

Key Matters

Opening the door to tenancy deposit protection in Scotland

ISSUE 5 - MAY 2021



NEWS - STATISTICS - ADVICE



**SafeDeposits
Scotland**

SCOTLAND'S LEADING TENANCY DEPOSIT SCHEME



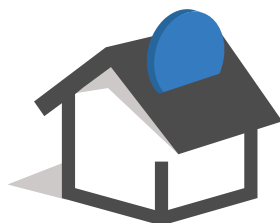
**The only not-for-profit tenancy deposit scheme
based in Scotland, offering:**

- Client Support
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- ADR Support
- Easy-to-use System

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**SafeDeposits
Scotland**



Come on in...



WELCOME

This is the first anniversary issue of Key Matters magazine, and what a year it has been since we first published!

Still, as I write there are signs of green shoots in Scotland's recovery from the pandemic and as we enter summer you will notice there is a particularly verdant appearance to the pages within.

Among the topics featured in this issue is the expansion of our SDS Resolution service, which now offers free conciliation and mediation on a range of issues experienced by PRS landlords, agents and tenants.

While we may have to wait a little longer to meet at in-person conferences and workshops, there are plenty of online engagements coming up and we hope that you will find our calendar of events on page 14 useful – particularly for training needs across a variety of subjects.

We hope you have enjoyed this first year of Key Matters, and that you find this latest edition informative.

Mike Smith
Operations Manager
SafeDeposits Scotland

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SafeDeposits
Scotland



Published in Glasgow by SafeDeposits Scotland

SafeDeposits in Numbers

A selection of statistics from the financial year ending 31st March 2021



DEPOSIT PROTECTION

SafeDeposits Scotland remains the largest tenancy deposit scheme in Scotland, protecting approximately 63% of the market. At 1st April 2021 we were protecting:

- 146,056 deposits
- with a combined value of £108,216,470
- and an average deposit value of £740

Deposits protected by the scheme increased year on year.



CUSTOMER SERVICE

The pandemic year saw the number of telephone calls we handled decrease versus the previous year, whereas emails handled increased. Despite the increase in email volume we nearly halved the average turnaround time against 2019/20. In the year ending 31st March 2021 our team:

- answered 33,729 telephone calls, with an average wait time for calls to be answered of only 7 seconds.
- handled 25,485 emails, with an average response time of 12 minutes.



DISPUTES

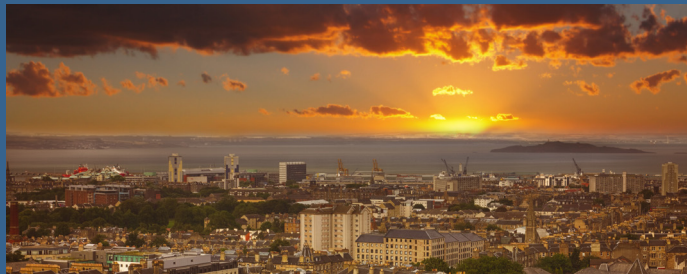
Whether in spite of or because of the pandemic, we were required to handle less disputes in 2020/21 than in the previous year. There were 1,701 disputes in total. The types of claim made* were:

Cleaning	70%	*There can be more than one claim/ dispute on a tenancy.
Damage	43%	
Rent arrears	15%	
Redecorating	21%	
Gardening	8%	
Other	46%	

Have You Heard?

The latest news from SafeDeposits Scotland and the wider private rented sector

Scottish Government Publishes Housing Strategy



In March the Scottish Government published Housing to 2040 – its long-term national housing strategy.

The private rented sector (PRS) plays a significant role in the plans set out, with a commitment to continue supporting the building of homes for private rent.

Other aims in relation to the PRS include: exploring support for establishing cooperatives; rolling out nationally a programme to facilitate access to the sector for homeless households; supporting landlords to improve fabric quality and state of repair and maintenance in homes.

Communities Secretary Aileen Campbell said of the strategy:

"Housing to 2040 sets out a vision for what we want homes and communities to look and feel like for people regardless of their stage in life or where they live. It is a vision where homes are affordable for everyone, where standards are the same across all tenures, where homes have easy access to green space and essential services, and where homelessness, child poverty and fuel poverty have all been eradicated."

Documents relating to Housing to 2040 can be found at:

www.gov.scot/collections/housing-to-2040/

The Scottish Tenancy Deposit Academy Returns

SafeDeposits Scotland and Landlord Accreditation Scotland (LAS) have joined forces again to present the Scottish Tenancy Deposit Academy, which will this year be available on a variety of dates in online format.

The 90-minute session will count towards letting agents' CPD hours, and the interactive format allows attendees to ask questions.

Presented by SafeDeposits Scotland Resolution Manager Paula Guthrie and LAS Director Elspeth Boyle, the Academy will cover key points in tenancy deposit protection – from regulations to practice, including the roles of tenancy agreements and inventories and the adjudication process.

See our calendar on page 14 for dates and times of forthcoming Academy sessions. Places can be booked via the links at:

www.safedepositsscotland.com/landlord-information/training



Paula Guthrie



Elspeth Boyle



March in March with TDS

During the month of March, members of the SafeDeposits Scotland team took part in a charity challenge led by TDS – our partner scheme in England and Wales.

Together walkers from TDS and partners set out to walk the equivalent of the length and breadth of the UK, while raising money and awareness for domestic violence charity Refuge.

£4,675 was raised for Refuge.

SafeDeposits Scotland Charitable Trust

Do you know of a project that could qualify for funding?



SafeDeposits Scotland Charitable Trust

About the Trust

The SafeDeposits Scotland Charitable Trust is a grant giving charity designed to promote education, training and best practice in Scotland's private rented sector.

As a not-for-profit organisation, any surpluses generated by SafeDeposits Scotland are donated to the Trust.

To date the Trust has awarded over £640,000 to projects delivered both at local and national level by charities and organisations across Scotland.

The Aims of the Trust

The key aims of the Trust are:

- To advance education, particularly in relation to best practice in the management of private rented housing; and to legal rights and obligations which are of particular relevance to those who are involved in the provision or management of private rented sector housing or who hold tenancies within the private rented housing sector.
- To advance conflict resolution through promoting the use of alternative dispute resolution processes for the more efficient resolution of disputes between landlords and tenants within the private rented housing sector.

How to Apply for Funding

An application form and bid guidance can be found at www.safedepositsscotlandtrust.com

We also welcome enquiries via info@safedepositsscotlandtrust.com

The deadline for applications ahead of the next funding round is Thursday 19th August.

Case Study - Action for Children

In 2018 the SafeDeposits Scotland Charitable Trust awarded £49,964 to Action for Children to introduce a new service in Dundee – the Family Sustainment Service.

The Family Sustainment Service was developed to support families in the city who are experiencing financial difficulties within private rented accommodation. Recognising that raising a family and running a household can bring many challenges, the service offers support such as: assessing financial situations; ensuring families are receiving all the benefits they are entitled to; negotiating repayment plans with landlords; working out realistic debt management plans; exploring all housing options.

Between April 2019 and March 2020 the Family Sustainment Service supported 59 families, with 150 children in total having been impacted by the support received. This support included the referral of 116 children into a Leisure Active Dundee programme which means that they are able to access the same chances as others.

The Tier 1 vulnerability scheme has been used so that landlords can receive payments direct from day one, reducing potential homelessness. Tenants' access to the SCARF scheme has been supported, meaning that if the tenant is on benefits then their landlord has access to funding to upgrade windows and heating systems. Over £30,000 of rent arrears has been returned to local landlords from different means such as payment plans and benefit applications.

For further information on Action for Children visit www.actionforchildren.org.uk



Branching Out

First introduced in August last year, SDS Resolution has expanded its remit as of 1st April 2021. Resolution and Adjudication Executive Ewan MacQueen explains here where the service can assist.

SDS Resolution – a free service owned and operated by SafeDeposits Scotland – was introduced in August 2020 to assist private rented sector landlords and tenants experiencing difficulties with rent arrears specifically. This was a response to the COVID-19 crisis and the increased financial pressures placed on individuals as a result of lockdown. The service has been endorsed by the Scottish Association of Landlords (SAL) and is featured within a resource called Private Rented Sector Tenant Support, produced by Public Health Scotland in partnership with the Scottish Government, Citizens Advice Scotland and Shelter Scotland in response to the pandemic.

As of 1st April this year we were pleased to expand the scope of the service and SDS Resolution is now able to offer conciliation and mediation on other PRS related issues, as well as continuing to assist with rent arrears matters.

Property standards, repairs, entry rights, threatened evictions, breaches of tenancy terms and noise/anti-social behaviour (except for serious anti-social activity) are all now areas we can deal with.

The concept remains the same for all of the above as it has been for rent arrears since last year – the aim is to facilitate a satisfactory resolution between landlords and tenants to help sustain tenancies and avoid the need for formal legal action. The service continues to be free of charge and is available for all PRS landlords and tenants in Scotland, not only those with deposits protected by SafeDeposits Scotland.

How it works

If you would like to contact SDS Resolution about an issue with a tenancy, visit www.sdsresolution.com and fill in our interactive form. We will then contact the other party to ask for their consent to get involved with the process. Providing the other party consents, our Conciliator will try to resolve the matter by talking to both parties separately in the first instance; if suitable, a group session with both parties can be organised with the mediator. Finally, if a solution is reached, a written agreement will be sent to both parties.

SDS Resolution is impartial and ultimately our job is to find a mutually acceptable solution to the problem at hand.



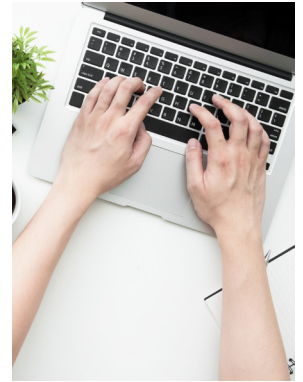
The Basics...

LODGING A DEPOSIT

Before lodging a tenant's deposit, there are certain things you will need to have to hand, namely: the tenancy address, tenant(s) name(s), tenant(s) contact details (phone number and email, if available), start date of tenancy, when you received the deposit amount, landlord registration number and landlord contact details. You should also have your tenancy agreement to hand, particularly if you want to pre-fill the Prescribed Information document – although you are able to complete that later if you wish.

When you have the above information go to www.safedepositsscotland.com, select Login Online and log in using your email/PIN and password. You will be met with a simple portal which gives you access to all tenancy deposit options and from there you can start adding tenancy deposits.

Once the deposit has been lodged we will send your tenant(s) a deposit protection certificate. Remember you must also provide the tenant with the Prescribed Information (detailed on the opposite page) within 30 working days of the tenancy start date.



DEPOSIT REPAYMENT

After your tenant moves out, you should log in to your account to enter a repayment request. The repayment request will confirm if the full deposit should be repaid to the tenant, or if any should be paid to you. You can also contact us by phone, email or post and we can enter a repayment request on your behalf.

We will send a copy to the tenant to ask if they agree or disagree with the breakdown you have entered. If the tenant agrees, we'll pay the deposit within five working days.

Tenants can also start the repayment process by logging in at www.safedepositsscotland.com/repayment and entering a repayment request. This will confirm if the tenant wants the full deposit repaid to them and any other tenants or if any should be paid to the landlord or agent. As with the process started by the other party, we will email the landlord or agent to ask if they agree or disagree and if they agree the deposit will be repaid within five working days.

ALTERNATIVE DISPUTE RESOLUTION (ADR)



In the event that a landlord or agent wants to keep some or all of the deposit for reasons which the tenant disagrees with, either party can refer the repayment to our adjudication service. This means that both parties will be asked for further information about the tenancy. An impartial person will decide what repayment is fair based on that information.

During the adjudication process both parties will be asked to provide information as evidence, and each party will be able to see what the other provides as evidence.

The adjudication service is free to use for all parties. You can find out more about this service, including the type of evidence we look for, on our website.

...what you need to know about tenancy deposit protection

THE TENANCY DEPOSIT SCHEMES (SCOTLAND) REGULATIONS 2011

Under the Tenancy Deposit Schemes (Scotland) Regulations 2011, if a landlord or agent in Scotland takes a deposit from their tenant, they must: Transfer the deposit to a government approved tenancy deposit scheme; Provide the tenant(s) with particular key information, known as Prescribed Information, detailed below.

The deposit must be transferred, and the Prescribed Information provided to all tenants on the tenancy agreement, within 30 working days of the tenancy start date.

If a landlord fails to comply with the Regulations, tenants can apply to the First-tier Tribunal for Scotland (Housing and Property Chamber) for financial sanctions. If the Chamber is satisfied that the landlord has failed to comply, they can order the landlord to pay the tenant up to three times the amount of the deposit.

How to comply...

To comply with the Regulations, you should:

- Register an account with a tenancy deposit scheme online, over the phone or by post
- Add the tenancy details (i.e. address, start date, deposit amount and tenant's name and contact details) to your account
- Transfer the deposit by online banking, debit card or cheque
- Provide the tenant(s) with a copy of the following Prescribed Information:
 - ◇ Tenancy address
 - ◇ Total deposit paid and the date you received it from the tenant
 - ◇ Your registration status with the local authority
 - ◇ Date you paid the deposit into a tenancy deposit scheme
 - ◇ Name and contact details of the tenancy deposit scheme
 - ◇ The reasons why you might keep some or all of the deposit when the tenant moves out, with reference to the tenancy agreement (e.g. rent arrears, cleaning etc).

SafeDeposits Scotland covers those tenancies to which the landlord registration provisions in the Antisocial Behaviour etc. (Scotland) Act 2004 apply. Therefore, if a landlord is required to register with a local authority, and takes a deposit from their tenant, that landlord must also comply with the Tenancy Deposit Schemes (Scotland) Regulations 2011.



Adjudication Digest

This issue's case studies have been prepared by Adjudication Advisor Samantha Gardner

Gardens have taken on a new significance over the last year. With restrictions at times on both travel and meeting indoors, these external areas have become an important source of wellbeing for those fortunate enough to have one. As summer gets underway, the back garden will be where many people top up their tans this year; for others there will be family reunions around barbeques and some will take laptops onto patios to add a bit of sunshine to their homeworking.

With these residential oases comes responsibility however, and in private renting it is important that landlords and tenants are on the same page when it comes to their upkeep.

Last year only 8% of dispute claims we handled involved gardening but with an average dispute claim of £137 for gardening it is nonetheless a serious matter for those involved.

We present here two case studies involving gardening. Evidence plays a crucial part in the outcomes of both of these cases and, as with a property's interior, actions taken at the start of a tenancy are key to providing evidence in a gardening dispute – or better still, avoiding a dispute in the first place. The tenancy agreement should outline the landlord's expectations when it comes to maintenance of the garden, and the inventory and check in report should give a detailed account of its condition at the start of the tenancy. A unique factor with gardens however is seasonality – one should bear in mind that flowerbeds are not going to look the same in July and January.



Case Study: Growing Pains

In this dispute involving a property in Rutherglen, claims were made for a variety of matters, including cleaning and damage as well as gardening. The evidence provided by the landlord was generally robust and therefore they were successful in being awarded the majority of the total claim.

Looking at the garden in particular, the claim was based on gardening work required at the end of the tenancy after some minor deterioration had taken place. Photographic evidence showed the adjudicator that the garden had become overgrown, and an invoice for the garden works undertaken to address this was submitted as part of the landlord's evidence.

This case had a slightly unique set of circumstances in terms of the check in evidence. The check in had taken place during adverse wintry weather, which meant that the landlord was unable to evidence the condition of the garden at entry in the inventory. However, they had subsequently arranged for gardening works to take place shortly after the tenancy commenced and had provided the invoice for this set of works. The tenancy agreement also stated that the tenant would undertake to maintain the garden in a neat, tidy and weed-free condition.

Satisfied by the evidence provided for this area of the claim, the adjudicator awarded the full amount claimed for gardening – £48 – to the landlord.



Case Study: Picture Imperfect

In this case from Inverness, there were also multiple claims that included gardening. The landlord was awarded the full amount of their claim for cleaning, however with the evidence provided for the gardening part of the claim the adjudicator was only able to issue a partial award.

The claim was based on the perceived deterioration in the condition of the garden over the course of the tenancy, with some tidying required as well as the removal from the shed of some items left by the tenant.

Two factors in particular were detrimental to this claim. One of these was an over-reliance on photographic evidence. Photographs are always welcome in an evidence submission and can play an important part in a decision, however they should be used to add weight to the written part of a submission rather than be relied upon to tell the story alone. A lot of photographs were submitted as evidence in this case but did not give the clearest indication of the garden's condition at the start and end of the tenancy – particularly with there being more photos from the end than from the beginning, meaning comparisons were not always possible. The adjudicator's report also noted that photographs should be taken from the same angle at the start and end of the tenancy.

The other part of the evidence that was not cast iron enough to warrant a full award was an invoice provided for the gardening works carried out after the tenancy had ended. The invoice from a contractor related to work carried out on both the garden and the bathroom and the labour rates listed did not specifically itemise hours spent on the garden.

Despite the flaws in some elements of the evidence the adjudicator was nonetheless satisfied with parts of the submission and recognised that a partial award should be made to the landlord. £100 of their £181 claim for gardening was awarded.



Key Matters Adjudication Special - August 2021

In the next issue of Key Matters we will dive even deeper into the world of ADR and adjudication, with our Adjudication Special.

Statistics show that independent landlords have a 16% lower success rate in dispute cases than letting agents, in terms of awards issued. This would suggest that there is a difference in the approach to disputes by these two groups, with more landlord cases perhaps lacking in sufficient evidence or claims being simply unviable to begin with.

With a particular emphasis on landlords we will:

- Explore statistics in further detail
- Identify dispute hotspots and most common claims
- Offer expert advice
- Study the most common mistakes made when submitting claims
- Share best practice
- Provide further case studies
- Introduce the ADR team
- Discuss alternatives to adjudication
- Bust myths

If you are a landlord with a particular question you would like to see addressed in the Key Matters Adjudication Special, please email your question to magazine@safedepositsscotland.com by 30th June 2021. Selected questions and their answers will be included in the magazine.



Tenant Matters

Looking at a new service for deaf tenants, their landlords and letting agents

Deaf Action Launches Safe & Sound Service



As reported in the November 2020 issue of Key Matters, the SafeDeposits Scotland Charitable Trust awarded funding to Deaf Action for a project supporting Scottish landlords and tenants affected by hearing loss.

Deaf Action is an Edinburgh based, deaf-led charity providing services across Scotland for the estimated 1,012,000 people living with some degree of hearing loss.

Approximately 150,000 people affected by hearing loss live in Scottish households with a private tenancy agreement and the new service – Safe & Sound – aims to close the gap where specialist advice and support for this group is lacking.

Safe & Sound is now live. For tenants, the service offers a variety of resources. On the Safe & Sound website there are British Sign Language (BSL) videos making information accessible for deaf people – currently you can view guidance in BSL on deposits and what to do in the event of a dispute.

Via the website deaf tenants can get in touch with the Safe & Sound team for expert advice on renting, including subjects such as safety and security measures where guidance on smoke detectors, Co2 alarms and doorbells will be available.

Safe & Sound can also provide funded BSL/English interpreters throughout 2021 to improve communication between tenants and landlords. Interpreters can help at every stage of the rental process, from advertising properties and agreeing terms through to responding to emergency repairs, disputes and problem solving.



Landlords and letting agents meanwhile can benefit from a consultancy service that provides advice on how to make properties safe for deaf tenants, and can also get in touch with Safe & Sound about interpreters where required.

As part of Safe & Sound Deaf Action is hosting online free deaf awareness workshops for landlords and letting agents, which are inclusive for both hearing and deaf landlords.

The workshops are designed to help: improve communication skills with deaf tenants; understand the importance of accessible information; engage with BSL/English interpreters to communicate with tenants; find out about specialist safety equipment and security measures for deaf tenants. Workshop dates are on our calendar on page 14, and all Safe & Sound information – including workshop booking links – can be found at www.deafaction.org/services/safe-sound/

Spotlight On...

DUMFRIES AND GALLOWAY

As Scotland's southernmost local authority area, Dumfries and Galloway is uniquely placed – you can drive from Gretna to the English city of Carlisle in just over 20 minutes, and if you walk or roll on to a ferry at Cairnryan you can be in Belfast in a little over two hours.

Despite the proximity to the neighbours though, the region is as Scottish as you can get – an old stomping ground for Roberts the Bruce and Burns. Rabbie Burns lived in Dumfries for a time and wrote some of his most famous poems in the sandstone house that is now a tourist attraction. The area must have also inspired the works of Glaswegian singer-songwriter Matt McGinn, who penned "The Wee Kirkcudbright Centipede" and made the Solway Coast town a familiar name for generations of Scottish children.

Dumfries and Galloway is also an area of outstanding natural beauty, from Galloway Forest Park (dubbed "the Highlands of the Lowlands") to beautiful beaches and nature reserves that are home to all manner of wildlife.

Of the areas we have shone the spotlight on in Key Matters, from the islands to big cities, Dumfries and Galloway has the lowest average deposit so far. For deposits we hold in the region the average is £462 – nearly £300 lower than our current national average of £737.

This largely rural corner of the country is a relatively tranquil land when it comes to deposit disputes. In 2020/21 we handled just a handful of disputes arising from tenancies ending in Dumfries in Galloway, representing just 0.3% of all disputes last year and only 0.2% of all deposits held for the area.

Damage was the most recurring factor within the small number of claims, ahead of cleaning, which Scotland-wide is typically the most common type of claim. Redecoration appeared in an equal quantity of claims to cleaning.



Calendar of Events

Online and in-person events coming up in Scotland's private rented sector

On this page you will find information on a selection of PRS related events taking place in Scotland during the coming months. Please note that all events – particularly in-person engagements – remain subject to change due to the fluid nature of lockdown restrictions and other variables. Places at all events are subject to availability and booking details are provided below.

Deaf Awareness Workshops for Landlords & Letting Agents - ONLINE, VARIOUS DATES

Tuesday 4th May – 10.30am
Thursday 20th May – 2.30pm
Tuesday 8th June – 10.30am
Thursday 24th June – 2.30pm
Tuesday 6th July – 10.30am
Thursday 8th July – 2.30pm

Booking links via
www.deafaction.org/services/safe-sound



A series of free online workshops as detailed on page 12 of this magazine.

Talking Deposits with SafeDeposits Scotland and SAL* - ONLINE, THURSDAY 6TH MAY

Thursday 6th May – 11.30am

Booking via
www.scottishlandlords.com/events

*Available to SAL members only. Details on how to join can be found on the SAL website.



Informal online session for SAL members to ask questions or chat in general about deposits with John Blackwood and Paula Guthrie.

Scottish Tenancy Deposit Academy - ONLINE, VARIOUS DATES

Wednesday 12th May – 10.00am
Wednesday 9th June – 10.00am
Wednesday 30th June – 10.00am
Wednesday 21st July – 10.00am

Booking via
www.landlordaccreditationscotland.com/events

Scottish Tenancy Deposit
ACADEMY

90-minute training sessions as detailed on page 5 of this magazine.

ARLA Propertymark Scottish National Conference - EDINBURGH, TUESDAY 21ST SEPTEMBER

Tuesday 21st September – 8.30am – 4.30pm

Venue: Edinburgh International Conference Centre – EICC

When available, booking information will appear at
www.arla.co.uk/events



Tailored for agents of all levels, the conference is set to provide updates on legislative changes and the latest thinking on best practices for the industry.

Meet Our Partners

SafeDeposits Scotland is an innovative partnership in the private sector. We're governed by people who understand and have a wealth of experience in the Scottish private rented sector. Our partners are:



The over-arching aim of ARLA Propertymark is to promote the highest standards of professionalism and integrity among those working within the property industry and to encourage members of the public to proactively seek out their members when involved in any kind of property transaction. ARLA Propertymark also runs some 250 short courses each year covering a wide range of property and industry related subjects, as well as holding a number of specialist conferences and forums throughout the year.



The Royal Institution of Chartered Surveyors (RICS) provides the world's leading professional qualification in land, property, construction and the associated environmental issues. An independent organisation, RICS acts in the public interest: setting and regulating the highest standards of competence and integrity among their members; and providing impartial, authoritative advice on key issues for business, society and governments worldwide.



The Scottish Association of Landlords (SAL) represents the interests of all landlords and letting agents throughout Scotland. Working with various Holyrood and Westminster government departments, plus Scotland's local authorities, SAL campaigns for recognition of their interests as a profession and provides information, training and advice to their members nationally, and through their local branch network.



SAL provides a comprehensive package of membership services, advice support and policy work for Scotland's registered letting agents via its Council of Letting Agents (CLA) membership plan. The CLA represents Scotland's leading letting agents and leads the lettings industry in Scotland.



The Dispute Service (TDS) is an independent, not-for-profit company established in 2003 to resolve tenancy deposit disputes in the private rented sector in England and Wales. The company has achieved the UK Government Standard for Customer Service Excellence.



safedepositsscotland.com

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