



# TENANCY DEPOSIT PROTECTION GUIDE FOR STUDENT ACCOMMODATION AND HMOS



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As a landlord, it's essential to understand the rules and regulations surrounding tenancy deposit protection. This guide by the [Tenancy Deposit Scheme](#) is designed to help landlords understand the importance of protecting deposits in student accommodation and Houses in Multiple Occupation (HMOs). It covers the rules of deposit protection, provides answers to frequently asked questions, and offers advice on how to avoid disputes. The guide is specifically tailored for landlords who let to students and Houses in Multiple Occupation (HMOs).

## Rules of Deposit Protection

The Tenancy Deposit Scheme is the UK's longest-running government-approved tenancy deposit protection scheme.

We protect your deposits in:

- ✓ [INSURED SCHEME \(LOW FEE\) WHERE YOU HOLD THE DEPOSIT](#)
- ✓ [CUSTODIAL SCHEME \(FREE\) WHERE TDS HOLD THE DEPOSIT](#)
- ✓ [WE RESOLVE DISPUTES WITH OUR FREE AND IMPARTIAL DISPUTE RESOLUTION SERVICES](#)





## Legal requirements for 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. A tenancy deposit is intended to cover any potential damages, unpaid rent, or breaches of the tenancy agreement by the tenant.

### 1 Deposit Protection Schemes

In England and Wales, landlords must protect deposits with one of the three government-authorized schemes:

- Tenancy Deposit Scheme (TDS)
- Deposit Protection Service (DPS)
- MyDeposits

### 2 Timeframe

Landlords must protect the deposit within **30 days of receiving it** in England and Wales, and provide tenants with the Prescribed Information, detailing where the deposit is protected and how it can be accessed.

### 3 Prescribed Information

This includes:

- ✓ The contact details of the tenancy deposit scheme, usually the scheme leaflet
- ✓ The landlord or agent's contact details
- ✓ How to apply for the release of the deposit
- ✓ Information explaining the purpose of the deposit
- ✓ How to resolve disputes about the deposit
- ✓ The landlord or agent must provide the tenant(s) and anyone who paid the deposits on behalf of the tenant (classified as 'relevant persons') with specific details of the deposit protection and a leaflet explaining how TDS works.

#### Q WHAT HAPPENS IF I DON'T PROTECT THE DEPOSIT ON TIME?

A Failure to protect a deposit can lead to fines of up to three times the deposit amount and restrictions on your ability to regain possession of the property through a Section 21 notice.

## Tenant Fees and Deposits

Tenant Fees Act (England) & Renting Homes (Fees etc.) (Wales) Act 2019

	ENGLAND	WALES
<b>START</b>	1st June 2019 Tenant Fees Act, including deposit cap legislation	1st September 2019 Introduction of the Renting Homes (Fees etc.) (Wales) Act 2019
<b>HOLDING DEPOSIT</b>	Capped at 1 week's rent	Capped at 1 week's rent
<b>SECURITY DEPOSIT</b>	Capped at 5 week's rent (or 6 weeks over £50,000)	No cap
<b>PET DEPOSIT</b>	If you have taken the maximum security deposit, you cannot take any further monies towards a pet deposit	Not referred to within Act

Visit [depositcap.com](https://depositcap.com) to find out more

## Scope of Protection

Who Must Comply? All landlords and agents managing Assured Shorthold Tenancies (ASTs), which include student accommodations and HMOs.

### Deposit Types

The rules apply to any deposit taken as security for the tenancy, including cash, cheques, or other forms of payment.

## Key documentation at the right time!

Along with protecting the deposit and supplying the Prescribed Information. You should also supply the following key documentation at the right time:

- ✓ A signed tenancy agreement with relevant deposit-use-clauses
- ✓ A signed Inventory and check-in reports – used for timely evidence!
- ✓ Ensure you record any changes during the tenancy, and document them!
- ✓ Inventory reports – check-in reports must be completed as close to the tenant moving in as possible and check-out reports must be completed when the tenant has left the property
- ✓ Check-out inspections and reports



### Q WHAT'S A DEPOSIT USE CLAUSE?

A The [deposit use clause](#) is a section of the tenancy agreement that explains how the deposit can be used. It outlines the circumstances under which the deposit can be kept, such as rent arrears, damages to the property, or other expenses related to the tenant's breach of the agreement.

## Are there any specific rules for HMOs?

The majority of student accommodations consist of Houses in Multiple Occupation (HMOs). In England, the government defines an HMO as a property where three or more tenants from different households (i.e., they are not related) share toilet, bathroom, or kitchen facilities.

## Key Regulations for HMOs:

- ✓ **Licensing and Planning**  
If your property is at least three stories high and you rent to more than five individuals who are not from the same household and share a kitchen or bathroom, you will require a license from your local authority. Some local councils also require licenses for smaller HMOs, so it's important to check with them.
- ✓ **Minimum Room Sizes**  
Single-occupancy rooms must have a minimum floor area of 6.51 square meters, while double-occupancy rooms require a minimum of 10.22 square meters. Areas with ceiling heights less than 1.5 meters are not included in these measurements.
- ✓ **Fire Safety**  
Compliance with fire safety regulations is crucial. This includes having smoke alarms, fire doors, and clear escape routes.
- ✓ **Council Tax**  
Students are usually exempt from paying council tax. However, you must obtain an exemption certificate from the council, which often requires proof of student status from their university. If you cannot prove that your property is solely occupied by students, you may be liable for council tax.
- ✓ **Property Management**  
Ensure the communal spaces are accessible and house essential items such as the broadband router, thermostat, hot water controls, and fuse boxes.

## Standard Landlord Duties:

- ✓ **Gas and Fire Safety Regulations**  
Regularly service gas appliances and ensure fire safety measures are in place.
- ✓ **Right to Rent Checks**  
Verify your tenants' immigration status, which can be done online in England, or via our free tenant app, [tlyfe](#).

## Additional Considerations for Student and HMO Landlords:

- ✓ **Furnishing**  
Since students may not own much furniture, it is advisable to provide a well-furnished property. This should include white goods, beds, wardrobes, sofas, curtains, lamps, vacuum cleaners, bins, and desks and chairs for each room.
- ✓ **Insurance**  
As students often do not occupy the accommodation for the entire year, ensure your insurance policy covers periods of vacancy.

By following these guidelines and regulations, landlords can ensure their HMOs are compliant and provide a safe, comfortable living environment for students.



## FAQs for Student and HMO Landlords

### Q DO I NEED TO PROTECT DEPOSITS FOR ALL TENANTS IN AN HMO?

**A** Yes, you are legally required to protect the deposits for all tenants in an HMO if each tenant has their own Assured Shorthold Tenancy (AST). Under the Housing Act 2004, landlords must protect the deposit with a government-authorized tenancy deposit protection scheme within 30 days of receiving it. This applies to each tenant individually if they have separate ASTs, which is common in HMOs where tenants may have their own agreements.

### Q CAN I USE THE DEPOSIT FOR UNPAID RENT?

**A** Yes, but only after the tenancy ends and if there is a clear record of the outstanding rent, which must be evidenced and agreed upon by both parties or through a dispute resolution process.

### Q HOW SHOULD I MANAGE RENT COLLECTION FOR MULTIPLE TENANTS IN AN HMO?

**A** Clear and consistent communication about rent payment expectations is essential. Establish a system for collecting rent, whether through direct bank transfers or an online payment system. Keep accurate records of all payments and provide receipts to tenants. If possible, set up a joint tenancy agreement where all tenants are jointly responsible for the total rent, simplifying the collection process and reducing the risk of unpaid rent.

### Q IF ONE STUDENT HAS RENT ARREARS, HOW CAN I MAKE A DEPOSIT DEDUCTION AGAINST THAT STUDENT WHEN ALL STUDENTS ARE ON THE TENANCY AGREEMENT?

**A** When all students are on a single joint tenancy agreement, they are jointly and severally liable for the terms of the tenancy. This means that all tenants collectively share responsibility for paying the rent and maintaining the property. If one student falls into rent arrears, you cannot make a deposit deduction against that student individually. Instead, any deductions from the deposit at the end of the tenancy will be taken from the collective deposit of all tenants.

### Q WHAT ARE MY RESPONSIBILITIES REGARDING GAS SAFETY IN AN HMO?

**A** You must ensure that all gas appliances are safely installed and maintained. A Gas Safe registered engineer must conduct an annual gas safety check on each appliance and chimney. You are required to provide a copy of the Gas Safety Certificate to your tenants within 28 days of the check and keep a record of the safety checks for at least two years.

### Q HOW CAN I ENSURE MY PROPERTY MEETS FIRE SAFETY STANDARDS?

**A** To meet fire safety standards, you should install smoke alarms on every floor, provide fire extinguishers, ensure there are clear escape routes, and install fire doors where necessary. Regular checks and maintenance of fire safety equipment are crucial. It's also advisable to have a fire risk assessment carried out by a professional. Click here for more information on fire safety in HMOs.

### Q HOW DO I HANDLE COUNCIL TAX FOR STUDENT TENANTS?

**A** Students are generally exempt from paying council tax, but you must obtain an exemption certificate from the council. This often requires proof of student status from their university. If you cannot prove that your property is solely occupied by students, you may be liable for the council tax.

### Q HOW CAN I MINIMISE NOISE AND DISTURBANCE ISSUES IN AN HMO?

**A** To minimise noise and disturbance, establish clear house rules regarding noise levels and quiet hours, especially during the night. Ensure tenants understand their responsibilities to each other and the neighbours, and consider installing soundproofing measures, which can also help reduce noise transmission between rooms.

### Q WHAT HAPPENS IF ONE TENANT MOVES OUT? DO I NEED TO REISSUE THE TENANCY AGREEMENT TO ALL TENANTS IF ON A JOINT TENANCY?

**A** If one tenant in a shared tenancy moves out, it is best practice to end the current tenancy and start a new one. This allows the landlord to inspect the property and decide on the return of the deposit. A new tenancy agreement should be signed by the remaining and incoming tenants, with the deposit re-protected under the new agreement. Simply transferring the deposit portion to the new tenant without ending the tenancy can lead to complications and potential disputes.

### Q HOW DO I RETURN THE DEPOSIT AT THE END OF THE TENANCY?

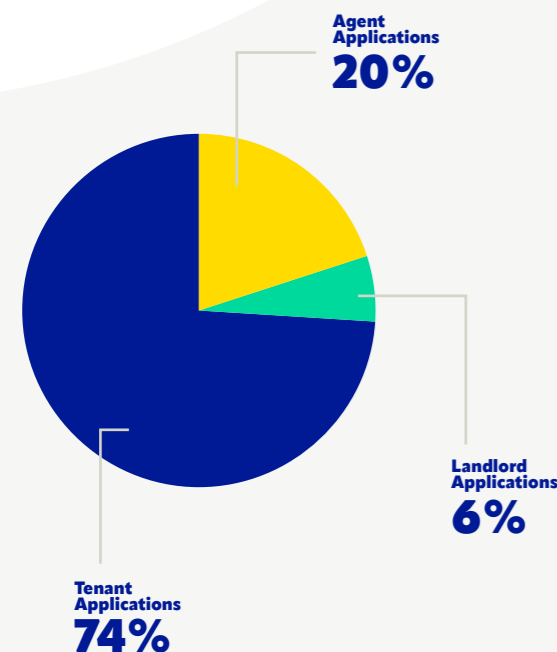
**A** After agreeing on any deductions, you must return the remaining deposit within ten days of reaching an agreement with the tenant.



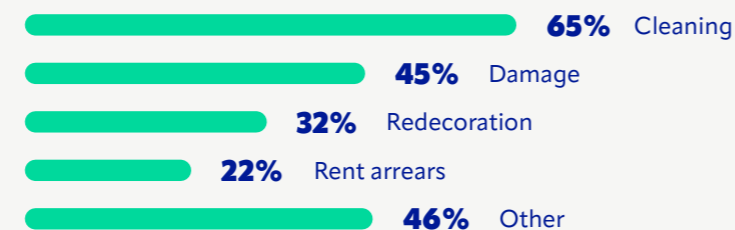
## Deposit disputes and how to avoid them

According to the latest data from TDS, the common reasons for disputes include disagreements over cleaning costs, damage to the property, unpaid rent, gardening, or other breach of tenancy agreement terms.

### Who raises disputes?



### Dispute claim areas April 2023-24



## Before reaching the adjudication stage, TDS offers a valuable opportunity for early resolution.

The objective of our TDS Resolution team is to encourage mutual agreements between landlords and tenants, with adjudication being seen as a last resort. The Resolution team reviews each case to explore possibilities for mutual agreement without formal adjudication. This phase includes additional information gathering, where the Resolution team may reach out to one or both parties for more details, and settlement offers, where the team may extend an offer, or facilitate further negotiations to help resolve the dispute amicably.

## Avoiding deposit disputes in student lettings and HMOs

Avoiding deposit disputes in student lettings and HMOs requires clear communication, diligent property management, and fairness in handling deposits. Here are some key strategies to avoid a deposit dispute.

### 1 Clear Communication

#### References

Before signing the tenancy agreement, perform reference checks on all tenants, or request a reference from the university or student housing provider if they are coming straight from residence halls.

#### Consider a guarantor

A parent or other adult family member can serve as a guarantor. This will ensure that any owed monies are repaid even if the student cannot do so.

#### Provide a move-in pack

that describes where things are, how to use appliances, the signed inventory, and how to avoid causing damage. Give clear directions so there is no doubt about what is and what is not allowed, such as avoiding hammering nails into the walls, or keeping the garden tidy.

#### Tenancy Agreement

Ensure the tenancy agreement is detailed and clearly outlines the terms and conditions regarding the deposit. This should include what constitutes fair wear and tear, the process for reporting issues, and how deposit deductions will be handled.

#### Perform a

check-in and inventory. Before your students move in, ensure you have a detailed inventory of all your fixtures, fittings, contents, and décor. Include photos and thorough descriptions of the condition of each item in the inventory. Have all your tenants sign this inventory at check-in.

#### Keep an open channel of communication!

It's important to ask if the students require anything, as this may be their first time living independently. You may find that you need to give more pointers and provide more assistance than you would with seasoned tenants.



## 2 Maintenance and Repairs

### Prompt Response

Address any maintenance issues promptly and keep records of all communications and repairs. This will help to prevent disputes over the property's condition at the end of tenancy.

### Documentation

Maintain detailed records of all maintenance activities, including dates, actions taken, and any correspondence with tenants.

## 3 Regular Inspections

### Scheduled Inspections

Conduct regular property inspections to ensure it is being well maintained. Document any issues promptly and communicate them to the tenants.

### Inspection Records

Keep thorough records of all inspections, including photos and notes on the property's condition.

## 4 Fair Deductions

### Justifiable Deductions

Only make fair and justifiable deductions from the deposit. Provide tenants with a detailed breakdown of costs for any damages or unpaid rent, backed by receipts or estimates.

### Transparency

Ensure transparency in the deduction process and communicate clearly with tenants about any proposed deductions.

## 5 End of Tenancy Procedures

### Provide a moving-out summary

Remind tenants to review the inventory and return the property in the same condition and to the same standard of cleanliness as it was at the start.

### Final Inspection

Conduct a final inspection with the tenants present. Compare the property's condition to the initial inventory and agree on any necessary deductions.

# Additional support from The Tenancy Deposit Scheme

The [Tenancy Deposit Scheme](#) offers several resources to help landlords and agents reduce disputes. Our in-house Alternative Dispute Resolution (ADR) team maintains contact with both parties throughout the process, reviewing claims early before they reach an adjudicator. TDS provides a [Deductions Template](#), a tool for agents and landlords to fill out when proposing deductions from the deposit, ensuring clarity and transparency. Additionally, the [TDS Academy](#) offers online training to help landlords think like adjudicators and better prepare for potential disputes. Visiting the [TDS help centre](#) can also enhance your knowledge by providing insights into real deposit disputes.

Understanding tenancy deposit protection rules and best practices is crucial for landlords, especially when managing student accommodation and HMOs. By following the guidelines outlined in this guide, landlords can ensure compliance with deposit protection regulations, maintain safe and healthy living environments, and minimise the risk of deposit disputes.





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