



Ministry of Housing,
Communities &
Local Government

Mrs Heather Wheeler MP
Minister for Housing and Homelessness

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Clive Betts MP
House of Commons
London
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Dear Clive,

5 November 2018

Innovation in tenancy deposit protection

I am writing to update you on the work the Government is undertaking to look at innovation in tenancy deposit protection. The Government previously committed to reporting back on its work in this area in its response to the Housing, Communities and Local Government Select Committee's pre-legislative scrutiny of the draft Tenant Fees Bill in May 2018.

I am pleased to tell you that we have since established a Tenancy Deposit Protection Working Group, formed of representatives of tenants, landlords and agents, the deposit protection schemes and Nationwide Building Society. The purpose of the Group is to look at improvements that can be made to the current system, as well as the merits of alternative innovative approaches to deposit protection. I attach the Terms of Reference for the Group.

The Group has met 3 times, most recently in October. It has agreed its areas of focus, and has prioritised a review of the current system in initial meetings. This includes the tenant and landlord understanding of the model, and outcomes for tenants in the custodial and insurance-backed schemes. Alongside this, it has looked at deposit free alternative products and discussed whether tenants currently have a good understanding of the products available, and their obligations under these products.

The Group has also prioritised looking at innovation that could make deposits more affordable for tenants. It has welcomed employer-backed loans and payment of deposits in instalments, but decided that members would be best placed to initially focus on exploring the merits of deposit passporting. This aims to reduce cash flow problems faced by tenants when they change their rental property. The Group has found that the potential benefits of deposit passporting are not recognised by all landlords and agents at present. We are currently looking at whether there is a viable model that works for all

parties. The Group is due to report on deposit passporting in spring 2019 and we will share this with you at that stage.

Once the Group has addressed these priority areas, we intend to look at dispute resolution with the deposit schemes, inventory best practice, and prescribed information that landlords sent to tenants about their deposit.

The Committee previously commented on whether the Tenant Fees Bill supports innovation in tenancy deposit protection. The Bill as drafted does not stifle innovation and does not prevent tenants from choosing a deposit free alternative product, but it does prohibit landlords and agents from requiring tenants to accept such an alternative. Tenants must be given a choice as to whether to pay a premium for a deposit alternative product or to use the traditional method of deposit protection, which entails no fees to tenants.

A handwritten signature in black ink, appearing to read "Heather Wheeler". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

MRS HEATHER WHEELER MP

Tenancy Deposit Protection Working Group

Terms of Reference

Purpose

Under the tenancy deposit protection (TDP) legislation introduced by the Housing Act 2004, all landlords are required to protect deposits for all assured shorthold tenancies created since 6 April 2007 in one of the three government-approved schemes.

TDP is largely viewed as being successful in increasing the confidence of tenants in the rental market while still allowing landlords to retain some deposit where their property has been damaged. However, there is room for it to be improved to the benefit of tenants and landlords.

The aim of the Tenancy Deposit Protection Working Group is to provide a forum to consider improvements to tenancy deposit protection, so that it is effective and affordable for both tenants and landlords, and is still fit for purpose given technological and economic changes. In particular, it should look at what improvements can be made quickly within the existing tenancy deposit protection framework.

Membership

The Group shall be formed of experts in deposit protection, and representatives of tenants and landlords. It will be chaired by Anne Frost, Deputy Director of the Private Rented Sector Division at the Ministry of Housing Communities and Local Government and officials from this Department will provide secretariat support.

Members should be able to commit time to attend Working Group meetings and contribute to the development of the interim and final reports. Members shall serve until the final report of the Working Group is issued.

All members will be expected to contribute with a view to improving tenancy deposit protection for the benefit of both tenants and landlords.

Members:

1. Anne Frost, Deputy Director, MHCLG (Chair)
2. Poppy Terry, Senior Public Affairs Officer, Shelter
3. Dan Wilson Craw, Director, Generation Rent
4. Fleur Priest-Stephens, Policy Consultant: Welfare and Communities, NUS
5. Steve Harriott, Group Chief Executive, Tenancy Deposit Scheme (TDS)
6. Julian Foster, Head of Tenancy Deposit Protection, The Deposit Protection Service (DPS)
7. Eddie Hooker, CEO, mydeposits
8. David Smith, Policy Director, Residential Landlords Association (RLA)
9. Richard Lambert, CEO, National Landlords Association
10. David Cox, CEO, ARLA Propertymark
11. James Rowlands, Nationwide
12. MHCLG Secretariat.

Scope

The Working Group may consider whether improvements can be made to the following in respect of TDP:

- Greater access and affordability for tenants
- Better education of landlords and tenants
- More robust check in and check out procedures
- Streamlining the process for protecting and reclaiming deposits, and the process of redress, including through use of technological innovation
- Whether the custodial deposit pool should be invested
- Alternatives to the current system of TDP

In particular, the Working Group should make recommendations on:

- The future role of insurance-backed TDP
- How to introduce passporting of deposits
- How to encourage the use of employer-backed loan schemes
- How to make readily available the option of paying deposits in instalments

In considering improvements the Working Group should have regard to the burden that would be placed on landlords, tenants and providers of deposit protection.

Outputs

The Working Group should produce an initial report with recommendations on the future role of insurance-backed TDP by December 2018.

A final report should be produced by Spring 2019. This report should set out:

- Detailed recommendations on changes that can be made quickly to improve deposit protection, in particular voluntary and non-legislative changes
- If necessary, recommendations for further work on changes that may require legislative amendments

These recommendations may be for landlords and agents and deposit protection providers as well as for Government.

Confidentiality

There will be a duty of confidentiality imposed on all Working Group members. Members may be exposed to sensitive information as part of Working Group discussions. Confidentiality is obviously extremely important and, while it is understood that Working Group members' staff may see some documents connected to their work as a Working Group member, unnecessary involvement of third parties in handling this material is strongly discouraged.

Frequency and duration of meetings

- The Working Group shall meet every 6 weeks. Meetings will last no more than two hours
- The Working Group should continue to meet until the production of the final report.
- The secretariat will be provided by MHCLG, which will aim to:
 - Circulate papers a minimum of five working days before the meeting.
 - Provide minutes no longer than seven working days after the meeting.