

# Tenants' views of Tenancy Deposit Protection

IN NORTHERN IRELAND



**Housing**  
Executive

 **TDS**  
Northern Ireland

 **Ulster**  
University

 Department for  
**Social**  
**Development**  
[www.dsdni.gov.uk](http://www.dsdni.gov.uk)

## Contents

<b>KEY FINDINGS .....</b>	<b>3</b>
<b>1. INTRODUCTION.....</b>	<b>4</b>
<b>2. THE PRIVATE RENTED SECTOR IN THE UK AND IRELAND; AN OVERVIEW .....</b>	<b>5</b>
<i>Recent rate of growth of the PRS.....</i>	<i>5</i>
<i>Public policy considerations .....</i>	<i>6</i>
<i>Recent Developments in Public Policy.....</i>	<i>7</i>
<i>Impact of Welfare Reform .....</i>	<i>16</i>
<i>Conclusion .....</i>	<i>16</i>
<b>3. THE INTRODUCTION OF TENANCY DEPOSIT PROTECTION IN THE PRIVATE RENTED SECTOR IN NORTHERN IRELAND .....</b>	<b>17</b>
<i>Introduction .....</i>	<i>17</i>
<i>Background.....</i>	<i>17</i>
<b>4. TENANCY DEPOSIT LEGISLATION IN THE REST OF THE UK .....</b>	<b>20</b>
<i>Key provisions of the 2004 Housing Act.....</i>	<i>22</i>
<i>Custodial scheme .....</i>	<i>22</i>
<i>Insurance backed scheme .....</i>	<i>22</i>
<i>Take up.....</i>	<i>24</i>
<b>5. RESEARCH ON TENANTS' EXPERIENCES OF TENANCY DEPOSITS IN THE UK.....</b>	<b>25</b>
<i>Surveys of tenants' views on tenancy deposits: England .....</i>	<i>25</i>
<i>Paying a deposit.....</i>	<i>25</i>
<i>Non return of deposits .....</i>	<i>25</i>
<i>Were deductions justified?.....</i>	<i>26</i>
<i>Reasons for disputes .....</i>	<i>27</i>
<i>NUS research: Homes Fit for Study 2014 .....</i>	<i>27</i>
<i>Were deductions unfair?.....</i>	<i>28</i>
<i>Surveys of tenants' views on tenancy deposits: Scotland .....</i>	<i>28</i>
<i>Taking deposits .....</i>	<i>28</i>
<i>Size of deposits.....</i>	<i>28</i>
<i>Withholding deposits .....</i>	<i>28</i>
<i>Reasons for deposits being withheld.....</i>	<i>29</i>
<i>Are deposit deductions unfair? .....</i>	<i>29</i>
<b>6. SURVEYS OF TENANTS' VIEWS ON TENANCY DEPOSITS IN NORTHERN IRELAND.....</b>	<b>30</b>
<i>Earlier Northern Ireland Housing Executive research .....</i>	<i>30</i>
<i>Paying deposits .....</i>	<i>30</i>
<i>Value of deposits.....</i>	<i>30</i>
<i>Withholding of deposits.....</i>	<i>30</i>
<i>TDS Northern Ireland Ltd [TDSNI] Research .....</i>	<i>31</i>
<i>Value of deposit .....</i>	<i>31</i>
<i>Providing a deposit .....</i>	<i>31</i>
<i>Returning deposits .....</i>	<i>32</i>

<i>Unfairly withheld</i> .....	32
<i>Reasons for deductions</i> .....	32
<i>Seeking redress through the Courts</i> .....	33
<i>Receiving documentation</i> .....	33
<i>Inventories</i> .....	33
<b>7. SURVEY OF TENANTS IN NORTHERN IRELAND 2015</b> .....	<b>34</b>
<i>Methodology</i> .....	34
<i>Tenant Profile</i> .....	34
<i>Current Accommodation</i> .....	35
<i>Council Area</i> .....	36
<i>Previous Experience with deposits</i> .....	37
<i>Reasons for deductions / withholding of deposit</i> .....	39
<i>Methods of trying to get deposit back</i> .....	39
<i>Current Tenancy</i> .....	40
<i>Comparison with previous research findings</i> .....	45
<b>8. CONCLUSION</b> .....	<b>46</b>
<b>9. RECOMMENDATIONS</b> .....	<b>47</b>
<b>REFERENCES</b> .....	<b>48</b>
<b>APPENDIX 1: TABLES</b> .....	<b>52</b>

## Key Findings

### Previous experience with deposits:

- Most respondents (93%) had to pay a deposit for their previous accommodation;
- Over one-third (37%) of respondents had all or part of their deposits withheld at the end of their previous tenancy;
- Just over half (53%) of respondents who had all or part of their deposit withheld felt that the deductions were entirely or mostly unfair;
- The most common reason for withholding of deposits was cleaning: cited by 50%;
- The most common method (71%) of trying to get the deposit back was to speak or write to the landlord/agent. Only a small minority of respondents (9%) contacted an outside agency.

### Current tenancy:

- Almost half (48%), of respondents paid less than £500 for the deposit for their current accommodation. More than one-fifth of respondents (22%) paid between £501 and £600, 10 per cent paid between £601 and £700 and a further 18 per cent paid more than £700;
- Just over half, (54%), of respondents paid a monthly rent of less than £500. A further fifth (22%) of respondents paid between £501 and £600. 10% paid between £601 and £700 and 12% paid over £700 per month in rental payments.

### Provision of information at the start of a tenancy:

- The vast majority (93%) of respondents were provided with a Tenancy Agreement;
- More than four-fifths (82%) received a Statement of Tenancy terms;
- 55% received a Tenancy Deposit Protection Certificate;
- 45% received an Explanatory Leaflet about tenancy deposit protection;
- More than one-third (36%) received a signed Prescribed Information Form;
- More than half (51%) received an Inventory and Schedule of Condition;
- 41% received a Rent Book;
- 25% were provided with an Energy Performance Certificate;
- 24% received a Gas Safety Certificate.

### Views on the Tenancy Deposit Scheme:

- Almost three-fifths (58%) knew that all new tenancies must be protected by a Government approved scheme;
- Nearly all (95%) respondents thought that it is a good idea that there is more protection for tenants and their deposits;
- Almost one-third (30%) thought that the scheme would cause delays in getting their deposit back;
- Almost one-third (30%) were unaware of the dispute resolution service;
- 84% stated that if there was a dispute with their landlord over the return of the deposit that they would probably use the dispute resolution service.

## 1. Introduction

This research was commissioned by the Northern Ireland Housing Executive in 2014.

The project was carried out by TDS Northern Ireland in partnership with the Ulster University and was designed to ascertain the views of tenants about the new tenancy deposit protection scheme introduced in Northern Ireland in April 2013. The project aims to establish a baseline against which the success of the tenancy deposit regulations can be judged in future years.

Chapter 2 of the report is an overview of the private rented sector (PRS) in Northern Ireland and how it relates to the development of the PRS in the rest of the UK and Ireland.

Chapter 3 traces the development of tenancy deposit protection in Northern Ireland.

Chapter 4 reviews the tenancy deposit protection legislation in the rest of the UK.

Chapter 5 reviews the various research that has been undertaken into tenants' views on tenancy deposits in England, Wales and Scotland.

Chapter 6 considers the previous small scale research undertaken in Northern Ireland on tenancy deposits together with the recent research undertaken by TDS Northern Ireland.

Chapter 7 provides the analysis of a large scale tenant survey involving over 1,000 responses to an on line survey of tenants with tenancies that commenced on or after 1 April 2013 (when the new tenancy deposit protection regulations came into force). The survey was supplemented by five focus groups across Northern Ireland which were used to ascertain qualitative views of participants about tenancy deposit matters.

This survey therefore captures the views of tenants whose deposits are being protected for the first time and who are able to reflect upon their recent experiences of having deposits which were not protected in respect of earlier tenancies.

Chapter 8 sets out some recommendations for policy makers to consider in relation to tenancy deposit protection.

### The Project Team

The report was written by Paddy Gray and Ursula McAnulty of Ulster University with Steve Harriott, Chief Executive of TDS Northern Ireland. The online survey was managed by Chris Kendall and Ben Beadle of TDS Northern Ireland and the focus groups were co-ordinated by Eamonn Hunt of TDS Northern Ireland.

### Acknowledgements

The Project Team would like to thank all those who contributed to the conduct of the survey, particularly the following:

- Those members of the public who participated in the survey and focus groups, whose good will and co-operation were fundamental to the success of the research;
- The staff in the Department for Social Development who were part of the Steering Group;
- The Housing Executive Research Unit and in particular, Paddy Finucane for his assistance with the final report.

## 2. The private rented sector in the UK and Ireland; an overview

The private rented sector (PRS) in Northern Ireland has experienced rapid growth in recent decades. In 1991 there were 28,500 dwellings in the PRS, accounting for 5% of the total stock but by 2001 this had grown to 49,400. By 2006 there had been a further substantial increase in the sector to 80,800 mainly due to an investor led housing boom. By 2011 the PRS had overtaken the social housing sector in terms of the proportion of the overall housing stock, increasing to 125,400 dwellings. If vacant properties which were privately rented when last occupied are included, almost one-fifth of the housing stock (19%; 144,500) is now in the PRS according to the latest House Condition Survey carried out by the Northern Ireland Housing Executive (NIHE 2011).

There are many reasons for this increase in private renting, particularly since 2001. From the supply side many investors entered the market, particularly within the period 2004-2007 when house prices were increasing substantially and the potential of quick capital gains were the most significant attraction.

From the demand side more and more people turned to renting privately as house prices rose beyond affordable levels, particularly amongst first time buyers, though not exclusively, and many potential buyers were outbid by investors. After the global financial crisis in 2007/08, although prices reduced, finance from lenders became much more difficult to obtain due to more stringent controls on who could borrow, and the requirement for large deposits. Resources for social housing also became more limited with rising waiting lists in many areas offering no hope to applicants of ever getting housed. To illustrate this, the 2014 Housing Executive report, Demographic Change and Future Housing Need concluded that the social housing programme would need to be in the order of 1,500 a year between 2011 and 2021, but noted that the Housing Executive 'considers it appropriate it to have an annual target of 2,000 new social dwellings for the next 5 year period', in order to address the high levels of urgent need and the expected low level of new dwellings constructed for the private sector.

Across Great Britain the growth of the PRS has followed similar patterns. Since the late 1990s a combination of demographics, a diminishing social rented sector with greater limitations on access and more recently difficulties in buying and selling in the owner occupied sector, particularly for younger people, has seen an increase in demand for private renting.

This literature review will examine the growth of the PRS in each of the jurisdictions in the UK as well as the Republic of Ireland. It will attempt to draw out the main issues facing both practitioners and public policy makers across the British Isles in order to set the context for the current research which will be presented in the remainder of the report.

### Recent rate of growth of the PRS

Since the First World War, the proportion of UK households accommodated by the PRS steadily declined against the rising number of both owner-occupiers and social housing tenants. Rent control from 1915 through to the 1950s, and the massive slum clearances of private rented houses in the 1950s and 1960s, together with large scale transfer of property into owner-occupation as it became deregulated, left the UK with only a tiny segment of easy to access private rented accommodation. There was a general lack of interest from investors and consumers who generally saw private renting as a third class tenure (Scanlon and Whitehead, 2011).

However the decade to 2001 saw the trend change – with the Census recording an increase in the percentage of households renting privately for the first time since the decline began almost a century ago. Governments across the UK responded with varying degrees of action, responses justified by the concurrent and sizeable rate of growth in the PRS at the beginning of the new century. Over this period, the share of all households renting privately in Northern Ireland doubled and similarly rose by three-quarters in Scotland (GRO Scot 2013) and two-thirds in England and Wales (ONS England 2012).

The general growth in the PRS since the 1990's can be attributed to a number of factors. The 1989 abolition of rent control in England & Wales made the PRS a more attractive place for investors, given the higher returns achievable from letting. Investment was also a feature across the UK given the high house prices during the first decade of this century. The rise in house prices were a key factor in Northern Ireland, which by 2007 had one of the highest average percentage increase in house prices in the UK (behind only London and the South East). House prices had been increasing substantially year on year in the previous four years to 2007 and were responsible for fewer households moving from the PRS into the owner-occupied sector as house prices moved beyond their reach. Tougher lending criteria for home loans as an after effect of the 2007 housing market crash also reduced affordability for those seeking to buy a home as it was difficult to raise the necessary credit and pay the higher deposits that were being demanded by banks for security. Increased levels of labour mobility in professional and higher technical jobs may also have played a role in the influx of those occupations giving rise to their over-represented status within the PRS, seen particularly in the Greater London area where financial services are prevalent. There are also other local factors in Northern Ireland, such as the 9% increase of over 2,000 additional students studying at South Belfast's two universities from 2001 to 2011, which has increased PRS demand in the area (HESA 2002 and 2012). As a result of these factors the PRS growth is likely to continue against the recent rate of UK house-building which is at an historical low.

### Public policy considerations

One of the key questions for policy makers will be whether the nature of these factors is structural or cyclical. That is to say, whether they hold, or instead are subject to short to medium term flux in supply and demand trends. Without an increase in the provision of new build housing, supply and demand will diverge further, resulting in the longer-term in higher house prices and correspondingly a higher growth rate in the PRS. The primary supply-side levers that policy makers have to address this question are the direct provision of new build, bringing derelict stock back into use, financial drivers such as Government backed help to buy, build or buy-to-let schemes or grants to housing suppliers as an indirect provision, and regulations to facilitate the above and encourage best practice. Consideration must be given to the effect these policies have on each other, such as monitoring the impact, if any, that regulatory drivers have on financial drivers in achieving their stated aims.

The consensus view in England, supported by evidence, is that a majority of landlords are “well-intentioned and offer a good service to tenants” (Rugg and Rhodes 2008). This is not inconsistent with the findings of the survey on tenant satisfaction in Northern Ireland carried out by the Ulster University in 2014, which can by extension be used as a measure of landlord performance – although it is acknowledged that such surveys are subjective and not determined against absolute criteria (Gray & McNulty 2014). Yet the aforementioned divergence of supply and demand also means that that there are, overall, more prospective tenants than properties. Consequently even with ‘bad’ landlords as the minority, they are still able to secure tenants even when they are known as poor operators, and “as a consequence, market forces cannot be relied on to ‘police’ the sector” (Rugg and Rhodes 2008). Against a backdrop of a high rate of growth in the PRS, there is a view that policy

makers should seek regulatory provisions that drive out the bad landlords without penalising the proficient ones who form the majority. Policy makers are increasingly focusing their attention on this largely unregulated sector.

## Recent Developments in Public Policy

### **England**

In May 2009, the then UK Housing Minister published the Government's response to the Rugg Review, entitled *The Private Rented Sector: Professionalism and Quality*. The report aimed to help achieve the vision of "a professional, high-quality private rented sector which is aware of its responsibilities to tenants, but given freedoms and flexibilities to grow" (DCLG 2009).

Its proposals, which were put out for consultation, were designed to "support the sector, encourage good existing landlords to grow and minimise barriers to entry" as well as "increase professionalism, drive out bad landlords and secure an improvement in the quality of the worst stock." Closely modelled on the Rugg Review's 'policy directions of travel', the proposals were split into three strands – an improved regulatory framework; more support for investment; and improved engagement with the sector.

However, the May 2010 general election resulted in a significant change in the political landscape, and the newly formed Coalition Government decided against implementing most of the Review's proposals. The proposals in relation to landlord registration, agent regulation and written tenancies were abandoned, leaving a largely unregulated PRS in England. However in April 2014 the Government did require all English lettings agents to be members of a redress scheme.

Nevertheless this lack of regulation in the sector is not passing without attention, and neither are standards of accommodation and rent levels. This is especially the case in high-profile areas such as London, with its above average PRS growth of 75% in the ten years to 2011, and rent increases surpassing both inflation and wage rises. These factors make renting privately increasingly unaffordable for tenants on average incomes, and even more so for tenants on low incomes. In July 2012 the Housing and Regeneration Committee of the London Assembly agreed to undertake a major review of London's private rented housing, with a scope of profiling the sector; identifying options to increase supply; and examining policies and records. (GLA 2013). The key areas examined by the Committee were affordability, physical standards, tenant security and landlord practices. The report, published in June 2013, found:

- rare cases involving criminal landlord behaviour, as well as feared and actual retaliatory evictions;
- the sector's insecurity being compounded by some buy-to-let mortgages limiting tenancies to 12 months, or prohibiting letting to tenants on benefits;
- the sector offering the worst housing conditions in London, with financial disincentives for landlords to keep properties in good repair; and
- unsustainable cost of increasing rents.



The report called for:

- a Government review of whether existing penalties act as a sufficient deterrent to landlord criminal behaviour;
- removal of the landlord's right to 'no fault eviction' to end retaliatory evictions;
- a minimum 24 month tenancy for homeless households;
- rent stabilisation measures;
- reduced risk and upfront development costs to facilitate increased supply;
- a 'fit and proper person' requirement for all landlords operating in London;
- mandatory landlord registration; and
- agents becoming subject to regulation.

In the absence of any central framework, some local councils have taken the lead and introduced their own PRS regulation. Councils in England are able to introduce selective licensing when certain requirements are met, including that areas display high levels of anti-social behaviour. Newham Council in east London was able to demonstrate that anti-social behaviour is generally higher in the PRS in the borough, and so became the first local authority to introduce a borough-wide mandatory licensing scheme.

Southwark Council in south east London has taken "the first steps towards mandatory landlord licensing" (Inside Housing 2013) and Brent Council in north London launched a consultation on extending its current scheme (Inside Housing 2014). A number of other councils continue to operate voluntary or selective schemes including Manchester, Oxford City Council, and Sheffield (The Guardian 2011). In total there were 17 Additional Licensing Schemes and 24 Selective Licensing Schemes in operation in England and Wales in 2012 (National Landlords Association 2012).

While few would disagree that a properly functioning regulatory framework would correct market failures, there are claims that the cost of regulation leads landlords to pass on charges to tenants in the form of higher rents and/or under-invest in property maintenance, as well as making letting property less attractive to potential landlords. Hence, the debate on PRS regulation in the public policy sphere usually centres around the impact that regulation would have on the size of the sector and the need for a cautious approach that would not entail a major exodus from the sector or discourage increased investment.

A 2012 University of Cambridge study examined the impact of PRS regulation across 11 European countries, and one notable finding was that "there is no clear-cut relationship between the degree of regulation and the size of the sector" but that "countries with low levels of regulation also tend to have smaller private rented sectors" and "large private rented sectors can be found in countries such as Switzerland, France and Germany, which are relatively strongly regulated." It concludes "the size of the private rented sector is not just an outcome of these regulatory regimes but also of the relative attractiveness and accessibility of other tenures and the availability of other investment opportunities" (Whitehead et al 2012).

The PRS itself as an investment opportunity is clearly linked with supply, and the ability of landlords to maintain and improve their existing properties. A 2013 Centre for London review of London's PRS re-affirms a sector "dominated by small scale landlords, most of whom only make a very modest return on their properties once all costs are taken into account. Many are not in a position to invest in the upkeep or improvement of their properties." It recommends for the tax system to be reformed "to encourage private landlords to invest in the improvement and upkeep of their properties" as well as "that central and London Government should continue to encourage large

institutional funds to invest in new homes for rent” (Theseira 2013). Where small scale landlords experience modest returns, the scale of involvement of institutional investors delivers a competitive return at very low risk, who can in turn deliver “an affordable, more secure rental product for modest and middle income tenants” (Alakeson, V et al 2013).

The UK Government is operating a scheme to stimulate larger scale building. The Build to Rent fund, worth £1bn, meets the development risk component of new build by financing construction until the homes are built, managed and let. The money is then recoverable when the developer sells on or re-finances, making it a revolving door fund available for future projects. This was a recommendation in Sir Adrian Montague’s 2012 “Review of the barriers to institutional investment in private rented homes” for the Department for Communities and Local Government (DCLG). In April 2013 DCLG revealed the 45 projects to access the first £700m of the fund, and the bidding for the second round and the remaining £300m closed on 31 October of that year, (Inside Housing 2013) (HCA 2014). The other two responses to the Montague report were a debt guarantee scheme, and a PRS Taskforce to support demonstration projects through these schemes.

More broadly, the Government has responded to these on-going discussions around PRS regulation by implementing a requirement that all letting and management agents belong to an approved redress scheme, and on 1 October 2013, Communities and Local Government Secretary Eric Pickles announced that a “model tenancy agreement” and “tenants’ charter” were being drafted as a method to “encourage longer fixed-term, family-friendly tenancies and raise standards in the PRS”.

## **Wales**

Following the Rugg Review and the UK Government’s response, in February 2010 the Welsh Government consulted on the above Rugg proposals. The consultation was done on the basis that some aspects of the report would also apply to the PRS in Wales, and that there was opportunity in implementing and operating the proposals on a cross-jurisdictional basis. However, whereas the UK Coalition Government subsequently decided against implementing the changes in England, the Welsh Government did pursue a policy agenda based on the Rugg Review proposals.

The Welsh Assembly’s Communities & Culture Committee began an inquiry later that year, looking into the standards of the PRS in Wales. The inquiry was partly to facilitate and make recommendations to the on-going Government discussions around general and regulatory reform of the PRS, but also because the sector “represents a relatively substantial number of properties, and is widely recognised as playing a major role in the housing market” but equally one that had not, until recently, been seen as “nationally or locally as important as other sectors in meeting housing need” (National Assembly for Wales 2011).

The report was published in February 2011, and reiterated many of the themes established in both the Rugg Review and the ensuing England consultation. It made ten recommendations to the Welsh Government, including that it research “the potential effectiveness and feasibility of a mandatory licensing or registration scheme for all managers of private rented sector accommodation (including landlords)”, and take “appropriate legislative action to enable the introduction of statutory regulation of all letting agencies”. It also addressed accreditation, recommending that the Government “continue to promote Landlord Accreditation Wales”, aimed at delivering better management standards. Accreditation was touched on in the Rugg Review, and addressed by England with a statement in favour of accreditation being made available to all landlords, and that general consideration should be given to national standards. In lieu of a national mandatory scheme, some local authorities in England have stepped in to run accreditation schemes.

The Welsh Government's housing white paper that followed in May 2012 went further than the recommendations made by the committee, and indeed further than was proposed in England. It committed to legislate for a national, mandatory, registration and accreditation scheme for private landlords, lettings and management agents based on agreed Codes of Practice, and ensure every tenant has a written tenancy agreement (National Assembly for Wales 2012).

The national registration and accreditation scheme would be "simple but effective". It would involve a "fit and proper person" test at the initial application stage, similar to what is done in Scotland, and observers of the scheme will no doubt watch for ease in the operation of the scheme, against an experience by some of long wait times in the Scottish rollout of licensing (Rugg and Rhodes 2008).

The accreditation component does however benefit from the existence of the Cardiff County Council-run and Government-supported *Landlord Accreditation Wales* (LAW), operating since November 2008 when it was established as a voluntary scheme. All 22 local authorities participated in the scheme and it successfully accredited 1,300 landlords to May 2012. Hence, the subsequent proposal was to simply base a new scheme, the *Welsh Agents and Landlord Licensing Scheme* (WALLS), on this existing, successful one but on a national, mandatory basis (NAW 2012). The Government issued its consultation document on these proposals at the beginning of July 2012, with responses due by mid-August. The subsequent Housing Bill came before the Welsh Assembly in November 2013 and the Housing (Wales) Act was published in 2014, introducing a compulsory registration and licensing scheme for private rented sector landlords and letting and management agents.

The requirement for a written tenancy agreement is concurrently part of the Welsh Government's proposals for a new legal framework for renting a home in Wales (NAW 2013). These 2013 proposals incorporate most of those made by the Law Commission in its 2006 report otherwise rejected in England. (Law Commission 2006). This new legal framework will create two types of contracted tenancy – a secure contract and a standard contract – the latter of which applies to the PRS being modelled on the 'assured shorthold tenancy' that currently exists in England and Wales. The Government proposes to make it easier for landlords to issue written agreements by providing "model contracts" (NAW 2013). This draft bill is being considered by the Assembly in 2015. These individual bills and consultations are interlinked under the Welsh Government's adopted 'system stewardship' approach to housing policy. This seeks to join up interconnected policies, taking multiple interventions across the housing industry within a whole-system approach, with an aim to legislate for a better private rented sector in Wales.

### **Scotland**

Scotland took quite a different route to a PRS strategy than those reviewed thus far. Before the change of Scottish Government in 2007, the approach to the PRS was one of ad-hoc legislation. Yet the legislation was substantial in subject matter – more so than was featured elsewhere in the UK at the time. It included the compulsory National Landlord Registration Scheme – established under the *Antisocial Behaviour etc (Scotland) Act 2004* and which came into force from April 2006.

The aim of the scheme was "to ensure that all private landlords in Scotland are fit and proper to be letting residential property". The requirement would "help local authorities to remove disreputable landlords from the market, protect tenants, and protect communities from the impact of antisocial behaviour and mismanaged property" (Scottish Government 2013).

The relatively early introduction of landlord licensing in Scotland means that it can serve as a point of reference, providing insight for other jurisdictions considering registration as a policy tool for

addressing management practice. The 2009 report “Landlord registration in Scotland: three years on” by housing and homelessness charity *Shelter* found that “there were a number of examples of ways in which landlord registration has been used as an impetus of improving private renting”, but that many concerns, mostly around non-enforcement by Councils and a lack of public awareness of rights and responsibilities, meant that registration was “not yet fulfilling the expectations placed upon it”. As previously mentioned, responses to the Government’s 2013 PRS strategy also highlighted non-enforcement as a pervading issue with the Chartered Institute of Housing Scotland (CIH Scotland) stating that “many private landlords who see poor or even criminal landlords ‘getting away with it’ are calling for a more consistent approach across Scotland in how the ‘fit and proper’ test is applied” (Scottish Government 2013). A 2011 independent evaluation for the Government concluded that registration has had “some impact”, including an unintended by-product of improving property conditions in a small number of cases, and cited “some improvement in landlord behaviour” with a caveat that registration had “not removed the ‘worst’ landlords from the sector” (Scottish Government 2011). Compulsory registration did not extend to letting agents, which has been the subject of some calls since, and had been included as one of a number of PRS measures in the Housing (Scotland) Act 2014.

Other pre-2007 laws were introduced under the *Housing (Scotland) Act 2006*, and included a Repairing Standard which, in setting a basic standard of repair, extended the legal requirement of repair to private sector landlords; private tenants’ right to adapt property for a disabled occupant(s); and new provisions for Licensing of Houses in Multiple Occupation (HMOs). It established the Private Rented Housing Panel (PRHP) as the body to deal with disputes arising from the Repairing Standard.

Importantly, together with landlord registration these steps were not considered to be politically contentious by the incoming Government in 2007. While putting its own stamp on housing policy with the publication of its discussion paper *Firm Foundations* in the same year, it also stated “The Scottish Parliament has passed several pieces of legislation in recent years. We do not intend to undo the work of the previous two Parliaments”.

In consulting on a comprehensive housing policy, *Firm Foundations* addressed the PRS, reiterating an earlier announcement of “start-up funding for a National Voluntary Landlord Accreditation Scheme”—namely *Landlord Accreditation Scotland* (LAS) that was rolled out in 2008, and committing to a review of the PRS (Scottish Government 2007).

The PRS review, published in 2009, had three main aims: “to undertake a general stock take of the sector and provide a detailed primary evidence base on the sector’s circumstances in Scotland; to look at the role of the sector in housing low income families and individuals on benefits, including those presenting as homeless; and to consider good practice in relation to strategic and operational engagement between local authorities and the private rented sector” (Scottish Government 2009).

A PRS Strategy Group of stakeholders was formed in October of the same year to advise the Government on addressing the findings of the PRS review. The Group was specifically tasked firstly with proposing legislative changes, and secondly with advising on a Government strategy for the PRS. A set of proposals for legislative change was published in January of the following year. In the Spring the Government consulted on the first four recommendations that the group made: “changes that could help the landlord registration system to operate more effectively; improve the enforcement of the house in multiple occupation (HMO) licensing system; address overcrowding in the sector; and amend laws relating to aspects of the tenancy regime in order to facilitate the exercise of some landlord rights, clarify processes and improve tenants’ knowledge of their rights and responsibilities” (Scottish Government 2010).

The consultation largely formed the basis of the Private Rented Housing (Scotland) Act 2011. Changes to the landlord registration system included:

- amending, expanding and clarifying the ‘fit and proper person’ test in order to facilitate consistency in application across local authorities;
- allowing a local authority to require information relating to registration, while increasing information flow by requiring the *Private Rented Housing Panel* (PRHP) to share information held on private landlords with local Government – thus helping to make ‘bad’ landlords more identifiable;
- requiring a local authority to provide landlords with their registration number upon completing the registration process – the Act giving legal standing to these numbers that had been previously used in an administrative function;
- obliging landlords to display their registration numbers in written lettings advertisements, with a non-compliance penalty of potential removal from the register, while giving landlords the flexibility to advertise properties while their applications were pending providing that a corresponding note was included in the advertisement; and
- increasing information available on the public register to include the status of a registration application.

The penalty for operating as an unlicensed landlord was increased from £5,000 to £50,000, and the Courts were given the power to disqualify a person from registration for up to five years. It is important to note that the penalties are designed to act as a deterrent from operating outside of the legislation – in reality few cases make it to the courts due to both the cost involved and the longer timeframes operated by the Courts when compared with the typically short length of PRS tenancies (Scottish Government 2012).

On HMOs, the Act granted additional discretionary powers to local authorities to allow them to refuse a HMO licence if either it would breach planning control, or result in an oversupply of HMOs in a given area. Local authorities were given the power to take enforcement action on overcrowding in the wider PRS.

With regards to the tenancy regime, the Act facilitated landlords’ rights to property access to undertake their repair obligations by allowing a landlord application to the PRHP to resolve disputes on the matter, and aimed to improve tenants’ knowledge by including a provision for the introduction of pre-tenancy information packs.

Tenancy deposit disputes were dealt with through the introduction of a custodial tenancy deposit scheme to operate from July 2012, which involves the mandatory transfer of deposits to a third party scheme that holds the money until the end of a tenancy and mediates over any resulting dispute. Tenancy deposit protection was first introduced in England and Wales in 2007, and subsequently in Northern Ireland in 2013, in various formats.

The second task of the PRS Strategy Group – to advise on a PRS strategy – was completed and a Government consultation was launched in April 2012. The PRS Strategy was published in May 2013, setting out the Government’s vision as “a private rented sector that provides good quality homes and high management standards, inspires consumer confidence, and encourages growth through attracting increased investment”(The Scottish Government 2013). It identified three strategic aims: “to improve the quality of property management, condition and service; to deliver for tenants and landlords, meeting the needs of the people living in the sector, consumers seeking accommodation, and landlords committed to continuous improvement; and to enable growth, investment and help

increase overall housing supply.” It set out ten key actions, on which Government would work with partners and stakeholders in order to achieve their aims.

January 2014 also saw a new Housing (Scotland) Act which featured three proposed changes that would affect the PRS. Prior to this only the tenant could bring a case to the PRHP – one change means that a third party, most obviously the local authority, can bring a case. It is hoped that this will reduce the burden on tenants and enable local authorities to operate more strategically when dealing with PRS disrepair. As mentioned above, the Act also makes provision for a national scheme for the registration of letting agents; sets out the process for handling disputes between letting agents and landlords or tenants; and allows Ministers to set out a statutory code of practice for letting agents. Finally it proposes a PRS housing tribunal – prior to this private rented housing cases were heard in a variety of forums, e.g. repairs issues are heard in the PRHP and cases related to possession were heard in the Sheriff court. This change will see all civil PRS cases being transferred to a First Tier Tribunal for resolution. This will mean decisions will be made by three members as opposed to one sheriff, and these members will have specialist knowledge and operate in a less adversarial way. It is hoped that this in turn will lead to less of a need for lawyers, with litigants being encouraged to bring their own cases. Another benefit of a tribunal is that all decisions are published, leading the way to better learning, as opposed to the current position where Sheriff Courts very rarely report on their cases. According to CIH Scotland, establishment of the Tribunal is linked with wider reforms of the court system in Scotland and it is not expected to be in place until late 2016. (CIH Scotland 2014)

### ***Northern Ireland***

Northern Ireland approached its housing policy in a different way to Scotland by completing a PRS strategy before the broader housing strategy. The Department of Social Development (DSD) Consultation document set out its vision for the PRS in May 2009: “Our vision is of a professional, well managed, service driven sector, strongly grounded in high standards and good practice. A sector based on a clear understanding of the rights and responsibilities of both the providers of the service and the responsibilities of those tenants, as users of the service. Underpinning this is the need to have clear and effective arrangements for the communication of these standards and practices and for their enforcement. Effective processes need to be in place to identify and challenge instances of unprofessional practice and deal with unacceptable behaviour by both landlords and tenants” (DSDNI 2009).

The Private Tenancies (NI) Order 2006 was the first substantive PRS law since 1978. Following its enactment no new protected or statutory tenancies were to be granted. It also made changes to existing ones, introduced new definitions relating to unfitness and disrepair, and gave tenants rights to a statement of tenancy terms and a rent book. The subsequent Housing (Amendment) Act NI 2010 included minor amendments to the Private Tenancies Order, and a technical change to the definition of a HMO.

While the consultation document proposed landlord accreditation as a means to improve landlord/tenant management, the published Strategy stated that “responses to the draft proposals agreed the need to secure greater professionalism, but felt that a stronger and more rigorous approach, based on mandatory landlord registration is needed.” Also proposed was “greater access to relevant information sources such as Housing Benefit data” and “the introduction of a rent deposit scheme” (DSDNI 2010).

Support for a stronger and more rigorous approach had also been reflected in previous phases of research commissioned by the Northern Ireland Housing Executive (NIHE). The series of reports

published in 2009 found “the vast majority of tenants (84%) stated that they would be more likely to rent from an approved landlord if a landlord accreditation scheme was in place in Northern Ireland” and “most respondents (87%) were in favour of a mediation/arbitration service to deal with landlord/tenant disputes” (McAnulty U and Gray, P). Some headline findings that may have informed these positions include:

- 38% said they did not have a tenancy agreement and of those who did, 18% were not given a copy;
- one quarter (24%) of tenants were dissatisfied with the way their landlord/agent dealt with repairs and maintenance, and of those 39% said the landlord “did not bother about repairs and maintenance” and
- despite a substantial decrease in unfitnes since 2001, the sector had represented an unfitnes rate higher than the other occupied tenures.

The Housing (Amendment) Act (NI) 2011 provided for the introduction of a mandatory tenancy deposit scheme, which came into force from 1 April 2013. Unlike Scotland, in addition to a custodial scheme it also provided an insurance backed scheme, which allows landlords or agents to pay a fee to a scheme administrator to effectively secure the deposit in the event that it is not repaid to the tenant (after agreed deductions) and thereby retain the money during the tenancy instead of transferring it in full to a scheme.

The Act also provided for information disclosure on rates and housing benefit to local councils in relation to private tenancies, and included provision for the introduction of a mandatory landlord registration scheme. DSD launched the online element of registration on 25 February 2014, and a manual element followed on 6 March 2014. More than 9,000 landlords have registered since the scheme has been introduced (NIHE, 2015).

Housing Benefit has played an important role in providing support for low income tenants in the sector. In 2013/14 more than 60,000 private tenants were in receipt of Housing Benefit and the total budget for the sector amounted to more than £300 million. Concern has been expressed that the welfare reforms would have an impact on the future levels of support through HB but research completed by Sheffield Hallam University in 2013 indicated that the housing benefit reforms have had a somewhat subdued impact, with little evidence of mass tenant/landlord movement out of the sector. The NIHE suggests that the interim protections in place and the decision to retain direct housing benefit payments to landlords have softened the impact of current reforms (NIHE, 2015).

Increasing attention is also being given to the role of the PRS in housing the homeless in Northern Ireland. A 2012 report commissioned by the Housing Rights Service claims “it is unlikely that the social housing sector will ever be in a position to meet future housing need in Northern Ireland” and that “the PRS can be used effectively to meet the needs of even the most vulnerable homeless, and create sustainable, long term tenancies”. Of course, “a significant degree of support is required if the vulnerable homeless are to sustain tenancies” which would be “provided by a multi-disciplinary mobile team”, while affordability remains a key obstacle (Policis, 2012). A think piece collaboratively produced by *CIH Northern Ireland*, DSD and *SmartMove NI* concurs “there is a clear strategic and economic case for investing in private rented sector access schemes to help make better use of the sector to meet the housing needs of low-income, vulnerable and homeless individuals and households” (CIH et al 2011). Local authorities in Scotland and Wales may discharge their statutory obligations to the homeless with a PRS tenancy only if they have the household’s consent, whereas local authorities in England have had the ability to do so without the applicant’s consent since 2012.

A further review of the Private Rented Sector was announced by the Department for Social Development in November 2014 (NIHE, 2015).

### ***Republic of Ireland***

The Republic of Ireland's private rented sector experienced a decline over the 20<sup>th</sup> century similar to the UK, but increased from 1991-2002 and then again rapidly from 2002-2011. Despite a census every five years in Ireland, before 2006 only the decennial census recorded housing tenure data. The 2006 census therefore reveals a unique mid-point snapshot, and actually shows a slight PRS decrease from 11.1% in 2001 to 10.3% of total units – up from 7% in 1991 (Healy et al 2011) before a remarkable increase to 18.8% in the five years to 2011 (Central Statistics Office 2012) The mid-point lull in PRS growth over the last twenty years could be explained by financial drivers, including the relative availability of credit and mortgages that kept the owner-occupied tenure buoyed over this period before its continued decline. Also not unlike the UK, this growth in the PRS is likely due to the primary drivers of finance and the labour market, and other ensuing factors:

- In the context of this growth, like Northern Ireland, public PRS policy was light touch and there was very much a lack of available data to inform change (Mc Cashin 2000). In this context, the Commission on the Private Rented Residential Sector made recommendations which formed the basis of the *Residential Tenancies Act 2004*. The Act encapsulated extensive sectoral “reform of residential landlord and tenant law” that “will herald a new era for landlords and tenants in Ireland” (DoEHLG 2000) The Act provided for: the establishment of a statutory Private Residential Tenancies Board (PRTB);
  - a new system of tenancy registration with the PRTB;
  - provisions for a new dispute resolution service through the PRTB instead of the Courts; involving mediation or adjudication and tenancy tribunal hearings;
  - penalties for offences relating to registration of private rented accommodation;
  - improved security of tenure through a system of 4-year tenancy cycles;
  - new tenancy termination procedures including longer notice periods linked to length of tenancy;
  - provisions setting out clearly the statutory tenancy obligations of landlords and tenants; and
  - powers to address anti-social behaviour.
- (DoECLG 2013)

Unlike parts of the UK, each *tenancy* must be registered, not just the landlord him or herself. That is to say, if a landlord lets ten properties, ten registrations are required. Like Northern Ireland, the Republic adopted longer notice periods to end tenancies that have run for a longer period of time. In noting the role of dispute resolution via the PRTB, a format that has been demanded in Scotland, it is also interesting to make another comparison with Scotland – local authorities are bearing the brunt of criticism for being unaware of and under-resourced to carry out their designated inspection role. Plans are underway to include housing association tenancies within the remit of the PRTB, which is to become the Residential Tenancies Board (RTB). It is expected that legislation will be passed in the autumn of 2015.

A key issue identified in Ireland, and one related to the lack of inspections in the PRS, is the quality of stock. Despite legislative action by the Government in regulating standards in the years since 2008 – including the 2013 abolition of the ‘traditional bedsit’ that allowed shared washing and sanitary facilities in multiple-occupancy properties – concerns around accommodation standards feature high behind only tenancy deposit disputes (Threshold 2012). The Irish Government has backed plans to introduce a tenancy deposit scheme, which will mean complete coverage of such schemes across UK and Ireland.



## Impact of Welfare Reform

Since its election in 2010, the UK Government has implemented a welfare reform agenda which has been the subject of much attention and study. Northern Ireland is the only UK region where substantial elements of welfare reform are yet to be implemented.

## Conclusion

The profile and trends of the PRS are similar across the UK and Ireland, indicating common financial experiences and cultural considerations such as the emphasis put on home ownership. With the exception of England, the recent norm across the islands has been to respond to issues in the PRS with strategies and legislative change. A key common barrier to achieving stated aims is the lack of awareness of tenants, landlords and local authorities on what their rights and responsibilities are. It is clear that the overhang from the 'credit crunch' and recessionary pressures are also barriers – limiting the capacity for growth among existing landlords and limiting the involvement of hesitant institutional investors; capacity issues among under-resourced local authorities; landlords unable to afford basic repairs; and a sector flooded with households who would otherwise be in the owner-occupied or social rented tenures, giving those landlords who continue poor practices a steady supply of tenants. There appears to be no 'silver bullet' to solve these issues, but as outlined above there is scope to increase the flow of information to give each participant the best available knowledge, and to encourage increased professionalism in the sector. Each jurisdiction is moving at a different pace in accommodating this expanding sector that caters for a wide range of groups, but the key direction is one of increased regulation to tackle the difficulties of the 'rogue landlords', but at the same time equipping those who are willing to provide a good service with the necessary skills and support to do this.

### 3. The introduction of tenancy deposit protection in the private rented sector in Northern Ireland

#### Introduction

The Northern Ireland Assembly passed Regulations in November 2012 to introduce tenancy deposit protection in Northern Ireland. Following a fast track procurement process to select new scheme administrators the tenancy deposit protection regulations came into force on the 1<sup>st</sup> April 2013 when four schemes (later reduced to three in September 2013 when Capita withdrew) were appointed by the Department for Social Development in Northern Ireland to administer the new regulations:

- **Tenancy Deposit Scheme Northern Ireland:** which operates both an insurance backed scheme alongside a custodial scheme;
- **MyDeposits NI;** which also operates both types of scheme;
- **LPS NI:** which is currently only operating a custodial scheme.

#### Background

In 2009 Margaret Ritchie MLA (the then Minister for Social Development) issued the “Building Sound Foundations” (DSD 2009) consultation paper. This paper proposed a number of far reaching changes in the private rented sector; a sector which was growing in size and therefore importance to meeting the housing needs of residents in Northern Ireland.

One of the many proposals in the paper was the establishment of a tenancy deposit scheme based on the model operating in England and Wales together with a free dispute resolution mechanism to deal with those tenancy deposit disputes.

The Consultation paper attracted 39 formal responses, the overwhelming majority of which were supportive of the proposals to introduce statutory tenancy deposit protection and free dispute resolution services.

Although most of the responses to the consultation paper were supportive one of the groups which opposed tenancy deposit protection was the National Landlords’ Association (NLA 2009). Its main objection was that the proposals were “a legislative hammer to crack a nut” and pointed to the low number of cases in England and Wales where disputes were dealt with by the Alternative Dispute Resolution service offered by the tenancy deposit schemes (Figure 3.1).

**Figure 3.1: Extract from NLA response to the Building Sound Foundations Consultation paper (NLA 2009)**

**Proposals**

Unfortunately, the NLA cannot support the introduction of tenancy deposit protection in Northern Ireland. When considering the position in England and Wales since the introduction of tenancy deposit protection, using your own figures<sup>37</sup>, only 0.16% of tenancies protected have required adjudication. The NLA considered the introduction of tenancy deposit protection to be a legislative sledgehammer to crack a nut and subsequent analysis has proved that to be true. We would not recommend the Northern Ireland Executive spends £500,000 on introducing a scheme for a perceived, rather than actual, problem. Even by the Executive's own statistics, 83% of deposits were returned in full to tenants at the end of the tenancy<sup>38</sup> and it is reasonable to surmise that a large number of the remaining 17% warranted a deduction in their deposit.

Nonetheless, should tenancy deposit protection be introduced into Northern Ireland, the NLA would recommend that a scheme akin to the UK model, be developed, ensuring that both a custodial-based and insurance-based provider be included. Having two options will allow landlords to choose which scheme benefits their businesses better and ensures competition between providers to guarantee the best value for money for consumers.

Following detailed consideration of the responses the Department published its final Policy paper in 2010 under the title of *Building Sound Foundations: a strategy for the private rented sector* (DSD 2010). The Department re-iterated its support for tenancy deposit protection and said that:

*“Currently, many low income households and prospective tenants are experiencing difficulties accessing the private rented sector in terms of affordability. Difficulties which surround the return of tenants’ deposits, coupled with problems which arise in the handling of disputes between landlords and tenants, have long been a major concern for many private renting tenants. Responses to the consultation welcomed the Department’s proposal to introduce a rent deposit scheme. The Department’s objective is to have in place arrangements which safeguard rent deposits and provide a means to allow disputes between landlords and tenants around deposits to be dealt with, speedily and independently. It is not intended that this will make deposits compulsory but will apply where landlords require a deposit. Work is presently underway to put in place the enabling legislation which will allow the introduction of a rent deposit scheme. Prior to the introduction of a scheme, the Department will continue to work with stakeholders to develop the precise detail of such a scheme”.*

The Northern Ireland Assembly did not however follow the example of the Scottish Government in introducing a custodial only model. Nor did they decide to make the scheme apply retrospectively to deposits already held. The Department of Social Development and the Minister decided that in Northern Ireland they would permit two types of scheme to operate [as in England and Wales]:

- a custodial scheme where the deposit is held during the tenancy by the scheme administrator; and
- an insurance backed scheme where the tenancy is retained by the landlord or letting agent during the tenancy and the scheme’s insurance will pay out if for whatever reason the tenant fails to get his deposit back less agreed deductions at the end of the tenancy. The scheme then seeks to recover the deposit monies from the landlord or letting agent.

The Northern Ireland Assembly approved the proposals set out in Building Sound Foundations in February 2011 and this led to enabling legislation in the in the Housing (Amendment) Act (Northern Ireland) 2011, which allowed for tenancy deposit protection regulations to be introduced. The 2011 Act amended the Private Tenancies (Northern Ireland) Order 2006 by introducing new Articles 5A(1), 5A(3), 5B(5), 5B(6) and 73(1).

Following the passage of the enabling legislation a stakeholder forum was set up to assist the Department for Social Development in drawing up the detailed proposals. This Forum looked in detail at the experiences of tenants across the UK and at the different approaches taken in England and Wales to that of Scotland. After detailed discussions the Department decided that it would introduce both types of deposit protection schemes in Northern Ireland but not make the regulations apply to existing deposits. In addition it required all of the schemes to provide a free dispute resolution mechanism to deal with tenancy deposit disputes.

The detailed regulations in Northern Ireland are found in the Tenancy Deposit Schemes Regulations (Northern Ireland) 2012 which were laid before the Assembly in draft on 3 October 2012 and came into operation on the 1 November 2012.

In the Assembly debate on the Regulations on 24 September 2012 the proposal received all party support. Michael Copeland MLA said:

*We in Northern Ireland have been forced to watch from the side-lines as the rest of the United Kingdom moves ahead with its tenancy deposit schemes. At long last, we can elevate ourselves to some sort of equal footing with our colleagues in Great Britain.*

He was followed by Fra McCann MLA who said:

*This is an important regulation. This problem is not just confined to students or foreign nationals; it happens right across the board. All of us who deal with constituents have dealt with horror stories of people having their deposits held back when they were leaving or asked to leave a property.*

The then Minister for Social Development at that time Nelson McCausland MLA said:

*I am pleased with the consensus of support across the Assembly and the parties for the regulations. I thank the Chair and the Social Development Committee for the positive way in which they dealt with the regulations. Members' contributions generally set out the need for such a provision and indicated their support for it, which is encouraging. If any matters need to be followed up, I will do so in writing. I am certain that we all want improvements in the private rented sector. We need to make it a more attractive housing option and give tenants confidence when they rent privately, particularly when handing over and getting back their deposits. I commend the motion to the House.*

## 4. Tenancy Deposit legislation in the rest of the UK

### England and Wales

As we have seen the introduction of tenancy deposit protection in Northern Ireland followed closely the experience of England and Wales and to a lesser extent Scotland. Tenancy deposit protection was introduced in England and Wales on the 6<sup>th</sup> April 2007 and in Scotland on July 2<sup>nd</sup> 2012.

In his book for The Dispute Service the Solicitor David Smith (Smith 2012) provides a useful overview of the reason why tenancy deposit legislation was introduced in England and Wales.

*For many years tenants, and advice organisations, claimed that landlords and agents were making unreasonable deductions from their deposits when tenancies came to an end, and that this was difficult to 'police'. In truth, there was little solid evidence for this being a consistent pattern of behaviour. Landlords and agents both took the view that, insofar as it happened at all, it was confined to a relatively minor part of the sector. Undoubtedly, there were some landlords who made excessive and unreasonable deductions from tenancy deposits but these appeared to be in a minority. The studies which had been made focused only on anecdotal evidence from one side or the other. They had not actually sought to examine the nature of the deductions themselves, or to assess whether they were, in fact, reasonable.*

However in 1998 the National Association of Citizens Advice Bureaux (NACAB) published their report "Unsafe Deposit" (NACAB 1998). This is probably seen as the key driver for the introduction of the tenancy deposit legislation in 2004 as it set out for the first time a quantitative analysis of the problem. As David Smith said:

*This report stressed that as many as half of clients attending at Citizens Advice Bureaux had money taken from their tenancy deposit unreasonably and that of those people, 64% lost more than three-quarters of their deposit. This led to a joint campaign between NACAB and Shelter for some form of tenancy deposit protection scheme to be introduced.*

As a result of this report and the follow up the then Department for Environment, Transport and the Regions agreed in 1988 to sponsor a pilot voluntary tenancy deposit protection scheme in several test areas. The press release implied that if the scheme did not receive positive take up then the Government would consider a compulsory scheme.

The pilot scheme was set up under the auspices of the Independent Housing Ombudsman in the Spring of 2000, with Government providing the financing for two years. This financing was extended for a further two years to allow for various studies to be completed, and to explore whether the scheme could become self-financing. In 2003 the Dispute Service Ltd was formed to take forward the voluntary scheme from the Independent Housing Ombudsman. The pilot scheme offered two models for deposit protection:

- a custodial model: and
- an insurance backed scheme.

It is the case that tenants tended to prefer the custodial scheme as it was clear that a third, independent party was holding the deposit. However many landlords and agents preferred to hold the deposit and insure it with a scheme as they felt:

*...there was a 'symbolic' importance in the deposit being held by them. It reminded the tenant of their obligation to look after the property and provided a very direct incentive to do so. (Smith 2012)*

The Government commissioned an evaluation of the pilot scheme and this evaluation was published in 2002. It noted that:

- because the scheme was voluntary, this had led to a very low take-up;
- while doubts continued to be expressed as to whether there was a significant problem with deposits being unreasonably withheld, it was acknowledged by all sides that there was an on-going perception that this was a real problem and that it would be sensible to address that perception;
- it was not clear whether a voluntary scheme would be able to deal with rogue landlords - the real root of the problem – since they would simply decline to participate;
- there was also doubt as to the ability of a compulsory statutory scheme to deal with this group as it was felt that they were unlikely to be dissuaded from current bad, and frequently unlawful, practices by simply adding another legal requirement.

In 2003, the Association of Regulated Letting Agents (ARLA) and the Royal Institution for Chartered Surveyors (RICS) decided to promote a Tenancy Deposit Scheme for Regulated Agents (TDSRA). Its aim was to build on the existing successes of the pilot scheme and to provide a distinguishing feature for ARLA and RICS members. This scheme allowed ARLA and RICS members to offer a deposit dispute resolution service to their clients and tenants on a voluntary basis. This TDSRA scheme was operated through The Dispute Service Ltd.

The House of Commons Library's briefing note (House of Commons Library 2014) on tenancy deposit protection provides a helpful summary of the background to the introduction of tenancy deposit protection in 2004.

*The draft Housing Bill 2002-03, which was subject to pre-legislative scrutiny by the ODPM: Housing, Planning, Local Government and the Regions Select Committee, did not contain provisions to introduce a mandatory TDS but the Committee concluded that there was a case for such a scheme.*

*The Government's response to the Committee's report was published on 10 November 2003. The Government, at that time, did not agree that a statutory tenants' deposit scheme should be included in the forthcoming Housing Bill on the grounds that more time was needed to work up proposals.*

*The Housing Bill 2003-04 was presented on 8 December 2003. The original Bill did not contain measures to introduce a statutory TDS. During the Commons Committee Stage an amendment was moved that would have placed a duty on the 'appropriate national authority' to introduce a mandatory tenancy deposit scheme within 12 months of the Act coming into force. The then Minister for Housing, Keith Hill, reiterated the Government's commitment to consider the case for legislation alongside the Law Commission's proposals. However, on 19 May 2004 the then Minister announced that amendments would be added to the Housing Bill in respect of tenancy deposits. Thus provisions to enable the*

*establishment of mandatory tenancy deposit schemes were added to the Housing Bill: these provisions can be found in Chapter 4 and Schedule 10 to the 2004 Housing Act.*

There then followed a long drawn out process to both procure a custodial scheme and two insurance backed schemes as well as finalising the various regulations and provisions (most of which are to be found in various Statutory Instruments).

**Figure 4.1: Tenancy Deposit legislation and Regulations in England and Wales**

Housing Act 2004 sections 212-215, Schedule 10
Housing Act 2004 (Commencement No. 7) (England) Order 2007
Housing Act 2004 (Commencement No. 4) (Wales) Order 2007 Housing (Tenancy Deposit Schemes) Order 2007
Housing (Tenancy Deposits) (Prescribed Information) Order 2007 Assured Tenancies (Amendment) (England) Order 2010
Assured Tenancies (Amendment of Rental Threshold) (Wales) Order 2011.
Localism Act 2011 Section 184
The Localism Act 2011 (Commencement No. 4 and Transitional, Transitory and Saving Provisions) Order 2012.
Deregulation Act 2015

### Key provisions of the 2004 Housing Act

The 2004 Act had two core requirements relating to tenancy deposits:

- That all new deposits should be protected in an authorised scheme within 14 days of receipt (increased to 30 days of receipt from 6 April 2012); and
- That tenants should be provided with Prescribed Information about where their new deposit was protected and how the tenancy deposit protection scheme operated. This Prescribed Information had to be provided by the landlord within 14 days of the deposit being received (increased to 30 days from 6 April 2012).

From 6 April 2007 these new requirements came into force as three Government approved tenancy deposit schemes were established.

### Custodial scheme

One of these was a custodial scheme, which requires the landlord to pay the deposit to the scheme, which then holds the tenant's deposit and keeps it during the lifetime of the tenancy. The scheme makes no charge to the landlord, and it is expected to fund itself through the interest it earns on the deposits it holds. At the end of the tenancy the custodial scheme will return the deposit to the parties in accordance with their agreement. In the event there is no such agreement the scheme will adjudicate on any proposed deductions by the landlord and will pay the deposit to the parties in accordance with the adjudication.

### Insurance backed scheme

The other two approved schemes were insurance backed which means that the landlord or lettings agent registers the deposit with a scheme, paying the scheme a fee to protect it, but retains the

tenancy deposit during the lifetime of the tenancy. If there is a dispute about any deductions at the end of the tenancy, the scheme can then adjudicate on that dispute and will ask the landlord or letting agent to send the disputed deposit to the scheme. The scheme carries insurance which will give the tenant protection against loss of a deposit due to bankruptcy of the deposit holder or a failure by the landlord or lettings agent to pay the disputed amount of the deposit to the scheme or the tenant.

From April 2013 the Government authorised an additional two insurance backed schemes (although one withdrew in September 2013) so there are now:

- 3 insurance backed schemes;
- 1 custodial scheme.

## Scotland

Scotland introduced tenancy deposit protection in July 2012 following the passage of the Tenancy Deposit Schemes (Scotland) Regulations 2011 on 7 March 2011. The Regulations set out the conditions that all schemes must meet before they can be approved by the Scottish Ministers as well as setting out in detail how the tenancy deposit protection scheme should operate in Scotland. In March 2009 the Scottish Government published their review of the private rented sector (Scottish Government 2009). This review looked at the issue of tenancy deposits and again reiterated the point that:

*...there are concerns about some tenancy deposits being unreasonably withheld, in total or in part. If this happens, the former tenant is entitled to seek recovery of the amount concerned in the sheriff court. Although the small claims procedure will be applicable in most cases, some tenants are not confident about taking legal action. Furthermore, if the landlord does not accede to the court decree, the responsibility to enforce it lies with the former tenant, which involves the trouble and expense of engaging a sheriff officer. If the landlord has insufficient assets, it may be that no money can be recovered.*

These concerns had previously led to the Scottish Government introducing provisions in Part 4 of the Housing (Scotland) Act 2006 to introduce regulations to establish a mandatory tenancy deposit protection scheme. However this commitment was caveated by Ministers so that it would only be introduced if the costs were not disproportionate to the problem.

As with Northern Ireland a stakeholder working group was established to look at how a tenancy deposit protection scheme would work in practice. This group was determined to establish some firmer evidence base on which to determine the action to be taken.

The Government considered three options to improve the practice around tenancy deposits in Scotland:

- *to continue and develop existing initiatives, some of which had been introduced only relatively recently, to raise standards (such as landlord registration, HMO licensing, the national accreditation scheme for landlords, which includes standards relating to deposits, and work to make private tenants more aware of their rights);*
- *to provide a broad regulatory framework and leave it to the market to meet the requirements; for example, landlords and agents could be required to have client money protection insurance in place and to be a member of an Alternative Dispute Resolution (ADR)*



*scheme. These could be requirements of landlord registration, brought into effect by regulations, so compliance would be monitored by local authorities;*

- *to use regulations under the 2006 Act to require deposits to be protected by a scheme or schemes (custodial or insurance based) developed for Scotland.*

The Scottish Government reported in their 2009 Review that:

*..there continued to be conflicting views among the stakeholders on the significance of the problem and how it should be addressed. However, there was general agreement that the second option should be ruled out. Most stakeholders favoured either the first option, with additional initiatives, or a statutory scheme, and all of them were interested in exploring the possibility of using some form of ADR to deal with disputes over tenancy deposits. ADR could help tenants and landlords resolve their disputes without needing to go to court. ADR mechanisms could range from the use of separate existing or new schemes (used either voluntarily or by a legal requirement) up to a mechanism forming part of a tenancy deposit scheme. The Scottish Government will work with stakeholders in exploring dispute resolution options in detail, including establishing likely costs and effectiveness, before coming to a final decision on the most appropriate method to improve tenancy deposit practice.*

*Whatever other action is taken, it is crucial that tenants and landlords are aware of good practice in relation to tenancy deposits. This includes tenants being made fully aware of reasons why deposits might be retained and receiving explanations if they are; the use of accurate inventories and photographs; and so on. Work done for the stakeholder group recommended carrying out an audit of existing good practice, such as websites and guidance materials for both tenants and landlords, advice and support services for tenants, and training for landlords on good deposit management. Some measures, such as providing more training or guidance for landlords as part of the national accreditation scheme, may avoid many disputes from arising in the first place, and the current review of the civil courts may result in procedural changes that make it easier to take legal action in relation to small sums of money.*

In the end the Scottish Government decided to introduce a custodial scheme and to require this to apply to all deposits by May 2013. After a lengthy procurement process the Scottish Government appointed three schemes:

- Letting Protection Service Scotland (a subsidiary of DPS in England and Wales)
- SafeDeposits Scotland (a subsidiary of TDS in England and Wales)
- MyDeposits Scotland (a subsidiary of MyDeposits in England and Wales)

## **Take up**

The new scheme started in July 2012 and by May 2013 all existing deposits had to be protected by a scheme. By the end of September 2014 143,259 deposits were protected by the three schemes in Scotland (with 85,576 by SafeDeposits Scotland).

## 5. Research on tenants' experiences of tenancy deposits in the UK

This section pulls together the research that has taken place to date on tenants' experiences of tenancy deposits across the UK. For an area of public policy that is controversial there is somewhat surprisingly not a great deal of qualitative research available.

Whilst it is recognised that the private rented sector operates differently both across the UK and within the different countries it is also the case that the deposit process is remarkably similar. One would expect therefore the responses of tenants to their experiences of deposit to be broadly similar.

### Surveys of tenants' views on tenancy deposits: England

From 2008-9 to 2011-12 the large scale English Household Survey (EHS) has collected data on deposits from private sector tenants. The large scale survey includes respondents across all tenures and asks all current renters if they have had another private tenancy in the previous three years and if so what their experience had been of tenancy deposits.

#### Paying a deposit

In spite of views by some landlords that the introduction of statutory tenant deposit protection in April 2007 might lead to fewer deposits being taken by landlords this appears not to be the case. In 2008-09 deposits were still being taken in relation to 75% of tenancies and this had increased to 76% in 2011-12 by which time most tenancies would have been covered by the tenancy deposit regulations (Table 5.1).

**Table 5.1: Deposits paid on a previous tenancy**

Deposit given on the previous property	2008-09	2009-10	2010-11	2011-12
Yes	75%	75%	76.30%	76%
No	25%	25%	23.70%	24%

#### Non return of deposits

The introduction of statutory tenancy deposit protection and free Alternative Dispute Resolution services was expected to reduce the number of cases where tenants' deposits were retained by landlords unfairly.

The English Household Survey asked about what happened to deposits at the end of the tenancy (Table 5.2).

**Table 5.2: Return of deposits at the end of a previous tenancy**

	2008-09	2009-10	2010-11	2011-12
	%	%	%	%
Deposit returned in full	69.5	71.0	70.2	70.0
Deposit returned in part	17.4	16.0	17.5	17.0
Deposit not returned in full	13.0	14.0	12.3	13.0

Table 5.2 shows that the percentage of deposits that are returned in full according to tenants has remained remarkably stable with 69.5% of deposits returned in full in 2008-09 compared to 70% in 2011-12. This suggests that the idea that deposits may have been withheld unreasonably may not have been the case as one would have expected that the numbers of deposits being withheld in full by the landlord to have dropped with the introduction of the free Alternative Dispute Resolution service. However this service does now make it easier for the tenant to challenge the decision of the landlord and to raise a dispute with the scheme.

### Were deductions justified?

The English Household Survey asked tenants to consider whether or not the deposit deductions were justified. Table 5.3 below sets out the views of tenants where the deposit had not been returned in full (in roughly 30% of cases). Interestingly tenants themselves recognised that in about 45% of such cases the landlord had been justified in retaining some or all of the deposit but that in 55% of cases the tenant remained convinced that the landlord should not have withheld any of the deposit. In these cases one would have expected the tenant to have made representations to one of the tenancy deposit schemes.

However the number of disputes being referred to the tenancy deposit schemes are running at much less than this so this may mean that tenants:

- are not aware of the existence of a free dispute resolution service;
- are not willing or able to make use of the system;
- consider that the deductions, although unreasonable, may not be worth pursuing through the Alternative Dispute Resolution process;
- cannot wait for the outcome of the dispute process before putting down a new deposit on another property and need the current deposit returned in part to facilitate this.

More research is clearly needed on this point.

**Table 5.3: tenants' views on whether deductions were justified**

	2008-09	2009-10	2010-11	2011-12
<b>Tenants' views about non-return of deposit</b>	%	%	%	%
The landlord should not have withheld any of the deposit	52.1	56.8	47.9	55.0
The landlord was justified in withholding some of the deposit	21.9	20.4	27.0	23.1
The landlord was justified in withholding as much of the deposit as he/she did	26.1	22.8	25.2	21.9

### Reasons for disputes

The Tenancy Deposit Scheme in England and Wales regularly publishes statistics in its Annual Review (TDS 2014) setting out the reasons for disputes. Table 5.4 below sets out the main areas raised in disputes over the period 2011-2014. It shows that cleaning, damage and redecoration are the main reason for disputes with gardening and rent arrears also featuring. It should be noted that in any one dispute there may be a number of grounds on which the landlord seeks to make a deposit deduction.

**Table 5.4: Reasons for disputes by year [Tenancy Deposit Scheme]**

Year	2014	2013	2012	2011
Cleaning	53%	56%	52%	49%
Damage	46%	43%	45%	43%
Redecoration	29%	30%	28%	25%
Gardening	14%	13%	12%	11%
Rent arrears	16%	17%	18%	16%

The English Household Survey has also asked tenants questions about the reason why deposit deductions were made by landlords (Table 5.5). The most common deposit deduction is for cleaning, followed by damage. This is consistent with the findings of the Tenancy Deposit Scheme in relation to disputes (Table 5.4).

**Table 5.5: Tenants' views on reasons why deposit deductions have been made by landlords 2008-2012**

	2008-09	2009-10	2010-11	2011-12
<b>Reason why deposit not returned %</b>	%	%	%	%
It was to cover damage to the property	23.5	22.4	25.8	27.7
It was to cover cleaning the property	38.4	33.4	27.4	34.8
It was to cover unpaid rent	7.0	5.4	n/a	n/a
It was to cover other bills left unpaid by the tenant	1.7	4.1	n/a	n/a
Some other reason	28.1	30.9	24.8	22.3
Landlord / agent gave no reason	12.7	14.9	n/a	n/a

### NUS research: Homes Fit for Study 2014

In 2014 the National Union of Students published a major research paper, 'Homes fit for Study', which showed that 91% of student tenants paid a deposit. This survey reported that 58% of tenants had had their deposit returned in full (Table 5.6), a lower proportion than the Survey of English Housing 2012 where 70% of tenants obtained a full refund of their deposit.

The Tenancy Deposit Scheme is aware that disputes involving students can often be more problematic because the students are sharing houses and communal facilities and therefore there may well be more disputes about cleaning and damage [particularly to these communal areas].

**Table 5.6: Non return of deposits using NUS 2014 data**

	NUS 2014
<b>Deposit return</b>	%
Deposit returned in full	58
Deposit returned in part	34
Deposit not returned in full	8

### Were deductions unfair?

Of the 42% who had had deductions made from their deposit, 76% said that they felt that the deductions had been unfair (NUS 2014).

### Surveys of tenants' views on tenancy deposits: Scotland

As part of the 2009 Review of the Private Rented Sector in Scotland the Scottish Government commissioned a survey of tenants and of landlords on a range of issues, one of which was concerned with tenancy deposits. The survey was conducted in 2008 and involved 1,030 interviews with tenants.

### Taking deposits

This tenant's survey found that 75% of all tenants had paid a deposit (although student tenants paid a deposit in 83% of cases).

### Size of deposits

The survey showed that the typical deposit (in 81% of cases) was equivalent to one month's rent.

### Withholding deposits

The Scottish Opinion Survey in 2008 was commissioned because of some contradictory results with the Tenants Survey and the Landlords survey (Table 5.7).

**Table 5.7: Was the deposit returned in full? [views of tenants]**

<b>Deposits returned in full</b>	<b>76%</b>
<b>Deposits withheld in part</b>	<b>11%</b>
<b>Deposits withheld in full</b>	<b>13%</b>

The survey of tenants found that only 24% of those tenants who had given a deposit had had some or all of their deposit withheld. This is lower than the evidence elsewhere in the UK.

### Reasons for deposits being withheld

The Tenants Survey found that the main reasons for not returning deposits were similar to the experience elsewhere in the UK with cleaning and damage being the main reasons for deductions to deposits (Table 5.8).

**Table 5.8: Tenants' views on why the deposit was withheld**

<b>Cleaning</b>	<b>34%</b>
<b>Damage to the property</b>	<b>25%</b>
<b>Damage to fixtures/fittings</b>	<b>14%</b>
<b>Missing items</b>	<b>5%</b>
<b>Unpaid bills</b>	<b>5%</b>
<b>No reasons given</b>	<b>11%</b>

The landlords' survey which accompanied the tenants' survey gave some quite different results with landlords claiming that they had withheld deposits in full in 28% of cases compared to the 13% in the tenants' survey.

### Are deposit deductions unfair?

The Scottish Review of the Private Rented Sector considered that where deposits had been withheld, most tenants (70%) felt that this was unfair. (Table 5.9)

**Table 5.9: Were the deposit deductions fair?**

<b>Yes</b>	<b>11%</b>
<b>Some but not all</b>	<b>20%</b>
<b>No</b>	<b>70%</b>

The Review stated however;

*...a major caveat regarding these figures is that they depend on self-reporting by tenants. These are tenants' perceptions of unreasonableness rather than objective assessments. It is therefore impossible to tell how many deposits were actually unfairly withheld in objective terms; but these amounts are likely to be overstated to some degree, given differing interpretations of such matters as the need for cleaning, where it is likely that the problem appears more serious and costly to a landlord than a tenant.*

## 6. Surveys of tenants' views on tenancy deposits in Northern Ireland

### Earlier Northern Ireland Housing Executive research

In 2009 the NIHE published a series of five research reports into the private rented sector. The fourth in this series was called *Private Rented Sector in Northern Ireland: Living in the Private Rented Sector: The Experiences of Tenants*. This report presented the results of a survey of 294 tenants living in the private rented sector from across Northern Ireland. The core research for this was carried out in tandem with the 2006 House Condition Survey.

The survey covered a number of areas but also specifically asked questions about tenants' experiences of tenancy deposits. The research was carried out before tenancy deposit protection legislation had been enacted anywhere in the United Kingdom and as such provides a good base line of tenants experiences.

In June 2014 the NIHE published a follow up report called *Private Rented Sector in Northern Ireland: Living in the Private Rented Sector: The Experiences of Tenants*.

### Paying deposits

The 2009 research identified that 41% of respondents had paid a deposit for the accommodation that they were currently renting (and of those who had rented before, 63% said that they had previously given a deposit). The 2014 research identified that the proportion paying a deposit had increased to 63% (Table 6.1).

**Table 6.1: Percentage of tenants who paid a deposit**

	2009	2014
Current tenancy	41%	63%
Previous tenancy	63%	72%

### Value of deposits

The average deposit that respondents paid to secure accommodation in the 2014 survey was £413, significantly higher than that paid by respondents in the previous survey (£294). More than half (51%) of respondents who paid a deposit to secure their current accommodation paid between £400 and £499, 21% paid £500 or more, 10% paid between £300 and £399, 9% paid between £200 and £299 and 7% paid less than £200 for a deposit.

### Withholding of deposits

For many years tenants and other tenant groups were concerned that in some cases landlords would withhold deposits unfairly at the end of a tenancy. The 2009 research showed that 31% of tenants sad that their deposit had been withheld in full or part. In the 2014 survey this had fallen to 20% (Table 6.2).

**Table 6.2: Deposit returns 2009 and 2014**

	<b>2009</b>	<b>2014</b>
<b>Returned in full</b>	69%	78%
<b>Returned in part</b>	14%	6%
<b>Not returned</b>	17%	14%
<b>Can't remember/Don't know</b>	n/a	n/a

### **TDS Northern Ireland Ltd [TDSNI] Research**

Since TDS Northern Ireland Ltd was established in April 2013 to operate a tenancy deposit protection scheme it has undertaken a number of surveys of tenants with deposits registered with the TDSNI scheme. Email surveys were undertaken in June 2013, September 2013 and May 2014. These surveys were designed to obtain tenants' views on a number of issues relating to tenancy deposit protection and their previous experience as a tenant. In these three surveys TDSNI has obtained the views of 742 tenants, 78% of whom have previously given a deposit.

### **Value of deposit**

As all of the tenants in the survey had a deposit registered with TDSNI since April 2013 the survey asked about the value of the deposit (Table 6.3).

**Table 6.3: Current tenancy: how much is the deposit?**

<b>Less than £500</b>	44%
<b>£501 to £600</b>	28%
<b>£601-£700</b>	10%
<b>£701-800</b>	7%
<b>£801-£900</b>	4%
<b>£901-£1,000</b>	2%
<b>More than £1,000</b>	5%

Table 6.3 shows that more than two-fifths (44%) of deposits held by TDSNI in the survey were under £500 and 82% of deposits were less than £700.

### **Providing a deposit**

The survey asked tenants if they had been required to provide a deposit for their previous tenancy (Table 6.4).

**Table 6.4: Did you give a deposit on a previous tenancy**

<b>Yes</b>	78%
<b>No</b>	22%



### Returning deposits

The survey asked tenants about their previous deposit and whether or not it had been returned in full or part. Over 55% stated that the deposit had been returned in full with 36% saying that there had been some or all of the deposit withheld by the landlord (Table 6.5).

**Table 6.5: Was your deposit returned?**

<b>Yes in full</b>	55%
<b>Yes in part</b>	21%
<b>No, not at all</b>	16%
<b>Don't know</b>	9%

### Unfairly withheld

A key question is whether or not deposits were unfairly withheld in the eyes of the tenants. Those tenants who had had some of the deposits withheld were asked whether or not they felt the deductions to be justified (Table 6.6).

**Table 6.6: Were the deductions unfairly withheld?**

<b>All deductions were fair</b>	12%
<b>Most but not all were fair</b>	16%
<b>Most but not all were unfair</b>	22%
<b>All were unfair</b>	38%
<b>Don't know</b>	12%

The responses show that some 60% of tenants felt that some or all of the deductions were unfair with only 12% agreeing that all the deductions were fair.

### Reasons for deductions

The survey asked tenants to set out the reasons for the deductions from the deposit (Table 6.7).

**Table 6.7: Reasons for deposit deductions**

<b>Cleaning</b>	55%
<b>Damage to fixtures/fittings</b>	23%
<b>Damage to decoration</b>	23%
<b>Garden</b>	7%
<b>Rent arrears</b>	6%
<b>Other</b>	38%
<b>Don't know</b>	30%

As with other surveys on this issue the results confirmed that cleaning and damage to fixtures and fittings and redecoration were the main reasons why deposit deductions were made by landlords.

### Seeking redress through the Courts

Prior to the introduction of tenancy deposit protection in April 2013 the only recourse tenants had to challenge a landlord's deposit deductions was to go to the County Court. Not surprisingly very few tenants used this option (Table 6.8).

**Table 6.8: Did you go to Court to recover your deposit for the landlord**

<b>Yes</b>	<b>2%</b>
<b>No</b>	<b>98%</b>

### Receiving documentation

A key aspect of the new tenancy deposit regulations is the requirements on the landlord to not only protect the deposit with an authorised scheme but also to provide the tenant with certain Prescribed Information together with the Scheme Administrators' leaflet. This is important as it lets the tenants know who is protecting their deposit and what to do at the end of the tenancy if they are not happy with the landlord's proposed deductions.

**Table 6.9: Have you received the following documentation from the landlord?**

<b>Tenancy Agreement</b>	<b>94%</b>
<b>TDSNI Deposit Certificate</b>	<b>52%</b>
<b>Prescribed Information form</b>	<b>32%</b>
<b>TDSNI leaflet</b>	<b>39%</b>
<b>Inventory/Schedule of Condition</b>	<b>51%</b>

The relatively small numbers saying that they have not received the certificate, prescribed information or the leaflet is worrying as these suggest that landlords may not be fully complying with the Regulations. In addition these are technically breaches of the Regulations and could open up landlords to prosecution by the local Council.

### Inventories

The absence of an inventory will mean that it will be very difficult for landlords to justify a deposit deduction at the end of the tenancy and they will have no means of establishing the base position. It is expected that over time the number of landlords undertaking a start of tenancy inventory and a check out inspection at the end of the tenancy will increase as this has been the experience in England and Wales.

## 7. Survey of Tenants in Northern Ireland 2015

This NIHE commissioned survey examines tenant's experiences of the new tenancy deposit scheme and their experiences of tenancy deposits before the introduction of the new scheme. It also details the demographic and socio-economic characteristics of respondents, as well as their accommodation details.

This is the largest survey of tenants' views of tenancy deposits undertaken in Northern Ireland and examines these issues in greater detail than earlier Northern Ireland surveys on the same subject.

### Methodology

The tenants surveyed are those with live deposits registered with the main tenancy deposit scheme in Northern Ireland – TDS Northern Ireland - in November 2014. In total, 9,559 tenants were sent a link to complete an online survey, and 1,053 tenants completed the survey (a response rate of 11%). This is considered not untypical for this methodological approach.

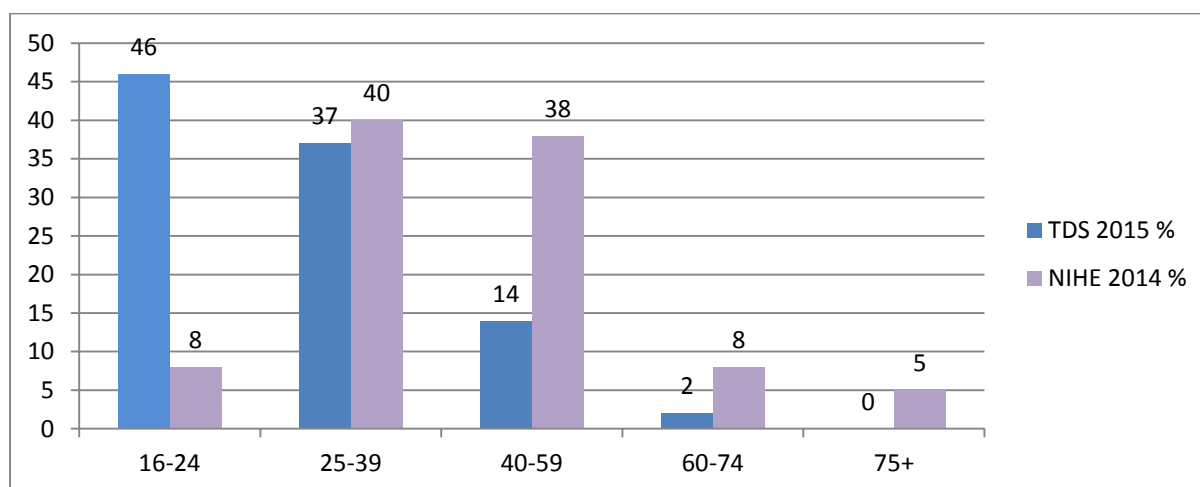
Where possible, comparisons are made with a survey of private tenants carried out for the NIHE Survey of tenants' experiences in the private rented sector published in 2014. Focus groups also took place in 3 different areas: Belfast (2 focus groups), Derry/Londonderry and Omagh. Where appropriate their qualitative comments have been added.

### Tenant Profile

#### Age of respondent (Appendix Table A1)

The majority of tenants surveyed were either aged 16-24 (46%) or 25-39 (37%). Only 14% of respondents were aged 40-49 and 2% of respondents were aged 60-74. This age profile differs significantly from the 2014 survey<sup>1</sup>, where only 8% of respondents were aged under 25 and 38% were aged 40-59. This younger demographic is perhaps reflective of the nature of a web-based survey and those most likely or most able to complete an online survey (Figure 7.1).

Figure 7.1: Age of Respondent, TDS 2015 and NIHE 2014



<sup>1</sup> Living in the Private Rented Sector: The experiences of tenants, NIHE, 2014

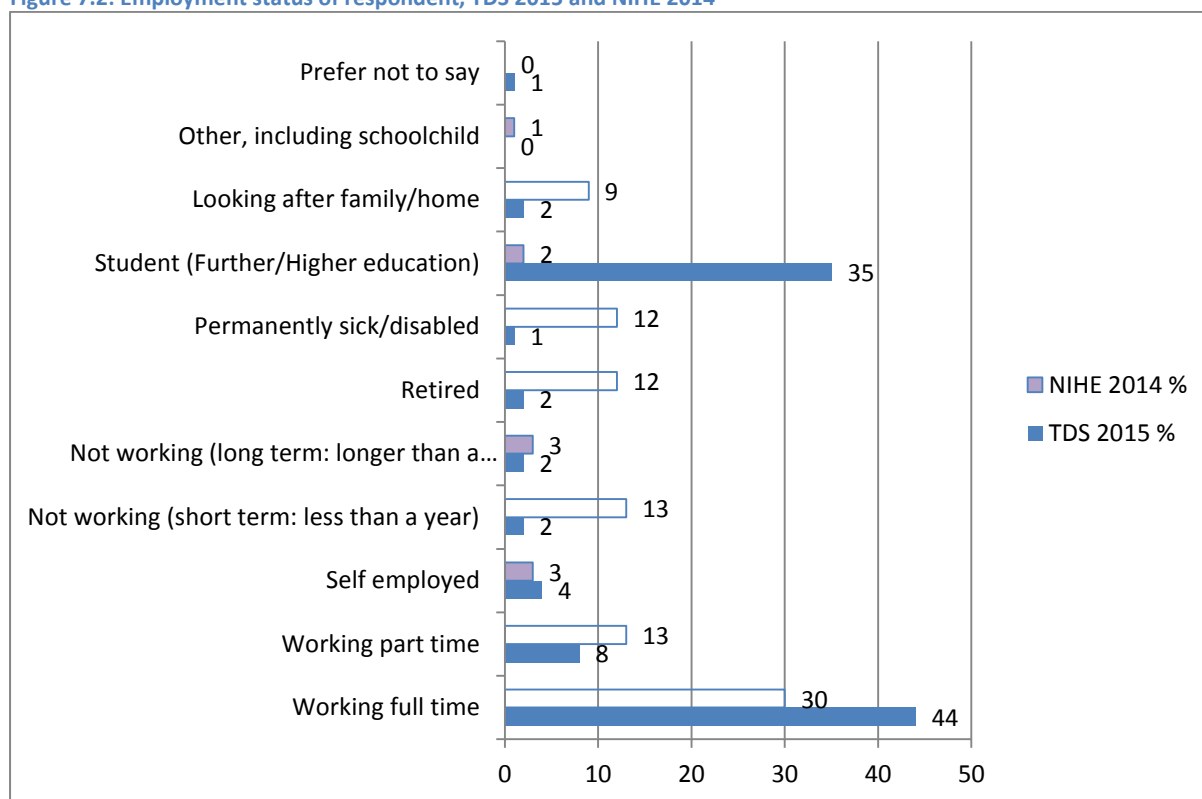
### Gender of respondent (Appendix Table A2)

Just over half (53%) of respondents were female.

### Employment status (Appendix Table A3)

Just over half (52%) of the respondents were in employment (Figure 7.2), with 44% in full-time employment and 8 per cent in part-time employment. More than one-third (35%) of respondents were students, and only 4% were not working (includes not working short term and not working long term). This employment status profile differs considerably from the 2014 *Living in the Private Sector: The experiences of tenants* survey, in particular the proportion of respondents that are students – this is clearly related to the younger age profile of respondents in this TDS Survey.

Figure 7.2: Employment status of respondent, TDS 2015 and NIHE 2014

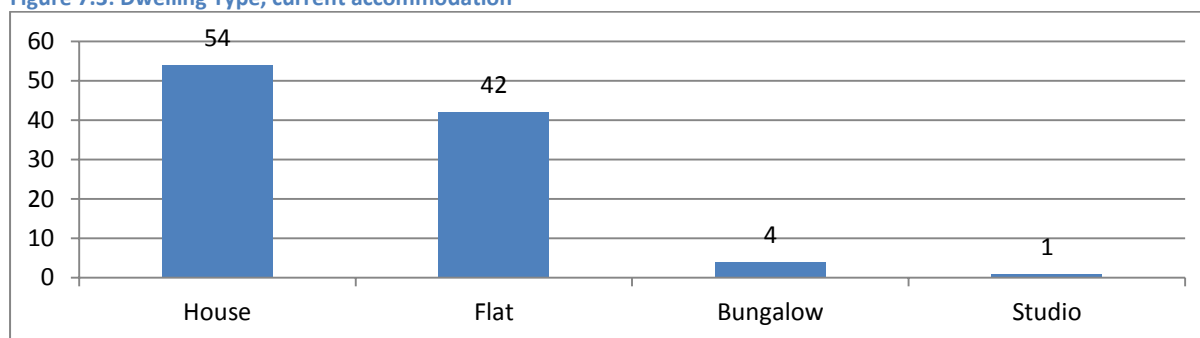


### Current Accommodation

#### Dwelling type (Appendix Table A4)

More than half (54%) of respondents lived in a house, and a further 42% lived in a flat. Only 4% lived in a bungalow and 1% in a studio (Figure 7.3).

Figure 7.3: Dwelling Type, current accommodation



### Shared Housing (Appendix Table A5)

One third of respondents (34%) were living in a shared house with 3 or more adults. This is a relatively high proportion, however, this is reflective of the fact that 35% of respondents were students.

### Number of bedrooms (Appendix Table A6)

Respondents were most likely to live in two (34%) and three (28%) bedroomed accommodation. A further 17% lived in four bedroom accommodation and 14% in five bedroom accommodation.

### Council Area

Sixty per cent of respondents lived in the Belfast City Council area (see Table 7.1). Comparison was carried out with data from the 2011 House Condition Survey, which showed a significant difference relating to those living in the Belfast City Council area – the TDS survey recorded 39 per cent more living in this Council area. This may be explained by the nature of the market within Belfast: turnover is much greater (given the type of tenants, such as students, living in Belfast). As each new tenancy requires a deposit, the TDS database will, by its nature, contain more tenants living in the Belfast area.

Table 7.1 Respondents by local authority area

TDS 2015 Survey	%	HCS 2011	%
Belfast City	60%	Belfast City LGD	21%
North Down and Ards	6%	North Down and Ards	6%
Armagh, Banbridge and Craigavon	3%	Armagh, Banbridge and Craigavon	14%
Antrim and Newtownabbey	6%	Antrim and Newtownabbey	4%
Causeway coast and Glens	6%	Causeway coast and Glens	9%
Derry City and Strabane	3%	Derry City and Strabane	9%
Fermanagh and Omagh	1%	Fermanagh and Omagh	8%
Lisburn and Castlereagh	6%	Lisburn and Castlereagh	6%
Mid and East Antrim	1%	Mid and East Antrim	8%
Mid Ulster	1%	Mid Ulster	7%
Newry City, Mourne and Down	5%	Newry City, Mourne and Down	10%

### Previous Experience with deposits

This section examines respondents' previous experience with deposits. In total, 42% (n436) of tenants had previously rented a property from a private landlord before 1 April 2013 (when the legislation came into force), and this therefore only reports evidence from those respondents who had lived in private rented accommodation before 1 April 2013. See Appendix Table A7.

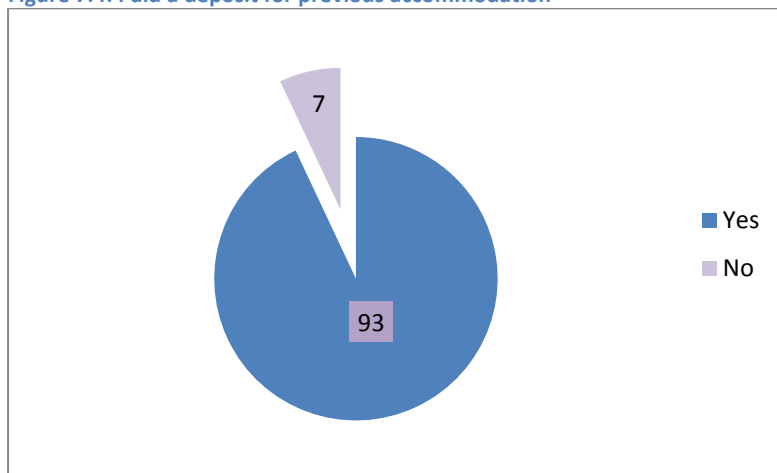
#### Length of previous tenancy (Appendix Table A8)

Almost half of respondents (48%) had lived in their previous accommodation for less than one year, and more than a quarter (26%) had lived in their previous accommodation between one and two years. Thirteen per cent of respondents had lived in their previous accommodation between two to three years, and 12% had lived there for three years or more.

#### Paid a deposit for their previous tenancy (Appendix Table A9)

Respondents were asked if they had to pay a tenancy deposit for their previous accommodation. A tenancy deposit is defined as the money held by the landlord/agent as a security against the tenant breaking the terms of the tenancy agreement – for example: unpaid rent, damage or cleaning. The vast majority (93%) of respondents stated that they had to pay a deposit for their previous accommodation. This proportion is much higher than that found in the 2014 NIHE survey, where 70% of respondents reported that they had to pay a deposit for their previous accommodation. This may be related to the fact that the survey included much higher numbers of students/sharers who tend to be more likely to pay a deposit (Figure 7.4).

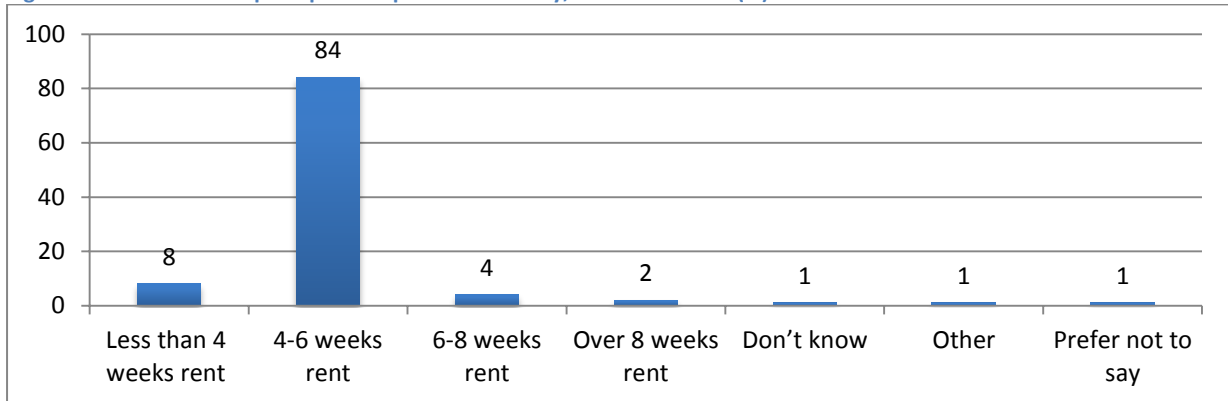
Figure 7.4: Paid a deposit for previous accommodation



#### Amount of deposit paid for previous tenancy, in terms of rent (Appendix Table A10)

Respondents were asked about the amount of the deposit paid for their previous tenancy, in terms of rent. For the vast majority, (84%), this was equivalent to 4-6 weeks rent. The second most common amount paid by respondents for a deposit for their previous accommodation was equivalent to less than 4 weeks rent; however, only 8% paid this amount (See Figure 7.5).

Figure 7.5: Amount of deposit paid for previous tenancy, in terms of rent (%)



### Holding of deposit on previous tenancy (Appendix Table A11)

In more than half, (51%), of the cases where a respondent had paid a deposit on a previous tenancy, this deposit was held by their landlord, and for a further third, (35%), the deposit was held by their agent. In 14% of cases the respondent did not know who held onto their deposit.

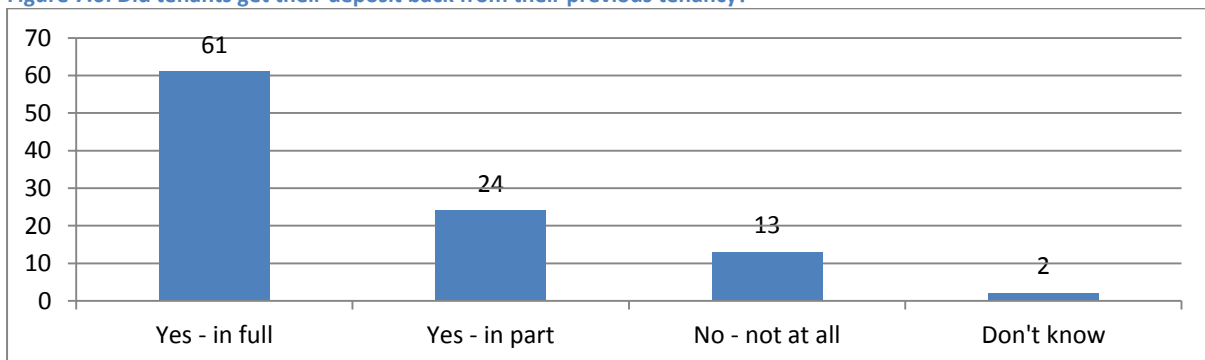
### Did tenants get their deposit back? (Appendix Table A12)

More than three-fifths (61%) of respondents had their deposits returned in full, almost one-quarter (24%) had their deposit returned in part, and for 13% of respondents none of their deposit was returned (see Figure 7.6 below).

#### Belfast Focus Group

A tenant advised that their last experience with deposits was poor as the agent had their own policy of making tenants wait 28 days before returning deposit. The tenant had to chase both the agent & landlord for return and had to make numerous calls to get their money back.

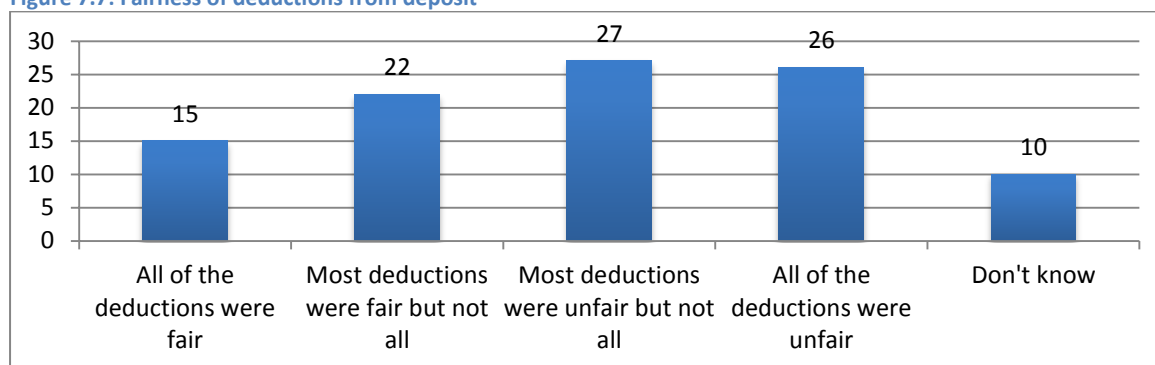
Figure 7.6: Did tenants get their deposit back from their previous tenancy?



### Fairness of deductions made from deposit (Appendix Table A13)

Respondents were asked if they felt that the deductions from their deposit (including the non-return of their deposit) were fair. Just over half, (53%), felt that the deductions were either all or mostly unfair, (27% felt that most deductions were unfair but not all, and 26% felt that all of the deductions were unfair). Conversely, only 15% felt that all of the deductions were fair, and a further 22% felt that most deductions were fair but not all (Figure 7.7).

Figure 7.7: Fairness of deductions from deposit



### Reasons for deductions / withholding of deposit

Respondents were asked what reasons were given for deductions from the deposit (respondents could give more than one answer). The most common reasons were cleaning (50%) and damage to fixtures and fittings (27%). Eighteen per cent of respondents also cited “other” reasons for deductions. These included: not being able to reach the landlord and leaving the tenancy early (Table 7.2).

Table 7.2 Reasons for deposit deductions

	%	n
Cleaning	50	74
Damage to fixtures and fittings	27	40
Damage to the decoration	18	26
Rent arrears	8	12
Garden	3	4
Don't know	25	37
Other	18	26

### Methods of trying to get deposit back

The most common method of trying to get the deposit back was to speak to or write to the landlord / letting agent. Only a small minority of respondents took it further and contacted an outside agency (Table 7.3).

Table 7.3 Methods used to get the deposit back

	%	n
Spoke/wrote to the landlord/letting agent	71	104
Did not try to get deposit back	25	37
Spoke to a solicitor	5	7
Involved Housing rights Service	3	5
Asked the council to intervene	1	2

#### Belfast Focus Group

A student tenant advised that with the previous tenancy the landlord had made some deductions but that he had simply agreed because he was unaware that he could dispute the deposit deduction in the Courts.



Respondents who thought that their deposit was held unfairly were asked if they had gone to court to recover it. Only 1% had gone to court to try and recover their deposit. Respondents were also asked if they had considered going to court to recover their deposit, and the majority, 76%, had not considered going to court. A variety of answers were given by those that had considered going to court, but subsequently decided not to, including the cost of going to court and the time taken to pursue this.

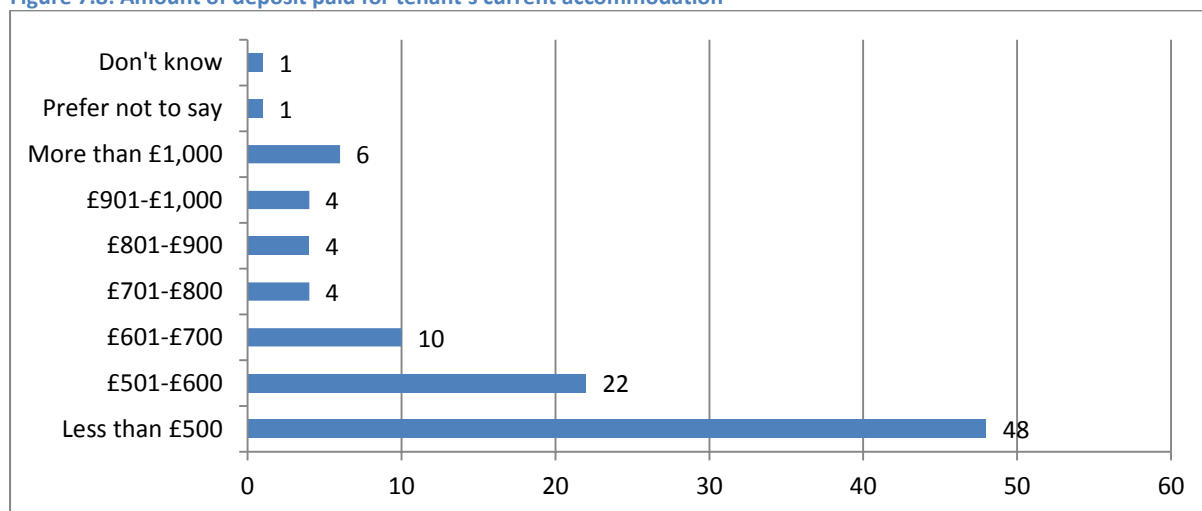
### Current Tenancy

Respondents were asked about their current tenancy (which began on or after 1 April 2013).

#### Amount of deposit for current accommodation (Appendix Table A14)

Almost half, (48%), of respondents paid less than £500 for the deposit for their current accommodation. This is considerably less than the 77% of respondents in the NIHE 2014 survey (*Living in the Private Rented Sector: The experiences of tenants*) that paid less than £500 for the deposit for their current home but this may well reflect a higher proportion of students in the 2015 survey. More than one fifth of respondents (22%) paid between £501 and £600, 10% paid between £601 and £700 and a further 18% paid more than £700 for the deposit on their current accommodation (Figure 7.8).

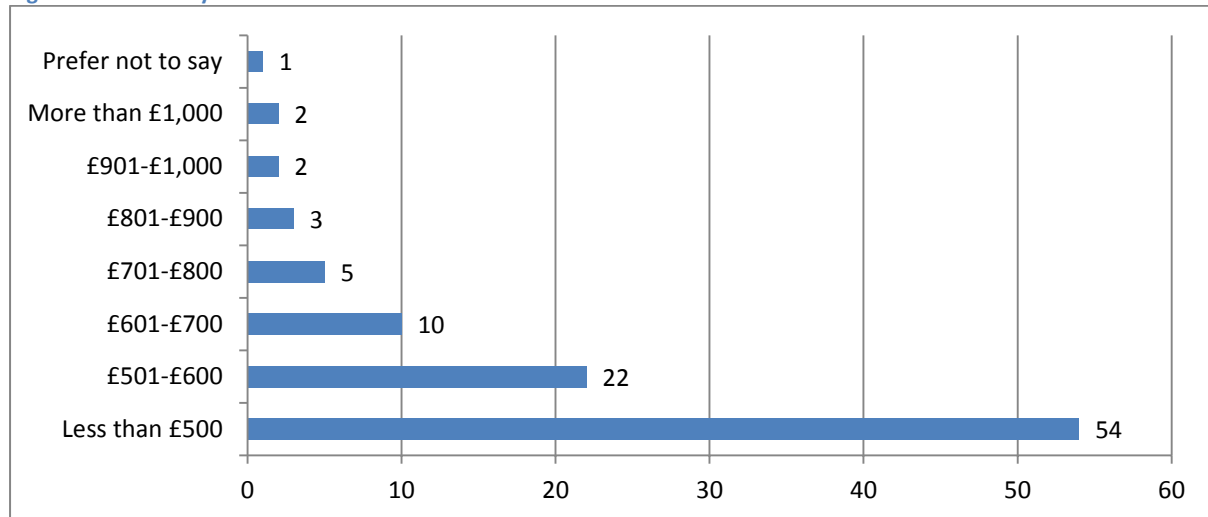
Figure 7.8: Amount of deposit paid for tenant's current accommodation



### Amount of rent paid for current accommodation (Appendix Table A15)

Just over half, (54%), of respondents paid a monthly rent of less than £500. A further 22% paid between £501 and £600. One-tenth (10%) paid between £601 and £700 and a similar proportion (12%) paid over £700 per month in rental payments (Figure 7.9).

Figure 7.9: Monthly rent



### Provision of required information at the start of a tenancy (Appendix Table A16)

At the start of a new tenancy the landlord (or agent) must provide certain pieces of information to the tenant. Respondents were asked if their landlord (or agent) provided them with this information. The vast majority of respondents (93%) were provided with a tenancy agreement and 82% were provided with a Statement of Tenancy Terms. The provision of this tenancy information has significantly improved: in the 2014 *Living in the Private Rented Sector: The experiences of tenants* 68% of respondents were provided with a written tenancy agreement (and a further 30% had a verbal agreement). However, the provision of the other pieces of information was less common.

Only 55% of respondents in the 2015 survey reported that they had received a Tenancy Deposit Protection Certificate and less than half (45%) received an Explanatory Leaflet about tenancy deposit protection. More than one-third (36%) received a signed Prescribed Information Form. These are required by legislation and regulations. Failure to supply the Prescribed Information and the Explanatory Leaflet about the Scheme can lead to a fixed penalty of three times the deposit being paid.

**Belfast Focus Group**

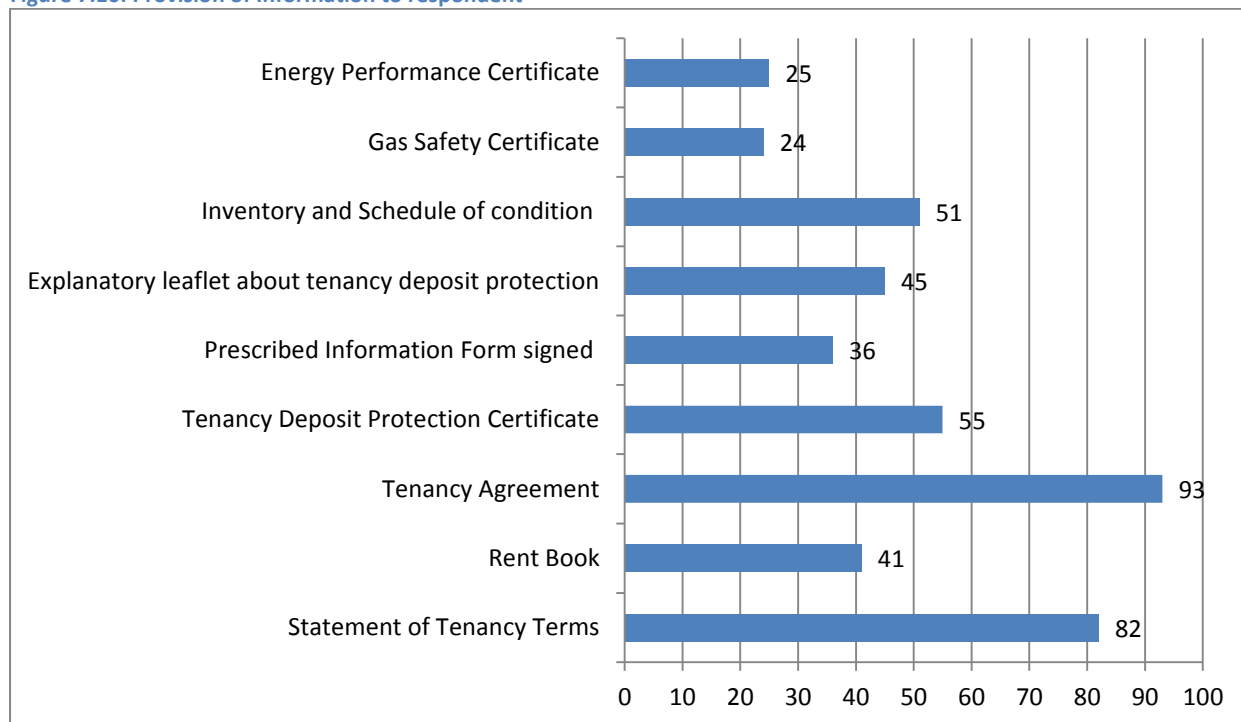
A tenant said that she had received details of the deposit protection from TDS Northern Ireland and not from the letting agent.

Half (51%) of respondents received an Inventory and Schedule of condition. Without this, it is difficult to prove a case in relation to deposit deduction if a case is referred to the dispute resolution mechanism.

41% of respondents were in receipt of a Rent Book. Although this is an increase in the proportion of tenants in the earlier 2014 NIHE survey that were given a rent book (27%), it is still low given that it is a legislative requirement to provide tenants with a rent book.

One quarter (25%) of respondents were provided with an Energy Performance Certificate. Whilst the proportion of tenants in receipt of an Energy Performance Certificate has significantly increased from the earlier 2014 *Living in the Private Rented Sector: the experiences of tenants* survey (where only 7% were provided with an Energy Performance Certificate), it is of concern that three-quarters of tenants have not been provided with this information (Figure 7.10).

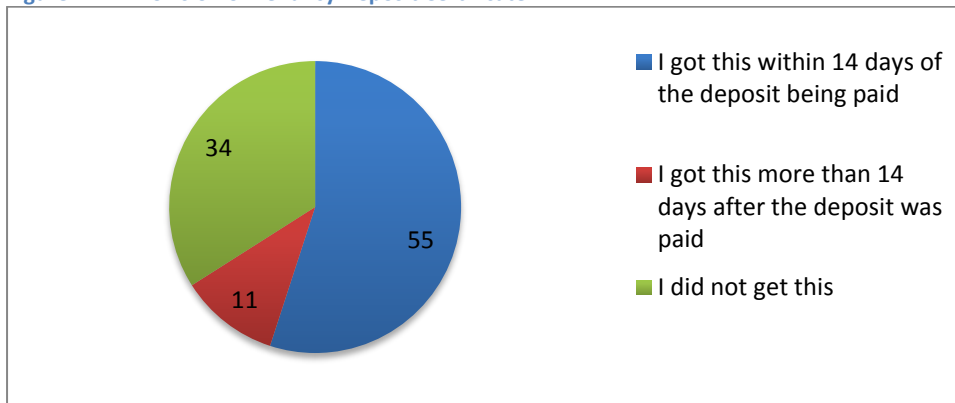
**Figure 7.10: Provision of Information to respondent**



**Tenancy Deposit Certificates (Appendix Table A17)**

The landlord/agent should provide the tenant with a Tenancy Deposit Certificate within fourteen days of the deposit being paid. However, Figure 7.11 below indicates that this is not being fully complied with. Just over half (55%) of respondents received this information, and did so within fourteen days, and a further 11% received this, but longer than the required fourteen days. More than one-third (34%) did not receive a Tenancy Deposit Certificate.

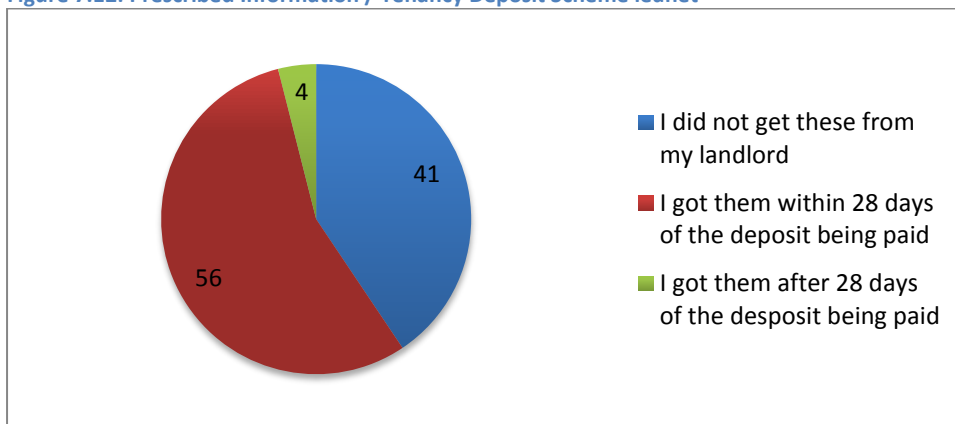
Figure 7.11: Provision of Tenancy Deposit Certificate



### Prescribed Information / Tenancy Deposit Scheme leaflet (Appendix Table A18)

The landlord/agent should provide a Prescribed Information/Tenancy Deposit Scheme leaflet, and respondents were asked if they had received these. However, as Figure 7.12 below shows, 41% of respondents did not receive these from their landlord / agent.

Figure 7.12: Prescribed Information / Tenancy Deposit Scheme leaflet



### Views on the Tenancy Deposit Scheme (Appendix Tables A19 – A21)

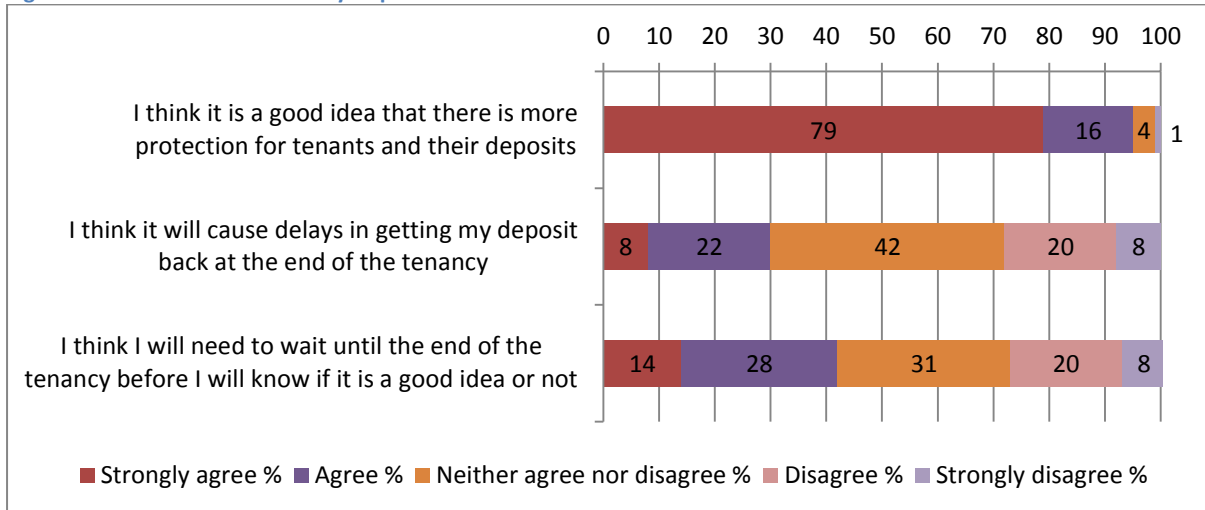
Just over half (58%) of respondents knew that all new tenancy deposits must be protected by a Government approved scheme whenever they started their current tenancy.

Respondents were asked a series of questions relating to their views on the tenancy deposit scheme. The vast majority (95%) of respondents agreed that it is a good idea that there is more protection for tenants and their deposits (79% strongly agreed and 16% agreed with this statement). However, when asked if they thought the scheme would cause delays in getting their deposit back the results were less conclusive: 30% agreed that it would cause delays, 28% disagreed that it would cause delays and the remaining 42% were unsure if it would cause delays (Figure 7.13).

#### Omagh Focus Group

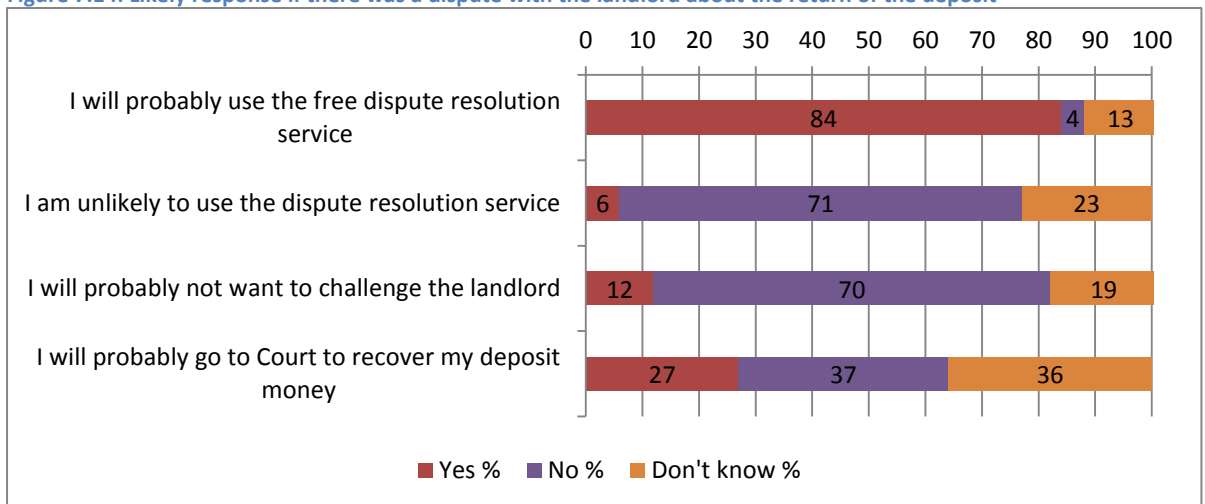
A tenant said that they were not aware of tenancy deposit protection until they received details of the scheme. They were also not aware of the dispute resolution mechanism.

Figure 7.13: Views on the Tenancy Deposit Scheme



Only 30% of respondents were aware of the dispute resolution service. However, the vast majority of respondents (84%) stated that if there was a dispute with their landlord over the return of the deposit that they would probably use the dispute resolution service (Figure 7.14).

Figure 7.14: Likely response if there was a dispute with the landlord about the return of the deposit



**Derry/Londonderry Focus Group**

Tenant said that she would like to see greater publicity about tenancy deposit protection – especially in the student market to highlight the issues to first time renters.

## Comparison with previous research findings

The table below (Table 7.4) seeks to draw together the research findings from the previous surveys of tenants' views undertaken in Northern Ireland.

**Table 7.4: Comparison survey results in Northern Ireland**

	NIHE 2009	NIHE 2014	TDSNI 2014	TDSNI & NIHE 2015
<b>Deposit paid on a previous tenancy</b>				
Yes	63%	72%	78%	93%
No	37%	28%	22%	7%
<b>Deposit returns</b>				
Deposit returned in full	69%	78%	55%	61%
Deposit returned in part	14%	6%	21%	24%
Deposit not returned	17%	14%	16%	13%
Don't know	0%	2%	8%	2%
<b>Reasons for deductions</b>				
Cleaning			55%	50%
Damage to fittings/fixtures			23%	27%
Damage to decorations			23%	18%
Gardening			7%	3%
Rent			6%	8%
Unpaid bills				
Other			38%	18%
Don't know			30%	25%
<b>Deductions fair</b>				
All deductions were fair			12%	15%
Most but not all were fair			16%	22%
Most but not all were unfair			22%	27%
All were unfair			38%	26%
Don't know			12%	10%
<b>Court action to recover deposit from landlord?</b>				
Yes			2%	1%
No			98%	99%
<b>Documentation received</b>				
Tenancy Agreement			94%	93%
Deposit Protection Certificate			52%	55%
Prescribed Information			32%	36%
Tenancy Deposit Scheme Leaflet			39%	45%
Inventory/Schedule of Condition			51%	51%
EPC				25%
Rent Book				41%
Statement of Tenancy terms				82%
Gas Safety Certificate				24%
<b>NIHE 2009: Living in the Private Rented Sector: The experiences of tenants</b>				
<b>NIHE 2014: Living in the Private Rented Sector: The experiences of tenants</b>				
<b>TDSNI 2014: TDS Northern Ireland: Rolling survey of tenant views</b>				
<b>TDSNI &amp; NIHE 2015: Tenants' views of tenancy deposit protection in Northern Ireland</b>				

## 8. Conclusion

This survey has provided valuable evidence about the experiences of tenancy deposit protection which can be used in future surveys to judge the effectiveness of tenancy deposit protection in Northern Ireland.

The survey reflects data from other parts of the UK that tenants continue to report that they do not get their deposit back in full (37%). It must be recognised of course that deposit protection was introduced in Northern Ireland from April 2013 and it only applies to new tenancies. As such it will take a number of years for the full impact of the new legislation to be felt.

Whilst a deposit deduction may of course be fair the survey shows that only 37% of the tenants felt that the deductions were fair or fair in part. The existence of a deposit protection scheme with access to free dispute resolution services means that in future tenants will be able to more easily challenge deductions if they continue to consider such deductions as unfair.

The reasons given for previous deductions highlight that cleaning, damage to decoration and damage to fixtures and fittings are the most common reasons for deductions. It is in this context that the existence of an inventory and check out report are important as they highlight the condition at the start and end of the tenancy. The survey however shows that these were provided in only 51% of cases. Experience in the rest of the UK is that without these documents landlords will rarely succeed in their claims and it is likely that in Northern Ireland their usage will become more common in the coming years.

Linked to the issue of inventories, the survey shows that many tenants do not recall receiving key tenancy related information, such as EPCs, Gas Safety Certificates or Prescribed information. This may be a case of tenants failing to recall all of the information they have been given or more worryingly a failure by landlords to supply them. In any event, this is a key finding with important implications for policy and practice as these are important documents that all tenants should have during their tenancies.

## 9. Recommendations

The following recommendations are made for consideration by the Department for Social Development as the Department responsible for tenancy deposit protection:

1. To consider how to improve the provision of information to tenants by landlords, such as by developing a Landlord Checklist setting out clearly the range of information that must be provided to tenants at the start of the tenancy. This could be supplemented with a Tenant Checklist which could be used by tenants to clarify the information that they should have received at the start of the tenancy;
2. Given that 95% of tenants considered that deposit protection was a good idea the Department should consider whether it would be in the public interest to now require all deposits to be covered by deposit protection regulations (including existing deposits taken before the 1 April 2013);
3. To consider whether the Prescribed Information should be renamed as it is possible that the relatively low numbers of tenants recalling receiving this may not associate the Prescribed Information with the information which has been supplied setting out details about deposit protection;
4. To repeat the survey in 18 months using this data as a baseline.



## References

- Alakeson, V., Blacklock, K., Halilovic, S., Rothery, T., Salisbury, N. (2013) *Building Homes for Generation Rent*. London : Resolution Foundation.
- Central Statistics Office, (2012) *Census 2011 Profile 4 The Roof over our Heads - Housing in Ireland Statistical Tables*. Dublin : Central Statistics Office, 2012.
- Chartered Institute of Housing, (2013) *Experiences and effects of the benefit cap in Haringey*. Coventry : Chartered Institute of Housing, 2013.
- CIH NI, DSD, SmartMove NI (2011) *Making the Most of Northern Ireland's Private Rented Sector to Meet Housing Need*. Belfast : CIH NI, DSD, SmartMove NI, Belfast 2011.
- CIH Scotland Housing (Scotland ACT 2014): *Briefing Paper September 2014* Scotland CIH
- Citizens Advice Bureaux (2009), *Consultation Response to Building Sound Foundations*, Belfast, CAB
- DCLG (various), *Survey of English Housing Survey tables produced by author*, www.gov.uk, DCLG
- DCLG (2009) *The private rented sector: professionalism and quality: The Government response to the Rugg Review*: Consultation DCLG London
- DoECLG (2013) *Private Rented Housing. Department of the Environment, Community and Local Government*. [Online] [Cited: 6 December 2013.] <http://bit.ly/1b0agyN>.
- DoEHLG (2004) *Residential Tenancies Act 2004: A Quick Guide*. Dublin : Department of the Environment, Heritage and Local Government, 2004.
- DSDNI (2009) *Building Sound Foundations - A Strategy for the Private Rented Sector Consultation*. Belfast: Department for Social Development, 2009.
- DSDNI (2010) *Building Sound Foundations - A Strategy for the Private Rented Sector*. Belfast : DSDNI Department for Social Development, 2010.
- DSDNI (2015) *TDP data*, Belfast Department for Social Development 2015
- Focus Ireland, (2012) *Out of Reach: The impact of changes in Rent Supplement*. Dublin: 2012.
- General Register Office for Scotland, 2013. *Census 2011: Key results on Population, Ethnicity, Identity, Language, Religion, Health, Housing and Accommodation in Scotland – Release 2A*. Edinburgh :
- Gibb, K. (2013) *The 'Bedroom Tax' in Scotland*. Edinburgh : The Scottish Parliament, 2013.
- Greater London Authority, (2013) *Rent reform: Making London's private rented sector fit for purpose*. London :.
- Gray, P., McAnulty, U. and Shanks, P (2014) *Living in the Private Rented Sector: The experiences of Tenants*. Belfast: Northern Ireland Housing Executive
- Halifax House Price Index*. 2007.
- Healy, S., Reynolds, B. and Collins, M. (2011) *A New and Fairer Ireland*. Dublin : Social Justice Ireland, 2011.
- Higher Education Statistics Agency (2002;2012) *Students in Higher Education Institutions 2000/2001; 2010/11*. Cheltenham.
- HMSO (2013) *House of Commons Communities and Local Government Committee The Private Rented Sector First Report of Session 2013–14* HMSO London Homes & Communities Agency (2014) *Build to Rent Round 2*. Homes & Communities Agency. [Online] <http://bit.ly/1cpNfpU>.
- House of Commons Library (2014) *Tenants' deposits, Briefing Note*, London, House of Commons
- Housing Rights NI (2009) *Response to Consultation Document: Building Sound Foundations: a Strategy for the Private Rented Sector in Northern Ireland*, Belfast, Housing Rights NI
- Policis, Centre for Housing Policy. (2012) *Meeting the housing needs of vulnerable homeless people in the private rented sector in Northern Ireland*. Belfast : Housing Rights Service, 2012.
- Inside Housing (2013) Tenants choose to stay and pay bedroom tax. *Inside Housing*. [Online] <http://bit.ly/MoVN6V>.
- Inside Housing (2013) *Southwark takes first step towards compulsory PRS licensing scheme*. Inside Housing. [Online] 11 December 2013. <http://bit.ly/1gZKpb7>.

Inside Housing (2014) *Council consulting on large-scale PRS landlord licensing*. Inside Housing. [Online] 13 January 2014. <http://bit.ly/1fjHaf8>.

Inside Housing (2013) *Housing associations get part of £1bn private rent fund*. Inside Housing. [Online] 16 April 2013. <http://bit.ly/1f7R2b8>.

Lees, F. and Boyle, Dr J. (2011) *Evaluation of the Impact and Operation of Landlord Registration in Scotland*. (Web only) : The Scottish Government, 2011. ISBN 978 1 78045 294 4.

McAnulty, U., Gray, P. (2009) *Report One - Introduction and Background to Research Series. Private Rented Sector in Northern Ireland*. Belfast : Northern Ireland Housing Executive, 2009.

McAnulty, U., Gray, P. (2009) *Report Two - Stock Profile and Physical Condition Report. Private Rented Sector in Northern Ireland*. Belfast : Northern Ireland Housing Executive, 2009.

McAnulty, U., Gray, P. (2009) *Report Four - Living in the Private Rented Sector: The Experiences of Tenants. Private Rented Sector in Northern Ireland*. Belfast : Northern Ireland Housing Executive, 2009.

McAnulty, U., Gray, P. (2011) *Report Six- Landlords Perspectives Private Rented Sector in Northern Ireland*. Belfast : Northern Ireland Housing Executive, 2009.

McCashin, Anthony. (2000) *The Private Rented Sector in the 21st Century - Policy Choices*. Dublin : Threshold / St Pancras Housing Association, 2000.

National Assembly for Wales (2011) *Making the most of the Private Rented Sector in Wales*. Cardiff : National Assembly for Wales Commission, 2011.

National Association of Citizens Advice Bureaux (1998) *Unsafe Deposit*, London, NACAB

National Landlords' Association (2009): *Response to Building Sound Foundations Consultation Paper*, London, NLA

National Landlords Association. (2012) *London Borough of Newham to Proceed with Licensing*. NLA - [Online] 27 June 2012. <http://bit.ly/1aEAtFg>.

National Union of Students (2014) *Homes fit for Study*, London, NUS

Newham London (2013) *Council winning war against rogue landlords, new figures show*. Newham London. [Online] 27 August 2013. <http://bit.ly/1fjDM3Z>.

Newham London (2014) *Cash boost for Newham Council in its fight against rogue landlords*. Newham London. [Online] 7 January 2014. <http://bit.ly/1e4agQY>.

NISRA (2012) *Census 2011: Key Statistics for Northern Ireland*. Belfast : Northern Ireland Statistics & Research Agency, 2012.

NIHE (2011) *Private Rented Sector in Northern Ireland: Living in the Private Rented Sector: The Experiences of Tenants Report Four*, Belfast, NIHE

Northern Ireland Housing Executive (2015) *Housing Market Review and Perspectives 2013-2016* Belfast

Office for National Statistics, (2012) *2011 Census: Key Statistics for England and Wales, March 2011*. Newport.

Rhodes, D. (2006) *The Modern Private Rented Sector*. Coventry : Chartered Institute of Housing/Joseph Rowntree Foundation, 2006.

Rugg, J. and Rhodes, D. (2008) *The Private Rented Sector: Its Contribution and Potential*. York : Centre for Housing Policy, University of York, 2008.

Scanlan and Whitehead (2011) in Scanlon and Kochan eds *'towards a Sustainable Private Rented Sector'* LSE London

Smith, D (2012) *A Guide to the Tenancy Deposit Scheme*, Hemel Hempstead, The Dispute Service

The Dispute Service (2014) *Annual Review 2013-14*, Hemel Hempstead, The Dispute Service Ltd 2014.

The Guardian (2011) *Zero tolerance for rogue private landlords to tackle illegal behaviour*. The Guardian. [Online] 24 September 2011. <http://bit.ly/1dKCKsR>.

The Law Commission, (2006) *Renting Homes: The Final Report*. London : The Law Commission, 2006.

The Scottish Government (2007) *Firm Foundations: The Future of Housing in Scotland*. Edinburgh : The Scottish Government, 2007.

Scottish Government (2008) *Scottish Opinion Survey 2008*, Edinburgh, Scottish Government

The Scottish Government (2009) *Review of the Private Rented Sector: Volume 1: Key Findings and Policy Implications*. Edinburgh : The Scottish Government, 2009.

The Scottish Government (2009) *Review of the Private Rented Sector 2: Views and experiences of tenants in the private rented sector in Scotland*, Edinburgh, Scottish Government

The Scottish Government (2010) *Scottish Private Rented Sector Strategy Group: Consultation Recommendations Report*. (web only) : The Scottish Government, 2010. ISBN 978 0 7559 9226 3.

The Scottish Government (2010) *Consultation Paper on a Proposed Housing Bill: the Private Rented Sector, Licensing of Mobile Home Sites and the Twenty Year Rules*. Edinburgh : The Scottish Government, 2010.

The Scottish Government (2012) *Consultation on a Strategy for the Private Rented Sector*. Edinburgh : The Scottish Government, 2012.

The Scottish Government (2013) *A Place to Stay, A Place to Call Home: A Strategy for the Private Rented Sector in Scotland*. Edinburgh : 2013.

The Scottish Government (2013) Registration Leaflet. *The Scottish Government*. [Online] [Cited: 19 November 2013.] <http://bit.ly/1jiKuG9>.

Theseira, Margarethe. (2013) *Stressed: A Review of London's Private Rental Sector*. London : Centre for London, 2013.

Threshold (2013) *Annual Report 2012*. Dublin : 2013.

Welsh Government (2012) *Homes for Wales: A White Paper for Better Lives and Communities*. Cardiff : Welsh Government, 2012.

Welsh Government (2012) *Proposals for a Better Private Rented Sector in Wales*. Cardiff : Welsh Government, 2012.

Welsh Government (2013) *Renting Homes: A better way for Wales*. Cardiff : Welsh Government, 2013.

Whitehead, C., Markkanen, S., Monk, S., Scanlon, K., and Tang, C. (2012) *The Private Rented Sector in the New Century - A Comparative Approach*. Copenhagen : Boligøkonomisk Videncenter, 2012.



## Appendix 1: Tables

Table A1: Age of tenant, TDS and NIHE 2014

	TDS		NIHE 2014	
	%	n	%	n
16 <sup>2</sup> -24	46	487	8	11
25-39	37	390	40	55
40-59	14	146	38	53
60-74	2	23	8	12
75+	0	4	5	7
Prefer not to say	0	2	0	0
<b>Total</b>	<b>100</b>	<b>1052</b>	<b>100</b>	<b>138</b>
Skipped question		1		

Table A2: Gender of respondent

	%	n
Male	47	489
Female	53	557
Prefer not to say	1	6
<b>Total</b>	<b>100</b>	<b>1052</b>
skipped question		1

Table A3: Employment status, TDS and NIHE 2014

	TDS		NIHE 2014	
	%	n	%	n
Working full time	44	460	30	42
Working part time	8	81	13	18
Self employed	4	42	3	4
Not working (short term: less than a year)	2	16	13	18
Not working (long term: longer than a year)	2	17	3	4
Retired	2	18	12	17
Permanently sick/disabled	1	15	12	17
Student (Further/Higher education)	35	372	2	3
Looking after family/home	2	20	9	13
Other, including schoolchild	0	2	1	2
Prefer not to say	1	9	0	
<b>Total</b>	<b>100</b>	<b>1052</b>	<b>100</b>	<b>138</b>
skipped question		1		

The “not working” questions are not directly comparable as the NIHE survey recorded: Not working – seeking work, and Not working – not seeking work.

<sup>2</sup> In the NIHE 2012 survey the age range was 17-24

Table A4: Current Accommodation

	%	n
House	54	563
Flat	42	429
Bungalow	4	36
Studio	1	6
Bedsit	0	0
<b>Total</b>	<b>100</b>	<b>1034</b>
skipped question		19

Table A5: Living in a shared house with 3 or more adults

	%	n
Yes	34	354
No	65	675
Prefer not to say	1	5
<b>Total</b>	<b>100</b>	<b>1034</b>
skipped question		19

Table A6: Number of bedrooms

	%	n
Studio/Bedsit	0	2
One	7	69
Two	34	349
Three	28	287
Four	17	180
Five or more	14	147
<b>Total</b>	<b>100</b>	<b>1034</b>
skipped question		19

Table A7: Rented a property from a private landlord before 1 April 2013

	%	n
Yes	42	436
No	58	596
<b>Total</b>		<b>1032</b>
skipped question		21

Table A8: Length of time in previous accommodation

	%	n
Less than 6 months	4	18
6 months to 1 year	44	190
1 to 2 years	26	112
2 to 3 years	13	55
3 to 4 years	5	22
4 to 5 years	2	10
5 or more years	5	21
<b>Total</b>	<b>100</b>	<b>428</b>
Missing		8

Table A9: Paid a deposit on their previous tenancy

	TDS		NIHE 2014	
	%	n	%	n
Yes	93	400	70	49
No	7	28	27	19
Can't remember	n/a	n/a	3	2
<b>Total</b>	<b>100</b>	<b>428</b>	<b>100</b>	<b>70</b>
Missing		8		

Table A10: Amount of deposit paid for previous tenancy, in terms of rent

	%	n
Less than 4 weeks rent	8	30
4-6 weeks rent	84	335
6-8 weeks rent	4	15
Over 8 weeks rent	2	6
Don't know	1	5
Other	1	2
Prefer not to say	1	4
<b>Total</b>	<b>100</b>	<b>397</b>
Missing		3

Table A11: Who held the deposit for previous tenancy?

	%	n
Landlord	51	203
Agent	35	140
Don't know	14	54
<b>Total</b>	<b>100</b>	<b>397</b>
Missing		3

Table A12: Did tenants get their deposit back at the end of their previous tenancy?

	%	n
Yes - in full	61	243
Yes - in part	24	97
No - not at all	13	50
Don't know	2	7
<b>Total</b>	<b>100</b>	<b>397</b>
Missing		3

Table A13: Were the deductions made from the deposit fair?

	%	n
All of the deductions were fair	15	22
Most deductions were fair but not all	22	31
Most deductions were unfair but not all	27	39
All of the deductions were unfair	26	37
Don't know	10	15
<b>Total</b>	<b>100</b>	<b>144</b>
Missing		3

Table A14: Amount for tenancy deposit for tenants' current accommodation

	%	n
Less than £500	48	489
£501-£600	22	222
£601-£700	10	102
£701-£800	4	42
£801-£900	4	40
£901-£1,000	4	42
More than £1,000	6	59
Prefer not to say	1	7
Don't know	1	9
<b>Total</b>	<b>100</b>	<b>1012</b>
skipped question		41

Table A15: Monthly rent

	%	n
Less than £500	54	550
£501-£600	22	223
£601-£700	10	105
£701-£800	5	52
£801-£900	3	26
£901-£1,000	2	22
More than £1,000	2	22
Prefer not to say	1	8
Don't know	0	4
<b>Total</b>	<b>1012</b>	<b>1012</b>
skipped question	41	41



Table A16: The provision of required information

	%	n
Statement of Tenancy Terms	82	783
Rent Book	41	392
Tenancy Agreement	93	893
Tenancy Deposit Protection Certificate	55	526
Prescribed Information Form signed by the landlord or agent	36	344
Explanatory leaflet about tenancy deposit protection	45	434
Inventory and Schedule of condition from the landlord/agent	51	486
Gas Safety Certificate	24	226
Energy Performance Certificate	25	237
<b>Total</b>	<b>NA</b>	<b>956</b>
skipped question	97	97

Table A17: Provision of Tenancy Deposit Certificate

	%	n
I got this within 14 days of the deposit being paid	55	528
I got this more than 14 days after the deposit was paid	11	104
I did not get this	34	324
<b>Total</b>	<b>NA</b>	<b>956</b>
skipped question	97	97

Table A18: Provision of Prescribed Information/Tenancy Deposit Scheme leaflet

	%	n
I did not get these from my landlord	41	390
I got them within 28 days of the deposit being paid	56	531
I got them after 28 days of the deposit being paid	4	35
<b>Total</b>	<b>100</b>	<b>956</b>
skipped question		97

Table A19: Knew that all tenancy deposits must be protected by a Government approved scheme whenever they started their current tenancy

	%	n
Yes	58	544
No	42	388
<b>Total</b>	<b>100</b>	<b>932</b>
skipped question		121

Table A20: Views on the Tenancy Deposit Scheme: Extent to which respondents agree or disagree with the following statements

	Strongly agree		Agree		Neither agree nor disagree		Disagree		Strongly disagree		Total
	N	%	N	%	N	%	N	%	N	%	
I think it is a good idea that there is more protection for tenants and their deposits	734	79	147	16	35	4	4	0	5	1	925
I think it will cause delays in getting my deposit back at the end of the tenancy	69	8	200	22	389	42	187	20	73	8	918
I think I will need to wait until the end of the tenancy before I will know if it is a good idea or not	124	14	253	28	282	31	185	20	72	8	916

Table A21: Knowledge of dispute resolution service

	%	n
Yes	30	275
No	70	657
<b>Total</b>	<b>100</b>	<b>932</b>
skipped question		121

Table A22: Likely response if there was a dispute with the landlord about the return of the deposit

	Yes		No		Don't know		Total
	N	%	N	%	N	%	N
I will probably use the free dispute resolution service	772	84	35	4	116	13	923
I am unlikely to use the dispute resolution service	51	6	578	71	187	23	816
I will probably not want to challenge the landlord	96	12	572	70	153	19	821
I will probably go to Court to recover my deposit money	223	27	308	37	300	36	831