



# Negotiating with your tenants

Best Practice Guidance

Top tips on how to be a better negotiator with the aim of helping to avoid a formal dispute over deposit deductions



## Negotiating deposit deductions with your tenants



Tim Frome, **my|deposits** very own in-house solicitor explains the value of maintaining a good relationship with your tenant through better negotiations.

### Why negotiate?

If your tenant breaches the tenancy agreement and you need to propose deductions to their deposit to remedy any issues which have occurred as a result, your tenant may feel that the deductions are unfair or unwarranted. By law, the deposit belongs to the tenant unless you can prove your claim to the deposit money and show a loss. If an agreement cannot be reached your tenant is entitled to raise a formal dispute.

The key timeframes for dispute resolution are set by the legislation, which means there will be a delay in returning the deposit whilst the adjudicator reviews the case. Therefore it is always beneficial for both parties to resolve their differences before they escalate to needing adjudication or court.

### How to approach negotiations

#### Start early

You should aim to begin your negotiations at the earliest opportunity from when your tenant disputes the amount you wish to deduct, as this is the best opportunity to reduce the likelihood of using a formal Alternative Dispute Resolution (ADR) route.

#### Arrange a meeting

The best way to negotiate is face to face. The tone, or intended meaning of the written word can often be misinterpreted. It's also far easier for people to frustrate the process when using emails and letters, and often can delay the process so a face to face meeting can be beneficial for both parties.

#### Document your negotiations

You should always ensure that every part of the process is clearly documented and shared with your tenant. This may be used as evidence to support your claim if negotiations break down and you end up in a formal dispute.

#### Establish the tenant's claim

The tenant's position should be sought as soon as possible, allow them to explain why they feel that the deductions you have proposed are unfair, or not justified. Once their position has been established, clearly explain the deductions to the deposit and why you are making them.

As an additional note, you must include fair wear and tear into your calculations and it's worth remembering that you are entitled to compensation but not betterment. Standard costs are potentially unfair so be prepared to make concessions if the circumstance dictates. For more information on 'fair wear and tear' see our guidance on our website.

## Use evidence to support your claim

As we have already stated, the deposit remains the tenant's money, and at the end of the tenancy the default position is for the tenant to receive the deposit back, in full. To be successful in a formal deposit dispute you must provide evidence to back up your claim, however using robust evidence to highlight your

reasoning could be a persuasive enough reason to avoid using a ADR. Highlight relevant clauses in the tenancy agreement, photographs, invoices, receipts and anything else you can to show your tenants how you have come to your proposed amount.

### How to be a better negotiator: Key takeaways

1. Decide whether you're willing to compromise and what your bottom line is.
2. Approach the negotiation as a mutual attempt to solve a problem and explain this to your tenant.
3. Set up a meeting to discuss the problem face to face whenever possible. It's helpful to find a neutral location where you can both explain your case and work out an agreement.
4. When negotiating you should always listen to everything the tenant has to say and don't interrupt, even if some points are not true or some opinions are inflammatory. Letting them express their feelings shows you are willing to listen and is an essential first step toward an eventual understanding.
5. State that you understand and respect the tenant's key points, even if you strongly disagree with their position.
6. Avoid personal attacks. Even if true, it will only raise the level of hostility and make settlement more difficult.
7. During negotiations you should never react impulsively or emotionally. This is a golden rule of all negotiations.
8. Be courteous, but not weak. If you have robust evidence to use as part of the ADR, then let them know. Make it clear that you prefer negotiating an agreement but, if necessary, you have quality evidence to resolve the issue.
9. If you reach an understanding with your tenant, promptly write it down and ensure that you both sign in agreement. You should volunteer to prepare the first draft explaining the position, your discussions, details of the negotiation and the agreed settlement.

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