



This sheet is for students starting a new tenancy with a private landlord or letting agent from 6 April 2007. It only applies to **assured short hold tenants**. Most new private tenancies are assured short hold, unless your landlord lives with you. If you are unsure about what kind of tenancy you have or considering you should get advice either from your FXU Student Adviser (term-time), Local Citizen Advice Bureaux or Shelter. Please refer to the Useful Contacts list at the end of the sheet.

### **New protection for tenants from 6<sup>th</sup> April 2007**

Most landlords and letting agents request a deposit from their tenants as security against damage or non-payment of rent, however it can sometimes prove difficult to get it back at the end of your tenancy. If you paid a deposit before 6th April 2007 and you have a disagreement with your landlord regarding the amount to be refunded, the options are to try and resolve the dispute between you or to go to court. This can be costly, time-consuming and there is no guarantee that you'll get your money back. However, if you pay a deposit on or after 6th April 2007, your landlord **must** use a tenancy deposit protection scheme to safeguard it.

### **What is a tenancy deposit protection scheme?**

A tenancy deposit protection scheme safeguards your deposit. This means you can be sure that you will get your deposit back at the end of the tenancy, **as long** as you are entitled to it.

Your landlord may be entitled to some of the deposit if there is any damage or if you haven't paid all your rent. The scheme also provides a service to settle disagreements about the deposit without going to court.

There are two types of scheme and it is up to your landlord to choose which one they want to join. One type of scheme is a custodial scheme and the other is insurance-based.

The main difference is that:

With the custodial scheme, your landlord pays the deposit into the scheme and the scheme holds it. The deposit will earn interest and in certain circumstances tenants may receive some of this when you move out.

With an insurance-based scheme, your landlord keeps the deposit but has to pay an insurance premium to the scheme. This means the scheme will refund any undisputed amount of deposit directly to the tenant.

### **How do I know if my deposit is protected?**

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

**Within 14 days** of you paying a deposit, your landlord/agent legally **must give** you details of the scheme they are using to protect it. The scheme should also write to you to confirm that your deposit is protected. If you are unsure you can contact the schemes (please refer to contact details below).

To help prevent disagreements at the end of the tenancy it is advisable that you and your landlord agree, in writing, what condition the place is in when you start renting it. This should include a list of the furniture and fittings (known as an **inventory**). Check the inventory very carefully to ensure it is up to date. It is also advisable to take photographs of any damage, signed and dated by independent witnesses (not fellow tenants) when you first move in. These could then be used as proof if there was any dispute of the state of the property 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 the amount you should get back. If there is a disagreement what happens then depends on the type of scheme your landlord is using.

It is reasonable for your landlord to take money off the deposit to cover damage to the property, furniture or missing items which were listed in the inventory. However, they shouldn't deduct money off the deposit to pay for fair wear and tear (damage which has taken place during the tenancy through normal use). It is not legally fair to have to offer back the property in a better state than when first rented to you. For further details, please refer to the Office of Fair Trading's website regarding unfair tenancy terms [www.of.gov.uk/](http://www.of.gov.uk/).

#### **Custodial scheme**

If your deposit is being held in the custodial scheme and you agree with your landlord the amount you should get back, the landlord will tell the scheme the amount to pay you. The scheme will have to pay you this amount plus any interest within ten days. 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 settled and then pay the amount to you.

#### **Insurance-based schemes**

In an insurance-based scheme, your landlord/agent will have kept your deposit. They must return it to you within ten days of you asking for it if 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 settled.

For example if you paid a £500 deposit. Your landlord wants to keep £200 to replace damaged furniture however you believe the damage was there before you moved in. Your landlord must give you £300 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.

### **Disagreements about deposits**

Each scheme has a free service which landlords and tenants can use to settle disagreements about deposits, instead of going to court. This is called an **alternative dispute resolution (ADR)** service. The ADR service will decide how much of the deposit you should get back. The relevant tenancy deposit scheme will then pay you the money. If you agree to use the ADR service you will have to agree to 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 ADR 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?**

You should always ensure you get a signed receipt when you pay a deposit. This should note the date and the amount paid also stating that it is a deposit for your accommodation. 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 can 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 (see Useful Contacts below).

If you encounter any problems with your landlord trying to evict you, you should seek advice as soon as possible.

### **What if I paid a deposit before April 2007**

Landlords don't have to use a tenancy deposit protection scheme for deposits paid before 6 April 2007. If you paid a deposit before April 2007 and you have a disagreement with your landlord about it, try to come to an agreement.

If you cannot agree you can take your landlord to court please seek advice if needed.

### **Tenancy deposit protection schemes details:**

You can contact the schemes to find out if your deposit is protected. Each scheme can only provide information about deposits that it is protecting. It will not be able to tell you if your deposit is protected in another scheme.

**The Deposit Protection Service** is a custodial scheme.

You can contact the scheme by calling 0870 707 1707 or visiting the website [www.depositprotection.com](http://www.depositprotection.com).

**The Tenancy Deposit Scheme** is an insurance-based scheme.

You can contact the scheme by calling 0845 226 7837 or visiting the website [www.tds.gb.com](http://www.tds.gb.com).

**Mydeposits** is an insurance-based scheme, aimed mainly at landlords. You can contact the scheme by calling 0871 703 0552 or visiting the website [www.mydeposits.co.uk](http://www.mydeposits.co.uk).

### **Directgov**

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

### **Useful Contacts:**

#### **FXU Advice Service**

**Help with:** Money, Hardship Fund (Access to Learning Fund), benefits, childcare, housing, tenancy agreements, academic problems, student life!

We are here to help you!

Advice Service Available (Term time only):

**Tremough** Find us in the Annex (opposite the Refectory/Bar)  
Ring: 01326 370447 for an appointment

**Woodlane** Find us in the Library Building at Woodlane  
Ring: 01326 213742 for an appointment

**Email** [advice@fxu.org.uk](mailto:advice@fxu.org.uk)

Falmouth Citizen Advice Bureaux: 01326 313340

Truro Citizen Advice Bureaux: 01872 278993

Shelter: 0344 515 2300

Please phone for an appointment, visiting times or phone advice timings.

**Nationally:** Shelterline helpline: 0808 800 4444 or [www.shelternet.org.uk](http://www.shelternet.org.uk)