

Tenancy Deposit Protection



The **2004 Housing Act** introduced a number of measures to improve the private rented sector. One of these measures was the introduction of mandatory tenancy deposit protection schemes for all Assured Shorthold Tenancies (AST) in England and Wales. These schemes are effective from **6 April 2007**. Whilst the legislation will affect anyone in the private rented sector on an Assured Shorthold Tenancies, a large percentage of these tenants will be students. Therefore below we have outlined the type of accommodation student tend to inhabit and how they will be affected by the new regulations.

What Do I need to know? - FAQ's

Will students who pay deposits be subject to tenancy deposit schemes?

University Accommodation & University Property Management Service Accommodation

Halls of Residence/flats and property through the University Property Management Service are not let on an Assured Shorthold Tenancy and therefore they do not have to protect the deposits through a protection scheme.

Private Rented Sector

Where accommodation is let under an Assured Shorthold Tenancy after 6 April 2007, the deposit must be safeguarded, unless the overall income of the property exceeds £25,000. If you have signed your contract and paid your security deposit before 6 April 2007 you are not protected under this recent legislation. If you signed your contract before this date but did not pay your deposit until after this date you should seek advice to determine whether your deposit is/should be protected.

What happens if my parent pays the deposit on my behalf?

Where the deposit is paid for an assured shorthold tenancy, it would still need to be safeguarded in a scheme regardless of who has paid the money. It is the listed tenant on the Tenancy Agreement that will be listed with the scheme and not the payer. Guarantors will not be listed on the Deposit Protection Certificate

[How soon must a landlord safeguard each deposit?](#)

Landlords have 14 days in which to safeguard the deposit from the day it is received. This is not 14 days from the dates the money has cleared into accounts.

[How can tenants check if their deposit has been protected?](#)

Within 14 days of receiving a deposit, landlords will have to provide tenants with details of the scheme protecting the deposit. If this information is not provided then tenants can apply to the county court for an order that the landlord or agent should pay the deposit back, or protect it in one of the tenancy deposit protection schemes. The court will also order the landlord or agent to pay compensation equivalent to three times the value of the deposit the tenant paid. The landlord or agent must do all of these things within 14 days of the court order. In addition, if the landlord or agent hasn't protected the deposit and provided the required information within 14 days, then there are restrictions on how they can evict a tenant.

I am an overseas student. How would the deposit be repaid once I have returned home?

Schemes will be able to return deposits into foreign bank accounts. There would be a charge for this that would need to be paid by the tenant.

[How will the scheme return cash to tenants?](#)

The scheme will return deposits directly to bank account.

[What happens if there is a dispute over the return of the deposit?](#)

If the tenants dispute the amount of deposit to be returned by the landlord then they can utilise the Alternative dispute Resolution (ADR) service attached to the scheme that protects their deposit. However both the tenants and the landlord need to agree to use this scheme and to adhere to any decision it gives. If either party refuses to use the ADR service then the case can proceed through the courts.

How deposits are protected where there is a Joint Tenancy?

With regard to Joint Tenancy Agreements (JTA's) deposits will be treated as a single protected deposit. All parties subject to the JTA may be noted on the Deposit Protection Certificate. However it is unlikely that each individual proportion of the deposit will be. One tenant will be required to act as Lead Tenant, who will be the point of contact for the scheme should any matters arise. When that Lead tenant requests the return of the deposit they will need to indicate at that point which proportion of the deposit is payable to which tenant. Tenants should therefore keep evidence of the monies they have individually paid.

If one tenant leaves prior to the end of the tenancy then any replacement for them would pay the person leaving, their deposit and this would not require the scheme to have to exchange monies. However the scheme/agent needs to be informed so that a new Deposit Protection Certificate could be issued to the Lead tenant with the new tenants details included.

Should any of the tenants party to the JTA leave (or the Lead Tenant change) then the Scheme should be notified of the change by the landlord or agent. A new Deposit Protection Certificate will automatically be issued by the Scheme and sent to the Lead Tenant. Common practice dictates that when one party subject to the JTA leaves the property then that party's deposit is repaid to the outgoing tenant by the new incoming tenant, thus leaving the original deposit amount protected. The Scheme will not deal with deposit disputes between tenant parties.

Who administers the Schemes?

- **The Deposit Protection Service (The DPS)** - the only **CUSTODIAL** deposit protection scheme - is free to use and open to all Landlords and Letting Agents.
Tel: 0870 707 1707
Website: www.depositprotection.com
- **Tenancy Deposit Solutions Ltd (TDSL)** is a partnership between the National Landlords Association and Hamilton Fraser Insurance. This **INSURANCE BASED** tenancy deposit protection scheme enables landlords, either directly or through agents, to hold deposits. Letting agents can also join the scheme.
Tel: 0871 703 0552
Website: www.mydeposits.co.uk

They also provide a pdf leaflet on Information for tenants available to download from their website

- **The Tenancy Deposit Scheme (TDS)** is an **INSURANCE BASED** deposit protection scheme run by The Dispute Service to provide dispute resolution and complaints handling for the lettings industry. Letting agents and landlords can hold deposits.
Tel: 0845 226 7837
Website: www.tds.gb.com

They also provide a pdf leaflet on Information for tenants available to download from their website

Further Sources of Information:

Student Advice Centre - Union Society
Tel: 0191 239 3979
Website: www.unionociety.co.uk/sac

University Accommodation Office
Tel: 0191 222 6360
Website: www.ncl.ac.uk/accommodation/private

Shelter - Contact Shelter's free housing advice helpline on **0808 800 4444** or visit the [advice and support](http://www.shelter.org.uk) section for help at www.shelter.org.uk
Alternatively Phone or visit a Shelter Housing Aid Centre [near you](#).

Private Rented Project
Tel: 0191 273 6103
Website: www.privaterentedproject.co.uk

Housing Advice Centre - Housing Advice line
Tel: 0191 2771720

Department of Communities and Local Government
Tel: 020 7944 4400 (08:30-17:30 Mon-Fri)
Website: www.communities.gov.uk/

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May 2007

The SAC is a member of Advice UK
(The independent advice network)