

Tenancy deposit schemes

This checklist explains what a tenancy deposit scheme (TDS) is and what a landlord's obligations are under a TDS.

What is a TDS?

A landlord under an assured shorthold tenancy (AST) **must** protect a tenant's deposit by using an authorised tenancy deposit scheme (TDS) operated by an approved scheme administrator. A TDS has two main objectives:

- To ensure that, when a tenant pays a deposit, it will be protected and returned to the tenant at the end of the AST, except when the landlord has a legitimate claim on it
- To resolve disputes between landlords and tenants using dispute resolution rather than via the courts.

There are two types of TDS:

- A **custodial TDS** requires a landlord to pay its tenant's deposit to a scheme administrator, who holds the deposit until the tenancy ends
- An **insurance TDS** where the landlord retains possession of the deposit, but secures it by paying a fee and insurance premiums to the scheme administrator.

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What are a landlord's obligations under a TDS?

Within 14 days of receipt of the deposit a landlord must:

- Comply with the "initial requirements" of the TDS
- Give the tenant certain prescribed information.

What sanctions are available if a landlord fails to fulfil their obligations under a TDS?

A tenant can apply to the court for sanctions against the landlord if the landlord fails to comply with the initial requirements or give the prescribed information. If the court is satisfied that the landlord is in breach of either of these requirements, it can order the:

- Person holding the deposit to either repay it to the applicant or pay it into a custodial TDS
- Landlord to pay the tenant a sum equal to **three times the amount of the deposit.**

More information

If you have any questions about the content of this checklist, please contact a member of our Commercial Property Team on York **01904 716 000** or Wetherby **01937 583 210**.

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