document to confirm that they have received advice as to the practical and financial viability of the proposed development. Xafinity will also require an appropriate expert to confirm that related contracts are acceptable for them to sign.

- As Xafinity cannot be on site or supervise the contract, a Quantity Surveyor will need to be appointed to do so, on behalf of the SIPP. The member must nominate the Quantity Surveyor that they wish to use and provide their contact details. A contract will need to be put in place between XPTL and the Quantity Surveyor. This contract must stipulate that XPTL's liability is limited to the value of the assets of the individual SIPP
- The member should provide Xafinity and the Quantity Surveyor with details of the planned developments/ renovations. This will generally include statutory approvals (e.g. planning permissions), architectural plans, details of expected costs, the proposed start date of the developments/renovations and their expected completion date. Xafinity will also need details of how the developments/ renovations will be funded by the SIPP.
- Before any work commences, Xafinity will also need to enter into legal agreements with the contractor. This normally takes the form of a Joint Contracts Tribunal Agreement (JCT) and must be reviewed and agreed by the appointed Quantity Surveyor. This contract must also stipulate that XPTL's liability is limited to the value of the assets of the individual SIPP.
- A Xafinity SIPP cannot complete a residential development. The property/land must be sold by the SIPP before any certificate of habitation (or building control certificate in Northern Ireland) is applied for. Failure to sell the residential development before this is applied for is likely to lead to a significant tax charge being levied against the SIPP.
- Are the contractors, Quantity Surveyor and/or Architect that will be carrying out the work for the SIPP connected to the member?

If so, Xafinity will require copies of the quotations that have been prepared (ideally three quotes) for the work that is to be carried out. These are needed as evidence that the connected party is working on fully commercial terms. This is a HMRC requirement. If the contractor is unconnected, Xafinity will not insist on quotations for the work, although it would be prudent for the SIPP member to do so.

All of these requirements must be in place prior to Xafinity giving their written consent for the developments/renovations to commence. Also, if the scheme is borrowing money to pay for developments/renovations, Xafinity must confirm that the borrowing is acceptable before it can proceed. Xafinity reserves the right to obtain Solicitor sign-off for all contracts before signing.

In addition, all invoices must be made to the SIPP and be met by the SIPP. No other party should meet any invoices for the SIPP on the assumption that this will be reimbursed. This may not be the case.

Following the completion of the developments/renovations, the property/land must be re-valued by an independent Surveyor. The valuation should show the new open market value of the property/land and its revised rental value. Where the property/land is leased to a connected party, the new rental amount must mirror the revised open market rental valuation.

6. Energy Performance Certificates (EPC)

What is An EPC?

An EPC provides a rating of the environmental efficiency of a commercial building, much the same as the certificates that have been given to white goods for several years now. The EPC is based on a grading scale with 'A+' being the most efficient and 'G' being the least efficient.

This is based on the energy efficiency of the building fabric, heating, ventilation, lighting and any cooling systems. The EPC must also be accompanied by a report containing recommendations for improving the energy performance of the building.

When is An EPC Required?

The owner of a commercial building who **sells or rents** it to a new tenant must, by law, obtain an EPC and make it available to prospective purchasers or new tenants at the earliest opportunity.

Anyone building a new development must obtain an EPC before selling it. If a commercial building is for sale, an EPC must be made available to all prospective purchasers, and handed over to the new owner once the sale is completed. In the case of rented buildings, the landlord must obtain an EPC, which must be made available to prospective tenants and handed over to the new tenants. This also applies to new sub-lets.

The EPC requirement will form an integral part of the purchase/sale process for commercial property with the onus being on the vendor to obtain the certificate before completion.

Who is Responsible?

The owner of the property (in the case of sale) or the landlord (in the case of leases) is legally responsible for the production of an EPC.

For an in-specie property transfer, it is not clear from legislation whether or not an EPC is required prior to transfer. It will be a decision for the ceding trustees to take. Our view is that an EPC is required, and where we are the ceding scheme we will require an EPC to be produced before the transfer can complete. In other cases, i.e. where we are the receiving scheme, it will be up to the ceding scheme to consider its position.

Who Can Prepare An EPC?

An EPC can only be obtained from an accredited EPC specialist.

We have selected Willbourn Associates as our preferred specialists, a leading practice of Chartered Environmental Surveyors to carry out this work. For an indication of the costs, please initially refer to <http://www.environmental-surveyors.com/energy-performance-certificates.htm>. If required, the cost of preparing this will be met from SIPP funds.

7. Xafinity's Property Partners

Overview

Over the years, Xafinity have developed links with various companies in relation to property transactions, which we use to streamline procedures and overall costs.

In relation to legal work, our chosen Solicitors are Bevirs Solicitors in England & Wales, Harper Macleod in Scotland and Shean Dickson Merrick in Northern Ireland. The decision to use these particular Solicitor's is based on past experience of using various different Solicitors with varying knowledge of pension legislation.

In addition to this, our chosen environmental experts are Wilbourn Associates, who are widely viewed as the UK's leading practice of Chartered Environmental Surveyors that specialise in every aspect of environmental risk assessment and management.

Within this section, we will provide more details on our property partners.

Bevirs Solicitors

For any SIPP property transaction in England and Wales, Bevirs Solicitors will represent the member and Xafinity.

Bevirs have a dedicated team to deal with our work. The firm has worked with various Pension Scheme Administrators over the last 14 years and its team specialises in commercial property work within pension schemes. Our main contact is Sonyia Woolnough, who is a Solicitor and Partner based at the Firm's Wootton Bassett office. Sonyia has been a Solicitor for 26 years and has specialised in commercial property for 13 years. She is also one of two Managing Partners at Bevirs and now specialises in pension scheme commercial property work.

The Firm itself is a medium sized Firm, which is well established in North Wiltshire having offices in Wootton Bassett, Swindon and Calne. It's Solicitors, Legal Executives and support staff all work in specialist departments. In addition to property work (both commercial and residential) they also regularly advise on business formations, incorporations, financing, amalgamation, takeovers, disposals, joint ventures, insolvency, contracts of employment and other commercial work. The firm's aim is to provide practical and sensible commercial advice for its clients who range from sole traders to multinational companies.

Through its work, Bevirs has built up a reputation for being accessible and understanding individual client needs and for giving practical, sensible and clear advice promptly.

Bevirs charge on the basis of an hourly rate, which is reviewed annually. Sonyia is happy to provide full details of their current charging rates immediately upon request.

For the avoidance of any doubt Xafinity receives no financial incentives from Bevirs.

Sonyia's contact details are shown below:

Address:	Sonyia Woolnough Bevirs Solicitors 141 High Street Wootton Bassett Wiltshire SN4 7AZ
Website:	http://www.bevirs.co.uk/
DX:	40350 Wootton Bassett
Telephone:	01793 848900
Fax:	01793 853191
Email:	sonyia.woolnough@bevirs.co.uk

Harper Macleod LLP

For any SIPP property transaction in Scotland, Harper Macleod will represent the member and Xafinity.

From past experience, the use of various Solicitors did cause problems and delays depending on the level of the particular Solicitor's pension knowledge. By using Harper Macleod, the SIPP is using a well-established firm with a real pension background.

The principal contact at Harper Macleod is David Bell, who is a Law Society of Scotland Accredited Specialist in Commercial Leasing.

David's contact details are shown below: -

Address:	David Bell Harper Macleod LLP The Ca'd'oro 45 Gordon Street Glasgow G1 3PE
Website:	www.harpermacleod.co.uk
DX:	GW86
Telephone:	0141 227 9318
Fax:	0141 229 7318
Email:	david.bell@harpermacleod.co.uk

Details of Harper Macleod fees are shown within this guide.

Xafinity's decision to use Harper Macleod is designed for the benefit of the SIPP and to look to minimise administration costs.

For the avoidance of any doubt, Xafinity receives no financial incentive from Harper Macleod LLP.

Harper Macleod LLP – Legal Fees

1. UK conveyance and leasing charges (excluding acting for a Lender in relation to taking a security) where property to be transferred with vacant possession with intention that it be leased back immediately to the principal or an associated employer or to a third party.

UK Conveyance Charge – Transfer	
Property valued up to £250,000:	£1,250
Property valued between £250,000 and £1,000,000:	£1,500 or if greater, 0.3% of the valuation
Property valued at greater than £1,000,000:	£3,000 or if greater, 0.30% of the valuation

UK Lease Charge to put in place a new Lease to the Principal or an Associated Employer	
Property valued up to £500,000:	£425
Property valued between £500,000 and £1,000,000:	£550
Property valued at greater than £1,000,000:	£675

2. UK conveyance charge (excluding acting for a Lender in relation to taking a security) where property transferred with an existing Lease to a third party in place.

UK Conveyance Charge – Transfer	
Property valued up to £250,000:	£1,850
Property valued between £250,000 and £1,000,000:	£2,200 or if greater, 0.3% of the valuation
Property valued at greater than £1,000,000:	£3,300 or if greater, 0.30% of the valuation

3. Lease Charges where property transferred with vacant possession and to be leased to a third party other than the principal or an associated employer.

UK Lease Charges where property transferred with vacant possession to put in place a new Lease to a Third Party.	
Whole property leased to one tenant (with/without simple missive):	£1,000 or if greater, 5% of the annual rent
Whole property leased to one tenant (with conditional agreement/covering landlord's works):	£1,350 or if greater, 5% of the annual rent
Part of the property (with/without simple missive):	£1,000 or if greater, 5% of the annual rent
Part of the property (with conditional agreement or covering landlord's works):	£1,350 or if greater, 5% of the annual rent

4. UK conveyance charge in respect of a property sale.

UK Conveyance Charge	
Property sale price up to £250,000:	£1,250
Property sale price between £250,000 and £1,000,000:	£1,500 or if greater, 0.3% of the purchase price
Property sale price greater than £1,000,000:	£3,000 or if greater, 0.30% of the purchase price

All charges are exclusive of Value Added Tax and outlays (e.g. registration dues, stamp duty land tax). A fixed fee will cover the normal conveyance work in addition to the lawyer's advice and help throughout the transaction. Harper Macleod reserves the right to make additional time-based fee charges in any of the following circumstances: -

- Handling any price re-negotiations or extended exchanges of formal missives.
- Assisting in tracing and obtaining lost deeds or documents.
- Examining and reporting on particularly large or complex titles.
- Dealing with rectification of any title defects or disputes.
- Ensuring that any missing statutory consents are obtained.
- Dealing with leases of newly built property where there are construction warranties.
- Dealing with leases of complex buildings (e.g. with extensive common parts).
- Where there are any other unusual elements involved and resulting in particularly time-consuming works.
- If Harper Macleod LLP are appointed to act for both the SIPP and the heritable creditor of the SIPP, the fee for acting for the heritable creditor will be charged on a time cost basis (subject to an agreeable cap).

Shean Dickson Merrick

For any SIPP property transaction in Northern Ireland, Shean Dickson Merrick will represent the member and Xafinity.

From past experience, the use of various Solicitors did cause problems and delays depending on the level of the particular Solicitor's pension knowledge. By using Shean Dickson Merrick as the chosen Solicitor, the SIPP is using a long established firm which has many years experience in the SIPP/SSAS property market. Shean Dickson Merrick is an approachable commercial firm with an established commercial client base which includes some large well known public limited companies.

The principal contact at Shean Dickson Merrick is David Moffett who is an experienced commercial conveyance lawyer and an acknowledged specialist in commercial leasing

David's contact details are shown below:

Address:	David Moffett Shean Dickson Merrick Solicitors 14-16 High Street Belfast BT1 2BS
Website:	www.shean-dickson-merrick.com
Telephone:	028 9032 6878
Fax:	028 9032 3473
Email:	davidm@shean-dickson-merrick.com

Details of Shean Dickson Merrick fees are shown within this guide.

Xafinity's decision to use Shean Dickson Merrick is designed for the benefit of the SIPP and to look to minimise administration costs.

For the avoidance of any doubt, Xafinity receives no financial incentive from Shean Dickson Merrick.

Shean Dickson Merrick – Legal Fees

PROPERTY PURCHASES, LEASING & SALES IN NORTHERN IRELAND

Conveyance Charge – Transfer with vacant possession and sales	
Property purchase price up to £250,000:	£1,250
Property purchase price between £250,000 and £500,000:	£1,500
Property purchase price between £500,000 and £1,000,000:	£2,250
Property purchase price over £1,000,000:	Fee negotiated

Conveyance Charge – Transfer with vacant possession with mortgage	
Property purchase price up to £250,000:	£1,450
Property purchase price between £250,000 and £500,000:	£1,700
Property purchase price between £500,000 and £1,000,000:	£2,450
Property purchase price over £1,000,000:	Fee negotiated

Conveyance Charge – Transfer with existing lease in place	
Property purchase price up to £250,000:	£1,850
Property purchase price between £250,000 and £500,000:	£2,100
Property purchase price between £500,000 and £1,000,000:	£2,850
Property purchase price over £1,000,000 and/or multiple lettings:	Fee negotiated

Conveyance Charge – Transfer with existing lease in place with mortgage	
Property purchase price up to £250,000:	£2,050
Property purchase price between £250,000 and £500,000:	£2,300
Property purchase price between £500,000 and £1,000,000:	£3,050
Property purchase price over £1,000,000 and/or multiple lettings:	Fee negotiated

New Lease to Principal or Associated Employer/Party	
Property purchase price up to £1,000,000:	£750
Property purchase price over £1,000,000:	Fee negotiated

New Lease to Third Party	
Any property purchase price:	£1,000 or if greater, 5% of the annual rent

Note: Charges for agreements for lease and to deal with landlords/tenants works will be negotiated.

Exclusions:

Shean Dickson Merrick reserves the right to make additional fee charges in the following circumstances:

- Assisting in tracing or obtaining lost title deeds or documents.
- Examining and reporting on particularly large or complex titles.
- Dealing with the rectification of any title defects or disputes.
- Ensuring that any missing statutory consents are obtained.
- Dealing with leases of newly built property where there are construction warranties.
- If Shean Dickson Merrick are appointed to act for both the seller and the SIPP a fee will be negotiated with the seller.
- Compulsory first registration of unregistered properties in the Land Registry.

Fees & Outlays:

The fees are subject to value added tax and outlays (including stamp duty land tax, the rates of which are the same in Northern Ireland as in Great Britain). Other outlays will include Land Registry fees, Registry of Deeds fees, searches and property certificates and where appropriate Companies Office registration fees.

Wilbourn Associates

Wilbourn Associates are our chosen environmental experts. **No alternative environmental surveyors are acceptable to Xafinity.**

The practice was formed in 1993 and has developed a significant reputation for quality advice in all aspects of environmental real estate consulting. It has £5 million of Professional Indemnity Insurance cover and is not fettered by pollution exclusion clauses.

Our key contact is Philip Wilbourn BSc C.Env FRICS, who is a Chartered Environmental Surveyor and a Specialist in Land Condition (SiLC). Philip is an expert in contaminated Land, environmental law and how this impacts on all forms of real estate. Philip is also a past Chairman of the Environment Faculty of the RICS, sits on the Valuation Standards Board and is responsible for current guidance for Chartered Surveyors in respect of contamination and environmental matters.

Wilbourn Associates are an independent firm of Chartered Environmental Surveyors who have been appointed to protect the interests of the SIPP member, as well as Xafinity.

Wilbourn Associates are members of Property Agents International and work closely with surveyors and other property professionals from practices across the UK.

Although there shouldn't be any need for the member to contact Wilbourn Associates, their contact details are provided below. Xafinity will be Wilbourn Associates main contact in any transaction.

Wilbourn Associates' contact details are shown below: -

Address:	Wilbourn Associates 30 Jessops Riverside 800 Brightside Lane Sheffield S9 2RX
Website:	http://www.environmental-surveyors.com/index.htm
Telephone:	0114 2435500
Fax:	0870 7442200
Email:	info@environmental-surveyors.com

For the avoidance of any doubt, Xafinity receives no financial incentive from Wilbourn Associates.

8. Terms & Links

This section is designed as an aid to explaining various terms that you may run into during an in-specie commercial property transfer.

Connected Parties

Generally in respect of a SIPP this will either be: -

- (a) A member or spouse or relative of a member.
- (b) A partnership where one of the partners is a member or relative of a scheme member.
- (c) A member's business.

Where the SIPP is dealing with a connected party, the transaction must be "arm's length". This is a HMRC requirement. The full definition is available at: -

<http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM07102130.htm>.

Freehold Ownership

Ownership that is classed as "absolute in possession" of the property/land.

Leasehold Ownership

Ownership of property/land (normally for a fixed period – e.g. 99 or 999 years) subject to an annual payment of a ground rent to the owner of the freehold.

Legal Charge

A legal charge, sometimes called a legal mortgage, is a formal document that gives a lender certain rights over the property/land in return for the mortgage loan necessary for the property purchase. Basically, it allows them certain repossession rights if the terms of the mortgage contract are not met. The legal charge will be registered at The Land Registry by the lender to show the interest they have over the property/land.

Borrowing Limits – HMRC Definition

The formal definition of approvable limits can be found at: -

<http://www.hmrc.gov.uk/manuals/rpsmmanual/rpsm07104020.htm>.

Commercial Property/Land Transfer Questionnaire

This questionnaire has been designed to give Xafinity the minimum information that we'll need to consider a proposed property/land transfer. All parts the questionnaire **must** be answered. Blanks or "to follow" are not acceptable. Please refer to the important notes overleaf.

(a) Is this property currently multi-member owned? If so, please provide the percentage owned by each member and a copy of any existing "Joint Ownership Agreement".
(b) Please state the full address (including postal code) of the property/land. Please also provide the Title Number/Land Registry Reference, if known.
(c) Description of SIPP's interest in the property/land (e.g. freehold, leasehold). If leasehold, is there are a chain of tenants? If so, please summarise where the SIPP fits into this and the expiry date of the governing lease.
(d) Description of property/land type (e.g. commercial, industrial, offices). If there is any residential element, please provide details.
(e) Please detail the name of the transferring arrangement and the address of the current scheme administrator. Also, please confirm who currently holds the legal documentation (e.g. title documents, leases etc) relating to the property/land, if known.
(f) Please provide full details of the Solicitor that will be acting on behalf of the transferring arrangement in this transaction.
(h) Is rental up to date? If not, please detail the current position. Also, is the property/land and rental currently subject to VAT? If so, please ensure that the Trustees of the transferring arrangement completes and returns the "Transferring Scheme VAT Questionnaire", which forms part of this guide.
(i) Please provide full details of the Tenant and whether they are "connected" to the member(s). In addition, is this an existing Tenant or a new Tenant? If it is an existing Tenant, please provide a copy of the current lease.

Commercial Property/Land Transfer Questionnaire (continued)

(j) Please provide full details of any Solicitor that will be acting on behalf of the Tenant.

(k) Is there outstanding borrowing secured against the property/land that is to be transferred? If so, please provide contact details for the lender and confirm the amount that is currently outstanding. Also, is it the intention for this to be repaid or transferred over to the SIPP?

(m) Please confirm below that property insurance is held and with whom. It is imperative that this is amended to reflect the new owner (Xafinity Pension Trustees Ltd) upon transfer.

(n) Has an Energy Performance Certificate (EPC) been prepared previously? If so, please provide a copy of this. If not, is it the intention that one is to be prepared and if so, by whom? As previously covered within this guide, it is our understanding that an EPC is not required for an in-specie property transfer, unless a new Tenant is being put in place at the same time. It should be noted that the transferring arrangement may insist on an EPC prior to transfer.

Important Notes

1. This form **must** be fully completed after reading the “Xafinity SIPP – In-specie Property Transfer Guide”.
2. When returning this questionnaire, you **must** provide an independent survey and valuation of the property/land that covers the requirements that are set out in the “SIPP - Surveyor’s Guide”, which is available upon request.
3. In addition to points 1 and 2, you **must** also complete and return the “Member(s) Resolution”, which are overleaf.
4. If the property is subject to VAT, please ensure that the Trustees of the transferring arrangement complete and return the “Transferring Scheme VAT Questionnaire”, which forms part of this guide.
5. Please ensure that you refer to the “Terms & Links” within the “Xafinity SIPP – In-specie Property Transfer Guide” to ensure that you are familiar with key terms.
6. No property transfer should be considered without professional written financial advice.
7. The SIPP will be represented by Bevirs Solicitors (in England & Wales), Harper Macleod (in Scotland) or Shean Dickson Merrick (in Northern Ireland).

Transferring Scheme VAT Questionnaire

If the property is subject to VAT, this questionnaire should be passed to the Trustees of the transferring arrangement for completion and return to Xafinity.

Name of Transferring Scheme:	
Address of property being transferred:	
Please confirm that the property being transferred has been "opted to tax" (see note 1 below)	<input type="checkbox"/> Yes <input type="checkbox"/> No
Please confirm if the transfer of property is to be treated as a TOGC (see note 2 below)	<input type="checkbox"/> Yes <input type="checkbox"/> No

Notes:

- Our solicitors will require sight of the following documents, so please provide copies as soon as possible. The property transfer cannot be concluded until these have been received: -
 - HM Revenue & Customs acknowledgement of Scheme VAT registration.
 - HM Revenue & Customs acknowledgement of the property being "opted to tax" – also known as "Notice of Election for VAT".
- It is important that both transferring and receiving schemes agree to whether a transfer can be treated as a Transfer of a business as a Going Concern (TOGC). For your assistance, we note overleaf some of the conditions and requirements that must be met in order for a transaction to be classed as a TOGC. However, this is only a summary and not a definitive list of all TOGC conditions or rules. Please note that Xafinity cannot offer VAT advice: this must be sought from an appropriate VAT specialist.

Trustees' Declaration

We, the Trustees of the Transferring Scheme, declare that the above information provided is true and complete, and enclose copy HMRC acknowledgments of both Scheme VAT registration and property "Opted to Tax".

Trustee Signature:	
Trustee Name:	
Trustee Signature:	
Trustee Name:	
Trustee Signature:	
Trustee Name:	
Trustee Signature:	
Trustee Name:	
Date:	

Sample List of TOGC Conditions and Rules

The following are some of the conditions and requirements that must be met in order for a transaction to be classed as a TOGC. However, this is only a summary and not a definitive list of all TOGC conditions or rules.

- (a) The effect of the transfer must be to put the new owner in possession of a business which can be operated as such.
- (b) The business, or part business, must be a 'going concern' at the time of the transfer. It can still be a 'going concern' even though it is unprofitable, or is trading under the control of a liquidator or administrative receiver, or a trustee in bankruptcy, or an administrator appointed under the Insolvency Act 1986.
- (c) The assets that are being transferred must be intended for use by the new owner in carrying on the same kind of business. If the receiving arrangement intends to use the assets for a different kind of business, then you must charge VAT in the normal way. If the receiving arrangement intends in due course to use the assets for a different kind of business, the transfer may still be a TOGC if the receiving arrangement continues the old use initially. The test is whether the receiving arrangement intends to carry what the assets have been used for on receipt.
- (d) There must not be a series of immediately consecutive transfers of the business.
- (e) Where the transferor of the property or part of the property is registered for VAT, the receiving arrangement must be registered or at the date of the transfer be required to be registered for VAT because all of the conditions for compulsory registration are met, or have been accepted for voluntary registration. This condition is not met if the receiving arrangement is not registered and is not required to be registered for VAT.
- (f) There must be no significant break in the normal trading pattern before or immediately after the transfer.
- (g) The transferring arrangement is responsible for applying the correct VAT treatment and may be required to support their decision. If the transaction is to be treated as a TOGC, the transferring arrangement must be satisfied that the SIPP's election to tax is in place by the relevant date.

Member(s) Resolution

SIPP Name:

I/We the undersigned hereby declare: -

1. That all relevant information has been provided.
2. That I/we understand that I am/we are fully responsible for ALL disbursements, legal fees, valuation fees and any other fees incurred in this matter even if the transaction is not completed, irrespective of the reason, and that such fees must be met from existing SIPP funds. We hereby authorise Xafinity to meet any of these fees from the SIPP funds.
3. That I/we have read “Xafinity SIPP – In-specie Property Transfer Guide” and that the information that we have provided is true to the best of our knowledge.
4. If the transferring property is subject to VAT, I/we will arrange for the Trustees of the transferring arrangement to complete and submit the “Transferring Scheme VAT Questionnaire” with supporting paperwork to Xafinity.
5. That I/we authorise Xafinity to instruct their chosen Solicitor (as detailed within Xafinity’s “In-specie Property Transfer Guide”) to carry out the legal work on behalf of the SIPP.
6. In relation to any transfer of and operation of a hotel (or similar), which would or could be classed as an indirect investment in Taxable Property, this will be used for the sole purpose of the Tenant’s trade and no member or connected persons will have the use of the premises or the facilities. I/we indemnify Xafinity from any liability should a taxable charge result from such an investment or inappropriate use of it by members or connected persons.

Please sign on the dotted line and print your name where indicated. All member(s) **must** sign this Resolution.

Date

Signature*:

Signature*:

Print Name:

Print Name:

Signature*:

Signature*:

Print Name:

Print Name:

Signature*:

Signature*:

Print Name:

Print Name:

***Where the member is a Trustee, this signature also constitutes signature as a Member Trustee.**

Contacting Xafinity

SIPP Trustee: Xafinity Pension Trustees Ltd SIPP
Administrator: Xafinity SIPP Services Ltd

SIPP Department
Xafinity SIPP Services Ltd
Scotia House
Castle Business Park
Stirling
FK9 4TZ

www.xafinity.com

Tel: 01786 434213

Email: SIPPTeam@xafinity.com

Xafinity SIPP Services Ltd is authorised and regulated by the Financial Services Authority. Our FSA Registration Number is 461791. You can check this on the FSA's website at www.fsa.gov.uk/register. Xafinity Pension Trustees Ltd (1450089) is registered in England at 27 Kings Road, Reading RG1 3AR. Xafinity SIPP Services Ltd is registered in Scotland (No 69096) and its registered office is at Scotia House, Castle Business Park, Stirling FK9 4TZ.

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