



Tenancy Relations Fact Sheet 11

Deposits

Tenancy deposits are paid by tenants to landlords at the start of a tenancy as security for any rent arrears or damage to the property during the course of a tenancy. At the end of the tenancy, the deposit is returned to the tenant in full, where the property has been left in good condition and where there are no arrears.

In April 2007, legislation was introduced giving landlords a mandatory obligation to protect tenancy deposits paid by tenants in relation to Assured Shorthold Tenancies. The legislation required landlords to protect deposits in one of 3 government approved schemes within 30 days and also within that 30 day period to serve notice on the tenant providing prescribed information about the scheme.

As of 6th April 2012, the following rules apply:-

- The time limit for protecting a tenant's deposit is 30 days.
- The time limit for supplying a tenant with prescribed information about the scheme that the deposit has been protected is 30 days.
- After the 30 day limit has expired, if a deposit has not been protected and/or the tenant has not been supplied with the prescribed information, a tenant will be entitled to compensation. The amount of compensation will range from an amount equal to the value of the deposit to an amount equal to 3 times the value of the deposit. This will be decided by a county court. The court will also decide whether to order that the deposit be refunded or to order the person holding the deposit to protect it.
- The award of compensation will be possible even if the tenancy has ended. In addition a court may order the refund of the deposit.
- Where a deposit has not been protected under the scheme, a landlord will not be able to take possession proceedings by serving notice under section 21 of the Housing Act 1988, unless:-
 - The deposit has firstly been repaid in full before notice is served, or
 - The deposit has been repaid, less deductions agreed between landlord and tenant, before notice is served, or
 - The issue of the above compensation has been determined in court.
- These rules will apply not only to any new tenancies created after 6th April 2012, but also to any tenancies in existence as at that date where the deposit has not

been protected, in which case landlords will have 30 days from 6th April 2012 to protect the deposit and serve the prescribed information on the tenant.

Where a tenancy deposit was paid prior to 6th April 2007, or where the tenancy is not an Assured Shorthold Tenancy, the scheme will not apply.

The 3 schemes are:-

- The Deposit Protection Service
 - www.depositprotection.com
 - 0844 4727000
- Tenancy Deposit Solutions Ltd
 - www.mydeposits.co.uk
 - 0844 9800290
- The Tenancy Deposit Scheme
 - www.tds.gb.com
 - 0845 2267837

Advice

Start Of The Tenancy

It is a good idea at the start of the tenancy to make sure that details of the deposit are confirmed in writing. This is commonly included in the tenancy contract, however if the tenancy is verbal, a receipt should be provided.

A comprehensive inventory of all items provided in the property, the condition of those items and any defects of the property should be made. A good inventory will be either completed by an independent party, signed by all parties or include clear dated photographs. This will prove to be essential in assisting adjudicators of the schemes to resolve any disputes at the end of the tenancy.

A clear agreement should be made regarding the payment of bills, whether they should be paid to the landlord, what these bills are for and how much should be paid.

End Of The Tenancy

Ideally the property should be inspected and any inventory checked, when the tenancy ends and the tenant's possessions have been removed. This should be completed as soon as reasonably possible however as best practice should be completed within seven days of the tenant leaving. This inspection should not be left until after a new tenant has moved in.

Where the Tenancy Deposit Scheme applies, both landlord and tenant need to contact the scheme administrator to arrange the refund of the deposit.

The tenant should make sure that the property is returned in a similar state of cleanliness as it was provided. The tenant should also remove all of their rubbish and possessions.

This should avoid any unnecessary deductions from the deposit.

The tenant should also make sure that the rent is paid up to date along with any bills. One common problem that causes deductions from deposits is where the tenant has given incorrect or insufficient notice to quit.

To make sure that proper notice is given, see the relevant Fact Sheet in this series for ending the type of tenancy that you have. Where a tenant leaves having given an invalid notice to quit or without giving notice, the landlord can claim for loss of rent.

It is a good idea to document a check out inspection. Ideally this will be a written document supported by clear dated photographs of the condition of the property. These photographs should be directly comparable with the inventory provided at the start of the tenancy.

Disputes

Where the Tenancy Deposit Scheme applies and there is a dispute regarding deductions for damage or rent arrears, the relevant Scheme will pass the matter to the Alternative Dispute Resolution Service to handle the matter.

Where the Tenancy Deposit Scheme does not apply and the tenant feels that deductions are excessive, the tenant should seek legal advice to assess whether deductions made by the landlord are reasonable or not. If the deductions are considered to be unreasonable and negotiations to resolve the matter amicably have been exhausted, a tenant will need to consider whether to make a County Court Claim.

Equally, where a landlord wishes to claim for damages or arrears in excess of the value of the deposit and negotiations to resolve the matter amicably have been exhausted, then the only recourse will be to obtain advice as to whether a County Court Claim would be appropriate.

For an application form and leaflet on County Court Claims, contact:

Bristol County Court
2 Redcliff Street
Bristol
BS1 6GR
Phone: 0117 3664800

Further information regarding making a County Court Claim can be found on the [direct.gov.uk](https://www.direct.gov.uk) website.

Where a tenant wishes to pursue compensation against a landlord for failure to protect a deposit, the above County Court Claim procedure should be followed. It is advisable to seek legal guidance before taking Court action.

Disclaimer: This information is not intended as an authoritative interpretation of the law, only the Courts can do that. Neither does this information cover every case. For further guidance, it may be advisable to seek legal guidance from a solicitor.

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