



Tenancy Deposit Protection Scheme

What about my tenancy deposit?

This question has given rise to disputes between landlords and the tenants.

To ensure a fair system for settling tenancy deposit disputes the Tenancy Deposit Protection Scheme (TDPS) came into effect on 6 April 2007 as part of the Housing Act 2004. Prior to the introduction of this scheme it was difficult for some ex-tenants to get back all or part of their deposit at the end of a tenancy.

With the TDPS your landlord or agent must protect the deposit you have paid using a tenancy deposit scheme. The two types of scheme available for the protection of your tenancy deposit are the **custodial scheme** and the **insurance scheme**.

- 1) Custodial scheme: with this scheme your landlord or agent pays the deposit to the scheme, which will be kept until the end of your tenancy
- 2) Insurance scheme: with this scheme the landlord keeps the deposit but insures it by paying insurance premiums to the scheme. In the event of a dispute, the scheme will repay the tenant the agreed amount directly. The insurance scheme can charge fees to landlords for membership and can require contributions towards the cost of insurance

Your landlord or agent decides what scheme to use. Your landlord or agent must within 14 days of payment of your tenancy deposit provide you with information that includes the following;

- 1) Purpose of the tenancy deposit scheme
- 2) The type of scheme being used (either custodial or insurance scheme)
- 3) Contact details of the scheme
- 4) Contact details of your landlord or agent
- 5) How you can apply to get the deposit back at the end of the tenancy
- 6) What action to take if there is a dispute about the deposit

My tenancy has not been protected or I have not received the required information

If your landlord or agent has not provided the required information within the specified time (that is 14 days after payment of your tenancy deposit) or has not protected your deposit you can apply to the county court for an order that they pay the deposit back to you, or protect it in one of the tenancy protection schemes. The court can also order the landlord or agent to pay you the compensation equivalent to three times the value of the deposit you paid. However, the law on this issue is unclear and the court may not fine your landlord unless your deposit is still unprotected at the date of the court hearing.

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Luton Advice Network Fact Sheet

The rules on how your landlord can evict you will change if your deposit is not protected. Normally landlords of assured shorthold tenants can evict a tenant by giving a minimum of two months' notice after expiry of the fixed term and then get a court order without having to show a reason. This is known as the 'shorthold ground'. If your landlord or agent hasn't protected your deposit and provided the required information, then they cannot use the shorthold ground to evict you.

My tenancy has come to an end

At the end of your tenancy your deposit should be given back to you within ten days of you and your landlord agreeing the amount to be given back.

If your deposit was held in a custodial scheme, you will also receive some interest on the deposit. The **custodial scheme** repays tenants direct, either by cheque or by electronic transfer while the **insurance-based scheme** is repaid by the landlord either in cash or by cheque. No interest is passed on to the tenant.

Where there is a tenancy deposit dispute

Your landlord or agent can only keep all or part of your deposit if they can prove that they have lost out financially because of your actions, for example, damage to the property or rent arrears. Ask your landlord or agent for a breakdown of the specific costs that they are taking out of your deposit. Normal wear and tear will be excluded from this. There are rules on what costs can be deducted from your deposit (for further information see contact details below)

If you don't agree that your landlord or agent should have kept all or part of your deposit, or if there is a dispute with the deductions from your deposit you are entitled to contact the protection scheme used by your landlord or agent for free to help resolve disputes.

Information on what you need to do if there is a dispute will be contained in the information your landlord or agent will have given you at the start of your tenancy. If this is not the case seek legal advice.

Each scheme will contain an alternative dispute resolution (ADR) service. The decision of the ADR will be binding on both the landlord and tenant and cannot seek recourse from the court. However if there is no agreement to use the ADR service then the dispute will usually be referred to the county court.

Contact TDS on 08452267837 if you want:

- More information about Tenancy Deposit Scheme
- Advice about the Tenancy Deposit Scheme
- Resolution of a dispute about a tenancy deposit

See also: www.depositprotection.com; www.mydeposits.co.uk; www.tds.gb.com

