

# Tenancy Deposit Protection (TDP)

From 6 April 2007, all deposits taken by landlords and letting agents in relation to assured shorthold tenancies must be protected by a government-authorised tenancy deposit protection scheme.

**Landlords & Letting Agents - If you do not protect a tenant's deposit you could be ordered to repay three times the amount of the deposit to the tenant in compensation and you may not be able to serve a Section 21 notice for possession.**

You will be able to choose between two types of scheme:

1. a single custodial scheme
2. two insurance-based schemes.

The three schemes are:

## The Deposit Protection Service (DPS)

The only custodial deposit protection scheme – which is free to use and open to all Landlords and Letting Agents. The service is funded entirely from the interest earned from deposits held. Landlords and Letting Agents will be able to register and make transactions online. Paper forms will also be available should internet access be an issue. The scheme will be supported by a dedicated call centre and an independent dispute resolution service. For more information, visit [www.depositprotection.com](http://www.depositprotection.com) or call 0870 707 1 707

**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.

For more information, visit [www.mydeposits.co.uk](http://www.mydeposits.co.uk)

**The Tenancy Deposit Scheme (TDS)** is an insurance-backed deposit protection and dispute resolution scheme run by The Dispute Service that builds on a scheme established in 2003 to provide dispute resolution and complaints handling for the lettings industry. The new scheme enables letting agents and landlords to hold deposits.

For more information, visit [www.tds.gb.com](http://www.tds.gb.com) or call 0845 226 7837.

## How will the Schemes run?

### Custodial scheme

The tenant pays the deposit to the landlord; the landlord then pays the deposit into the scheme within 14 days of receiving it; within 14 days of receiving a deposit, the landlord must give the tenant the prescribed information (to be set out in secondary legislation) about the scheme being used and the tenancy.

At the end of the tenancy, if the landlord and tenant agree how the deposit should be divided, they will tell the scheme which returns the deposit within 10 days, divided in the way agreed by both parties.

If there is a dispute, the scheme will hold only the disputed amount until the dispute resolution service or courts decide what is fair.

The interest accrued by deposits in the scheme will be used to pay for the running of the scheme and any surplus will be used to offer interest to the tenant, or landlord if the tenant isn't entitled to it.

### Insurance-based schemes

The tenant pays the deposit to the landlord; The landlord retains the deposit and pays a premium to the insurer - the key difference to the custodial scheme; Within 14 days of receiving a deposit, the landlord must give the tenant prescribed information (to be set out in secondary legislation) about the scheme being used and the tenancy.

At the end of the tenancy, if the landlord and tenant agree how the deposit should be divided, the landlord returns all or some of the deposit.

If there is a dispute, the landlord must hand over the disputed amount to the scheme for safekeeping until the dispute is resolved.

If for any reason the landlord fails to comply, the insurance arrangements will ensure the return of the deposit to the tenant if they are entitled to it.

### Example

*A tenant pays a deposit of £1000. At the end of the tenancy, the landlord says he wishes to keep £200 to pay for replacing damaged furniture. The remaining £800 will be returned to the tenant. The tenant disagrees, claiming the furniture was damaged when they moved in. Both agree to go to Alternative Dispute Resolution (ADR), so the disputed £200 will be transferred to the scheme administrator until the dispute is settled.*

In each scheme, the deposit must be returned within ten days of the landlord and tenant agreeing how the deposit should be divided, or within ten days following notification of an ADR/court decision. More detailed information can be found on the web link

If you require any further information, please contact Karen Gilliatt on 01785 619370.