

## Tenancy deposits

### Who is this fact sheet for?

This fact sheet is for people starting a new tenancy with a private landlord from 6 April 2007. It only applies to **assured shorthold tenancies**. Most new private tenancies are likely to be assured shorthold, unless your landlord lives with you or your accommodation goes with your job. If you are unsure about what kind of tenancy you are starting, you should get advice.

If you rent your home through a letting agency, rather than directly through a landlord, this fact sheet also applies to you, as long as you are an assured shorthold tenant.

### New protection for tenants from April 2007

You usually have to pay a deposit if you want to rent somewhere, but it can be difficult to get it back when you leave. At the moment, the only way to try and get a deposit back if you have a disagreement with your landlord is to go to court. But this can be costly, time-consuming, and there is no guarantee that you'll get your money back.

However, from 6 April 2007, your landlord must use a tenancy deposit protection scheme if they want to take a deposit from you. This means that:

- you will get your deposit back if you're entitled to it. You may be entitled to all or some of it back
- there will be a way of settling any disagreement about your deposit without going to court.

### What is a tenancy deposit protection scheme

A tenancy deposit protection scheme is a scheme that safeguards your deposit. It also provides a service to sort out disagreements about the deposit at the end of your tenancy.

There will be two types of scheme and it will be up to your landlord to choose which one they want to join. One type of scheme will be a custodial scheme and the other will be insurance-based. The main difference will be that:

- in the custodial scheme, your landlord will pay the deposit into the scheme and the scheme will look after it
- in an insurance-based scheme, your landlord will keep the deposit, but will have to pay insurance to the scheme.

## How will I know if my deposit is protected

If you are looking for a place to rent, ask the landlord which tenancy scheme they will use to safeguard your deposit.

Within 14 days of you paying your deposit, your landlord **must give** you details of the scheme they are using to protect your deposit.

It is also important that you and your landlord agree, in writing, what condition the place is in when you start renting it, including a list of the furniture and fittings (known as an **inventory**). This should help prevent disagreements at the end of the tenancy.

## What happens at the end of the tenancy

You should get your deposit back within ten days if you and your landlord agree about how much you should get back. The way this will work, and what happens if there is a disagreement, depends on the type of scheme your landlord is using.

It is reasonable for your landlord to take money off the deposit to cover, for example, damage to the property or furniture, or missing items which were listed in the inventory. But they should not take money off the deposit to pay for fair wear and tear, in other words, damage which has taken place over a long time through normal use.

### Custodial scheme

If your deposit is being held in the custodial scheme and you and your landlord agree how much you should get back, they will tell the scheme how much to pay you. The scheme will have to pay you this amount within ten days.

You may also receive an interest payment. Any interest which is made on your deposit while it is in the scheme will first be used to pay for the costs of running the scheme. Any money left over will be added to your deposit. You will only be paid interest for the part of the deposit you get back. For example, if you get back 75 per cent of your deposit, you will receive 75 per cent of the interest payment.

If there is a disagreement about how much deposit you should get back, the scheme will hold on to the disputed amount until the disagreement has been sorted out and pay the rest to you.

### Insurance-based schemes

In an insurance-based scheme, your landlord will have kept your deposit. They must return it to you within ten days of you asking for it, as long as you both agree how much you should get back.

If you and your landlord disagree about how much of your deposit you should get back, they must pay you the amount which isn't disputed and pay the rest into the scheme until the disagreement has been sorted out.

For example, you paid a £600 deposit. Your landlord wants to keep £200 to replace damaged furniture, but you believe the damage was there before you moved in. Your landlord must give you £400 and put the other £200 into the scheme until your dispute is settled.

If the landlord does not pay you what you are entitled to, the insurance scheme will pay it.

## Sorting out disagreements about deposits

Each scheme will have a free service which landlords and tenants can use to sort out disagreements about deposits, instead of going to court. This is called an **alternative dispute resolution** service.

The alternative dispute resolution service will decide how much of the deposit you should get back. The tenancy deposit scheme will then pay you the money.

If you agree to use the alternative dispute resolution service, you will have to agree with whatever decision is made. You will not then be able to go to court.

If you or your landlord does not want to use the alternative dispute resolution service, you will be able to go to court to try to get your deposit back.

## What if my landlord does not protect my deposit?

If your landlord does not protect your deposit using a tenancy deposit protection scheme, or will not tell you which scheme they are using, you will be able to take them to court. The court will either order your landlord to pay you back the deposit or to pay it into one of the schemes. It will also order your landlord to pay you three times the amount of the deposit as a fine. If you are thinking about taking your landlord to court, you should get advice.

There is a special procedure which private landlords can often use to evict tenants without having to give reasons and without a court hearing. However, your landlord is not allowed to use this procedure if they don't protect your deposit using a tenancy deposit protection scheme, or will not tell you which scheme they are using. If your landlord is trying to evict you, you should talk to an experienced housing adviser straight away.

## What if I paid a deposit before April 2007

Landlords don't have to use a tenancy deposit protection scheme for deposits paid for tenancies starting before 6 April 2007, although some may have chosen to do so. If your landlord isn't currently in a scheme and you have a disagreement with them about returning your deposit, try to come to an agreement.

If that doesn't work, you will have to think about taking your landlord to court. If you're in this position, you should get advice.

## Further help

### Citizens Advice Bureau

Citizens Advice Bureaux give free, confidential, impartial and independent advice to help you solve problems. To find your nearest CAB, including those that give advice by e-mail, click on [nearest CAB](#), or look under C in your phone book.

### Department for Communities and Local Government (DCLG)

There is more information about tenancy deposit protection on the DCLG website at [www.tenancydeposit.gov.uk](http://www.tenancydeposit.gov.uk).

## Other information on Adviceguide which might help

- Private sector tenancies
- Common problems with tenancies
- Tenancy agreements
- Disrepair in rented accommodation
- Finding accommodation

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