

Joint and Several Tenancies

How to protect deposits taken on Joint and Several Tenancy Agreements with my|deposits Scotland.

Why is it important that I read this guide?

If you take and hold a deposit on a Joint and Several Tenancy Agreement, please familiarise yourself with our processes to ensure that the deposit is protected correctly, including our key requirement to appoint a 'Lead Tenant'.

This guide is to be read in conjunction with the my|deposits Scotland Terms and Conditions, you can find these on our website, www.mydepositsScotland.co.uk

Other approved tenancy deposit schemes may have differing rules and processes for protecting deposits under a Joint & Several Tenancy Agreement. This guide relates to my|deposits Scotland procedure only.

What is a Joint and Several Tenancy Agreement?

A Joint and Several Tenancy agreement (JSTA) is created where two or more adults rent a property and have signed a single agreement for the same period of time. They are classed as a single tenant and all are jointly responsible under the terms and conditions of the tenancy agreement.

What happens to the deposit under a joint tenancy?

As far as the deposit is concerned, the landlord or agent User receives a single deposit to which all the tenants are equally entitled to receive back. It is up to the parties to agree how the deposit is distributed at the end of the tenancy.

What is a 'Lead Tenant' and what role do they play in deposit protection?

It would be a huge administrative burden for our landlord or agent User's to provide every tenant with separate deposit release codes, protection certificates and other documents on a joint and several tenancy agreement.

Instead we require the User to nominate a 'lead tenant'. The User must ensure that all the tenants agree to the appointment of the lead tenant.

- The lead tenant will be required to represent the interests of all joint tenants and will act on their behalf in all deposit related matters, including in the release of the deposit at the end of tenancy and if there is a deposit dispute.
- The lead tenant has the responsibility of distributing the deposit to all the other joint tenants.

If a lead tenant contacts us confirming they no longer want these obligations then we will contact the landlord/ agent User and ask them to nominate a new lead tenant after consulting with the tenants. The request must be put in writing to us giving reasons for the change in lead tenant, details of the incoming lead tenant and confirmation that the tenants have agreed to this change.

At the start of the tenancy

How does my|deposits Scotland deal with deposits taken on joint tenancies?

It is the responsibility of the User to notify us of the names of every tenant on the joint and several tenancy agreement.

The User must provide a signed copy of the deposit protection certificate and the "Information for Tenants" leaflet to the lead tenant who should sign the certificate to confirm the details are correct. The User must also tell the lead tenant how to obtain a copy of the latest my|deposits Scotland Terms and Conditions and other documentation.

Some key points:

- Deposits relating to joint tenancies must be protected in a single transaction.
- The User must manage the relationship between the joint tenants and identify a lead tenant who is authorised to act on their behalf by the other joint tenants.
- The User will be required to confirm that the lead tenant is an agreed nomination by all the other joint tenants.
- The User must inform us if there is a change of joint tenant.

End of tenancy – deposit release

If the User makes a request for the release of the deposit we will contact the lead tenant to confirm and begin the deposit release process.

- If the lead tenant does not respond within 15 Working Days we will write to the other joint tenants and inform them of the deposit release request.
- From this point the joint tenant can take over from the lead tenant but they must respond within the timeframe already initiated by the User. They must also provide evidence that they are acting on behalf of all the other joint tenants and confirm in writing that:
 - (a) they personally will conduct all aspects of the deposit dispute;
 - (b) they have written authority to act for all the joint tenants;
 - (c) they agree to distribute the deposit money which may be returned to the other joint tenants
 - (d) they agree to indemnify us against any claims or loss by the other joint tenants made as a result of their conduct;
 - (e) they will notify all the joint tenants that we cannot resolve any disputes between the joint tenants

Disputes

What happens if there is a dispute?

In the event of dispute we will deal directly with the lead tenant. If the other Tenants want to provide their own evidence they can do so via the Lead Tenant who will need to add it as part of their evidence. Unfortunately our ADR service is unable to resolve disputes between Tenants.