

# Scheme Rules for Agents



## Second Edition - Agent Scheme Rules

*Note: The main changes from the first edition are highlighted for reference*

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## Introduction to Agents

Thank You for choosing my|deposits to protect Deposits on behalf of Your Landlord Clients.

my|deposits is an Insurance Based Tenancy Deposit Protection Scheme operated by Tenancy Deposit Solutions Limited appointed by Communities and Local Government.

It is a condition of joining the Scheme that You agree to abide by these Scheme Rules. These rules set out the terms and conditions of Your being an Agent Member of the Scheme. They detail the obligations that You accept and will need to follow when arranging to protect Deposits on behalf of Your Landlord Clients. On Your Application Form You will be asked to confirm that You have read and understood them. We would particularly invite Your attention to Clauses A3, and A4 (Cancellation of Agent Membership), and to Clause A5 (Protection of Deposits following Cancellation of Agent Membership).

### **IMPORTANT NOTE**

We would like to draw Your attention to the fact that from 5th April 2008 my|deposits will only be able to protect Deposits which You, the Agent Member, take and hold on behalf of Your Landlord Clients and keep in a 'ring-fenced' and segregated Client Money account. If You do not hold the Deposit on behalf of Your Landlord Client e.g. You pass the Deposit to the Landlord Client for him/her to hold, then the responsibility to protect the Deposit will lie with Your Landlord Client.

**my|deposits take no responsibility for protected Deposits that You do not actually hold in Your Client Money account.**

You should be aware that if You do protect a Deposit that You do not hold, You will be in breach of these new Scheme Rules and We will invoke Our Agent Membership Cancellation clause (clause A3). We will also take legal action against You for the provision of the Deposit in the event of a Deposit Dispute.

## The Scheme Rules - For Agents Only

my|deposits, is an Insurance-Based Tenancy Deposit Protection Scheme  
Established and approved under the Housing Act 2004

[www.mydeposits.co.uk](http://www.mydeposits.co.uk)

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# Definitions

These definitions are to be used in conjunction with these Scheme Rules.

All references to persons, Agents, Landlord Clients, Tenants and Relevant Party (as defined) in these Rules shall mean to include both genders, and their use shall be considered synonymous with the terms he and she.

Wherever the following words and phrases appear in this document they will always have the following meanings: (All definitions must be read and understood together and cross-referenced).

## Alternative Dispute Resolution (ADR)

An impartial and legally binding free service offered by the Scheme to Agents, Landlord Clients, Tenants and Relevant Party (as defined) as an alternative to court action for resolving disputes.

## Adjudicator

The impartial party appointed by the Scheme to make a decision through ADR.

## Agent

A letting or managing agent acting with full authority on behalf of Landlords.

## Agent Member

An Agent, who has registered as a Member of the Scheme, and complies with its rules, from whom We may take instructions and who is not suspended from the Scheme.

## Application/Application Form

The Application Form which You have completed in writing and any other information given to Us by You or on Your behalf and read in conjunction with these Scheme Rules, is the basis of the Membership contract between You and Us.

## Assured Shorthold Tenancy (AST)

A contractual assured shorthold tenancy and any continuation period as a statutory periodic tenancy beyond the expiry of the initial contractual term which complies with statutory requirements and regulations.

## Client Account

A ring fenced client account with a UK clearing bank or building society where monies are segregated from any other monies of the Agent Member. This account must be free of lien, charge or adverse claim and is to be retained for the specific purpose of holding the Tenant's deposit(s) only.

## (The Department for) Communities and Local Government (CLG)

The Government department with which the Scheme Administrator has a contract to provide the Scheme.

## Day(s)

Any day(s) of the year unless specifically stated as "Working Days".

## Default ADR

ADR may be used to resolve a Deposit Dispute in a situation where the Agent Member is contactable but is refusing to co-operate to resolve a Deposit Dispute.

## Deposit

Any sum collected from the Tenant and/or Relevant Party (as defined) as prescribed in the AST and held by the Agent Member as security against the Tenant(s) performance of obligations under the AST including any damage to property and/or non-payment of rent.

## Deposit Dispute

When a Tenant/Relevant Party or Agent Member disputes the amount of the Deposit they should either receive or give back.

## Deposit Protection Certificate (DPC)

A certificate produced for You by the Scheme's online system that confirms protection of the Deposit held by You which forms **part only** of the Prescribed Information required by the Act.

NOTE: A copy must be signed by You and passed to the Tenant and/or any Relevant Party(s) (as defined), together with the rest of the Prescribed Information required by the Act, for them to sign and hold throughout the period of the AST agreement.

## Deposit Protection Fee

The fee that is paid to the Scheme Administrator for the purpose of protecting the Deposit.

## Designated Account

The Scheme Administrator's account in which to hold the Disputed Deposit Amount pending agreement or decision by adjudication or a Court.

## Dispute Notification Claim Form (DNCF)

A form issued by the Scheme to initiate a Deposit Dispute for completion by You acting for Your Landlord Client or by the Tenant/Relevant Party.

## Dispute Papers

The DNCF and supporting evidence from the claimant initiating the Deposit Dispute, the Rebuttal Form and any Rebuttal Evidence submitted by the party in dispute with the claimant.

## Disputed Deposit Amount

The amount from the Deposit which is the subject of a Deposit Dispute.

## Financial Services Authority (FSA)

The independent non-departmental public body and quasi-judicial body that regulates the financial services industry in the United Kingdom. Its main office is based in Canary Wharf, London, with another office in Edinburgh.

## Invoice

A statement of all outstanding fees which must be paid to the Scheme within the prescribed period.

## Joint Tenancy Agreement

An AST that all named parties have signed making them subject to the same AST.

## Landlord

A person or organisation that owns private residential property in England and Wales that is rented using an AST.

## Landlord Client

A person or organisation that owns residential property that is rented to Tenants and who is a client of the Agent Member and who has a signed a contract for services and given authority for the Agent Member to act and represent him.

## Lead Tenant

A Tenant, who is party to a Joint Tenancy Agreement, and is authorised by all other Tenants who are party to the same Joint Tenancy Agreement to deal with the Scheme Administrator on all matters relating to the protection of the Tenant's Deposits.

## Definitions continued

### Member/Scheme Member/Membership

An Agent Member who is currently a Member of the Scheme.

### Membership Data

All information held by the Scheme Administrator about the Agent Member and their Membership.

### Membership Fee(s)

Joining or renewal fee paid by the Agent Member to be a Member.

### Membership Period

The period of Membership (usually twelve months or amended by agreement) for which Membership Fees have been paid in cleared funds.

### my|deposits

The trading name of Tenancy Deposit Solutions Limited (TDSL).

### NLA

National Landlords Association Limited (by guarantee) registered in England [cn 4601987] at 22-26 Albert Embankment, London SE1 7TJ.

### Prescribed Information

Information about the Scheme and the Protected Deposit required by the Act to be given to the Tenant within 14 days of You or Your Landlord Client receiving the Deposit.

### Protected Deposit

A Deposit registered with the Scheme and covered by compulsory insurance pursuant to the Act that is purchased by the Scheme Administrator for the benefit of the Tenant/Relevant Party.

### Rebuttal Form

A form issued by the Scheme to allow an Agent Member to respond to the claimant's DDCF and supporting evidence and to indicate whether or not the Agent Member wishes to use the Scheme's free ADR procedure.

### Rebuttal Evidence

In the case of a Deposit Dispute the minimum requirement of evidence for the Agent Member to submit within the prescribed time limits on behalf of their Landlord Client as defined in E6.1.

### Relevant Party

A person, company or body who have paid all or part of a Deposit on behalf of a Tenant.

### Residential Property

Any privately owned property in England and Wales, including a flat, maisonette, part of a building, house or set of rooms let under a written AST and used, wholly, solely and exclusively for domestic residential purposes.

### Scheme Administrator

HFIS plc trading as Hamilton Fraser Insurance which administers the Scheme.

### Scheme

The insurance based tenancy deposit protection scheme approved by CLG and administered by the Scheme Administrator pursuant to the Act.

### Scheme Rules

These rules with which the Agent Member agrees to comply.

### Service of Documents

All communications including any direction, notice or document given or sent by the Scheme Administrator will be deemed to be received on the second day after the day on which it is sent by first class post to the addressee.

### Suspended Agent Member

An Agent Member who has been suspended from the Scheme for non compliance with the Scheme Rules.

### Tenancy Agreement

A written AST between a Tenant and a Landlord and/or his Agent.

### Tenant

A party who rents Residential Property.

### The Act

The Housing Act 2004, and any statutory amendment thereto, including any secondary legislation arising there from.

### UK Resident

A person with an address at which they are ordinarily living in the United Kingdom (excluding the Isle of Man) or a serving member of Her Majesty's Forces and stationed outside of the United Kingdom for operational purposes.

### Unprotected Deposit

A Deposit which has never been registered, or is no longer registered with the Scheme, and is not covered by the Scheme's insurance.

### We/Us/Our

Tenancy Deposit Solutions Limited T/A mydeposits and/or HFIS plc T/A Hamilton Fraser Insurance acting as Scheme Administrator.

### Working Days

Working days shall be taken to exclude Saturdays, Sundays, Christmas Day, Good Friday, and any day which, under the Banking and Financial Dealings Act 1971, is a bank holiday in England and Wales.

### You/Your

The Agent Member.

# Section A: Membership

## A1 The Scheme's Membership Acceptance Criteria for Agents

An Agent is only eligible to register as an Agent Member of the Scheme if they meet the Membership acceptance criteria. The criteria are continuing obligations to the Scheme. We must rely on the accuracy of the information You provide to Us.

### A1.1 Acceptance Criteria

#### The Agent Member

- (i) Lets and/or manages Residential Property with the authority of Landlord Client(s).
- (ii) Holds Deposits on behalf of their Landlord Clients.  
Note: Only Deposits held by the Agent Member are protected, not Deposits held by their Landlord Clients. These non-held Deposits must be protected by the Landlord Client.
- (iii) Is an individual sole trader, company, partnership or LLP. A company will include a guarantee company. All companies must comply with the UK Companies Acts requirements.  
Note: The Scheme will not accept Isle of Man companies or companies that are registered outside the United Kingdom.
- (iv) Can provide a UK address (not a post office box number) for Service of Documents.  
Note: We must be promptly told of any change of address.
- (v) Must provide a UK landline telephone number (not mobile) and an email address to which emails may be transmitted (any changes to the telephone number and email address must be notified to Us immediately).
- (vi) Can warrant that directors, partners, owners and shareholders have no convictions for money laundering or financial crime.
- (vii) Holds the Tenant's Deposit in a Client Account and undertakes that the Deposit must never form part of the Agent Member's assets.  
Note: The Agent Member must provide Us with proof of the existence of and correct use of the Client Account if requested. We may conduct an audit of the Client Account.
- (viii) Is not and never has been disqualified from Membership of any other tenancy deposit protection scheme as defined in the Act.
- (ix) Lets and/or manages Residential Property in accordance with the Act and any relevant regulatory requirements.
- (x) In respect of A1.1(ix) above, the Agent Member must not have been refused, or had cancelled, any regulatory requirement.
- (xi) Has paid Membership Fees.

A1.2 The Landlord Client must be accurately named and an address for Service of Documents provided in the AST.

A1.3 The Agent Member accepts that the Landlord Client will always remain accountable for the Deposit and for repayment of the Deposit (including paying into the Scheme any Disputed Deposit Amounts).

A1.4 Membership is renewable on an annual basis unless the Membership is cancelled by You or Us.

## A2 Payment of Membership Fees

A2.1 You agree to pay all fees in cleared funds before commencement of the first or subsequent Membership periods. Membership of the Scheme will only commence or be renewed when We have received cleared payment of Membership Fees.

A2.2 Failure to pay under A2.1 will result in immediate cancellation of Membership.

A2.3 Payment of Membership Fees must be made by direct debit, credit card, cheque (subject to clearance), or BACS within the payment period prescribed upon the issue of an Invoice.

A2.4 Cash will not be accepted for payment of Membership Fees or Deposit Protection Fees.

A2.5 We reserve the right to decline acceptance of Membership or fees at Our discretion and without explanation or justification.

## Section A: Membership continued

### A3 Cancellation of Membership by Us

A3.1 At Our discretion We may cancel Your Membership and the following will apply:

A3.1.1 We will serve a 14 day written notice of intended cancellation stating the cancellation reasons.

A3.1.2 Within 14 days of the date of the notice in A3.1.1 You may give Us reasons (in writing) as to why Membership should not be cancelled.

A3.1.3 Within 7 days of Your reply under A3.1.2 We may give prior written notice of Our decision as to whether to continue with or cancel Your Membership.

A3.1.4 Notwithstanding the notice in A3.1.1 Deposits will remain protected in accordance with A5.1.

A3.1.5 Written notices will be given by Us following the cancellation in A3.1.3 to:

- (a) Your Landlord Clients confirming the cancellation and giving them an opportunity to become members of the Scheme.
- (b) The Tenant(s)/Relevant Party(ies) of Your Landlord Clients telling them that their Deposits will cease to be protected under clause A5.1 after a maximum of 90 days from the date of the notice under A3.1.1.

A3.2 Your Membership will be cancelled in accordance with A3.1 if any of the following occur.

A3.2.1 Non-payment of fees or sums due to Us.

A3.2.2 Failure to lodge the Disputed Deposit Amount when required.

A3.2.3 You unprotect, or seek to unprotect, a Protected Deposit without the knowledge or agreement of the Tenant/Relevant Party.

A3.2.4 You fail to maintain a Client Account.

A3.3 We may immediately cancel Your Membership in the following circumstances;

A3.3.1 Any petition to wind up is presented or a liquidator, receiver, administrator, administrative receiver, manager, trustee in bankruptcy or similar officer is appointed;

A3.3.2 You cease to carry on business;

A3.3.3 You become or are declared insolvent, convene a meeting of or make or propose to make any arrangement with Your creditors;

A3.3.4 Statements made or information given on Your Application Form are fraudulent or incorrect;

A3.3.5 Any other breach of the Scheme Rules which We deem to be of sufficient seriousness to warrant immediate exclusion;

A3.3.6 You will not be entitled to any refund of Membership Fees or Deposit Protection Fees If We cancel Your Membership.

### A4 Cancellation of Membership by You

A4.1 You may cancel Your Membership at any time by providing Us with 14 days prior written notice and providing evidence that all Deposits have been alternatively protected under the Act.

A4.2 We may, following Your notice under A4.1, write to:

- (i) Your Landlord Client(s) advising them of the cancellation of Your Membership and the transfer to another Scheme
- (ii) Tenant(s)/Relevant Party(ies) whose Deposits were protected advising them of the transfer in the same terms as clauses A3.1.5(b) and A5.1.

A4.3 If there are any outstanding or ongoing Deposit Disputes at the time of cancellation You agree to comply with Our reasonable instructions. The instruction may be by the ADR Adjudicator or Us.

A4.4 You will not be entitled to any refund of Membership Fees or Deposit Protection Fees following Cancellation of Your Membership in A4.1.

A4.5 Notwithstanding the notice under A3.1.5 the Deposit will remain protected in accordance with A5.1.

## A5 Protection of Deposits following Membership Cancellation

A5.1 Deposits will remain protected for up to 90 days following the date of the notice in A3.1.1.

A5.2 Protection for 90 days in accordance with A5.1 is subject to the observance of the Scheme Rules and/or the remedying of any breach.

A5.3 Where an AST has ended and the Tenant has vacated:

A5.3.1 ADR remains available under the Scheme during the 90 days as per A5.1.

A5.3.2 Any Deposits will continue to be protected for up to 90 days as per A5.1.

**NOTE:** As soon as a Deposit is no longer protected by Us, You are required to protect the Deposit in another scheme from the time protection ceases by Us, and to comply with the statutory requirement to supply the Prescribed Information to the Tenant within 14 days of the date that the Deposit is no longer protected by Us.

## A6 Changes to Membership and/or Membership Data

A6.1 Your Membership is not transferable at any time.

A6.2 Changes in Membership and/or Membership Data must be advised to Us in writing or updated using the online account information available to each Agent Member.

A6.3 You must disclose any change of circumstances in respect of Your Membership criteria (as detailed in A1.1). We may cancel Your Membership following disclosure. Non-disclosure or misrepresentations by Members (as detailed in A1.1) will automatically result in Membership cancellation.

## A7 Registering Landlord Clients

A7.1 You must register all Landlord Clients with Us to protect each Deposit which must at all times be held in Your Client Account.

A7.2 Registration of Landlord Clients must be undertaken using the online account provided to You.

A7.3 Changes to Landlord Client information must be advised to Us in writing or updated using the online account information available to each Agent Member.

A7.4 Landlord Clients can only be registered with Us if they satisfy Our Landlord Client Acceptance Criteria.

## A8 Landlord Client Acceptance Criteria

The Landlord must be a Landlord Client of the Agent Member and have a current signed agreement for services provided by the Agent Member. The Landlord Client must:

- Require You, the Agent Member, to hold the Deposit without deductions. In the event of any Deposit Dispute, the Landlord Client must require You to pass the Disputed Deposit Amount to the Scheme Administrator to hold, pending resolution of the Deposit Dispute.
- Own Residential Property let on an AST
- Provide an address (other than a post office box number) in the United Kingdom or the Channel Islands (excluding the Isle of Man), where they are normally resident.  
Notes:
  - (1) The Scheme will not accept the Agent Member's address as an accommodation address for a Landlord Client.
  - (2) The Scheme will accept Landlords that are temporarily living abroad on business or are members of the armed forces and stationed abroad on assignment.
  - (3) The Scheme may at its discretion accept non UK or Channel Islands resident Landlord Clients upon written application to Us.
- If other than an individual, being a company, partnership or trading entity, be registered, where required by law, with Companies House in the United Kingdom (excluding the Isle of Man).
- Provide a telephone contact number.
- Have no convictions for money laundering or any other financial crime. This requirement extends to company officers.
- Not be disqualified from Membership of any other tenancy deposit protection scheme as defined in the Act.
- Not have been refused, or had revoked, a licence by any local authority in England and Wales required under any part of the Act.

## Section B: Deposit Protection

### B1 Deposit Protection Criteria

B1.1 Subject to observance of the Scheme Rules You may protect any Deposits collected from a Tenant/Relevant Party, on behalf of Your Landlord Client, with Us. You undertake to obtain protection from Us within 14 days of receiving the Deposit from the Tenant/Relevant Party.

B1.2 You agree to use Our online system;

- (a) to provide all required information to enable the Deposit to be protected; and
- (b) to print out the Deposit Protection Certificate.

B1.3 Payment for each Deposit protected will be made either:

B1.3.1 By a cleared cheque within 7 days from the date of the Invoice.

B1.3.2 By direct debit from Your nominated bank account. We will send You a written Invoice prior to drawing the payment from You.

B1.3.3. By BACS transfer.

B1.4 A Protected Deposit cannot be transferred.

B1.5 A change of the Tenant's name as stated on the Deposit Protection Certificate can only be accepted if the Tenant has a change of marital status or surname and by providing evidence of the change.

B1.6 The request to protect a new Deposit must be advised online. Once You have set up the protection any errors can only be changed if You submit details of the error to Us in writing within 14 days of the protection with a full explanation of the circumstances leading to the error.

B1.7 A new protection is NOT required if the original AST continues as a 'statutory periodic tenancy'.

B1.8 A new protection is required when a new AST is issued to the same Tenant.

B1.9 Any change to the amount of the Protected Deposit will require the original Deposit to be unprotected and a new protection to be purchased.

### B2 Joint ASTs

B2.1 The Lead Tenant must be authorised to accept Service of Documents.

B2.2 You, the Agent Member, agree to supply the Scheme with details of all changes to the AST in writing.

B2.3 The Agent Member agree to notify the parties to the joint AST that only the Lead Tenant named on the Deposit Protection Certificate is authorised to deal with Us. All parties to the Joint AST may contact Us for information only regarding the protection of the Deposit.

## Section C: Unprotected Deposit Criteria

C1 You must tell Us when a Protected Deposit is to be unprotected, including:

C1.1 The AST terminating. (The Deposit must be returned to the Tenant/Relevant Party within 10 days of the Tenant/Relevant Party requesting it); or

C1.2 A new AST is granted.

C2 We may contact the Tenant at the alternative address recorded on Our system as stated on the Deposit Protection Certificate, or amended subsequently, to confirm that the Deposit is unprotected.

C3 We may accept a Deposit Dispute which occurred during the period of protection, from a Tenant/Relevant Party, even after the Deposit has been unprotected.

## Section D: Disputes between Agent Member on behalf of Landlord Client and Tenant/Relevant Party over the Return of the Deposit

**NOTE:** For the purpose of sections D and E, some of the clauses assume that a Deposit Dispute will be initiated by the Tenant/Relevant Party although it can also be initiated by You acting for Your Landlord Client.

### D1 Notification of a Dispute

- D1.1 We may investigate a Deposit Dispute over the return of the Protected Deposit in respect of Landlord Clients where Deposits are protected by Us
- D1.2 Deposit Disputes will only be investigated on completion and return to Us of a Dispute Notification Claim Form (DNCf) by a Tenant/Relevant Party. Our investigation will be evidence-based. The Tenant/Relevant Party will be required to submit all supporting evidence to Us.
- D1.3 On receipt of a valid DNCf and supporting evidence, You will be notified of a Deposit Dispute. We will send You copies of the DNCf and supporting evidence.
- D1.4 We may notify You in writing or by telephone prior to sending You the relevant documents.
- D1.5 If the Tenant/Relevant Party does not wish for the Deposit Dispute to be resolved by ADR, You will still be expected to lodge the Disputed Deposit Amount with Us (see D2). You will not be required to supply Us with any Rebuttal Evidence.

### D2 Lodging of a Disputed Deposit Amount with Us

- D2.1 Upon receipt of notification that there is a Deposit Dispute regarding the return of all or part of the Deposit, You must lodge the Disputed Deposit Amount with Us within 10 Working Days.
- D2.2 We may not supply You with all evidence submitted by the Tenant/Relevant Party prior to requesting the lodging of the Disputed Deposit Amount. This may be due to difficulties in sending certain types of evidence such as video and audio evidence.
- D2.3 If during the 10 Working Day period (see D2.1), You resolve the Deposit Dispute with the Tenant/Relevant Party You must tell Us before the expiry of the 10 Working Day period. Evidence of the agreement from the Tenant/Relevant Party will be required prior to the expiry of the 10 Working Day period to prevent disciplinary action by Us. We may contact the Tenant/Relevant Party at their alternative address stated on the Deposit Protection Certificate to confirm the agreement.
- D2.4 You must send the Disputed Deposit Amount to Us by completing the remittance form attached to the notification letter that You receive from Us. You must pay **my|deposits** by cleared funds.

### D3 Failure to Lodge the Disputed Deposit Amount with the Scheme Administrator

- D3.1 You must send the Disputed Deposit Amount to Us within 10 Working Days of the date You are notified of a Deposit Dispute. You must provide counter-evidence regarding the Deposit Dispute within 10 Working Days. [Failure to comply with this time period will result in disciplinary action].
- D3.2 In the event of non-compliance with the request to send the Disputed Deposit Amount to Us, We may seek to recover the Disputed Deposit Amount from Your Landlord Client.
- D3.3 You and Your Landlord Client may not be able to take advantage of ADR if D3.1 is not complied with.
- D3.4 Disciplinary action may be brought against You if Your remittance of the Disputed Deposit Amount in cleared funds is not received within 10 Working Days of the request.

## D4 Holding of the Disputed Deposit Amount by the Scheme Administrator

- D4.1 We will hold the Disputed Deposit Amount, in a Client Account until:
- D4.1.1 The Adjudicator tells Us of the apportionment of the Disputed Deposit Amount between You and the Tenant/Relevant Party.
  - D4.1.2 We are told of the apportionment of the Disputed Deposit Amount between You and the Tenant/Relevant Party by means of a Court Order.
  - D4.1.3 We are told of the apportionment of the Disputed Deposit Amount between You and the Tenant/Relevant Party by a signed agreement from the Tenant/Relevant Party.
- D4.2 We are entitled to keep any interest earned by the holding of the Disputed Deposit Amount to assist in the running costs of the Scheme.
- D4.3 We will pay the Disputed Deposit Amount no later than 10 days after having received the advice on the apportionment in D4.1.

## Section E: Alternative Dispute Resolution (ADR)

### E1 Deposit Disputes

Under the Scheme Rules a Deposit Dispute may be initiated by the Agent Member on behalf of their Landlord Client, or by the Tenant or Relevant Party in accordance with the Act.

### E2 Eligibility to use the ADR Procedure

- E2.1 The ADR Procedure can only be used to settle a Deposit Dispute.
- E2.2 Deposit Disputes will only be dealt with through ADR if the Agent Member and the Tenant/Relevant Party comply with the Scheme Rules.
- E2.3 A Deposit Dispute going through the ADR Procedure does not remove the duty of one party to pay the other party any other amounts not dealt with in the ADR procedure and which are due.
- E2.4 Each Party must bear their own costs of participating in the ADR procedure. The Adjudicator cannot make any award on costs.
- E2.5 Use of the ADR procedure is free of charge at the point of use (other than the parties' own costs).
- E2.6 The Agent Member and Tenant/Relevant Party are free to settle the Deposit Dispute at any stage, whether during the ADR procedure or otherwise. The parties must both then notify Us of their agreement (by providing a written instruction signed by all parties)
- E2.7 ADR will not resolve a claim for an amount of more than the value of the Protected Deposit.
- E2.8 If any of the parties fail to comply with any of the steps detailed in these Scheme Rules the Deposit Dispute will be rejected.
- E2.9 Disputes will not be admitted to the ADR procedure where:
- E2.9.1 They relate to matters other than the return of the Protected Deposit;
  - E2.9.2 Where any party has indicated their intention to issue legal proceedings; and/or
  - E2.9.3 The issues have already been determined by a Court or proceedings have been commenced in a Court.
- E2.10 The Adjudicator may also reject or decline to proceed with Deposit Disputes which, in the Adjudicator's reasonable opinion:
- E2.10.1 Are being pursued in a vexatious frivolous or unreasonable manner;
  - E2.10.2 Are unsubstantiated by reasonable evidence;
  - E2.10.3 Are fraudulent; and/or
  - E2.10.4 Seek to raise matters which have already been decided upon by ADR or a Court.

### E3 Notification of a Deposit Dispute

- E3.1 Following a Deposit Dispute arising between the parties which cannot be resolved by negotiation between them or Us, then the Tenant/Relevant Party or Agent Member may submit a Dispute Notification Claim Form to Us.
- E3.2 The Dispute Notification Claim Form must be fully and properly completed. The form must be returned to Us with written or visual evidence in support of the claim. Copies of, or the original, evidence must be submitted together with the form. We may require copy evidence to be authenticated or certified as true copies. If You send original evidence You must keep copies in case of loss.
- E3.3 Following receipt of the Dispute Notification Claim Form, We may request additional information or clarification. If the Tenant/Relevant Party or Agent Member unreasonably fails to provide such additional information or clarification within the time limits set by Us, We may disqualify the defaulting party from further participation in the ADR procedure.
- E3.4 If the claimant fails to return the DNCF to Us within 10 Working Days of receiving it from Us, or if it is not signed and dated and/or if it is missing any of the mandatory declarations, then the referral to ADR will cease. The DNCF asks whether the claimant wishes to use Our ADR service. If they answer yes the claimant will be bound by the decision of the Adjudicator. If they answer no then the matter will have to be referred to Court by the claimant.

### E4 Notification of a Deposit Dispute to the Other Party

- E4.1 Unless the claimant indicates that they do not wish to use Our ADR procedure, We will provide the other party (Agent Member or Tenant/Relevant Party) with a copy of the Dispute Notification Claim Form and any supporting evidence.

- E4.2 The Agent Member will then within 10 Working Days:

- E4.2.1 Lodge the Disputed Deposit Amount with Us,
- E4.2.2 Submit their agreement to be party to the ADR procedure, where they wish to do so,
- E4.2.3 Submit their counter claim using the Rebuttal Form together with their Rebuttal Evidence, (see E6.1).

#### **OR ALTERNATIVELY the Agent Member will within 10 Working Days**

- E4.2.4 Accept the claimant's evidence and reasons as recorded by them on the Dispute Notification Claim Form copied to them and provide written confirmation to Us that the Disputed Deposit Amount has been returned to the Tenant/Relevant Party. We will ask for confirmation of payment from the Tenant/Relevant Party.
- E4.3 Following the completion of all the events in E4.2.1 to E4.2.3 inclusive, if the Rebuttal Form answers fail to provide an unambiguous indication of the Agent Member's consent to, or refusal of, ADR, the Agent Member will be deemed to have agreed to use the ADR procedure.
- E4.4 If the Scheme does not receive the Disputed Deposit Amount because the Agent Member is not contactable then:
- E4.4.1 The Scheme cannot resolve the Deposit Dispute and We will notify the Tenant/Relevant Party and the Deposit Dispute will then have to be resolved by Court proceedings.
- E4.4.2 Upon production of a Court Order to Us We will guarantee payment of the Disputed Deposit Amount within 10 days.
- E4.4.3 We may take disciplinary action against the Agent Member.
- E4.5 If the Agent Member states that they do not wish to use the ADR procedure then We will notify the Tenant/Relevant Party accordingly and advise them to resolve the Deposit Dispute by Court proceedings in accordance with the Scheme Rules.

### E5 Default ADR

This situation arises when the Scheme Administrator has notified the Agent Member of a Deposit Dispute and provided them with a copy of the Dispute Notification Claim Form and supporting evidence in accordance with E4.1. If the Scheme Administrator is satisfied that the Agent Member has received the documents, and determines that the Agent Member is refusing to co-operate, the Agent Member is to be treated as if they have given consent for the Deposit Dispute to be resolved through the Scheme's ADR procedure.

### E6 Rebuttal Evidence

- E6.1 For the purpose of these Scheme Rules, Rebuttal Evidence means as a minimum requirement the following evidence provided to the Adjudicator by the Agent Member:
- E6.1.1 A signed copy of the AST.
- E6.1.2 Original receipts for items damaged or destroyed and estimates, invoices or receipts for any repairs already completed or needed.

## Section E: Alternative Dispute Resolution (ADR) continued

E6.1.3 A copy of the management contract between the Agent Member and the Landlord Client.

E6.1.4 A written statement indicating details of the dates for rent received and due.

E6.2 The following additional evidence may assist the Adjudicator in reaching their decision:

E6.2.1 A copy of the inventory and/or schedule of condition signed by both the Tenant and Agent Member or Landlord Client;

E6.2.2 Photographs or video footage in electronic format only (i.e. DVD/CD/j-peg/m-peg formats only). The Adjudicator has absolute discretion to reject this evidence on any ground including concerns over the authenticity of the evidence or inability to view or transcribe it

### E7 Small Disputes

E7 If at the completion of steps E1 to E6 above, We are of the opinion that the Disputed Deposit Amount is less than £250 and/or the Deposit Dispute does not involve a complicated legal issue, We may appoint an Adjudicator from Our own in-house team. The in-house Adjudicator will be impartial and suitably qualified and trained and will contact the parties by telephone or email as appropriate, seeking their agreement on the allocation of the Disputed Deposit Amount. If the Parties fail to reach agreement, the Scheme Administrator may make a binding award based on the evidence We have in Our possession.

### E8 The Adjudication

E8.1 Upon completion of the steps detailed in E2 to E6 inclusive, We will forward copies of the following information to the Adjudicator.

E8.1.1 the Tenant/Relevant Party's Dispute Notification Claim Form and supporting evidence;

E8.1.2 the Agent Member's agreement to use ADR, the Rebuttal Form and Rebuttal Evidence;

E8.1.3 any additional evidence submitted by the Agent Member and/or the Tenant/Relevant Party within the time periods.

E8.2 The Adjudicator will make a decision based on the evidence contained in the Dispute Papers and any relevant legislation.

E8.3 The Adjudicator may:

E8.3.1 Contact the parties and request any additional information or documentation. Any such additional information must be provided within the time limits set by the Adjudicator. If the additional information is not delivered to the Adjudicator within the time set, the Adjudicator will continue the ADR procedure. The Adjudicator will proceed with his decision based only on the information and documents provided.

E8.3.2 Make further investigations. The Adjudicator may tell the parties about those investigations and require them to comment within time periods.

E8.3.3 Receive and take account of any spoken or written evidence the Adjudicator thinks is relevant;

E8.3.4 Carry on with the Adjudication even if either Party does not act in accordance with these Rules or any instruction, or if either Party does not take part in any conference call arranged by the Adjudicator;

E8.3.5 End the Adjudication if it appears that the Deposit Dispute cannot be settled under it, or if the Parties settle their dispute before a Decision is made.

E8.4 The Adjudicator may send copies of any additional information or documents received to the other Party.

E8.5 The Adjudicator will make a decision within 28 days of all of the party's agreement to the use of the ADR procedure, by default or otherwise.

E8.6 Within 2 days of the receipt of the decision by Us, We will notify the decision to the parties in writing. The decision will be binding on the parties. We will make payment in accordance with the decision to the relevant party/ies within 10 days of the decision being notified to Us.

E8.7 The ADR decision is final and cannot be appealed through the Scheme.

## E9 Confidentiality

- E9.1 All aspects of the ADR procedure and the decision are confidential and must not be published save as required by law or to enable any enforcement.
- E9.2 Contrary to E9.1, We and/or the Adjudicator may gather, keep and publish statistics and other information which does not identify the parties or the specific details of the Deposit Dispute.

## E10 Liability

We will take reasonable care in the selection of the Adjudicator but We do not accept any responsibility for any losses or expenses suffered or incurred by You as a result of any acts or omissions by the Adjudicator.

## E11 Contacting and Service of Papers

- E11.1 All notices and other communications which You send Us should be addressed to mydeposits, 3rd Floor, Kingmaker House, Station Road, Barnet, Hertfordshire EN5 1NZ.
- E11.2 We will send all documents and payments in accordance with the details We have recorded on the Scheme's record system as supplied by You. It is the Agent Member's responsibility to notify Us of any changes to their own details.

## E12 Miscellaneous Rules and Provisions

- E12.1 If any party has a complaint about any aspect of the ADR procedure or the Scheme then Section F gives details of the complaints procedure.
- E12.2 The ADR Procedure, the Scheme and these Scheme Rules will need to be revised, improved and updated from time to time. We shall give notice to You in respect of such variations on the web site and in a newsletter and, wherever possible, by notice to You individually. If You believe that any change may or has caused loss or harm the complaint procedure should be promptly adopted.
- E12.3 At Our absolute discretion We may decide whether a party has complied with the Scheme Rules and is eligible to participate in, or continue to participate in, the ADR procedure.
- E12.4 We reserve the right to delay taking action on any instructions from You if We consider that We need to obtain further information from You or to comply with any legal or regulatory requirement (including obtaining evidence of identity to comply with money laundering regulations) or to investigate any concerns We may have about the validity or any matter relating to the instruction.
- E12.5 We will not do, or refrain from doing, anything which would, or might in Our judgment, break any relevant laws, rules, regulations or codes or risk exposing ourselves to criticism for behaving improperly or not acting in accordance with good market practice.
- E12.6 These Scheme Rules are governed by and shall be construed in accordance with the Act, and the laws of England and Wales.
- E12.7 Where because of events beyond the power and expectation of the parties occur such as strikes, destruction of property or intervening event from a third party preventing the obligations of the Scheme Administrator from being completed the Scheme Administrator shall not be liable for any failure or delay in performance of any of the Scheme Rules which is caused by circumstances beyond the control of the Scheme Administrator.

## Section F: Complaints

### F1 Complaints Procedure

- F1.1 Our aim is to provide a first class service to all of Our Agent Members and their Landlord Client(s), Tenant(s) and any Relevant Parties and to do everything We can to ensure that You are satisfied. However, if You ever feel that We have fallen short of this standard and that You have cause for complaint, please contact Us either:
- F1.1.1 In writing at:
- mydeposits  
3rd Floor, Kingmaker House  
Station Road  
New Barnet  
Hertfordshire  
EN5 1NZ
- F1.1.2 By email at:
- [complaints@mydeposits.co.uk](mailto:complaints@mydeposits.co.uk)
- F1.2 Upon receipt of a complaint We will:
- F1.2.1 Treat all complaints promptly and seriously and We will investigate the complaint fully.
- F1.2.2 Refer the complaint to the appropriate director, who will allocate an employee of appropriate competence to deal with the complaint. We will advise You of their name and status.
- F1.3 The timescales for dealing with a complaint are as follows:
- F1.3.1 If the complaint cannot be dealt with by the end of the next Working Day, We will provide a written acknowledgement within 5 Working Days.
- F1.3.2 If We believe that the complaint should be directed to another organisation, We will advise You within 5 Working Days and endeavour to identify the party or organisation to whom the complaint should be redirected.
- F1.3.3 In more complicated cases, We will endeavour to complete all investigations within 10 Working Days but if We are unable to do so then We will advise You and give Our best estimate of the time needed to deal with the complaint.
- F1.3.4 In complex cases, We will within 20 Working Days, either send a final response or explain why We remain unable to conclude the matter.

## Section G: Disciplinary Procedure

### G1 Disciplinary Issues

- G1.1 We may, at Our discretion, invoke disciplinary proceedings against You for the following reasons:
- G1.1.1 Any attempt by You to wilfully deceive Us or provide fraudulent information.
- G1.1.2 If You fail to lodge any of the Disputed Deposit Amount with Us when requested to do so.
- G1.1.3 Any breach of the Scheme Rules by You which We deem to be of sufficient gravity to warrant disciplinary action.
- G1.2 In the event that We invoke the disciplinary procedure:
- G1.2.1 We will send You a notice telling You.
- G1.2.2 The events in A3.1 and A5 will apply.
- G1.3 There will be no appeal procedure for this disciplinary procedure and Our decision is final.

## Section H: Data Protection

Personal information about Agents, their Landlord Clients and Tenants/Relevant Parties will be held in connection with tenancy deposit schemes under the Housing Act 2004. The Scheme will be operated for CLG by the Scheme Administrator.

### Personal Information Collected

CLG (via the Scheme Administrator) collects the information You are asked to provide during Your registration or which You supply during the period that any Deposit is protected for You.

CLG's websites and emails use common internet tools such as cookies and beacons.

CLG (via the Scheme Administrator) may collect information about You from other sources necessary to confirm Your identity or the instruction You provide.

For more information on the Scheme's information collection practices (including how to delete or refuse cookies) see Our website – [www.mydeposits.co.uk](http://www.mydeposits.co.uk)

### Uses and Sharing

Your personal information will be used solely for the purposes of the Scheme. CLG may disclose details of some of the activities which take place during the ADR procedure.

The Scheme Administrator (and its insurer Arc Legal Protection Limited, part of the AXA Insurance Group) may process information on behalf of CLG.

In the event of an ADR, information may also be processed on behalf CLG by any ADR service provider nominated by the Scheme Administrator.

These other organisations are required to protect this information on behalf of CLG and cannot use Your personal information for purposes unconnected with the Scheme.

Your personal information may be transferred outside the European Economic Area for the purpose of providing You access to the information, if You access the information from a website outside the European Economic Area.

The Scheme Administrator will process the personal data that it holds on behalf of CLG about You in accordance with the Data Protection Act 1998.

### Your Rights

Under the Data Protection Act 1998 You have the right to access any information that the Scheme or CLG holds about You. You can ask CLG or Us to correct any errors in the information. For more information on Your rights please go to <http://www.communities.gov.uk/corporate/foi/> or contact the Scheme Administrator.

### Contact Details

It would be helpful if You contacted the Scheme Administrator in the first instance before contacting CLG as We process personal data on behalf of CLG. We can be contacted at: mydeposits, 3rd Floor, Kingmaker House, Station Road, New Barnet, Herts EN5 1NZ, by telephone on 0871 703 0552 (note that calls may be recorded) or by email on [customerservices@mydeposits.co.uk](mailto:customerservices@mydeposits.co.uk).

If You wish to contact the CLG You can contact them, by email at [tenancy.deposits@communities.gsi.gov.uk](mailto:tenancy.deposits@communities.gsi.gov.uk), or by phone on 020 7944 8300 or by post at Tenancy Deposit Protection Team, 2/J10, Eland House, Bressenden Place, London SW1E 5DU.

## Section I: About Us

### my|deposits

my|deposits is the trading name of Tenancy Deposit Solutions Limited which is a joint venture company, owned equally by the National Landlords Association and Hamilton Fraser Insurance for the purpose of delivering and operating a Government authorised insurance-based tenancy deposit protection scheme. my|deposits is an appointed representative of HFIS plc who are authorised and regulated by the Financial Services Authority.

my|deposits.co.uk

### The National Landlords Association (NLA)

The National Landlords Association (NLA) is the UK's largest representative body for Landlords letting private residential property and has members countrywide. It protects and promotes the interest of private residential Landlords and represents their views to government, local authorities and the media. The NLA seeks a fair legislative and regulatory environment for the private-rented sector while aiming to ensure that Landlords are aware of their statutory rights and responsibilities. It campaigns to raise standards in the private rented sector whilst fostering a professional and amicable relationship between Landlord and Tenant. For further information visit [www.landlords.org.uk](http://www.landlords.org.uk)



### Hamilton Fraser Insurance Solutions (HFIS)

Hamilton Fraser Insurance is the trading name of HFIS plc, an established insurance broker that is authorised and regulated by the Financial Services Authority. Hamilton Fraser Insurance is a major participant in the specialised Property Insurance Sector. Hamilton Fraser Insurance provides insurance services to clients throughout the UK including, through their tailored product branded 'Landlord Solutions', a premier insurance product for residential landlords and managing agents. For more information visit: [www.hfis.co.uk](http://www.hfis.co.uk). Hamilton Fraser Insurance is the appointed Scheme Administrator.



## Section J: List of Scheme Forms

The following is a list of the forms that Agent Members may need in order to join or manage their Membership of the Scheme and details of how and/or when the form can be obtained:

Name of Document:	How to obtain a copy:
Request for Information Leaflet	Apply to Scheme Administrator
Application for Membership – Agents	Apply to Scheme Administrator or download from Scheme website
Scheme Rules – Agents	Apply to Scheme Administrator or download from Scheme website
Scheme Overview – Agents	Apply to Scheme Administrator or download from Scheme website
Deposit Protection Certificate	Issued by Online System or by Scheme Administrator in response to a specific Deposit Protection Request
Information for Tenants	Apply to Scheme Administrator or download from Scheme website
Request to Unprotect Deposit	Apply to Scheme Administrator or download from Scheme website
Advice and Assistance Guide for Dispute Resolution	Apply to Scheme Administrator or download from Scheme website
Dispute Notification Claim Form	Only issued by Scheme Administrator in response to notification to them of a specific Deposit Dispute
Dispute Rebuttal Form	Only issued by Scheme Administrator in response to receipt by them of a valid Dispute Notification Claim Form

# Appendix: Code of Best Practice for Agent Members of the Scheme

The aim of this Code of Practice (CoP) is to provide a brief statement of standards that Agent Members are expected to observe in connection with the letting of their residential properties.

1. The CoP is designed to raise and maintain standards in the private-rented sector. It sets out the standards of good practice that Agent Members are expected to observe in connection with the letting of their residential properties, and it seeks to promote good relations between Agent Members, their Landlord Clients and Tenants by ensuring a good standard of service to Tenants.
2. Amendments to the CoP will be made as considered necessary by the Board of mydeposits and notified to Agent Members. Should there be any inconsistency between legislation and the CoP, legislation will take precedence.

## Creating a Tenancy

3. Agent Members should provide Tenants with a written statement of the terms of their occupancy, stating the:
  - 3.1 Address of the property being let, and what it is.
  - 3.2 Start and end dates of the tenancy period.
  - 3.3 Rent terms (frequency and method of payment).
  - 3.4 Deposit amounts (and how the deposit will be protected).
  - 3.5 Landlord's contact address in the UK for the service of notices.
4. The Agent Member will make every effort to assist the Tenant with the understanding of their tenancy agreement, referring them if necessary to an independent body for further advice.
5. The Agent Member will inform the Tenant in writing of any additional charges, utility bills, ground rent or maintenance charges that the Tenant will be required to pay during the tenancy, stating where possible the amounts for each and the frequency and method of payment.
6. The Agent Member will provide the Tenant, at the beginning of the tenancy, with a telephone number or other means of contacting the Agent Member or their Landlord Client in an emergency.
8. The Agent Member will give such reasonable assistance as is required by a local authority to enable a Tenant to claim housing benefit/local housing allowance.
9. There should be a written agreement between the Agent Member and their Landlord Client that should include the CoP.

## Provision of Inventories/Schedules of Condition

10. The Agent Member is advised to provide a written inventory/schedule of condition to the Tenant at the start of the tenancy period. The inventory/schedule of condition should be agreed and signed by the Tenant as being an accurate and fair document. Experience shows that this practice can reduce the number of disputes over deductions made by the Agent Member from the Deposit at the end of the tenancy period.

## Maintaining a Tenancy

11. Agent Members are expected to abide by relevant Landlord/Tenant law, including racial equality and disability legislation, in the management of their lettings businesses. Where not covered specifically by the CoP, Landlord/Tenant law will, by implication and by default, be considered part of the CoP. In particular:
  - Tenants will be treated with appropriate courtesy and respect and will not be deliberately misled.
  - Agent Members will act in a fair, honest and reasonable way in all their dealings with the Tenant and will not, as far as is reasonable, disclose personal information about the Tenant without their consent to other parties.

- Agent Members will acknowledge promptly (usually within two Working Days of receipt) all communications received from the Tenant.
- Agent Members will inform the Tenant of any change of manager or Landlord Client contact details.
- Agent Members will abide by the Scheme Rules and accept that any breach of relevant rules will result in cancellation of their Membership of the Scheme.
- All disrepair in the property for which the Agent Member is responsible will be attended to promptly, with minimum disturbance to the Tenant. Wherever possible urgent repairs will be dealt with within three Working Days and less urgent repairs as soon as practicable.
- Agent Members will respect the Tenant's rights to peaceful and quiet enjoyment of the property and will, emergencies excepted, ensure the Tenant is given reasonable notice of at least 24 hours when access to the property is required by the Agent Member.
- Agent Members will provide the Tenant with accommodation that complies with legal requirements relating to the fitness of accommodation (including, but not limited to, the provision of furniture, gas and electrical supply and appliances and their service/maintenance and repair, provision of rent book for weekly tenancies as appropriate, and local authority occupancy standards).
- Agent Members will, when requested, provide the Tenant with a written statement of their tenancy account within five Working Days.
- Before proceedings are commenced, the Tenant will be notified of any breach of the tenancy agreement that is to be used as a basis for legal proceedings against the Tenant.

### Determination of a Tenancy

12. Agent Members taking and holding a tenancy deposit will do so in accordance with any legal requirements for the protection of deposits which may be in force at the time. At the end of the tenancy Agent Members will return any deposit paid by the Tenant promptly in accordance with tenancy deposit protection legislation in effect at the time.
13. Agent Members will not refuse a Tenant a reference for the purposes of securing a new tenancy, without good cause.





**my|deposits**  
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3rd Floor, Kingmaker House  
Station Road  
New Barnet  
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[www.mydeposits.co.uk](http://www.mydeposits.co.uk)

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