



TDS Direct



A Guide
for **Agents**

What is TDS Direct?

This is a scheme operated by TDS under which the sole responsibility for raising a dispute with TDS about the return of a deposit rests with the tenant. (Under the previous arrangements with TDS, the letting agents, landlord or the tenant could initiate a dispute.)

- In the new arrangements (to operate from 2 April 2018) **only** the tenant can initiate the dispute.
- At the same time TDS has also agreed that where an award from a disputed deposit is to be paid to a landlord who is not on a fully managed service, then the award will be made direct to that landlord.



Why is this change being made?

The Housing Act 2004 is clear that it is tenants who are required to raise a dispute under the tenancy deposit protection legislation. Experience has shown that lettings agents who either raise disputes themselves or allow their landlords to raise a dispute, end up dealing with higher numbers of disputes overall than other agents where the ability to raise disputes is restricted to tenants.



Summary of scheme

The table below summarises how the TDS Direct scheme works.

	Fully managed tenancy	Non-managed tenancy
Raising disputes		
Can an Agent raise a dispute with TDS?	No	No
Can a Landlord raise a dispute with TDS?	No	No
Can a Tenant raise a dispute with TDS?	Yes	Yes
Disputed deposit		
If a tenant raises a dispute who sends the disputed deposit to TDS	Letting Agent	Letting Agent
Dispute evidence		
Who does TDS write to regarding the submission of evidence?	Letting Agent only	Landlord only
Adjudication decision		
Who does TDS send the adjudication decision to?	Letting Agent, Tenant	Landlord, Tenant
Awards		
Who does TDS send the award owed to the landlord?	Letting Agent	Landlord

Registration of tenancy types

In order for TDS to operate the scheme in accordance with the table above then it is important that all tenancies are marked as either:

-  **Fully managed (the default option);**
-  **Non-managed (Rent Collection/Tenant Find etc).**

What happens if the agent or the landlord tries to raise a dispute on the TDS disputes portal?

As this new scheme restricts the raising of disputes to tenants, it will not be possible for the letting agent or landlord to raise a dispute. The TDS disputes page for TDS Direct deposits will return a message stating:

“ This tenancy is covered by the TDS Direct scheme which restricts the raising of disputes to tenants only. This is in accordance with the Housing Act 2004. Landlords can still raise a dispute about the deposit in the County Court; legal advice should be taken. ”

If a landlord or agent registers a dispute in error with TDS this will be rejected and referred back to whoever raised it.



Requesting the disputed deposit (same process as now)

When a tenant raises a dispute, TDS will request (as now) the disputed deposit from the relevant letting agent managing the tenancy.

In the event that TDS awards monies to the landlord; this will be sent direct to the landlord in the case of non-managed tenancies. For managed tenancies TDS will send any payment due to the landlord back to the letting agent in accordance with the current payment arrangements.



Obtaining evidence (same process as now)

When the tenant raises a dispute, TDS will then email/write to the agent/landlord for details of the dispute and evidence.

For fully managed tenancies, TDS will write to the letting agent which manages the tenancy and they will be required (as now) to upload all evidence to the TDS Disputes portal. The TDS Disputes Evidence Template should be used in all cases to ensure that the evidence is submitted in the right way.

For non-managed tenancies, TDS will contact the landlord directly using the contact details provided by the letting agent during the process of marking a tenancy as fully managed or non-managed. The landlord will be required to upload all evidence to the TDS Disputes portal.



Issue of Adjudication decisions

When TDS issues an adjudication decision it will send this to the tenant.

- For fully managed tenancies the decision will be issued to the tenant and the relevant letting agent in accordance with the existing arrangements;
- For non-managed tenancies the decision will be issued to the tenant and the landlord only.



Payment of awards

TDS will pay:

- Any awards due to the tenant directly(as now);
- For fully managed tenancies the awards for landlords will be paid to the relevant letting agent (as now);
- For non-managed tenancies the awards for landlords will be paid directly to the relevant landlord.

Key questions

What happens if the tenant does not raise a dispute but the landlord says that they are owed money from the deposit?

A tenant has three months from the end of a tenancy to raise a dispute with TDS or 6 years to issue a claim in the County Court.

In the event that the proposed deductions are well supported by evidence, then the letting agent will have internal procedures to permit the deposit to be released to the landlord with an indemnity given to the agent.

Can the landlord go to Court in relation to the dispute?

Yes; the landlord will be able to go to the County Court over the disputed deposit. If the court awards payment to the landlord, then this can be made from the deposit (subject to the detailed wording of the Court order).

Does the landlord have to consent to using TDS for adjudication if the tenant raises a dispute?

No; but in these circumstances TDS will expect the case to have been raised by the landlord with the County Court within 6 months. If this does not happen TDS will return any disputed deposit it holds to the tenant pending any future Court hearing.



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