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Tenancy deposit protection:

International policy comparison



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abrdrn Financial Fairness Trust has supported this project as part of its mission to contribute towards strategic change which improves financial well-being in the UK. The Trust funds research, policy work and campaigning activities to tackle financial problems and improve living standards for people on low-to-middle incomes in the UK.

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Executive summary

- As the UK government renews arrangements for the protection of private tenants' funds held as security, it should look to international examples for measures to improve the speed at which deposits are returned to tenants, as well as greater clarity and uniformity of regulations. Additionally, policymakers should evaluate the possibility for the investment of deposit monies to fund measures such as deposit 'passporting' and tenant advocacy.
- Tenancy Deposit Protection (TDP) schemes in the UK are designed to safeguard tenants' deposits. Since 2007 in England and Wales and 2012 in Scotland, it has been mandatory for landlords to protect deposits in government-backed schemes, which then adjudicate disputes. There are three primary schemes in each jurisdiction.
- As of 2024, approximately 4.6 million deposits were protected in TDP schemes in England and Wales, totalling approximately £5.2 billion of tenants' money. Around 264,000 deposits were protected in Scotland in 2024, totalling £209 million.
- While tenants are often satisfied with Britain's current system overall,¹ issues such as lengthy deposit returns and a lack of awareness of tenants' rights persist. Alternatives to traditional deposits, such as non-refundable fees or insurance products, represent a small proportion of tenancies,² and are often expensive for tenants. Tenants' inability to protect deposits themselves complicates the process, making it opaque and sometimes causing delays in the return of their money.
- International deposit protection systems vary widely. In New Zealand and most of Australia, for example, tenants' deposits are lodged with a single government-run agency.
- Some Australian states allow tenants to lodge deposits themselves, while interest on those deposits (invested through a state investment corporation) is used to fund a variety of non-governmental activities, including tenant advocacy. Stakeholders in these jurisdictions state that these systems are highly efficient and straightforward.
- In New South Wales (NSW) and Queensland, new systems are being introduced to allow tenants to move protected deposits between tenancies (deposit 'passporting'). This is also currently permitted in New Zealand.
- Other jurisdictions do not offer TDP, typically leaving disputes for the civil justice system to resolve, but do show important differences to the system in Britain. These include strict timelines to return deposits (in British Columbia), the payment of interest accrued on them (in Germany and many states in the USA), or not allowing security deposits at all (in Quebec and Ontario).
- Generation Rent is conducting research on the system of tenancy deposit protection (TDP) in Britain, how it works for tenants, and what could improve the system for them. This report presents findings from an in-depth rapid evidence assessment of academic and grey literature on deposits, alongside an analysis of international policy, and qualitative data from interviews with key stakeholders. This report is published alongside the results of primary research with UK tenants undertaken by Generation Rent regarding tenancy deposits.
- A final report with recommendations will follow in the summer, after further research into the changes tenants want to see in the system has been conducted.

1. Scottish Government. 2018. <https://www.gov.scot/publications/review-tenancy-deposit-schemes-scotland/>

2. UK Government. 2024. <https://www.gov.uk/government/statistics/english-private-landlord-survey-2024-main-report/english-private-landlord-survey-2024-main-report>

Summary of deposit regulations by jurisdiction

Policy	Jurisdiction
Tenancy deposit protection schemes	Australia (all but Northern Territory); England and Wales; New Zealand; Scotland
One central scheme	Australia (all but Northern Territory); New Zealand
Custodial only scheme	Australia (all but Northern Territory); New Zealand; Scotland
Direct protection of deposit by the tenant	Australia (New South Wales; Queensland)
Investment of funds	Australia (all but Northern Territory)
Advocacy services funded	Australia (New South Wales)
Low-income support funded	Australia (all but Northern Territory)
Interest paid to tenant	Germany; Many states and territories in Australia, Canada and USA
Passporting	Australia (New South Wales; Queensland); New Zealand
Instalments	Germany
Mandatory timescales for return	Most jurisdictions; strict timescales in Netherlands and British Columbia (Canada)
Restrictions on demanding a guarantor	Germany

1. Introduction

Wider evidence,³ as well as Generation Rent's own research,⁴ clearly demonstrates that private rental tenants continue to struggle with meeting housing costs, particularly at the beginning of a tenancy. A large part of these high upfront costs consists of the tenancy (or 'security') deposit, with the average deposit in England and Wales totalling £1,118.⁵ The deposit is set at a maximum of five weeks' rent in England and two months' rent in Scotland. The average private rented sector (PRS) rent in Britain was £1,332⁶ at the beginning of 2025, while almost 60% of landlords reported having increased rents in their most recent tenancy.⁷ Finding the money for deposits, the impact of their cost on other parts of life, and the delays and deductions that can occur in the return process, all create significant difficulties for tenants. Despite this, deposits and their protection are rarely the focus of research. With the deposit schemes for England and Wales under review⁸, ministers have an opportunity to look to other countries for policies that overcome the hurdles tenants face in exercising our rights, and to make the most of tenants' locked-up wealth.

This report presents the results of the first phase of Generation Rent's research into the system of tenancy deposit protection in Britain. This seeks to understand what changes could be made to minimise costs and financial uncertainty for tenants when moving home and starting a new tenancy in the PRS. Employing a mixed-methods framework, the research takes stock of how well the system serves tenants, as well as what can be learnt from other jurisdictions in order to improve outcomes in Britain. The report first provides an overview and background to Britain's current deposit protection system, as well as issues with it identified from the literature. The report then examines policies relating to tenancy deposits in other countries: some with similar rental markets to the UK such as Australia, New Zealand/Aotearoa, Canada, USA and Ireland; some which are less similar (Netherlands and Germany). Results of the second phase of the research, based on a survey of over 1300 of Generation Rent's supporters and a series of focus groups with tenants, is published alongside this report.

2. Methodology

A rapid evidence assessment (REA) was undertaken to identify research and other analysis of tenancy deposit protection in the UK and internationally (see appendices for the REA procedure). Based on the results of the REA, a policy analysis relating to tenancy deposits in other OECD countries was conducted. This focussed on a range of aspects of deposit systems including the

existence of protection schemes, the use of interest accrued on deposit monies, and dispute adjudication. Finally, a series of interviews were conducted with key stakeholders such as government agencies, tenants' groups and researchers in those jurisdictions identified for the research. 18 interviews were conducted in total, which were analysed using thematic analysis.

3. Shelter. 2024. https://assets.ctfassets.net/6sxvmndnnpn0s/oe4EelHzmQQSkRO8N1NzV/35c4838633ed1d87e6c65b73aa447f36/Putting_the_stabilisers_on_-_protecting_private_renters_from_unaffordable_rent_rises.pdf

4. Generation Rent. 2024. <https://www.generationrent.org/2024/11/19/renter-survey-results-rent-rises-bidding-wars-and-deposits/>

5. UK Government. 2024. FOI release.

6. ONS. 2025. <https://www.ons.gov.uk/economy/inflationandpriceindices/bulletins/private-rent-and-house-prices-uk/latest#private-rents-by-country>

7. UK Government. 2024. <https://www.gov.uk/government/statistics/english-private-landlord-survey-2024-main-report/english-private-landlord-survey-2024-main-report>

8. Hansard. 2025. <https://questions-statements.parliament.uk/written-questions/detail/2025-01-28/26820>

3. Tenancy deposit protection schemes in Britain

3.1 Introduction

In England and Wales, it has been a legal requirement to protect tenants' security deposits in a government-backed tenancy deposit protection (TDP) scheme since 2007 (for those with assured shorthold tenancies). The requirement to protect deposits in a scheme has been in place since 2012 in Scotland. If a landlord does not protect their tenant's deposit, the tenant can claim up to three times the value of the deposit as compensation.⁹ Analysis of the English Private Landlord Survey estimates that 65-73% of private tenancies are covered by a TDP scheme.¹⁰ While some of the remaining proportion may not have taken a deposit, a significant minority of landlords are likely breaking the law.

There are three government-approved schemes operating in England and Wales and three in Scotland. In England and Wales, these are Tenancy Deposit Scheme (TDS), My Deposits and Deposit Protection Service (DPS). In Scotland, these are Safe Deposits Scotland, My Deposits Scotland and Letting Protection Service Scotland (all subsidiaries of the schemes in England and Wales, respectively).

Since 2019, deposits have been capped at five weeks' rent in England.¹¹ Deposits are permitted to be worth up to two months' rent in Scotland, since 1984.¹² Government data shows that the average number of deposits protected by the deposit schemes in England and Wales in the six months to 31 March 2024 totalled 2.1 million in insured schemes, and 2.5 million in custodial schemes.¹³ Across both types of scheme, the value of deposits protected was an average of £5.2 billion. The average insured tenancy deposit was worth £1,330, while the average custodial deposit was worth £940. In Scotland, 264,000 deposits were protected on 31 March 2024, with a total value of £209 million (with the average deposit thus worth £790).¹⁴ Only custodial deposit protection schemes are permitted in Scotland.

What types of deposit protection schemes are there?

Custodial scheme

In a custodial deposit protection scheme, a landlord or agent pays a tenant's deposit to the scheme. The scheme then holds the deposit until a request is made to repay it at the end of a tenancy. These schemes are free to use.

Insured scheme

If a deposit is protected in an 'insured' scheme, the landlord or agent keeps a tenant's deposit for the duration of the tenancy and pays the scheme a fee to insure it. If there is a dispute, the landlord/agent must give the deposit to the scheme.

9. Citizens Advice. 2025. <https://www.citizensadvice.org.uk/housing/deposits/taking-your-landlord-to-court-if-they-havent-followed-the-deposit-rules/>

10. UK Government. 2024. <https://www.gov.uk/government/statistics/english-private-landlord-survey-2024-main-report/english-private-landlord-survey-2024-main-report>

11. UK Government. 2025. <https://www.legislation.gov.uk/ukpga/2019/4/schedule/1/paragraph/2>

12. UK Government. 2025. <https://www.legislation.gov.uk/ukpga/1984/58/part/VIII>

13. UK Government. 2024. FOI release.

14. Scottish Government. 2024. <https://www.gov.scot/publications/foi-202400424040/>

3.2 Deposit protection regulation

The rules pertaining to how deposits can be lodged, as well as the interest accrued on deposits, differ by type of protection scheme in England and Wales. For example, a deposit can be paid in instalments into a custodial scheme by a landlord registering the full amount and then lodging each instalment.¹⁵ There is no requirement that this is offered to tenants, however. Custodial schemes have also paid interest on tenants' deposits since 2023, at a level set by each scheme (TDS, for example, set the rate at 0.79% in August 2024),¹⁶ however insurance-backed schemes and all schemes in Scotland do not offer this. There is a lack of consistency in how each of the schemes operating in England and Wales and in Scotland operate, including decision-making in deposit disputes¹⁷ and timescales for the return of deposits, while the Scottish Government found that information sharing between the schemes can also present delays in the movement of funds.¹⁸

Elements of the various deposit schemes' operations are stipulated by legislation, such as how either party in a tenancy makes an application to recover the deposit at its end. Similarly, legislation dictates that a deposit is required to be given to the landlord, who then lodges it with a deposit scheme (for custodial schemes), or holds the deposit and registers it with a scheme (for insurance-backed schemes). Landlords must protect deposits and supply tenants with the Prescribed Information (on the deposit's protection) within 30 days of its receipt.¹⁹ This was increased from 14 days by the Localism Act 2011.²⁰

There is no limit on how long a landlord or agent may take to return a deposit at the end of a tenancy, or to submit claims on any part of it. If a tenant requests the deposit from a custodial TDP scheme, the landlord has 30 days in which to respond. According to the legislation, if one party starts the process to recover a deposit with a statutory declaration (which must be 14 days from the end of the tenancy), the other has 14 days in which to respond. In such cases, the instigating party believes that they should receive all or part of the deposit and that the other party is uncontactable. If there is no response

after 14 days, the protection scheme is then required to release the deposit within five days. In an insured scheme, a tenant must ask the landlord to return the deposit at the end of a tenancy, after which the landlord has 10 days in which to respond. The tenant has three months from the end of a tenancy in which they may do this. If there is no response, the tenant is then able to begin a dispute with the TDP scheme. If the landlord is unresponsive after this time, the protection scheme will unprotect the deposit and will notify the tenant of this. The tenant then notifies the landlord, who has 10 days to return the deposit. In insurance-backed deposit schemes, tenants need to go to court if a landlord is being uncooperative or is entirely uncontactable.²¹

Alternative dispute resolution (ADR) is possible at this point in both types of protection scheme, and earlier, if both parties are responsive. The right to withdraw consent to the adjudication process is also dictated by legislation, after which the deposit dispute would go to court to be resolved. The length of time in which a party in the tenancy may withdraw consent to adjudication is dictated by the protection schemes, however. In contrast, legislation in Northern Ireland dictates that ADR is mandatory if the tenant requests it.²² The information required to be provided to tenants by the deposit protection schemes is, to an extent, stipulated by legislation. Tenants must be given proof of their deposit being protected (within the Prescribed Information). Some schemes choose to go beyond this via additional means of contact. The existence of other processes before formal adjudication, such as voluntary self-resolution, are specified by the schemes and not by regulations.

15. My Deposits. <https://www.mydeposits.co.uk/law/#:~:text=Yes%2C%20a%20deposit%20can%20be%20paid%20and%20protected,as%20the%20tenancy%20deposit%20regulations%20requirements%20are%20followed>.

16. TDS. 2024. <https://www.tenancydepositscheme.com/faqs/tenant/custodial/return-my-deposit/return-my-deposit/what-happens-to-the-interest-on-the-deposit-4/>

17. Scottish Government. 2018. <https://www.gov.scot/publications/review-tenancy-deposit-schemes-scotland/pages/2/>

18. Ibid.

19. UK Government. 2011. <https://www.legislation.gov.uk/ukpga/2011/20/part/7/chapter/6/crossheading/tenants-deposits>

20. Ibid.

21. UK Government. 2007. <https://www.legislation.gov.uk/uksi/2007/796/article/3>

22. UK Government. 2012. <https://www.legislation.gov.uk/nisr/2012/373/part/6/made>

3.3 Background to the deposit protection schemes

Although the National Consumer Council originally lobbied for the introduction of a national bond board that would enable 'portable' deposits²³ (whereby a tenant could move a deposit from one tenancy to another, provided there were no claims on it), tenants continue to be forced to cover two deposits when moving, as well as other costs. Much support for the introduction of a national protection scheme centred on its potential to help those in need with the cost of deposits. As Rugg states, 'it was assumed that the collation of all deposits nationally would bring together capital of such value that its interest would under-write a programme to provide deposit guarantees for tenants in need'.²⁴ Again, this did not come to fruition. The protection schemes are instead run by third parties, who use accrued interest for operating costs and as surplus (excluding the interest on deposits in custodial schemes outlined above). Deposit assistance or guarantor programmes are piecemeal across the country and are usually aimed at those who are homeless or who may soon lose their home. Those receiving housing benefit or Universal Credit housing component may also apply to their local authority for a discretionary housing payment to cover the deposit.²⁵

Satisfaction with the TDP schemes is generally high amongst tenants, who feel that their deposits are safe. This can be seen as a marked improvement to the situation that preceded legislation protecting tenants' deposits, where it was common for landlords to withhold money at the end of a tenancy with tenants facing very limited means of recourse.²⁶ A significant minority of tenants still report that they have had tenancies in which the landlord has not protected the deposit, however.²⁷

Generation Rent's most recent survey of supporters reveals that 17% of private renters report that their landlord did not protect their deposit, while the same proportion did not know if it was protected.²⁸ Landlords have been found to generally view the scheme regulations positively, although longer-term landlords and those with more than one property are more likely to be less positive.²⁹ The latter two groups are also the most likely to be familiar with the regulations and processes.

Alternatives to deposits have become more common in Britain in the past eight years, with much variation between schemes. Some are insurance products marketed to tenants and thus backed by Financial Conduct Authority (FCA) regulation; however these represent a minority, with most 'deposit-alternative' schemes being unregulated. Many deposit-alternatives have models in which a tenant pays an upfront fee (often equivalent to one week's rent)³⁰ or a monthly fee instead of a deposit.³¹ These fees are predominantly non-refundable. Such schemes should be seen as a 'poverty premium',³² as those tenants with the least money end up paying fees amounting to more than those who can afford to pay the deposit upfront. It should also be noted that those tenants with insurance products are usually unable to make claims below the level of excess,³³ potentially resulting in even higher costs. A representative of Citizens Advice UK in interview stated that the organisation is seeing more enquiries relating to these schemes in recent years, with some tenants feeling pushed towards them by letting agents who do not make clear that, in most circumstances, tenants do not get fees back. They also note that an increasing number of tenants are being told that they are required to take out insurance products or provide proof of significant savings in addition to paying a deposit, despite the latter existing to cover damage.

23. Rugg, J. 2012. *Deposit Assistance Schemes for Private Rental in the United Kingdom*. York: University of York.

24. Ibid.

25. Shelter. 2025. https://england.shelter.org.uk/housing_advice/benefits/discretionary_housing_payments_dhp

26. Phelps, L. 1998. *Unsafe Deposit: CAB Clients' Experience of Rental Deposits*. London: NACAB.

27. Harris, J. & Orford, S. 2020. <https://housingevidence.ac.uk/publications/briefing-paper-assessing-compliance-with-deposit-protection-requirements/>

28. Generation Rent. 2025. Supporter survey Autumn 2024.

29. Scottish Government. 2018. <https://www.gov.scot/publications/review-tenancy-deposit-schemes-scotland/>

30. Ibid.

31. Generation Rent. 2019. https://www.generationrent.org/2019/04/11/deposit_free_products/

32. Caplovitz, D. 1963. *The poor pay more: consumer practices of low income families*, New York: Free Press of Glencoe.

33. UK Government. 2019. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1076316/Tenancy_Deposit_Reform_Call_for_Evidence.pdf#:~:text=In%20June%202018%20the%20Government%20established%20Tenancy%20Deposit%20Protection%20Working

3.4 Problems with the system of deposit protection in Britain

Even with the requirement to protect deposits, tenants can still face delays in the return of their money. The average time between the initiation of the deposit repayment process was found to be 29 days when instigated by the landlord and 37 days when by the tenant.³⁴ Custodial schemes, for example, require both parties to consent to the release of a deposit, but there is no legislative requirement to engage with the process. This means that tenants are forced to obtain and pay for a statutory declaration from a solicitor when landlords do not engage with the dispute process.³⁵ If a landlord refuses to use ADR, some types of scheme state that the deposit is only repaid to the tenant after six months of no further action,³⁶ while others will only release the deposit with the receipt of a court order.³⁷ The dispute process itself can also be lengthy, with data from 2022/23 showing that disputes took an average of 20 days to resolve for My Deposits and TDS, and 27 days for DPS.³⁸ A spokesperson for Living Rent, a tenants' union in Scotland, notes that it can take four and a half months for tenants to get deposits back when taking into account time allowed following each stage of a dispute, including the 20 days the adjudication is permitted to reach a judgement. Living Rent argue that landlords should have 10 working days from when the tenant vacates the property to submit a fully evidenced claim, otherwise the deposit is automatically returned to the tenant. They also state that tenants should have 20 working days to dispute a claim, with the adjudicator making a decision within 10 days.

In England and Wales, there were disputes in two per cent of deposits released from custodial protection schemes in 2024, FOI data reveals.³⁹ This is down from five per cent in 2023 and three per cent in 2022. The insured schemes are less transparent, but data from 2023 shows that adjudications took place in around four per cent of deposits released from protection, and that this rate is likely to have risen. In Scotland, almost seven per cent of deposits released from protection from Safe Deposit Scotland were disputed. The two

remaining TDP schemes did not supply the requested data to the Scottish Government.⁴⁰ As had been noted, the number of disputes dealt with by TDP schemes is 'strong evidence of their basic utility'.⁴¹ Were it not for TDP, a significant additional pressure would be placed on small-claims courts to resolve the cases in question, although many tenants would likely not take disputes to this stage. Research by Generation Rent found that many respondents found the dispute process fair and useful.⁴² However, others felt that the process or the decision reached was unfair, citing issues such as the burden of evidence being placed on the tenant, or not having an opportunity to counter landlords' claims. Regardless of the outcome, many felt that it was slow, stressful and difficult, with some saying that they wouldn't go through it again.

The above is indicative of the burden that is placed on tenants in the pursuit of their money and of the significant barriers they face; barriers that allow non-compliant landlords to flout the law.⁴³ In interview, a representative of ACORN, a community union in England and Wales, stated that 11% of housing enquiries to the organisation in November and December 2024 related to deposits. A representative of Citizens Advice UK also cited enquiries from clients whose landlords have delayed or refused to return a deposit even after a decision has been made by adjudication, or who have encouraged dealing with a dispute outside of the scheme once the process has already been instigated, resulting in tenants missing deadlines. Tenants can apply to the First-Tier Tribunal (Property Chamber) concerning issues such as rent repayment orders and banned tenant fees. In Scotland, tenants can also apply to the Tribunal concerning landlords protecting their deposits or registering as landlords. However, tenants are often reluctant to take cases to the tenancy tribunal even where they are aware of their rights, with the majority of those reporting to use the tribunal being landlords.⁴⁴ Yet, limited research has been conducted of tenants' experience of seeking legal redress under the current system.

34. UK Government. 2019. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1076316/Tenancy_Deposit_Reform_Call_for_Evidence.pdf

35. House of Commons Library. 2022. <https://researchbriefings.files.parliament.uk/documents/SN02121/SN02121.pdf>

36. For example, DPS Custodial scheme. See: https://content-assets.computershare.com/eh96rkku9740/6g6EABQcslyn2xT51rtqio/f39f2997617f98c56cfd5f92cf399a13/DPS_Custodial_terms_conditions_Oct2024_v33.pdf

37. For example, My Deposits Custodial scheme. See: <https://www.mydeposits.co.uk/wp-content/uploads/2024/07/mydeposits-custodial-scheme-rules.pdf>

38. TDS. 2023. https://www.tdsgroup.uk/_files/ugd/48110f_ee87b52a4cb640fb956df446d8eda79f.pdf

39. UK Government. 2024. FOI release.

40. Scottish Government. 2024. <https://www.gov.scot/publications/foi-202400424040/>

41. Sidoli del Ceno, J., George, H., & Vols, M. 2015. Adjudication in tenancy deposit scheme disputes: agents' perspectives. *International Journal of Law in the Built Environment*. 7(2), pp.162-172.

42. Generation Rent. 2019. Supporter Survey Autumn 2019.

43. House of Commons Library. 2022. <https://researchbriefings.files.parliament.uk/documents/SN02121/SN02121.pdf>

The Citizens Advice UK representative noted the importance of taking pictures of homes when moving in and when leaving, careful use of the inventory, and knowing that, despite frequent claims by landlords and agents, tenants are not required to pay for professional cleaning. This highlights how the current deposit protection system relies on tenants knowing and exercising their rights, however existing evidence shows that awareness of rights and regulations surrounding deposits amongst tenants is low. For example, only 54% of tenants responding to the UK Government's 2019 call for evidence stated they had heard of ADR provided by the deposit protection schemes, while only 19% were aware of how to complain about an ADR decision.⁴⁵ It should be noted that this was not a representative sample of tenants and that the true rate of awareness of these processes is likely to be lower. While TDP schemes attempt contact with tenants in custodial protection schemes, Sidoli del Ceno et al (2015) suggest that those best placed to inform tenants may be lettings agents, where applicable.⁴⁶ Agents are already in contact with tenants and thus well suited to provide information. However, there is reportedly often confusion amongst tenants who assume agents are a neutral party, rather than working in landlords' best interests.⁴⁷ The Scottish Parliament's Local Government, Housing and Planning Committee, reporting on the Housing (Scotland) Bill, state that:

'It is often landlords and their agents that are the barriers to receiving deposits in a fair and timely manner, and therefore the Committee can see merit in the suggestion that the deposit system would best work if tenants deal directly with the deposit schemes'.⁴⁸

Permitting tenants to lodge deposits with TDP schemes themselves may go some way to ameliorating the issues discussed above, while also providing an opportunity to become informed of the processes and regulations involved. It may also reduce the administrative burden on landlords and agents, which was part of the reason that led to the then director of the Residential Landlords Association advising landlords to take two months' rent upfront, rather than a deposit, in 2008.⁴⁹

The UK government claimed that 'requiring a deposit on the tenancy creates a disincentive for tenants to do damage to the property because they have skin in the game'.⁵⁰ Importantly, most tenants receive the majority of their deposit after adjudication. A certain amount of deposits, however, go unclaimed at the end of a tenancy. A review by the Scottish Government found that most unclaimed deposits in Scotland belong to students, particularly those from abroad, while some large deposits belong to companies taking out tenancies for their employees.⁵¹ With unclaimed deposits valuing around £4 million in Scotland, the government has moved to give ministers the power to use this money to improve support and advice for tenants in the Housing (Scotland) Bill.⁵²

44. Scottish Government. 2018. <https://www.gov.scot/publications/review-tenancy-deposit-schemes-scotland/>

45. UK Government. 2022. <https://www.gov.uk/government/calls-for-evidence/tenancy-deposit-reform-a-call-for-evidence/outcome/tenancy-deposit-reform-a-call-for-evidence-government-response>

46. Sidoli del Ceno, J., George, H., & Vols, M. 2015. Adjudication in tenancy deposit scheme disputes: agents' perspectives. *International Journal of Law in the Built Environment*, 7(2), pp.162-172.

47. Ibid.

48. Scottish Parliament. 2024. Housing (Scotland) Bill Stage 1 Report. Local Government, Housing and Planning Committee.

49. Roxburgh, H. 2008. <https://www.egi.co.uk/news/landlord-body-advises-owners-to-shun-deposits-1/>

50. UK Government. 2019. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1076316/Tenancy_Deposit_Reform_Call_for_Evidence.pdf#:~:text=In%20June%202018%20the%20Government%20established%20Tenancy%20Deposit%20Protection%20Working

51. Berry, K. and Haley, L. 2024. <https://bprcdn.parliament.scot/published/2024/6/6/c86fccb3-a5f3-47fd-9e3d-56c2f5d4d680/SB%2024-30.pdf>

52. Scottish Parliament. 2024. <https://digitalpublications.parliament.scot/Committees/Report/LGHP/2024/11/14/ce816963-d470-47f0-9950-57477b7fd798#b8b32399-e2e7-4c12-99c7-e459766b65d6.dita>

4. International systems of deposit protection

While tenancy deposits are common throughout most OECD countries, there remains variation between them in methods of deposit protection or other related regulations. This includes the method by which deposits are lodged and held, rules regarding the return of deposit monies, and how the interest accrued on deposits is used. Australia, New Zealand, the USA and Canada have broadly similar housing systems to the UK and are thus the focus of the review. Like the UK, these are examples of 'dualist' rental systems with a lightly regulated, insecure private rental sector (PRS) separated from a means-tested social rental sector. This is in contrast to the 'integrated' rental markets found in some European countries, such as Germany, the Netherlands and Denmark.

In particular, New Zealand and Australia, particularly the Australian states of New South Wales and Queensland, have policies that have the potential to improve the UK's system of deposit protection if transferred. Alternatively, the Canadian states of Ontario and Quebec do not allow landlords to charge security deposits. These systems, and others, are detailed below.

Summary of deposit protection policies

Country	Tenancy deposit protection	Interest on deposits	Deposit 'passporting'	Other	Maximum deposit
Australia	Yes (in all but Northern Territory). One centrally-administered custodial scheme in most states.	Paid to tenants in some states. Additionally, invested in most states (notably NSW) and used to fund other services.	In early stages in NSW and Queensland.	NSW and Queensland allow tenants to protect deposits themselves. All states offer financial assistance or loans for meeting deposit costs.	Four weeks' rent.
New Zealand	Yes. One government-administered custodial scheme.	Used to cover TDP running costs, Tribunal costs, and some tenancy advice and information.	Yes, with both landlords' permission.		Four weeks' rent.
Canada	No	Paid to tenants in some territories.	No	Deposits must be returned within 10-14 days after the end of a tenancy. Deposits illegal in Quebec and Ontario.	Varies. 2-4 weeks' rent where permitted.
USA	No	Paid to tenants in some states.	No		Varies. Often one- or two-months' rent.
Ireland	No	No	No	TDP is enabled by legislation, however, has not been enacted. Several political parties have promised to do so, with a custodial scheme most likely to be provided.	Two months' rent.
Germany	No	Paid to tenants on return of the deposit.	No	Payment of deposit in instalments permitted. Where tenant cannot pay deposit, guarantor is required, which may be a bank or similar. Landlords cannot require both a deposit and guarantor.	Three months' rent.
Netherlands	No	No	No	Landlords have 14 days to return deposits. Some proactive enforcement of regulations surrounding deposits, also.	Two months' rent.

4.1 Australia

Similarly to the UK, Australia has a political focus on home-ownership, which dominates its housing system. However, there is a large and growing PRS, constituting over 25% of Australian households. As in the UK, part of this growth is driven by high house prices and a decrease in social housing stock.⁵⁴

The current system of bond (i.e. deposit) lodgement that exists in all states but Northern Territory was implemented after the 1975 report by the Commission of Inquiry into Poverty (COIP), which recognised that bonds were the source of a great number of disputes between landlords and tenants.⁵⁵ In these states, the system requires that tenants' security deposits are held centrally by the state authority. The holding of a bond by the bond board represents an official agreement and thus greater enforceability of the tenant's rights.⁵⁶

Through the investment of bond monies, the state-run bond lodgement systems contribute to the funding of a range of related services and organisations. This includes fair trading agencies, tribunals and other dispute resolution services, and tenants' advice services.⁵⁷ The report by COIP, referenced above, recommended that the interest on bonds should be used in such a way:

'It is true that our proposal does not allow the tenant to receive the relatively small amount of interest earned by his own security deposit, but the income derived from all bond moneys will be used in large measure to benefit tenants'.⁵⁸

This change was to address the situation common at the time, in which landlords or agents received the sole benefit of the bond money, for which the Commission stated there was 'no justification'.⁵⁹

In addition to greater security of tenants' bonds and the use of the interest accrued on them, the bond boards

have proved to be a valuable source of data. Being held by one, state-administered source has ensured ease of access for researchers as well as data consistency. Bond board data has been used to analyse a range of topics beyond those related to bonds, including the determination of fair rent increases⁶⁰ and Airbnb's impact in local housing markets.⁶¹

All Australian states and territories provide either financial assistance or a repayment scheme to meet the costs of paying a bond and two weeks' advance rent at the start of a tenancy. Some offer grants that do not need to be repaid.⁶²

Bond alternatives, such as insurance schemes, are small but growing. These present many of the same issues as comparable products in the UK.⁶³ In some territories, such products are illegal,⁶⁴ with Consumer Affairs Victoria specifically refuting the claim that these products are cheaper than bonds.⁶⁵ Sources also point to the potential data privacy concerns around some of these products and the technologies behind them. For example, TrustBond, currently operating only in South Australia, 'measures trustworthiness using online data including networks, ratings and reviews from Facebook, Twitter, LinkedIn, Airbnb, eBay and Uber to determine a tenant's TrustScore'.⁶⁶ Regulations currently lack clarity around bond alternatives, it is noted.⁶⁷

4.1.1 New South Wales

New South Wales (NSW) is Australia's most populous state. Its private rented sector has a turnover of approximately 330,000 every year, with the average tenancy being 1.6 years.⁶⁸ Bonds are lodged with the Rental Bond Board (RTB) as part of NSW Fair Trading, an office of the state government. In June 2024, 968,350 bonds were held in by the RTB, which were valued at A\$2.1 billion (£1.1 billion). The RTB provides an online service, which has operated since 2015, and landlords are required to give tenants the option to use this.⁶⁹ The

54. Hulse, K. 2002. https://www.ahuri.edu.au/sites/default/files/migration/documents/AHURI_Final_Report_No24_Demand_subsidies_for_private_renters_a_comparative_review.pdf

55. COIP. 1975. Law and Poverty in Australia. Commission of Inquiry into Poverty. Second Main Report. Canberra: Government Printer of Australia.

56. Wulff, M. and Maher, C. 1998. Long-term renters in the Australian housing market. Housing Studies, 13, pp.83-98.

57. Hulse et al. 2018. https://www.ahuri.edu.au/sites/default/files/migration/documents/AHURI_Final_Report-296-Private-rental-in-transition-institutional-change-technology-and-innovation-in-Australia.pdf

58. COIP. 1975. Law and Poverty in Australia. Commission of Inquiry into Poverty. Second Main Report. Canberra: Government Printer of Australia.

59. Ibid.

60. AHURI. 2018. The Airbnb effect in Sydney and Melbourne. Australian Housing and Urban Research Institute.

61. <https://www.ahuri.edu.au/research-in-progress/a-fair-rent-facilitating-residential-tenancy-determination-through-rental-data-analysis>

62. Jacobs et al. 2007. Band-aid or Panacea? The Role of Private Rental Support Programs in Addressing Access Problems in the Australian Housing Market, Housing Studies, 22(6), pp.901-919.

63. Rogers, D. et al. 2019. Digital Housing and Renters: Disrupting the Australian Rental Bond System and Tenant Advocacy. Planning theory & practice, 20(4), pp.575-603.

64. ACT Government. 2023. https://www.justice.act.gov.au/data/assets/pdf_file/0009/2333934/Renting-Book-October-2023-Update.pdf

65. Victoria Government. 2024. <https://www.consumer.vic.gov.au/housing/renting/rent-bond-bills-and-condition-reports/bond/illegal-bond-replacements>

66. Hulse et al. 2018. https://www.ahuri.edu.au/sites/default/files/migration/documents/AHURI_Final_Report-296-Private-rental-in-transition-institutional-change-technology-and-innovation-in-Australia.pdf

67. Ibid.

68. NSW Government. 2024. <https://www.nsw.gov.au/media-releases/portable-bonds-scheme-to-deliver-cost-of-living-relief>

69. Tenants' Union NSW. 2024. <https://files.tenants.org.au/factsheets/fs03.pdf>

design of the Board enables the interest accrued on tenants' bonds to be reinvested by government into services that offer support to tenants, such as advice services, the dispute resolution service, and the tenancy tribunal.⁷⁰

The RTB holds bond monies in trust, primarily invested in fixed interest securities but with a proportion in cash.⁷¹

The RTB currently invests through the NSW Treasury Corporation, however it has discretion in investment management. The interest earned on bonds is used for a number of purposes, alongside the RTB's own running costs. In the 2023/24 financial year, the RTB contributed A\$28.2 million (£14.2 million) to non-government organisations,⁷² including:

- A\$15.4 million (£7.8 million) towards the Tenants Advice and Advocacy Program, which provides advice and advocacy services (including in the Tribunal) throughout NSW;
- A\$8 million (£4 million) to the Financial Counselling Services Program, which provides fee-free financial counselling; and
- A\$3.5 million (£1.8 million) towards the No Interest Loan Scheme (NILS), which is a community-managed microcredit programme. NILS provides fee-free and interest-free loans to those on low incomes for the purchase of essential goods and services.

The Rental Bond Interest Account also covers half the costs of administering residential and social housing matters in the NSW Civil and Administrative Tribunal. In 2024 this totalled A\$13.5 million (£6.8 million).⁷³

The Tribunal is the main mechanism by which tenancy disputes are resolved in the state, including disputes relating to the payment of the rental bond.

Importantly, a new system of 'portable' bonds is being introduced in NSW. This will enable tenants to move a

bond lodged with the Board for one tenancy, to a new tenancy.⁷⁴ The introduction of portable bonds is in part a recognition of the difficulty that tenants face meeting the cost of high rents, low supply of accommodation, and average moving costs of \$4,000 (£2,000).⁷⁵ Higher rents have led to increasingly larger bonds being required, which has become a financial burden for both low- and middle-income earners.⁷⁶ It was also suggested by Tenants' Union of NSW (TUNSW) in previous years as a means of preventing companies offering exploitative 'bond alternative' products that cost tenants significant sums of money.⁷⁷ The system is due to be in place by 2025, after an ongoing upgrade of the bond lodgement system, the NSW Government states.⁷⁸

However, a spokesperson for TUNSW states that rising bond costs are particularly difficult for entrants to the private rental sector, and an ideal complementary policy to portable bonds would therefore be interest-free bond loans. The state government provides assistance for low-income renters in meeting the costs of bonds, via the 'Rentstart' scheme, while bonds are currently also permitted to be paid in instalments.⁷⁹ While NSW's bond loan system is only open to those on very low incomes, Australian Capital Territory (ACT) has opened these to those on moderate incomes, thus improving access to the sector.

4.1.2 Queensland and Victoria

Queensland's bond lodgement system is similar to that of NSW, with tenants able to lodge bonds directly with the bond board. If the landlord or agent is to lodge the bond, they have 10 days in which to do so after receiving it from the tenant.⁸⁰ Bonds are payable in instalments in the event that the tenant cannot afford the bond upfront, with the agreement of the landlord/agent.⁸¹ Queensland is also implementing a series of important changes to its bond system, including portable bonds; however this is not at as advanced a stage as it is in NSW. However, new requirements are in force from 2024 that stipulate

70. Rogers, D. et al. 2019. Digital Housing and Renters: Disrupting the Australian Rental Bond System and Tenant Advocacy. *Planning theory & practice*. 20(4), pp.575-603.

71. NSW Government. 2018. https://www.nsw.gov.au/sites/default/files/2020-02/dcs_rbb_annual_report2017-18.pdf

72. NSW Government. 2024. <https://www.parliament.nsw.gov.au/tp/files/189707/NSW%20Rental%20Bond%20Board%20Annual%20Report%202023-24.pdf>

73. Ibid.

74. NSW Government. 2024. <https://www.nsw.gov.au/media-releases/portable-bonds-scheme-to-deliver-cost-of-living-relief>

75. Ibid.

76. Rogers, D. et al. 2019. Digital Housing and Renters: Disrupting the Australian Rental Bond System and Tenant Advocacy. *Planning theory & practice*. 20(4), pp.575-603.

77. TUNSW. 2018. <https://tunswblog.blogspot.com/2018/05/does-bondcover-have-you-covered.html>

78. NSW Government. 2024. <https://www.nsw.gov.au/media-releases/portable-bonds-scheme-to-deliver-cost-of-living-relief>

79. Rogers, D. et al. 2019. Digital Housing and Renters: Disrupting the Australian Rental Bond System and Tenant Advocacy. *Planning theory & practice*. 20(4), pp.575-603.

80. Queensland Government. 2024. <https://www.rta.qld.gov.au/forms-resources/factsheets/rental-bonds-fact-sheet>

81. Tenants Queensland. <https://tenantsqld.org.au/factsheets/rental-bonds/>

any claim by a landlord or agent on a tenant's bond must include supporting evidence.⁸² If parties do not agree to the return of a bond, there is a dispute resolution service available. One party can submit a notice of claim on a bond, after which the other party has 14 days to take action before the bond is returned.

In Victoria, Australia's second most populous state, bonds are lodged with a government-administered bond board in a similar way to those states above.⁸³ Tenants are not able to lodge the bonds themselves, however, and no dispute resolution service is available other than the tenancy tribunal. In common with most other states, the rental provider (landlord or agent) will do a final inspection of the property at the end of a lease, for which tenants must be present or have been given the opportunity to be so. Importantly, however, a landlord must apply to the Tribunal where their tenant does not agree to a claim on the bond, otherwise the bond is paid back to the tenant.

4.1.3 Issues with the Australian systems

Even in states such as NSW and Queensland that offer systems that are ostensibly more evenly weighted between parties, certain issues with the deposit protection system exist. As mentioned above, Queensland has implemented changes to the evidence requirement for landlords' claims on deposits, shifting the burden of proof and labour away from tenants who had previously had to face lengthy delays after appealing the claims to the tribunal.⁸⁴ Other states, however, have systems in which landlords and agents are not required to present evidence when making claims on bonds, enabling opportunistic and even false claims. Anika Legal, a charity that assists tenants with legal matters in Victoria, states that 'two in five bond claims resulted in the rental provider receiving no money at all, suggesting that the claims were completely baseless'.⁸⁵ A representative of Better Renting, an Australian tenant advocacy group, agrees with this assessment, stating that landlords are currently not disincentivised from making fraudulent claims.

Many cities in Australia are also facing a lack of rental supply and high numbers of renters. Landlords and agents are therefore able to discriminate in their choice of tenants more easily, knowing that high demand will ensure the accommodation is tenanted. For example, landlords have been accused of rejecting applicants who have received bond loans from the state government, as they do not want to lodge bonds with the bond board.⁸⁶ In these cases, which are more likely to occur in the informal and less-expensive private rental markets, research posits that landlords instead want to use the bond money for their own purposes.⁸⁷ As TUNSW point out, having an online bond system, to which the tenant lodges the bond themselves, ameliorates part of this problem by hiding the source of the bond.

Different views also exist regarding the use of the interest earned on tenants' bonds. While NSW is committed to using the interest on bonds to support tenants, particularly those on lower incomes, rather than government budgets, other states are different. Better Renting use the example of ACT, where interest finances the Tribunal. A representative of the organisation states that, while tenants being able to use the Tribunal more easily is clearly positive, the reality is that landlords are bringing the majority of claims and are therefore benefitting from tenants' money. Interest on bonds also does not directly fund tenancy services, but goes through government first. Better Renting point out that this is often less than the original sum. A representative of TUNSW, itself funded by NSW's bond interest account, agrees that more funding is needed for tenant advice and advocacy from bond monies.

82. Queensland Government. 2024. <https://www.rta.qld.gov.au/forms-resources/factsheets/rental-bonds-fact-sheet>

83. Victoria Government. 2023. <https://www.consumer.vic.gov.au/housing/renting/rent-bond-bills-and-condition-reports/bond/bond-claims-and-refunds>

84. <https://makerentingfairqld.org.au/an-unfair-bond-claim-leads-to-a-time-consuming-qcat-case-for-julie-and-steven/>

85. Anika Legal. 2024. <https://www.anikalegal.com/blog/broken-bonds/>

86. Rogers, D. et al. 2019. Digital Housing and Renters: Disrupting the Australian Rental Bond System and Tenant Advocacy. *Planning theory & practice*. 20(4), pp.575-603.

87. Ibid.

4.2 New Zealand/Aotearoa

Tenancy deposits in New Zealand are handled in much the same way as in Australia. The regulations governing the way in which they are dealt with stem from the Residential Tenancies Act 1986, which stipulates that they can be a maximum four weeks' rent, must be lodged with the bond centre, can be paid in instalments, and can be lodged by the landlord or agent or by the tenant, with the landlord's permission.⁸⁸ Bonds are lodged with Tenancy Services, part of the Ministry of Business, Innovation and Employment (MBIE), and this must be done within 23 days of a landlord receiving the bond from a tenant.⁸⁹ No other form of deposit, e.g. 'pet bonds', are permitted to be charged; however, the bond amount can be increased (or decreased) in line with changes to rent.⁹⁰ Reportedly, a large proportion of tenancy tribunal applications relate to landlords not lodging tenants' bonds,⁹¹ for which the maximum penalty is NZ\$1,500 (£650).⁹² A spokesperson for Renters United, a tenants' rights advocacy group in New Zealand, states that most landlords in the country are property agents, and are thus unregulated. They often do not give receipts for bonds being lodged, while many are not even aware of their duty to lodge bonds at all.

At the end of a tenancy, parties sign a bond release form if in agreement. If there is not an agreement between the parties, the tenant can complete the bond refund form, to which the landlord has 10 days in which to object. If this occurs, the case usually goes to the tribunal, although a mediation service is also available.⁹³ Deposits are also able to be transferred between tenancies with the agreement of both landlords who, along with the tenant, must complete a bond transfer form and send this to Tenancy Services.⁹⁴ In interview, the representative of Renters United stated that this is seldom done, however, owing to complexities involved in securing agreement from both landlords when moving home. This highlights the complications arising from systems in which tenants are not able to lodge deposits with TDP schemes themselves.

The interest earned on deposits is returned to the New Zealand government, which uses it to fund the

enforcement system and the tenancy tribunal; Renters United report that, in the 2016/17 financial year, NZ\$20.6 million (£9.3 million) of interest from bond monies went towards funding enforcement.⁹⁵ They also report that millions of dollars of unclaimed bonds are held by the government, which are ultimately returned to the Crown, and are not reinvested in services for tenants.⁹⁶ Unlike in the Australian states mentioned previously, interest earned on bonds do not directly fund non-governmental tenant advice services, despite long-standing calls from professionals⁹⁷ and such funding being promised in the advance of the 1986 Act.⁹⁸ Once widespread, only two tenants' unions now exist: Tenants' Protection Association (TPA) Auckland and the Manuwatu Tenants' Union. The Christchurch branch of the TPA closed in 2022, citing a lack of funding.⁹⁹ The New Zealand government does use interest earned on bond monies to fund Tenancy Services, which, alongside administration of the bond lodgement system, provides information and advice on the roles and responsibilities of tenants and landlords. However, a spokesperson for Renters United points out that 70% of Tenancy Services' time is spent advising landlords, despite being funded by tenants' money.

A representative of TPA Auckland states that the bond system in New Zealand is effective and straightforward, with the bond office priding themselves on high levels of efficiency and the quick return of deposits. They say that tenants generally find the process fair, however some face difficulties in getting refunds, particularly once they've left the property. Reportedly, the requirement for both parties to sign the bond release form increases the caseload of the tenancy tribunal, which causes significant delays. The TPA also notes that many tenants do not know the rules relating to the bond release form, with some giving the signed form to their landlord rather than Tenancy Services, who sometimes alter it or make additional charges without the tenant's agreement. The representative of Renters United also highlights how tenants cannot bring legal representation to the Tribunal. The level of skill and experience in navigating the process is therefore weighted towards the property agents. A researcher from the University of Otago (Dunedin, New Zealand) notes that, because Tenancy

88. New Zealand Government. 2023. <https://www.legislation.govt.nz/act/public/1986/0120/latest/whole.html#DLM95043>

89. Aratohu Tenant Advocacy. 2024. <https://tenant.aratohu.nz/starting-payments/paying-bond/>

90. New Zealand Government. 2022. <http://bondhelp.tenancy.govt.nz/assets/Uploads/Tenancy/renting-and-you-english-edition.pdf>

91. New Zealand Government. 2024. <https://www.tenancy.govt.nz/about-tenancy-services/data-and-statistics/>

92. New Zealand Government. 2020. <https://legislation.govt.nz/act/public/1986/0120/latest/whole.html#LMS454331>

93. New Zealand Government. 2022. <http://bondhelp.tenancy.govt.nz/assets/Uploads/Tenancy/renting-and-you-english-edition.pdf>

94. Ibid.

95. Renters United. 2018. <https://rentersunited.org.nz/plan/meaningful-enforcement/>

96. Ibid.

97. Chrisholm et al. 2016. Renting in New Zealand: perspectives from tenant advocates. *Kōtuitui: New Zealand Journal of Social Sciences Online*, 12, pp.95-110.

98. Chrisholm et al. 2013. <https://www.stuff.co.nz/dominion-post/business/residential-property/9335953/1m-plus-in-unclaimed-bonds>

99. Burns, A. 2022. <https://www.rnz.co.nz/news/national/470530/money-woes-force-christchurch-s-tenants-protection-association-to-close>

Services holds contact details for every tenant who has had a bond lodged, there is potential for direct, periodic communication of tenants' rights and tenancy regulations. This is not currently undertaken, however. In general, the researcher states that New Zealand's bond system works well, and there has been no suggestion of restructuring it or shifting towards a competitive system like the UK's.

4.3 Canada

In Canada, two thirds of households own their home, while one third of households rent. Of the latter, only four per cent live in socially rented housing.¹⁰⁰ Canada also has one of the highest house-price-to-income ratios amongst OECD countries,¹⁰¹ with two-thirds of home-owners with mortgages struggling to meet payments.¹⁰² Against this backdrop, PRS tenants have faced rent increases well above inflation in recent years.¹⁰³

Tenancy deposit regulations vary by province. Some states require landlords to hold tenancy deposits in interest-accruing accounts, while the deposits are usually equivalent to a month's rent. These states usually require the fast return of deposits to tenants. Alberta, for example, requires a landlord to return a deposit within 10 days of the end of the tenancy,¹⁰⁴ while landlords in British Columbia must return it within 15 days.¹⁰⁵ In addition, landlords in British Columbia must return the deposit with interest accrued (2.7% for 2024) if there are no claims on the deposit. In Alberta, the interest rate on deposits is set at 1.6% for 2024.¹⁰⁶

In British Columbia, the tenancy deposit is a maximum of half a month's rent and is held by the landlord.¹⁰⁷ Landlords are not required to hold the deposit in a separate trust account. If a tenant has a pet, or gets one during the tenancy, the landlord can demand a pet deposit of an additional half a month's rent. The rules regulating the return of deposits stipulate that a landlord must complete a final inspection and give the tenant two opportunities to be present at it in order to maintain claim to the deposit. The tenant's right to claim the

deposit is also dependent on them attending the final inspection. If a landlord wants to claim on the deposit, they may seek dispute resolution through an arbitration system. Where the landlord does not take action within 20 days, the tenant can make direct claim for the deposit and the fee of the claim (C\$100), and the landlord may be ordered to pay the tenant double the amount of the deposit. A spokesperson for First United, a charity based in Vancouver, British Columbia, states that this heightened compensation requirement acts as an adequate disincentive to landlords for non-compliance, despite the lack of deposit protection scheme. They point out, however, that if a landlord receives and ignores an order for the repayment of a deposit (and any penalty) from the Residential Tenancies Branch (RTB),¹⁰⁸ the tenant must go to court to enforce that order and recover the debt.

In Ontario, security deposits are not legal unless the tenant freely agrees to provide one. Landlords are entitled to demand a rent deposit however, which may be used to cover the last month's rent and cannot be used to claim damages. Landlords can apply to the tribunal to seek payment where there are damages and the case will be determined by adjudication. Interest is due on rent deposits where collected, equal to the yearly rent increase limit (currently 2.5%).¹⁰⁹ Similarly, Quebec allows no deposits at all. Landlords are prohibited from collecting anything but a month's rent, while collection of rent in advance can only apply to the first payment period¹¹⁰ However, questions have been raised by tenants' rights groups in Quebec over suggestions for a similar policy of 'optional' deposits. The groups worry that the lack of rental supply means that landlords may refuse leases to those who do not agree to them.¹¹¹

100. Zhu, Y. & Ali, H. 2024. <https://theconversation.com/whats-behind-canadas-housing-crisis-experts-break-down-the-different-factors-at-play-239050>

101. OECD. 2024. https://data-explorer.oecd.org/vis?dfds=DisseminateFinalDMZ&dfid=DSD_AN_HOUSE_PRICES%40DF_HOUSE_PRICES&dfag=OECD.ECO.MPD&dfvs=1.0&dq=A.HPI_YDH.&om=LASTNPERIODS&o=20&toTIME_PERIOD=false&vw=tb

102. Zhu, Y. & Ali, H. 2024. <https://theconversation.com/whats-behind-canadas-housing-crisis-experts-break-down-the-different-factors-at-play-239050>

103. Statistics Canada. 2022. <https://www150.statcan.gc.ca/n1/daily-quotidien/220921/dq220921b-eng.htm>

104. Tenants' Rights Canada. <https://www.tenantsrights.ca/facts/alberta>

105. British Columbia Government. 2024. <https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/starting-a-tenancy/deposits-fees>

106. Alberta Government. 2024. <https://www.alberta.ca/security-deposit-interest-rate-change>

107. Ibid.

108. The RTB is a government tenancy advice and information service for landlords and tenants that also offers dispute resolution services, adjudicating in most tenancy disputes in the state.

See: <https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies>

109. Ontario government. 2022. <https://news.ontario.ca/en/release/1002167/ontario-caps-2023-rent-increase-guideline-below-inflation-at-25-per-cent>

110. Tenant Rights Canada. <https://www.tenantsrights.ca/facts/quebec>

111. Montreal Gazette. 2020. <https://montrealgazette.com/news/local-news/rental-security-deposits-are-legal-quebec-landlords-association-says>

4.4 USA

Similarly to Canada, state level differences exist in the USA in regard to tenants' security deposits, while all states permit landlords to charge them. Many states require landlords to place deposits in interest-bearing accounts and/or limit the maximum value of a deposit, usually at the equivalent of one or two months' rent. Most states have deadlines for the return of a tenant's deposit set at 30 days from the end of a tenancy, however this ranges from 14 to 60 days across the country.¹¹²

Among those states that require landlords to pay interest on tenants' deposits, some attach conditions based on the number of rental units that a landlord owns within a property. In Illinois, for example, landlords with over 25 units in a building are required to pay interest on deposits if those deposits are held for over six months.¹¹³ New York also stipulates that landlords with six or more units in a building keep a deposit in an interest-bearing bank account.¹¹⁴ Tenants are entitled to the interest accrued at the end of the tenancy, minus one per cent deducted for the landlord's administration. Prior to 2024, tenancies that fell under New York's Housing Stability and Tenant Protection Act (2019) were permitted to have a maximum deposit of the equivalent of one month's rent,¹¹⁵ while all other tenancies had no maximum. As of 2024, landlords may charge a deposit of one week's rent for unfurnished properties and two weeks' rent for furnished properties.¹¹⁶ Similarly, Californian law changed in July 2024, so that landlords who own more than 4 units in a property and who are individuals can charge two months' rent as a security deposit.¹¹⁷ In other cases, deposits are permitted to be a maximum of one month's rent. Previous to the law change, deposits on furnished properties were permitted to be the equivalent of three times the monthly rent. However, landlords are still not required to pay tenants the interest accrued on those deposits.

In Kansas, deposits must be placed in an interest-bearing bank account, however there is no obligation to return the interest to tenants.¹¹⁸ As of 2024, deposits now have a maximum amount that can be charged: one month's rent if unfurnished, up to one-and-a-half months' rent if furnished, and an additional half-month's rent if the tenant owns a pet.¹¹⁹ Tenants must also be given the option to pay the deposit in instalments. If a landlord fails to comply with regulations, the tenant can recover the wrongfully held amount through the small claims court, as well as damages equal to 1.5 times the amount withheld. Similar penalties exist in some other states, with Massachusetts stipulating that, 'as well as immediate return of prepayments (such as deposit and last month's rent) under certain grounds, the tenant is entitled to the immediate return of the prepayments and potential triple damages, court costs, and attorney's fees'.¹²⁰ It is the potential for the landlord to be charged triple the amount of the deposit as a penalty for non-compliance that has led one landlord body to state that 'Massachusetts security deposit law is one of the most dangerous areas for landlords to enter into, so much so that we are close to recommending that no landlord take a security deposit'.¹²¹ It should be noted that upfront costs in Massachusetts can be particularly high, as landlords may demand a security deposit, the first month's rent, the last month's rent and a 'lock and key deposit' upfront. Interest at five per cent, or the bank's interest rate if lower, is payable to the tenant on the security deposit (if the tenant lives in the property for at least one year) and last month's deposit.

112. Landlord Studio. 2024. <https://www.landlordstudio.com/blog/security-deposit-laws-by-state>

113. Ibid.

114. FindLaw.com. 2021. <https://codes.findlaw.com/ny/general-obligations-law/gob-sect-7-103/>

115. New York Government. 2019. <https://hcr.ny.gov/system/files/documents/2020/10/fact-sheet-09-10-2019.pdf#:~:text=The%20Housing%20Stability%20and%20Tenant%20Protection%20Act%20%28HSTPA%29,money%20from%20the%20tenant%2C%20guarantor%20or%20third%20party>

116. PayRent.com. 2024. <https://www.payrent.com/articles/new-york-security-deposit-laws-whats-new-in-2024/#h-maximum-security-deposit-amount>

117. California Government. 2024. <https://oag.ca.gov/system/files/media/Know-Your-Rights-Security-Deposits-English.pdf>

118. Pay Rent. 2024. <https://54.149.235.73/articles/kansas-security-deposit-2024/#:~:text=Here%20is%20a%20brief%20overview%20of%20the%20current,deposit%20or%20provide%20an%20itemized%20list%20of%20deductions>

119. Kansas Legal Services. 2024. <https://www.kansaslegalservices.org/node/1934/tenant-issues-and-rights-kansas-renters>

120. Massachusetts Government. <https://www.mass.gov/info-details/security-deposits-and-last-months-rent>

121. MassLandlords.net. 2024. <https://masslandlords.net/laws/security-deposits/>

4.5 Other jurisdictions

4.5.1 Germany

In Germany, security deposits may not exceed three times the monthly rent of a property.¹²² Tenants are entitled to pay this over three consecutive payments, at the same time as the first three rent payments. Landlords are required to place the deposit in an interest-bearing account separate from their other assets, with most tenants due the interest on the deposit monies at the end of a tenancy. Alternatively, tenants are permitted to open a savings account that is then pledged to the landlord, with banks having developed procedures for this purpose. Tenants who cannot pay the deposit are entitled to provide a guarantor who will pay the landlord if there is a problem during or after the tenancy; a landlord cannot demand both a deposit and a guarantor. Banks and insurance companies can fulfil this role, which usually costs around four per cent of the deposit per year. There is no requirement for landlords to accept this, however, and some will not allow it.¹²³

There is no legal limit on how long landlords may take to return the deposit, with six months being common. Where a landlord claims part of a deposit, they may not withhold any unclaimed portion of it. In 2023, disputes relating to deposits were the second most common in tenancy law proceedings.¹²⁴

4.5.2 Ireland

There is currently no deposit protection scheme in operation in the Republic of Ireland. While the Residential Tenancies (Amendment) Act 2015 legislated for the introduction of such a scheme, it has not yet commenced. The Act provided for the Private Residential Tenancies Board to require landlords to register deposits, and to hold and return deposits to tenants. Any interest on the deposits held was to be retained by the Board for its operational costs.¹²⁵ There has been growing interest

in implementing a protection scheme, however, and a number of political parties had committed to doing so in advance of the 2024 election (including Fianna Fail,¹²⁶ one of the main parties in the previous coalition government).

4.5.3 Netherlands

Deposits in the Netherlands are permitted to be a maximum of two months' rent. Before 2023, the maximum was the equivalent of three months' rent.¹²⁷ While there are no deposit protection schemes, deposits must be returned to tenants within 14 days of the end of a tenancy. The new Good Landlordship (2023) law also requires municipalities to monitor landlords in their behaviour around deposits, with frequent noncompliance resulting in additional fines.

122. Berlin Tenants' Association. <https://www.berliner-mieterverein.de/recht/infoblaetter/info-7-mietkaution-und-die-rechte-des-mieters.htm>

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125. Houses of the Oireachtas. 2015. <https://www.oireachtas.ie/en/bills/bill/2012/69/2tab=bill-text>

126. Fianna Fail. 2024. https://7358484.fs1.hubspotusercontent-na1.net/hubfs/7358484/FF%20Manifesto%202024_V4_Screen%5B45%5D.pdf

127. Netherlands Government. 2023. https://wetten.overheid.nl/jci1.3:c:BWBR0005290&boek=7&titeldeel=4&afdeling=5¶graaf=Onderafdeling_2&sub-paragraaf=2&artikel=261b&z=2023-07-01&q=2023-07-01

5. Conclusions

Overall, tenants mostly view the system of deposit protection in Britain positively, particularly in comparison to having no system in place. However, TDP in Britain is complicated and inconsistent, with different scheme operators, and the types of schemes they offer, presenting much variation in regulation. As a consequence, tenants often do not know the particular rules pertaining to the protection of their deposit, including how long the return process should be at the end of a tenancy. This process often takes over a month, presenting a significant problem for tenants when moving home and adding to other moving costs. It can also take far longer if a dispute takes place, or if a landlord is unresponsive. At the same time, rising rents and other living costs are increasing the pressure on renters' finances.

Deposit protection in other countries offers inspiration for improving the system of TDP in Britain. In most of Australia, as well as New Zealand, deposits are lodged with one centrally-administered custodial scheme. This is shown to be efficient and simple to use. The investment of deposit monies allows for governments to fund a variety of causes, including effective tenant advocacy and deposit loan schemes, as well as paying scheme running costs and often offering interest on deposits. Australian states such as New South Wales also allow tenants to protect deposits themselves, further simplifying the process and cutting down on delays. Mandatory timescales for the return of deposits in Canada also highlight how the time tenants spend waiting for the return of their money could be reduced.



Appendix

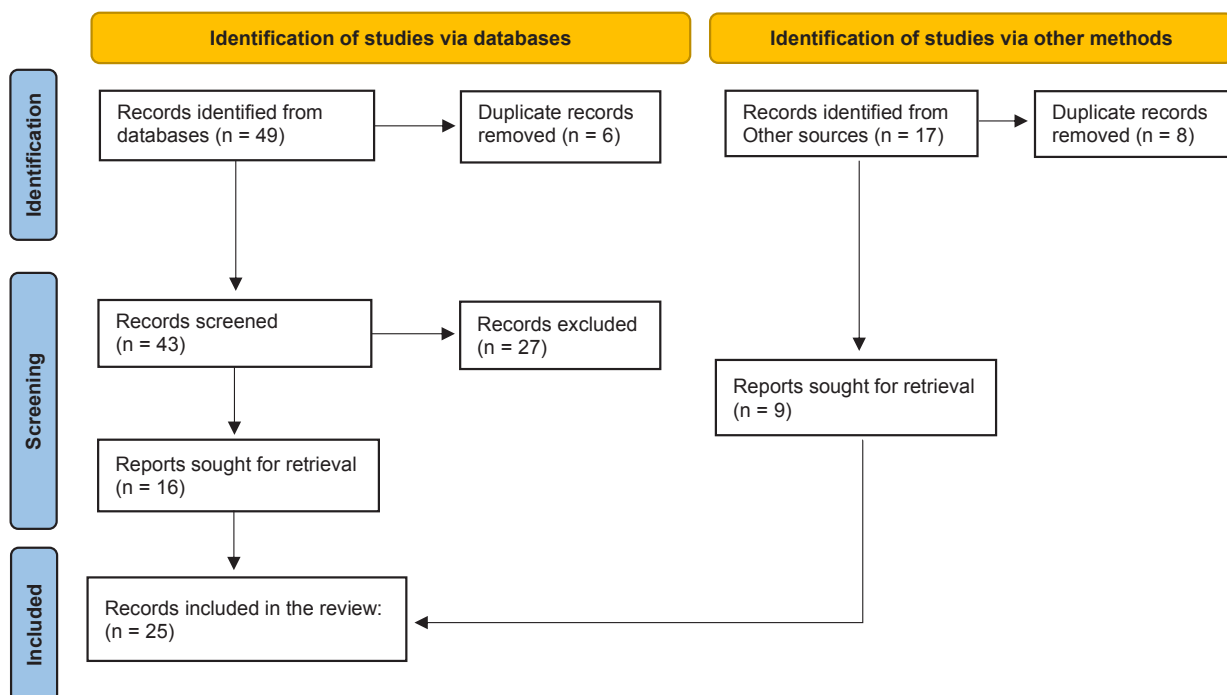
I. Rapid Evidence Assessment (REA) process

The REA was conducted following the methodology of McCarthy and Simcock (2024) . This was supplemented by a targeted hand-search of academic and grey literature sources.

Academic databases (Scopus and Web of Science) were searched using key search terms based on the research question. A hand-search of relevant journals, grey literature and citations in journal articles was then

undertaken. After screening and the removal of duplicates, 25 sources were included in the review, highlighting the lack of research on tenancy deposits and their protection. These were then analysed using narrative synthesis, an analytical method that aims to organise, describe and explore the findings of multiple studies in order to interpret results and find explanations for them.¹²⁹

PRISMA 2020 flow diagram for new systematic reviews which included searches of databases, registers and other sources



PRISMA flow diagram showing records included in the REA

128. McCarthy, L. and Simcock, T. 2024. Pets and private renting: a rapid evidence review of the barriers, benefits, and challenges, *International Journal of Housing Policy*, 25(1), pp.119-146

129. Popay, J. et al. 2006. https://www.researchgate.net/publication/233866356_Guidance_on_the_conduct_of_narrative_synthesis_in_systematic_reviews_A_product_from_the_ESRC_Methods_Programme



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