

# What is the TDS Custodial Scheme?

*An advisory leaflet for landlords and tenants*

TDS Custodial is a tenancy deposit protection scheme run by The Dispute Service Ltd. It is authorised by the Government to hold tenancy deposits until repayment is requested when the tenancy ends.

Once the deposit has been paid to the scheme it has to be held for a minimum period to comply with our contract, before it can be returned.

## What is tenancy deposit protection?

By law, a landlord or agent who receives a deposit for an Assured Shorthold Tenancy (AST) that started in England or Wales on or after 6th April 2007 must protect the deposit with a tenancy deposit protection scheme.

The landlord or agent has two duties under the legislation, both of which should be done within 30 calendar days of receiving the deposit:

- To protect the deposit with a Government-authorised scheme.
- To provide the tenant(s) (and any relevant person) with prescribed information about where their deposit is being protected and how it will be managed.

## How does it work?

Tenancy deposit protection schemes can be one of two kinds:

**Custodial** - this is where the scheme itself holds the deposit during the tenancy.

**Insured** - this is where the landlord or agent holds the deposit during the tenancy, but must give it to the scheme at the end of the tenancy if there is a dispute. The scheme is insured because this guarantees that tenants will always get back the money to which they are entitled.

## Is my deposit protected?

Tenants can check if their deposit is protected with TDS Custodial by visiting [www.tenancydepositscheme.com](http://www.tenancydepositscheme.com) and entering their surname, the deposit amount, the tenancy postcode, and the date their tenancy started.

## How much does it cost?

TDS Custodial is free to use - we are funded by the interest received on the deposit during the tenancy. There is no charge to landlords, tenants or agents for having a dispute resolved.

## What if the landlord does not comply?

If the landlord or agent does not protect the deposit or provide the prescribed information within 30 calendar days of receiving the deposit, the tenant (or the person who paid the deposit) can take the landlord or agent to court. The court can order the landlord or agent to pay the tenant compensation of between one and three times the deposit's value.

Non-compliance can also affect the landlord's ability to serve notice to end the tenancy and regain possession under section 21 of the Housing Act 1988.

TDS Custodial cannot award compensation to tenants if a landlord or agent fails to comply with the law relating to tenancy deposit protection. This can only be dealt with by the courts.

## What will you receive?

Within 30 calendar days of receipt of the deposit, the landlord must provide the tenant with:

- The prescribed information (which includes, but is not limited to, the address of the property, amount of deposit and the circumstances in which deductions can be made from it)
- A copy of this leaflet

After the deposit is lodged with the scheme, TDS Custodial will provide the tenant and landlord with:

- A deposit protection certificate
- Access details for your online account

## What happens to the deposit at the end of the tenancy?

Either the landlord or tenant can start the repayment process following the end of the tenancy. Once TDS Custodial receives a request for repayment, it will notify the other party of the request and invite them to respond within 30 working days to say whether they agree or disagree.

If the other party responds saying that they agree to the repayment and recipient bank details added the deposit will be repaid as per that agreement within 5 working days.

If the other party responds saying that they do not agree to the repayment request, they can ask for the dispute to be resolved by our dispute resolution process.

## How does the dispute resolution process work?

TDS Custodial will firstly invite the landlord to set out their claim and provide supporting documentation such as the tenancy agreement, check-in/check-out reports, invoices and quotations. We will then invite the tenant to view the landlord's evidence and respond to it, with the opportunity to submit their own supporting documentation. Each party has 10 working days to submit their evidence, in turn.

After the evidence gathering process is complete, the case will be sent to one of our independent adjudicators who will reach a binding decision within 28 calendar days. TDS Custodial will repay the deposit per the adjudicator's decision within a further 5 working days.

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## What if I don't agree with the outcome?

The adjudicator's decision will be based only on the evidence sent to TDS Custodial - there will be no hearing or visit to the property. The adjudicator's decision is final. There is no right of appeal to TDS Custodial or to the Government department in charge of the tenancy deposit protection schemes.

## What if the other party doesn't respond to my repayment request?

If the other party does not respond within 30 working days, the party requesting repayment must complete a statutory declaration before TDS Custodial can repay the deposit.

The statutory declaration is a sworn legal document confirming that the other party cannot be contacted, and confirms any claims made on the deposit and the amounts to be repaid to each party.

TDS Custodial provides a simple template to use for this process. Further guidance on this is available on our website or from our customer operations department.

The requesting party must send the sworn statutory declaration and related documentation to TDS Custodial who will send it to the other party and give them the opportunity to respond within 14 calendar days. If the other party does not respond to the statutory declaration, TDS will repay the requested amount of the deposit within 5 working days.

Should the other party respond to the scheme to say that they do not agree to the repayment request, they can ask for the dispute to be resolved through TDS Custodial's dispute resolution process. The parties should, in the first instance, attempt to resolve the dispute directly with each other.



### Top tips to remember

To help us repay your deposit quickly and smoothly to you at the end of the tenancy:

- Activate your account as soon as possible and keep your contact details up to date - if we have your current email address, we will be able to notify you immediately of anything relating to the deposit.
- Avoid using a work or university email address as these may change or expire during the tenancy.
- Add our email address to your safe senders list - info@tenancydepositscheme.com - to ensure our emails do not go to your junk folder.
- We will need your bank details to repay the deposit at the end of the tenancy. You can add these in your online account.
- You must attempt to resolve any dispute over the deposit repayment prior to referring the dispute to TDS Custodial's dispute resolution service. Communication is key to avoiding a dispute.

### What disputes can TDS Custodial deal with?

TDS Custodial can only handle disputes relating to the deposit.

- ✗ The adjudicator cannot make an award for more than the disputed deposit. If a larger amount is disputed, you may need to go to court.
- ✗ We cannot deal with counterclaims by tenants, such as a claim for disrepair. If you are a tenant and wish to bring a counterclaim against your landlord, you will need to go to court.
- ✗ TDS Custodial cannot deal with disputes between individual tenants, or between landlords and their agents.

Using the dispute resolution mechanism is not compulsory. Either party may choose to go to court instead. The court order must be sent to TDS Custodial when the outcome is known so that the deposit can be released in accordance with the order. It is essential that the order relates to the deposit and directs TDS Custodial how the deposit should be split.

TDS Custodial operated by, The Dispute Service Limited, West Wing, First Floor, The Maylands Building, 200 Maylands Avenue, Hemel Hempstead, HP2 7TG.

 [www.tenancydepositscheme.com](http://www.tenancydepositscheme.com)

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