

TENANCY DEPOSIT PROTECTION SCHEMES

What are my obligations as a landlord?

It is a legal requirement for landlords who rent out their properties on Assured Shorthold Tenancy (AST) to pay any deposit money they collect into a tenancy deposit protection scheme.

Since April 2007 all landlords who take a deposit from their tenant on an AST in England and Wales must comply with the tenancy deposit protection legislation.

Some landlords believe it is okay to let a property to a tenant and not take a deposit, however it's not advised. The deposit gives landlords a financial safety net in case the tenant causes damage to the property or steals or loses any of the landlord's possessions.

So that you can be sure you're meeting your obligations, we've answered some of the common questions about tenancy deposits and protection schemes.

WHAT IS A TENANCY DEPOSIT?

A tenancy deposit is a refundable payment from a tenant to a landlord, made at the start of a new tenancy. It is intended to cover any financial loss suffered by the landlord if the tenant is at fault. If there is no damage or financial loss caused, the deposit is returned to the tenant when the tenancy is over.

Deposits are typically equivalent to between 4 to 6 weeks rent, but should be no more than two months'

rent. The deposit amount, and the conditions for repayment, should be covered in the tenancy agreement.

WHAT IS A TENANCY DEPOSIT PROTECTION SCHEME?

A tenancy deposit protection (TDP) scheme is a system for holding or insuring deposit money for the duration of a tenancy to ensure that it is repaid to the appropriate party at the end of the tenancy.

There are three government-backed schemes: The Deposit Protection Service, MyDeposits, and the Tenancy Deposit Scheme. All three offer both custodial deposit protection schemes and insured deposit protection schemes.

At the end of the tenancy, landlords must return the deposit within 10 days of both landlord and tenant agreeing how much will be returned.

WHAT IS A CUSTODIAL DEPOSIT PROTECTION SCHEME?

Under a custodial deposit protection scheme, the deposit is held by the scheme for the duration of the tenancy, and it is released to the appropriate party after the landlord



and tenant have come to an agreement about the amount to be repaid.

WHAT IS AN INSURED DEPOSIT PROTECTION SCHEME?

The alternative to a custodial deposit protection scheme is an insured deposit protection scheme. This is where the landlord holds the deposit themselves and pays a fee to their chosen TDP scheme insurer. If the landlord fails to repay the deposit at the end of the tenancy, the insurer will pay the tenant, and pursue the landlord to recoup that money.

WHAT ARE THE LANDLORD'S RESPONSIBILITIES REGARDING DEPOSITS?

As a landlord, you must protect your tenant's deposit through a government-approved TDP scheme within 30 days of receiving it. You must inform the tenant of which scheme their deposit is protected by and provide them with a TDP certificate.

If all conditions stated in the tenancy agreement are met, all rent and bills are paid, and there is no damage to the property, the deposit must be returned to the tenant within 10 days at the end of the tenancy.

WHAT HAPPENS IF THERE IS A DISPUTE OVER THE TENANCY DEPOSIT?

All TDP schemes offer free dispute resolution if you're unable to reach an agreement between yourself and your tenant. If you choose to use this service, the decision made is final.

WHAT HAPPENS IF YOU DO NOT PROTECT A TENANT'S DEPOSIT?

Should a tenant find out that a landlord hasn't protected their deposit, he or she may lodge a complaint with their local court. At this point, a court may order the landlord to repay it to the tenant or place the deposit into a protection scheme within 14 days.

They may also rule that the landlord pay up to three times the value of the deposit to the tenant as compensation. ■

FOUND THE RIGHT PROPERTY TO INVEST IN?

If you are looking to buy a property to rent out or add another investment to your property portfolio, there are lots of things to consider. To discuss your requirements, please contact us.

Source data:

[1]https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/775002/EPLS_main_report.pdf

THINK CAREFULLY BEFORE SECURING OTHER DEBTS AGAINST YOUR HOME. YOUR HOME MAY BE REPOSSESSED IF YOU DO NOT KEEP UP REPAYMENTS ON YOUR MORTGAGE.

