



Tenancy Deposit Scheme

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Custodial



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TENANCY DEPOSIT SCHEME STATISTICAL BRIEFING

Tenancy Deposit Disputes in England and Wales

[September 2016]

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INTRODUCTION

1. Tenancy Deposit Disputes in England and Wales

The tenancy deposit protection legislation was introduced in April 2007 in England and Wales as a result of the 2004 Housing Act. Similar provisions came into force in Scotland in July 2012 and in Northern Ireland in April 2013.

At the end of a tenancy the legislation allows tenants to raise a dispute with a tenancy deposit scheme if the deposit has not been returned to them, less any agreed deductions.

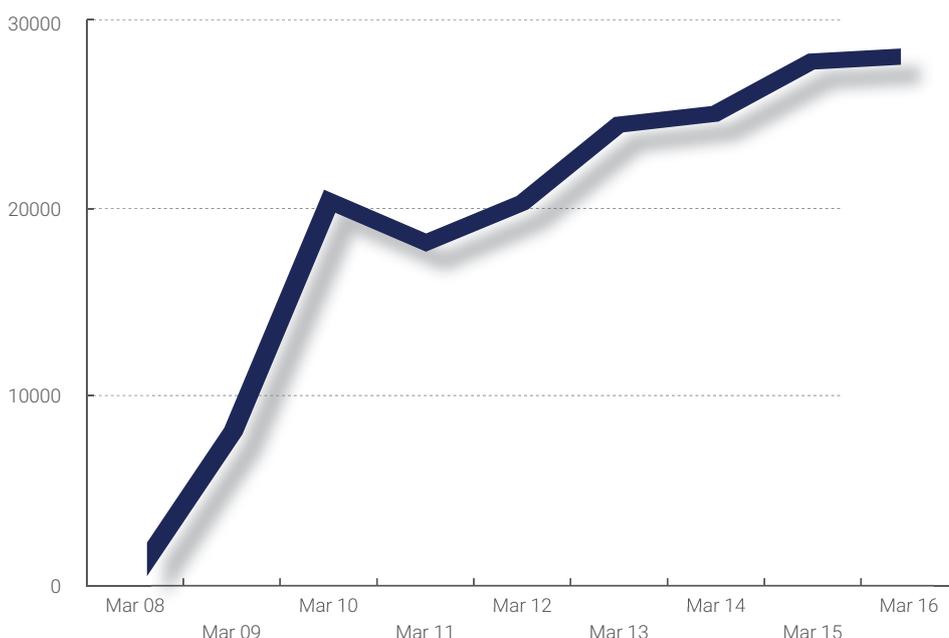
This briefing gives details of the disputes submitted to the tenancy deposit schemes in England and Wales.

Numbers of Disputes leading to an adjudication

If a landlord and tenant cannot reach agreement on the allocation of a deposit at the end of the tenancy they can ask their tenancy deposit scheme to carry out a free adjudication to decide who should get what from the deposit.

In the first years of the tenancy deposit protection regime there were relatively few disputes as tenancies had not ended. Over time the number of disputes has increased as tenancies end and landlords and tenants cannot reach agreement on the allocation of the deposit. The chart below shows that the number of disputes which went through the adjudication process reduced in 2010-11 but increased again in the years since.

Figure 1: Adjudications completed by year for all tenancy deposit schemes in England and Wales¹



¹DCLG data 2016

Table 1: Adjudications completed by year for all tenancy deposit schemes in England and Wales

Adjudications completed by year	
March 2008	458
March 2009	8,098
March 2010	20,363
March 2011	18,156
March 2012	20,279
March 2013	24,448
March 2014	25,029
March 2015	27,816
March 2016	28,100
Total	172,747

Disputes as a percentage of deposits protected

Before the tenancy deposit protection legislation was introduced, the National Association of Citizens Advice Bureaux reported in their 1998 report **Unsafe Deposits**² that 48% of tenants in their survey had reported having had a deposit unreasonably withheld and only one in 6 of these had been successful in getting their money back. This implied that 40% of tenants may have had their deposit withheld by their landlords without the agreement of the tenants.

An analysis of the number of adjudications each year compared to the number of deposits protected shows a surprisingly low percentage of disputes as a proportion of the deposit protected (Table 2).

Table 2: Disputes as a percentage of the total number of deposits protected

Disputes as a % of deposits protected	
March 2008	0.05%
March 2009	0.52%
March 2010	1.08%
March 2011	0.82%
March 2012	0.85%
March 2013	0.92%
March 2014	0.88%
March 2015	0.91%
March 2016	0.82%

This table indicates that in the last six years the disputes percentage rate has been below 1% of tenancies protected. Given that the evidence from the sector is that tenancies on average are lasting up to 30 months this implies a **dispute rate to tenancies ending** of some 2.05%. This is significantly below the figures implied by the Unsafe Deposits report in 1998.

²Unsafe Deposits, NACAB (1988)

Following publication of data obtained from the DCLG under the Freedom of Information Act it is now possible to identify the dispute rate per scheme. This shows that the average dispute rate is at 0.82% of all deposits protected at March 2016. The dispute rate per scheme in 2015-16 varies across the four schemes with the DPS Insured rate at only 0.38% (but this scheme is only three years old) compared with the 0.99% rate at the Tenancy Deposit Scheme (which allows landlords and agents to submit disputes as well as tenants).

Table 3: Dispute rates by scheme 2015-16

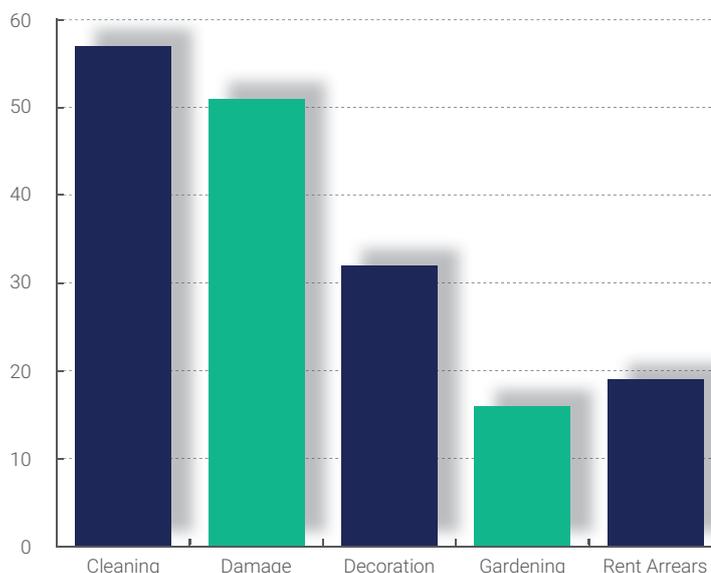
	DPS Custodial	DPS Insured	MyDeposits	TDS
March 2013	0.73%		0.70%	1.31%
March 2014	0.81%	0.10%	1.02%	0.87%
March 2015	0.83%	0.40%	0.75%	1.05%
March 2016	0.79%	0.38%	0.65%	0.99%

Reasons for disputes

TDS has been collecting data on the reason for disputes since 2007. This shows that damage, cleaning, redecoration are the most common reasons given for a tenancy deposit dispute. In the cases submitted to TDS in 2015-16 cleaning appeared as a reason in 57% of cases and damage in 51%.

Table 4: Reasons for disputes in TDS

	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016
Cleaning	56%	53%	58%	57%
Damage	43%	46%	51%	51%
Decoration	30%	29%	31%	32%
Gardening	13%	14%	17%	16%
Rent Arrears	17%	16%	19%	19%



Who raises disputes?

In the Tenancy Deposit Scheme letting agents can submit disputes as well as tenants and because they are professional agents they are unlikely to submit frivolous claims where an adjudicator awards all of the disputed deposit to the tenant.

In 2015-16 over **53%** of TDS disputes were submitted by landlords/agents compared to almost **47%** being raised by tenants.

Figure 3: Who raises disputes with TDS 2015-16



Who gets what?

A common question asked of the deposit protection schemes is who gets what in disputes. This data below covers the period from April 2007 to March 2016 and shows some significant differences between schemes.

As can be seen in over half the disputes all schemes tend to split the deposit in dispute between the landlord and tenants but there are some differences in the 100% allocations to landlords and tenants.

Table 5: Allocations of disputed deposits by scheme 2007 to 2016

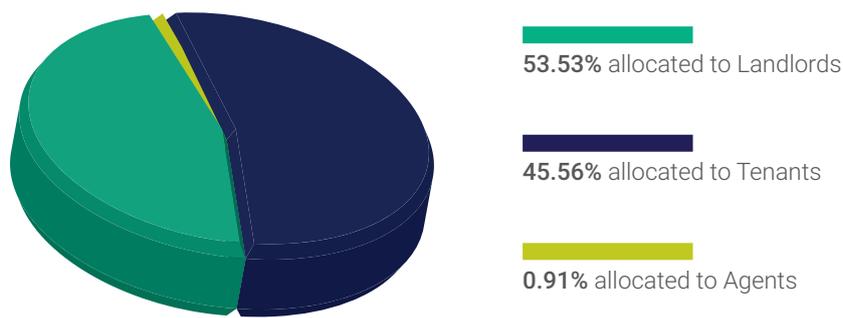
	100% to tenant	100% to landlord	Split Awards
Tenancy Deposit Scheme	17.35%	21.27%	61.38%
MyDeposits	34.00%	9.00%	57.00%
DPS	31.00%	17.00%	52.00%
DPS Insured	28.00%	12.00%	60.00%

The majority of TDS members are professional lettings agents and over the years they have recognised that they need to undertake inventories and check out reports if they are to successfully demonstrate a claim for damage, redecoration, gardens or cleaning. In our experience landlords are often less aware of the importance of this and as such are more likely to not succeed in making a claim for a deposit deduction. Given that the overwhelming majority of TDS members are professional agents this is the main reason why the TDS scheme pays fewer 100% awards to tenants than the other schemes.

TDS has also produced data which sets out how much on average the tenant and landlord gets from the disputed deposit. In 2015-16 the data shows that of all of the disputed deposits a total of 45.45% is paid to tenants and the balance (54.55%) is paid to landlords.

The average amount in dispute in 2015-16 was **£863.40**.

Figure 4: A split of disputed deposit payments with TDS 2015-16



SUMMARY STATISTICS ENGLAND & WALES: MARCH 2016

Figures include all tenancy deposit protection schemes in England and Wales and are accurate as of 31 March 2016.



172,747

Adjudications completed since 2007



57%

of TDS disputes involve cleaning



0.82%

of deposits protected resulted in a dispute



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