

**Newry, Mourne and Down District Council**

**Health and Well Being Service**

Tenancy Deposit procedure

**DOCUMENT HISTORY**

<b>Document name</b>	Procedures for dealing with complaints relating to Tenancy Deposits
<b>Issued by</b>	James Campbell
<b>Issue number</b>	1

### **1.0 Receipt of Service request:**

The request may come in as a specific request relating to the allegation that the landlord did not secure the deposit in one of the approved schemes

Or that a deposit other than money was taken.

Health and Well Being Administration will register the matter as a service request and give to Officer.

### **2.0 Investigation**

#### **Informal**

Tenant suspects deposit not secured/unsure if deposit secured.

Contact landlord or agent by phone or (preferably) email and request information within 7 days as to what scheme the deposit is secured with/ request copy of tenancy deposit certificate.

If appropriate contact the relevant scheme administrator and confirm the deposit was lodged.

*If the tenancy deposit was paid to the landlord over 6 months prior to making a complaint to our department, no formal action can be taken. An informal warning letter should be issued on the landlord/agent, Appendix 7 and an information leaflet sent to potential new tenants.*

Update case summary sheet (Appendix 1)

#### **Interview with complainant:**

*If the landlord or agent fails to provide the information within 7 days, and if the tenancy deposit was paid within the last 6 months :*

- The officer must take a written statement from the tenant, which can be used if necessary as evidence for court proceedings.
- The officer must establish when the deposit was paid (before or after 1/4/2013)
- The officer must establish who the deposit was paid to (agent, landlord)
- The officer must establish how much was paid and obtain documentary evidence of this.

#### **Landlord:**

- The officer must contact landlord/agent and give them an opportunity to inform the officer which scheme the deposit is lodged with.
- The officer must check with the named provider(s) (see Appendix 2 for scheme provider contact information) to verify deposit was lodged with them, email information request pro forma-see appendix 3
- If provider confirms no deposit received, send warning letter (Appendix 4) to landlord/ agent.
- If unable to contact landlord/ agent, issue warning letter (Appendix 4) to landlord /agent,
- 14 days after warning letter issued if no correspondence from landlord/agent check again with all 3 providers for evidence of deposit secured.
- If there is evidence that the landlord/agent has not secured deposit, invite them to attend an interview under caution at Council Offices. This interview should be recorded using Service equipment and under the PACE Code of Practice.
- If deposit not secured issue fixed penalty for 3 times deposit amount, **OR** for when a deposit other than money taken £500 fixed penalty (Appendix 5).

- If fixed penalty not paid, issue a fixed penalty warning letter.( Appendix 6)
- If fixed penalty still not paid after 7 days prepare file for legal proceedings.

Appendix 1: Case summary sheet

Appendix 2 : List of contacts for 3 Scheme Providers

Appendix 3 : Request for information from scheme providers template

Appendix 4: Tenancy Deposit Warning letter

Appendix 5 : Fixed Penalty template

Appendix 6: Fixed Penalty warning letter

Appendix 7: Informal warning letter where deposit paid >6months ago

# APPENDIX 1:TENANCY DEPOSIT CASE SUMMARY SHEET

File reference: \_\_\_\_\_

Date Received \_\_\_\_\_

<b>Name of Landlord</b>	
<b>Address of Landlord</b>	
<b>Name of Tenant(s)</b>	
<b>Address of Tenant(s).</b>	

<b>Stage 1-Preliminary investigation</b>	<b>Date</b>	<b>initial</b>
Speak to tenant and ascertain when deposit paid		
If deposit paid <b>over 6 months</b> ago send warning letter to landlord, and if appropriate information leaflet to potential new tenants and close case.		
If tenancy paid within last 6 months contact agent or landlord and request proof of deposit paid		
Verify deposit secured within 7 days		
After 7 days if no proof of deposit secured -proceed stage two		

<b>Stage 2-Formal Investigation</b>	<b>DATE</b>	<b>INITIAL</b>
Interview with Tenant		
*Proof of deposit paid by tenant		
*Warning letter to Landlord <b>(14 days)</b> (hand-delivered if possible).		
*Proof of deposit secured		
Interview landlord under caution.		
*Fixed Penalty Issued <b>(14 days)</b> .		
*Fixed penalty warning letter issued <b>(7 days)</b> .		
Legal action recommended by Officer		
Approval of legal action by Director		
<b>*Time cannot be more than 6 months</b>		

<b>Date of Closure:</b>
<b>Reason For Closure:</b>
<b>Signature:</b>

<b>Administration Use Only</b>	<b>Paid Date:</b>	<b>Amount:</b>
<b>ADVISE EHO IF PAID</b>		

## **Appendix 2**

### **List of scheme provider contacts:**

1. TDS NI ( Dispute Service NI)

T: [REDACTED] M: [REDACTED]  
P: PO Box 2105, Belfast BT1 9RD  
E: [REDACTED]@tdsnorthernireland.com  
W: [www.tdsnorthernireland.com](http://www.tdsnorthernireland.com)

2. My Deposits

[REDACTED]  
[info@mydepositsni.co.uk](mailto:info@mydepositsni.co.uk)  
0845 218 1060

3. Letting Protection Service NI

The Letting Protection Service Northern Ireland  
The Pavilions  
Bridgwater Road  
Bristol  
BS99 6BW  
0844 472 6688

**Appendix 3**

**Newry, Mourne and Down District Council**

**INFORMATION REQUEST PRO FORMA**

**Tenancy Deposit Scheme Regulations (Northern Ireland) 2012**

**(Article 39)**

**The following information is being requested for the purpose of an investigation under the Private Tenancies (Northern Ireland) Order 2006 and is exempt from Data Protection Act 1998 – Crime and Taxation Exemption, Section 29(2)(a) – for the purpose of discharging a statutory function**

**PART 1 -INFORMATION KNOWN**

Address of tenancy deposit enquiry:

Name of Tenant (optional; see note below)

*( Tenant information not to be disclosed to all scheme administrators. This information is only to be disclosed if there is reason to believe a deposit is held with one particular administrator)*

**PART 2- INFORMATION REQUIRED**

*Has a deposit for the above address been secured with your scheme?*

*Yes / No – if yes please complete information below.*

*What date was this deposit secured?*

*What is the name and address (if known) of the landlord or agent who secured deposit?*

*Has written confirmation/information letter confirming the safeguarding of deposit been sent to landlord/agent?*

**ADDITIONAL INFORMATION**

Please return completed forms to: **OFFICER EMAIL ADDRESS** within 5 working days.

Name of Council rep requesting information: .....

Date: .....

Name of officer providing information: .....

Date: .....

#### **Appendix 4- Tenancy deposit warning letter:**

To

Dear Sir/Madam

**RE: .....**

Private Tenancies (NI) Order 2006<sup>2</sup>

Tenancy Deposit Schemes Regulations (NI) 2012

This department has been contacted by a tenant of the above property.

They have alleged that their deposit paid to you on..... has not been secured in one of the approved schemes.

DSD has appointed three scheme administrators to operate the schemes; each of these organisations provide both custodial and insurance schemes. It is an offence to take a deposit and not secure it in one of the approved schemes (listed below).

1. My Deposits <http://www.mydepositsni.co.uk>
2. The Dispute Service (TDS) <http://www.tdsnorthernireland.com>
3. Letting Protection Service (LPS) <http://www.lettingprotectionni.com>

Please provide the Council documentary evidence to demonstrate that the tenants deposit has been secured within 14 days of the date of this letter.

The Council will issue you with a fixed penalty of an amount three times the value of the deposit taken if you do not provide us with documentary evidence within 14 days.

Please contact me on 03000132233 Ext                      if you have any queries in relation to this matter.

Yours faithfully

Newry, Mourne and Down District Council

PTO Fixed Penalty No D/\_\_\_

**PRIVATE TENANCIES (NI) ORDER 2006**

**Fixed Penalty Notice**

**Name:**.....

**Address:**.....

I \_\_\_\_\_ an authorised Officer of Newry, Mourne and Down District Council have reason to believe that on \_\_\_\_\_ (15 days after date deposit was taken) you committed an offence under Article 5 of the Private Tenancies Order (NI) 2006 as amended by Housing (Amendment) Act (NI) 2011.

**At** .....

This notice offers you the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty. The amount of the fixed penalty is £.....

The circumstances alleged to constitute the offence are as follows:

- You failed to secure a deposit for (above address)
- You took a deposit other than money for (above address)

We will not take proceedings for this offence before the expiration of 14 days following the date of this notice. You will not be liable to conviction for the offence if you pay the fixed penalty during the period of 14 days. If you do not pay the fixed penalty within that time, you may be prosecuted for the offence described above, and, if found guilty, could receive a fine of up to £20,000.

Name of authorised officer.....

Signature of authorised officer .....

Date of issue.....

Part 2. Please return this slip with all payments

PTO Fixed Penalty No D/\_\_\_

Payment of Fixed Penalty under Article 5 of The Private Tenancies (Northern Ireland) Order 2006 as amended by the Housing (Amendment) Act (Northern Ireland) 2011

To: Health and Well Being Service, Downpatrick Office, Newry Mourne and Down District Council, Downshire Civic Centre, Downshire Estate, Ardglass Road, Downpatrick, BT30 6GQ.

I enclose with this letter the amount of £..... being the fixed penalty for an offence under Article 68A the Private Tenancies (Northern Ireland) Order 2006.

My chosen payment method is: Cash / Cheque / Postal Order / Money Order / Debit or Credit Card

Name in capitals: .....

Address in capitals (including postcode): .....

Signature: .....

Date: .....



### Part 3 Paying the Fixed Penalty

If you choose to pay the fixed penalty no further action will be taken in respect of the alleged offence as described in this penalty notice. The payment of the penalty involves no admission of guilt and will not result in a record of criminal conviction being made against you.

Payment can be made by completing the payment slip attached and returning it with the appropriate payment to the address set out in the payment slip. Payment can also be made by completing the payment slip and paying in person at the same address.

Acceptable means of payment include cash, cheque, postal order, money order, debit or credit cards.

Cheques, postal orders or money orders should be made payable to: Newry, Mourne and Down District Council.

If you choose to pay this penalty in cash by post, you are strongly advised to send it by registered post, and proof of posting must be retained.

If you require a receipt for the payment of the penalty, you must ask for one at the time of payment and, if paying by post, you must provide a stamped, self-addressed envelope.

To:

Dear

**Article 5 of The Private Tenancies (Northern Ireland) Order 2006 as amended by the Housing (Amendment) Act (Northern Ireland) 2011**

I am writing to you regarding a Fixed Penalty Notice issued on....., for the sum of £....., which was issued to you as a result of you not securing a tenancy deposit with one of the approved scheme administrators with reference to:

**Tenant:**

**Property Address:**

**Date Deposit Received:**

Our records indicate that you have not paid this fixed penalty and that we can now refer the matter to court. Payment can be made by postal order or cheque made payable to **Newry, Mourne and Down District Council** and sent to the Health and Well Being Service at the address below, or you may pay by cash or card at our offices Monday to Friday 9:00 am to 5: 00 pm.

Once we issue a summons, you will have to pay additional legal costs as well as the fixed penalty in order to discharge liability for the offence. If the case proceeds to court and you are convicted of an offence, you may be fined up to **£20,000**.

You must pay the fixed penalty within **7 days** from the date of this letter to avoid further action. If you believe that you have paid the fixed penalty, please contact us on 03000132233 to confirm receipt of your payment.

Yours sincerely

Appendix 7: Tenancy deposit informal warning (for deposits paid over 6 months)

Ref

To

Dear Sir/Madam,

**RE:**

**Private Tenancies (NI) Order 2006**

**Tenancy Deposit Schemes Regulations (NI) 2012**

Under the above legislation landlords/agents are required to secure tenancy deposits in one of the approved schemes.

This department has been contacted by ....., whose tenancy/tenancies of the above property ended on the.....

He /She /They allege(s) that a deposit of £..... was paid to you on ..... and was not secured in one of the approved schemes.

DSD has appointed three scheme administrators to operate the schemes; each of these organisations provides both custodial and insurance schemes. It is an offence to take a deposit and not secure it in one of the approved schemes (listed below).

1. My Deposits <http://www.mydepositsni.co.uk>
2. The Dispute Service (TDS) <http://www.tdsnorthernireland.com>
3. Letting Protection Service (LPS) <http://www.lettingprotectionni.com>

Where a landlord fails to secure a deposit a fixed penalty of an amount three times the value of the deposit taken may be imposed. Furthermore you are required to provide the tenant(s) with information in relation to the particular scheme the deposit has been protected within 28 days of receiving it. Please find enclosed an information leaflet in relation to the tenancy deposit scheme.

Furthermore from 25<sup>th</sup> February 2014 all landlords are required to register a new tenancy (before the tenancy begins) with the Department of Social Development (DSD) Landlord Registration Scheme. Please find enclosed information in relation to this scheme. I have also enclosed information in relation to your requirement to provide your tenants with a tenancy statement and rent book.

Please contact me on 03000132233 Ext if you have any queries in relation to these matters.

Yours faithfully

