

Purchasing Commercial Property at Auction

We will not allow a pension scheme to purchase property at auction, however a customer may choose to risk entering into a contract to buy it personally. In some cases, it may then be possible for a solicitor to conduct all the due diligence required by the pension scheme trustees, a valuation report on the property to be obtained, and for completion to take place in the name of the pension scheme. The customer would need to pay any deposit specified in the Auction House contract, which would be their personal liability.

Before signing the contract, the customer will need to check that the Auction House and seller will allow them to change the buyer's name to that of the pension scheme after exchange, but before completion. They would also need to check that any deposit can be returned to them if the pension scheme goes on to successfully buy the property.

The customer should establish at the outset whether VAT is payable on the purchase price, or the transaction is to be treated as a transfer of a going concern (TOGC), both of which require the pension scheme to register for VAT and Opt to Tax the property. VAT registration and completing the Opt to Tax will take several weeks due to HMRC timescales, and the sellers' solicitors may require this to have been completed prior to completion of the purchase.

Please note that there is a real risk that the property may not be acceptable as a pension scheme investment or the Report on Title is unsatisfactory, in which case we would not agree to purchase the property and the customer is likely to lose all their deposit or must pay the full purchase price personally.

Where the customer chooses to purchase the property personally and sell it to the pension scheme later, this must be done at the relevant market value, determined by a RICS qualified surveyor. Naturally, this transaction can only be done if the property is acceptable to us and due to the additional steps involved, is likely to result in extra legal fees and additional Stamp Duty Land Tax (England and Northern Ireland), Land & Buildings Transaction Tax (Scotland) or Land Transaction Tax (Wales).