

# Key Matters

Opening the door to tenancy deposit protection in Scotland

**ISSUE 8 - FEBRUARY 2022**



NEWS - STATISTICS - ADVICE



SafeDeposits  
Scotland

# SCOTLAND'S LEADING TENANCY DEPOSIT SCHEME



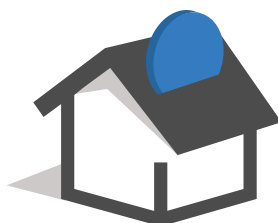
**The only not-for-profit tenancy deposit scheme  
based in Scotland, offering:**

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- Easy-to-use System

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**SafeDeposits  
Scotland**



# Come on in...



## WELCOME

What a difference a year makes! We may not be quite out of the pandemic woods yet, but it has been wonderful to start 2022 with in-person meetings, training and events as well as a hybrid return of our team to the office – all in contrast to the very different opening weeks of 2021.

You can read about one such event in this issue of Key Matters – our Not Quite Burns Night Pub Quiz, which raised over £1,000 for Scottish charity the Rock Trust. Meanwhile you can see what other engagements are coming up on our Calendar of Events page.

Elsewhere in the magazine we have a reminder on the importance of lodging deposits on time, with a study of statistics published by the Housing and Property Chamber, plus you will find the usual blend of news, statistics and case studies.

With events returning and the calendar starting to fill up, I hope that my team and I will have the opportunity to once again say hello in person to many Key Matters readers during 2022.

**Mike Smith**  
Head of SafeDeposits Scotland

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CUSTOMER  
SERVICE  
EXCELLENCE®



# Service Matters

The most recent figures and team developments from SafeDeposits Scotland



## TELEPHONE CALLS ANSWERED

# 7,658

**(9 seconds average wait time for call to be answered)**

(Figures 1st November 2021 – 31st January 2022)

## EMAILS HANDLED

# 6,013

**(9 minutes average response time)**

(Figures 1st November 2021 – 31st January 2022)



**DEPOSITS PROTECTED: 158,195**

**COMBINED VALUE: £120,116,437**

**AVERAGE DEPOSIT VALUE: £759**

(Figures at 31st January 2022)

### Growing Deposits, Growing Team

SafeDeposits Scotland is today protecting more of your deposits than at any point in its 10 year history.

It is our privilege to be handed this responsibility, so to ensure we continue to provide the same levels of service excellence to a growing customer base we are delighted to have further expanded our team.

Resolution Advisor Jamie Davidson joined our ADR department in November, while Client Advisor Rachel Pollock joined the Customer Service department shortly afterwards in December.

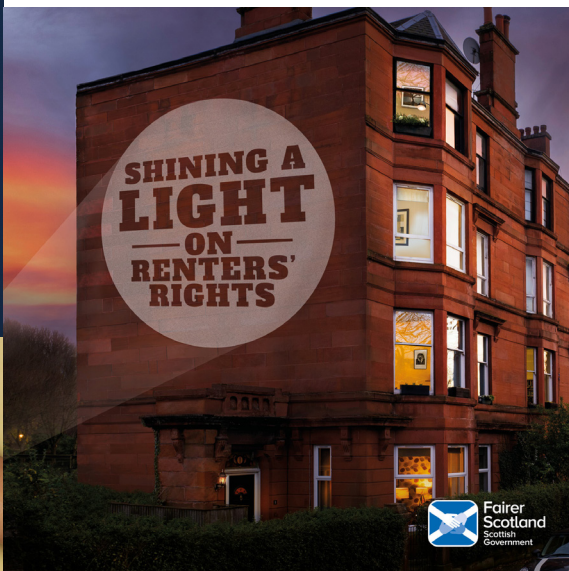
Welcome to SafeDeposits, Jamie and Rachel!



# Have You Heard?

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

## Renters Rights Campaign Launched by Scottish Government



The Scottish Government has launched a new Renters Rights campaign and is inviting organisations within the rental sector, responsible landlords and letting agents to join the initiative by sharing information with tenants.

The Government hopes that by showing support for the campaign and sharing information with tenants, landlords and letting agents can: further build trust and open communication with tenants; help issues to be resolved before they escalate, by keeping tenants informed; further cement their reputation as a responsible landlord or agent, committed to respecting tenants' rights – ultimately benefiting business and the sector.

A [campaign toolkit](#) has been produced for landlords and letting agents, while tenants can find out more at [gov.scot/rentersrights](https://gov.scot/rentersrights)

## SafeDeposits Scotland Issues 20,000th Adjudication Decision



January saw SafeDeposits Scotland issue its 20,000th adjudication decision since the scheme's inception in 2012. The landmark figure is the latest milestone for the scheme as its 10th anniversary year gets under way. At the end of 2021 SafeDeposits was protecting more than 150,000 active tenancy deposits for the first time in its history.

Commenting on the 20,000th adjudication, SafeDeposits Scotland Resolution Manager Paula Guthrie said "For nearly 10 years SafeDeposits has offered a free and impartial adjudication service to landlords, letting agents and tenants in the event of a deposit repayment dispute."

"Despite the increase in deposits protected over this time, the percentage of adjudication cases arising has remained consistently low and points to both a continued improvement in understanding between parties and an embracement of self-resolution."

## Consultation Open on A New Deal for Tenants - Draft Rented Sector Strategy

In December the Scottish Government opened consultation on A New Deal for Tenants – Draft Rented Sector Strategy.

The strategy seeks to improve accessibility, affordability choices and standards across the whole rented sector in Scotland.

The Scottish Government is interested in the views of anyone with an interest in the strategy consultation paper, particularly tenants and landlords, and is inviting comments. Comments on the draft strategy will inform the development of the final version, which the Scottish Government aims to publish by the end of 2022.

For further information on the consultation and to submit any comments on it, visit the [Scottish Government website](#).





# SafeDeposits Scotland Charitable Trust

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

## 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 £806,000 to projects delivered both at local and national level by charities and organisations throughout Scotland. In 2021 alone, five funding grants totalling £156,732 were awarded to organisations across the country and the Trust, chaired by John Duff, is encouraging new applicants to get in touch with funding bids for projects that meet its aims.

## 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.



John Duff

## How to Apply for Funding

An application form and bid guidance can be found at [www.safedepositsscotlandtrust.com](http://www.safedepositsscotlandtrust.com)

We also welcome enquiries via [info@safedepositsscotlandtrust.com](mailto:info@safedepositsscotlandtrust.com)

The deadline for applications ahead of the next funding round is Thursday 26th May.



# In Summary:

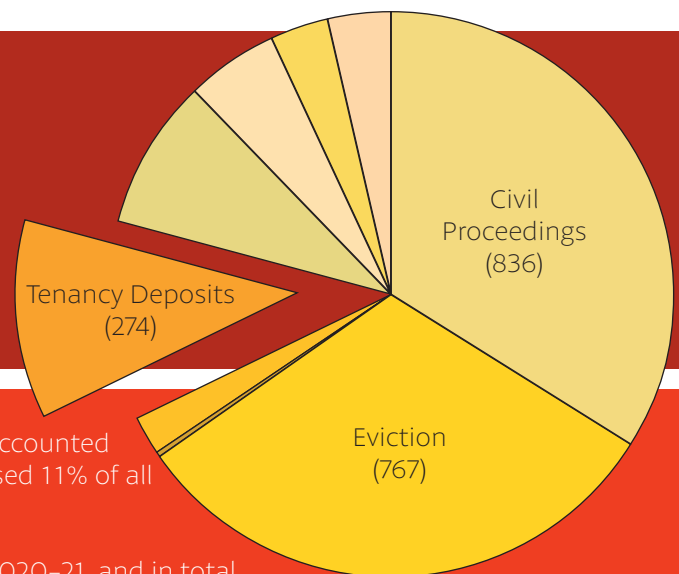
## The Housing and Property Chamber

On 1st December 2017, the sheriff's jurisdiction for civil cases relating to the private rented sector was transferred to the First-tier Tribunal for Scotland (Housing and property Chamber). Where a landlord who has taken a tenancy deposit from their tenant and failed to pay the deposit into an approved scheme within 30 working days of the tenancy start date, the tenant can make an application to the Housing and Property Chamber. The Chamber can require the landlord to pay to the tenant up to a maximum of three times the amount of the deposit.

The Chamber recently published its Summary of Work for 1st April 2020 – 31st March 2021, which contained some interesting statistics regarding cases involving failure to lodge tenancy deposits within the legislated timeframe...

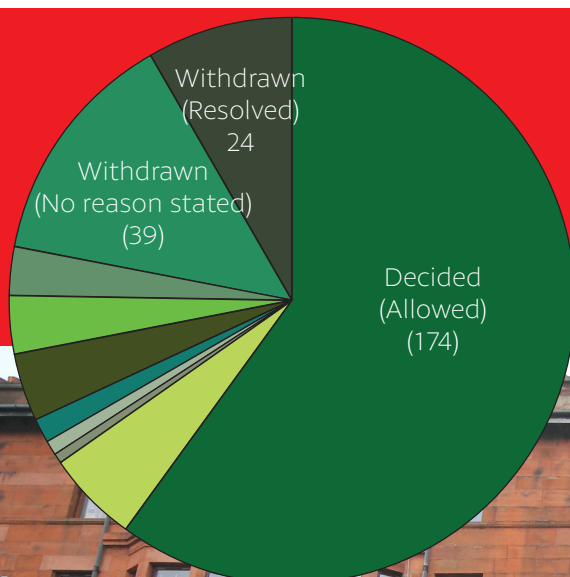
Tenancy deposit applications seeking payment orders for monetary sanctions in respect of a failure to comply with tenancy deposit regulations and/or provide required information was the third biggest category of private rented sector application to the Chamber by volume.

The biggest two categories were eviction and recovery of possession and civil proceedings seeking payment orders respectively.



While the actual number of deposit related applications to the Chamber was down by 20% on the previous year, they accounted for an increased proportion of all applications. They comprised 11% of all applications, up from 8% in 2019–20.

There were 274 applications regarding tenancy deposits in 2020–21, and in total 290 such applications were closed during the year. Some applications were rejected and others were withdrawn at various stages of the process. The reason stated for 38% of withdrawals was that the matter had been resolved, suggesting that there may have been discussion and negotiation between the parties in those cases.



Of the 197 applications which were decided by a tribunal, the vast majority (174 or 88%) were granted in the applicant tenant's favour.

Further information on the Housing and Property Chamber, including published decisions on tenancy deposit cases, can be found at [www.housingandpropertychamber.scot](http://www.housingandpropertychamber.scot)



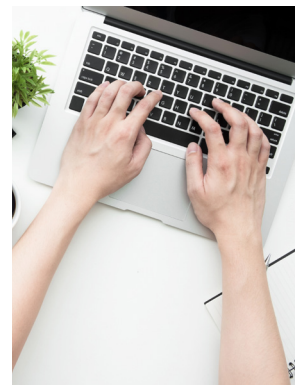
# The Basics...

## 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](http://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](http://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 Resolution Advisor Samantha Gardner

The two cases featured here are very different in nature, but both have something in common. While this factor is not detailed within the studies on these pages, as it is ultimately not relevant to the outcomes, both disputes saw tenants attempt counterclaims.

A counterclaim is where the tenant claims compensation from the landlord or letting agent, for example where the tenant's belongings are damaged by a leaking pipe. An adjudicator cannot deal with counterclaims or claims for set-off, which is where the tenant withholds rent based on a separate issue.

Tenants who want to use set-off or bring a counterclaim may have to take their landlord to the Housing and Property Chamber to get their claim resolved.



## Case Study: Hair Hassle

In the last issue of Key Matters we spoke about preparing for pets, exploring the pros and cons of pets in a property and how landlords and tenants can take steps to avoid fur and feathers causing a fuss. Our first case study here concerns a dispute from Edinburgh with dog hairs at the root of it.

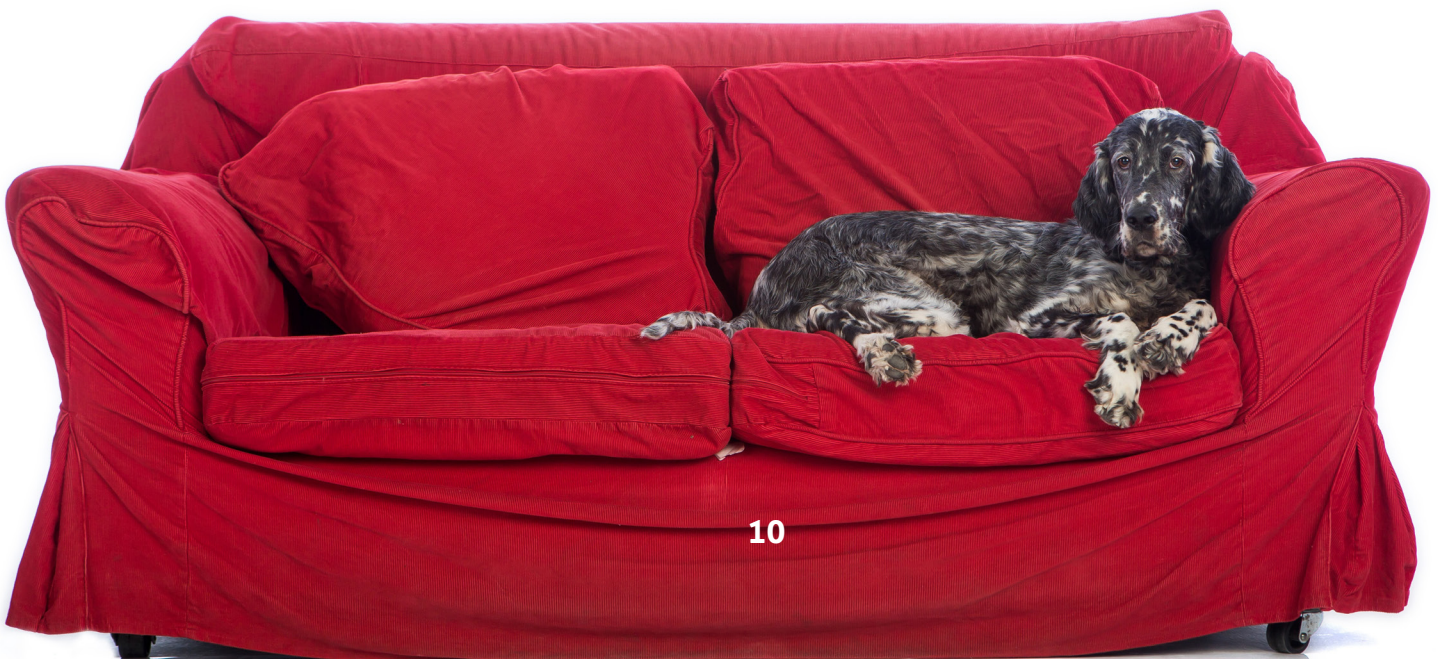
This was a cleaning claim, with the letting agent seeking to deduct £291 of the tenancy deposit for five hours' general cleaning and the cleaning of six carpets after the tenants had moved out.

The tenancy agreement contained a clause which read that "The tenant undertakes to meet the cost of any damage or soilage to the Let Property, common areas or garden, caused by the animal or pet..." It is important to note that obligations imposed by a tenancy agreement are not absolute and any claim made in relation to them must be supported by evidence.

In this instance, evidence provided by the letting agent was comprehensive. An inventory and photographs from both the start and the end of the tenancy showed the adjudicator that the property had not been returned as it had been found, with evidence of dog hair on floors, carpets, sofas and other furniture.

Also included within the evidence provided was an invoice from a professional cleaning company, the amount on which matched the sum claimed for.

The adjudicator awarded the letting agent the amount claimed in full.



### Case Study: Wet Wall Woes

During a tenancy at a flat in Glasgow, the landlord arranged for work to be carried out on the en suite shower cubicle due to water penetration from a leak in the flat above. This included the replacement of the tiles with high quality wet wall panels, and on completion of the work the tenants were provided with instructions on how to clean and maintain the wet wall.

Contrary to the manufacturer's instructions, a cleaning detergent was subsequently used on the panels instead of the recommended hot soapy water. The product used caused damage to the enamel surface of the wet wall.

At the end of the tenancy the letting agent acting on behalf of the landlord submitted a claim of £400 against the deposit, to contribute towards the cost of replacing the damaged wet wall panels.

Replacement of an item is normally considered where it is damaged so severely that its condition makes it unusable or uneconomical to repair, although even where replacement is required the landlord is not entitled to charge the tenants the full cost of returning items to the condition they were in at the start of the tenancy – replacing items on a 'new for old' basis would be regarded as betterment and some allowance must be made for fair wear and tear during the tenancy.

Recognising from the evidence provided that the wet wall had sustained excessive damage, but not being able to establish that full replacement of the panels was required, the adjudicator awarded to the letting agent a reduced proportionate contribution of £300.



## Disputes and Negotiations - 2021 Q3

In the event of a dispute surrounding repayment of a tenancy deposit arising, our team will in the first instance engage with all parties to establish if the disagreement can be resolved through self-resolution before progressing to formal alternative dispute resolution. The below statistics show how many disputes were resolved without the need for ADR between October and December 2021.

### NEW CASES

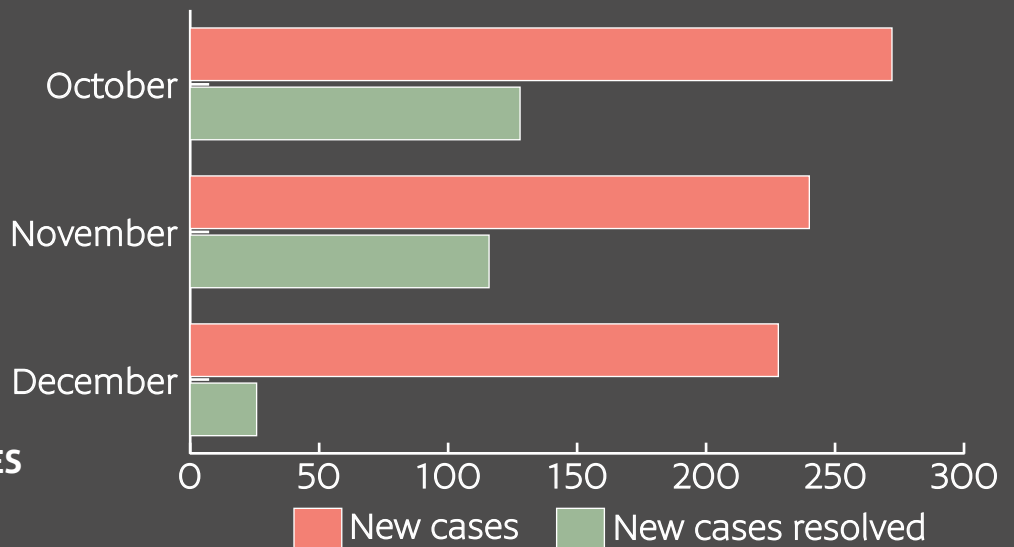
740

### NEW CASES RESOLVED

270

### PERCENTAGE OF NEW CASES RESOLVED

36%



# Pub Quiz Fundraiser

A look back at our Burns themed event that raised over £1,000 for a Scottish charity

SafeDeposits Scotland kicked off 2022 with a socially-distanced event marking one of the most important dates in the Scottish calendar. Held just a few days before the bard's birthday, the "Not Quite Burns Night Pub Quiz" in Glasgow brought letting agents together to quiz, celebrate and most importantly raise funds for Scottish charity the Rock Trust.

Congratulations to the winning team from One Stop Properties, who tackled a challenging series of questions and saw off fierce competition to be crowned victors - walking away with a pair of hampers packed with Scottish goodies.

Thanks to the generosity of the quiz participants, £1,180 was raised for the Rock Trust.

Sincere thanks also go to the following businesses, who kindly donated fantastic prizes to the fundraising raffle on the night:

- ★ AG Barr    ★ Arran Whisky
- ★ Asda Glasgow Parkhead Forge
- ★ Camera Obscura & World of Illusions
- ★ Hard Rock Cafe Glasgow    ★ Lees of Scotland
- ★ Next    ★ Palace of Holyroodhouse
- ★ Royal Yacht Britannia    ★ Slater Menswear
- ★ Tesco Rutherglen Extra
- ★ The Glenturret Distillery    ★ Treasure Trails
- ★ Tunnock's

## rock trust

ENDING YOUTH HOMELESSNESS

The Rock Trust is Scotland's youth-specific homelessness charity. Its aim is to end youth homelessness in Scotland by ensuring that every young person has access to expert youth specific services to assist them to avoid, survive and move on from homelessness.

The charity advises, educates and supports young people to enable them to build the personal skills and resources required to make a positive and healthy transition to adulthood.

For further information visit [www.rocktrust.org](http://www.rocktrust.org)



# Spotlight On...

# SOUTH LANARKSHIRE

South Lanarkshire links the east and west of central and southern Scotland, sharing boundaries with seven other local authority areas including Glasgow, West Lothian, East Ayrshire and the Scottish Borders.

The region is home to two of Scotland's biggest towns, namely East Kilbride and Hamilton, with the former having been designated as the country's first new town in 1947. Historic New Lanark is a UNESCO World Heritage Site.

Despite the area's geographic expanse and the population of its urban centres, South Lanarkshire enjoyed a relatively low rate of tenancy deposit disputes during 2020–21. Against the number of South Lanarkshire deposits held by SafeDeposits Scotland, end of tenancy disputes last year represented only 0.37% of these. Of all cases handled by SafeDeposits' adjudicators during the same period, only 1.05% of these related to tenancies in the area. One perhaps surprising anomaly was that the market town of Strathaven witnessed three times' the number of disputes than East Kilbride, which has a population 10 times larger.

One might draw from the dispute statistics that South Lanarkshire residents are a green fingered group of people, as NO gardening disputes were recorded during 2020–21. A third of South Lanarkshire disputes related to cleaning, which is more than half the proportion of cleaning claims nationally, while the percentage of redecoration claims was also significantly lower than the Scotland-wide picture. At 44%, damage represented the highest proportion of dispute claims in South Lanarkshire and this was close to the national figure of 43%.

Looking at the general picture of deposits protected by SafeDeposits Scotland, the average deposit held for South Lanarkshire tenancies is currently £618.



# 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 are subject to change and places are subject to availability. Booking details are provided below.

## Talking Deposits with SafeDeposits Scotland and SAL\* - ONLINE, VARIOUS DATES

Thursday 24th February – 11.30am  
Monday 28th March – 3.30pm

Further information and booking via  
[www.scottishlandlords.com/events](http://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. SAL Chief Executive John Blackwood speaks to Head of SafeDeposits Scotland Mike Smith.

## SafeDeposits Scotland Landlord Adjudication Workshop - GLASGOW, MONDAY 28TH MARCH

Monday 28th March – 10.00am–3.00pm

Venue: Townhead Village Hall, 60 St Mungo Avenue, Glasgow G4 OPL

Further information and booking via  
[www.safedepositsscotland.com/landlord-information/training](http://www.safedepositsscotland.com/landlord-information/training)



**SafeDeposits  
Scotland**

This interactive workshop will cover all things adjudication. Attendees will learn how to appropriately record an inventory, manage changes at the property and calculate fair deductions. They will have an opportunity to review and critique existing inventories, to write an adjudication report and to consider an appeal.

## CIH Scotland's Housing Festival\*\*\* - GLASGOW, THURSDAY 19TH-FRIDAY 20TH MAY

Thursday 19th and Friday 20th May – 9.00am – 5.00pm

Venue: Scottish Event Campus (SEC), Exhibition Way, Glasgow G3 8YW

Further information and booking via  
[www.cih.org/events/shf-2022](http://www.cih.org/events/shf-2022)

\*\*\*Available to Chartered Institute of Housing (CIH) members only. Details on how to join as a member can be found on the CIH website.



Hear from expert speakers, get involved with top-level debates and speak with influential innovators at this two-day event. SafeDeposits Scotland will be exhibiting – come and say hello if you're attending!

# 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](http://safedepositsscotland.com)

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