



Department for Levelling Up, Housing & Communities

Pre-Tender Market Engagement Tenancy Deposit Protection Scheme CPD4126218

Authority: Department for Levelling Up, Housing and Communities (DLUHC) (“the Authority”).

Date Response required:

Written Feedback: We are seeking final written feedback by **12 pm on 03rd May 2024**. Earlier responses are welcomed. Any queries should be submitted by **12pm on 26th April 2024**. Responses and queries should be submitted to: CommercialTenders@levellingup.gov.uk

Supplier Engagement Events – Virtual group Q&A sessions to be held on:

- 10th April (2.00-3.30pm)
- 11th April (3.00-4.30pm)

Please email CommercialTenders@levellingup.gov.uk if you would like to attend the Q&A session.

Supplier Engagement Events provide the Department with an opportunity to provide an overview of the developing requirement to Potential Suppliers, as well as addressing any questions Potential Suppliers may have regarding policy, process or any issues or concerns. Where the Department is unable to answer questions immediately within the session, we will endeavour to follow up with written answers which will be made available to view online.

1 PURPOSE

- 1.1 This Pre-Tender Market Engagement (PTME) seeks information in preparation for the potential procurement of a Supplier or Suppliers (from herein referred to as a “**Potential Supplier**”) to provide a custodial and/or insured Tenancy Deposit Protection (TDP) scheme to the Private Rented Sector (PRS).
- 1.2 It is mandatory for landlords in England, Wales, Scotland and Northern Ireland who take a deposit in connection with assured shorthold tenancies or occupation contracts to protect the deposit through TDP schemes. This PTME concerns TDP scheme contracts set out under the Housing Act 2004 and Renting Homes (Wales) Act 2016 which covers England and Wales. These schemes protect the tenants’ deposit and provide an alternative dispute resolution (ADR) service for disputes about the return of the deposit at the end of a tenancy agreement, in accordance with the terms of the arrangements with the Department for Levelling Up, Housing and Communities (herein referred to as “the Authority”).
- 1.3 The purpose of this PTME is to:
 - help define the service specification for TDP schemes;
 - help provide a better understanding of the feasibility of the requirements set out in this document;
 - help define proposed measures to incentivise positive behaviours and drive performance;
 - understand market perspectives on contract lengths;
 - understand the capacity of the market to deliver and possible risks;

- provide prospective bidders with an opportunity to ask questions, raise queries and any issues to be addressed at an early stage;
 - inform potential delivery timescales of the TDP schemes procurement including transitional arrangements; and
 - help inform any policy decisions at any early stage.
- 1.4 The Authority shall maintain commercial confidentiality of information received during the PTME.
- 1.5 The Authority reserves the right to alter its route to market and may not proceed to tender this opportunity. The Authority reserves the right to make the final decision on the route to market following a review of the responses to this engagement which will consider feedback received in relation to paragraph 1.3.
- 1.6 This PTME is separate to any later procurement exercise. The Authority will not use this PTME to inform the suitability of any future potential supplier. However, we strongly advise anyone who has an interest in being considered as a potential supplier, should engage with this PTME exercise.
- 1.7 Any information shared may be subject to requests under the Freedom of Information Act 2000 (FOIA) or Environmental Information Regulations 2004 (EIR) and may be released unless an exemption or exception applies under the relevant legislation.

2 INTRODUCTION

- 2.1 The Government is committed to ensuring that where a tenant pays a deposit to their landlord it will be returned at the end of the tenancy provided that the tenant has complied with the terms of the tenancy agreement. Where landlords or their agents require tenancy deposits, they must be safeguarded in a government approved Tenancy Deposit Protection Scheme.
- 2.2 Under the Housing Act 2004, landlords in England are required to protect deposits taken in connection with an assured shorthold tenancy, with a government-approved scheme. The Act places a duty on the Secretary of State to ensure that one or more tenancy deposit protection (TDP) schemes are available to allow landlords to meet their obligations under the Act.
- 2.3 Under the Renting Homes (Wales) Act 2016, landlords in Wales must protect a deposit provided in connection with an in occupation contract in an authorised deposit scheme.
- 2.4 The aims of the provisions in the Housing Act 2004 and Renting Homes Act 2016, are to ensure that tenant deposits are protected from loss and misappropriation and that tenants and landlords have access to Alternative Dispute Resolution (ADR) in the event of a dispute.
- 2.5 The legislation requires that:
- the deposit is protected within 30 days the deposit being received;
 - following agreement, or ADR decision or court order, the deposit is paid to the relevant party or parties within 10 days beginning with the date of notification of such outcome.
 - tenants should be provided with Prescribed Information about where their deposit was protected and how the tenancy deposit protection scheme operated.
- 2.6 These schemes as set out in the Housing Act 2004 can be either a:
- **Custodial Scheme**, where the landlord pays 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; and/or

- **Insurance Scheme**, where 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 lettings 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.

- 2.7 Any supplier of these schemes would be required to meet all the statutory requirements as set out in the relevant legislation. The relevant sections of the Housing Act 2004 can be found [here](#) and [here](#). The relevant section of the Renting Homes (Wales) Act 2016 can be found [here](#).
- 2.8 The existing TDP schemes are delivered through concession contracts with the Authority. The current providers are the Deposit Protection Service, the Tenancy Protection Service and MyDeposits. The contracts for insured schemes have been in place since 2013, and contracts for the custodial schemes since 2016. Both are due to expire in March 2026.
- 2.9 Any new provider would be expected to co-operate fully with legacy suppliers during a transitional period which would begin after the tender is awarded and our aspiration is that it would last around 12 months until the commencement of the contracts in March 2026. The new supplier(s) would be expected to manage the transfer of customer information and, where appropriate, staff to ensure the continuity of service upon commencement of the new contracts.
- 2.10 The Authority is also exploring different lengths of potential contract as well as the potential to introduce break clauses and options within the contracts to allow flexibility in the delivery of government or policy objectives.
- 2.11 A key component of the Tenancy Deposit Schemes is the provision of ADR procedures as an alternative to court action to determine tenancy deposit returns disputes. The availability of ADR and the protection of the Scheme mean that the tenant does not have to face the expense of securing and enforcing a court judgment against the landlord or agent. The use of ADR is not compulsory for either landlords or tenants and the option of going to court to resolve any dispute remains available to both parties.
- 2.12 The following information provides core information relating to the existing stock of deposits protected, the most recent reporting year's flow of deposits in and out and their value:

Total deposits protected up to Sep 2023:	4,594,182
Number of insured deposits up to Sep 2023:	2,129,350
Value of insured deposits up to Sep 2023:	£2,911,426,045
Number of custodial deposits up to Sep 2023:	2,464,182
Value of custodial deposits up to Sep 2023:	£2,293,396,904
Number of new deposits protected between April 2022 and March 2023:	1,615,000
Number of insured deposits protected between April 2022 and March 2023:	760,000
Value of insured deposits protected between April 2022 and March 2023:	£790,400,000

Number of custodial deposits protected between April 2022 and March 2023:	855,000
Value of custodial deposits protected between April 2022 and March 2023:	£895,569,336
Value of custodial deposits repaid to tenants between April 2022 and March 2023:	£684,603,353
Number of disputed raised through ADR between April 2022 and March 2023	59,227
Number of disputes resolved through ADR between April 2022 and March 2023:	39,414

3 HIGH LEVEL OUTLINE PROJECT OUTCOMES REQUIRED

- 3.1 The primary objective of this potential procurement is to ensure continued service provision of a TDP scheme or schemes from 1 April 2026 that meet legislative requirements. We also aim to maintain and improve the service available to landlords and agents and improve the overall tenant experience with deposits in the PRS.
- 3.2 The Authority has established 6 draft core objectives that the potential supplier would need to meet in order to deliver the TDP schemes effectively. The Authority reserves the right to amend these objectives.
- 3.3 **Objective 1:** To set up and maintain an effective and sustainable tenancy deposit protection service of **either a custodial or insured scheme or both** as set out in the Housing Act 2004 by:
- Developing and maintaining the necessary back office personal and IT systems to set up and maintain the provision of these services.
 - Demonstrating a sound business plan which takes into account the long-term economic outlook to ensure a continuity of service for landlords and tenants.
 - Having an investment and insurance policy which adheres to any limitations or requirements set out in the contract
 - Ensuring that deposits protected can be repaid in the event of a low interest rate environment or claims on insurance.
 - Providing information to local authorities when requested as set out in the Housing Act 2004.
 - Supporting transitional arrangements from up to 12 months before commencement of the contract.
- 3.4 **Objective 2:** To provide a quality of service that meets the statutory time requirements as set out in the Housing Act 2004 by:
- Facilitating the protection of a tenant deposit by a landlord or agent within 30 days of the tenancy commencing.
 - Facilitating the provision of prescribed information concerning the deposit and tenancy by the landlord or agent to the tenant within 30 days or where confirmation from the relevant scheme administrator that the deposit is being held in accordance with the scheme.
 - Ensuring the return of deposit monies to landlord or tenant within 10 days notification of an agreement being reached or within 10 days of an ADR decision between the landlord and tenant regarding deductions to the deposit.
 - Ensuring the return of a custodial deposit monies within 10 days as part of the statutory declaration process set out in the Housing Act 2004.

- The provision of the above statutory services should be as the result of the development of a skilled and dedicated workforce which seeks to perform above and beyond the statutory requirements.
- The potential supplier should also provide multi-channel customer support services and part of service delivery.
- Ensuring that the service delivered is user centred, easy to use and accessible.
- These services should also be facilitated by up to date IT systems which are capable of dealing with the high work traffic associated with the administration of protecting and returning, and responding to claims from landlords and tenants on deposits.

3.5 Objective 3: To provide a free Alternative Dispute Resolution (ADR) service for landlords and tenants which both parties can freely submit to in order to resolve disputes over how much of the deposit should be returned by:

- Ensuring it is an impartial procedure for the resolution of disputes with an evidence based decision making process.
- Ensuring ADR is used for proportionate and genuine disputes, dissuading from frivolous claims.
- Employing appropriate internal controls and audit procedures to minimise the scope for fraud.
- Providing clear guidelines to landlords explaining what can and cannot be claimed from a deposit.
- Providing clear information to both tenants and landlords about their rights and responsibilities in relation to tenancy deposits.
- Setting out a clear ADR process which landlords and tenants can follow without the need of further external guidance.
- Recruiting and training or contracting skilled adjudicators with necessary subject knowledge to consider cases brought to ADR.
- Ensuring these adjudicators act professionally when undertaking this work and provide a quality service which meets and exceeds statutory requirements.
- Developing a front end IT system that landlords and tenants can use to upload and provide evidence contributing to the ADR which is easy to use and allows for parties to respond to claims.

3.6 Objective 4: To demonstrate a commitment to delivering social value as part of providing the service by:

- Engaging in activities outside of service provision which adheres to Social Value as set out in guidelines found [here](#).
- The Social Value criteria the Authority is most interested in seeing fulfilled via this contract is:
- Tackling economic inequality – particularly in regards to activity which supports education and training (sub criteria for MAC 2.3)
- Wellbeing – in particular by co-designing and delivering the service in collaboration with key stakeholders (sub criteria for MAC 8.1)

3.7 Objective 5: Provide value for money and maximise benefits to PRS sector in addition to delivering the basic service provisions by:

- Meeting and exceeding the requirements set by the Housing Act 2004 in the provision of the service.
- Utilise profits from the successful running of the business into programmes which deliver public good.
- Options to deliver this can include but are not limited to:
- Increasing interest payments to tenants through custodial schemes.
- Exploring potential profit share models with DLUHC to deliver benefits outside of the TDP system.

- Conducting research with market stakeholders to understand existing, new and emerging issues within the wider Private Rented Sector.
- Providing training to letting agents regarding:
 - the legal requirements surrounding tenancy deposits
 - disseminating best practice in the gathering of information regarding tenancy disputes
 - the best ways to encourage agreement between landlord and tenant without the need for ADR or court involvement.
- Providing training to landlords in the above.

3.8 Objective 6: To provide key data to the Authority by:

- Developing a comprehensive system of recording information pertaining to protected deposits, disputes and complaints.
- Collating this information on a regular basis as part of Business As Usual (BAU) meetings with the Authority.
- Providing information to the Authority when requested.
- Collating information as pertaining to set KPIs as part of BAU monitoring.
- Conducting the above activities in accordance with data standards and data protection regulations.

Service Provision

A potential supplier must, at a minimum, be able to protect and facilitate the return of tenant deposits at the end of a tenancy.

The potential supplier will be instructed to protect and administer these deposits under the directions of the Housing Act 2004 and associated regulations and guidance.

The Authority would like to understand whether a potential supplier believes a custodial or insured scheme is the best mechanism to deliver the overall objectives.

A potential supplier must also ensure that Alternative Dispute Resolution services are available to tenants and landlords free of charge. Landlords and tenants must be made aware that they do not have to enter into ADR to resolve a dispute, but if they do agree they are bound to respect and follow the adjudicated outcome.

The potential supplier must also have a clear complaints procedure in place to rectify any factual errors which lead to an incorrect ADR decision. The Authority would like to see a commitment to delivering a high-quality ADR service that sets standards within the sector.

The Authority is keen to understand what potential suppliers believe they could achieve additionally to the minimum service provision, particularly in the delivery of social value, public good and ideas for service innovation.

The Authority is also interested in how potential suppliers can exceed minimum service requirements and set standards within the wider sector.

KPIs

The Authority intend to monitor performance via Key Performance Indicators (KPIs) which are reported monthly.

Draft KPIs include the following:

1. Helpline Calls: Initial response provided within operational hours.
2. Complaints: Substantive responses given to written, email, or web-based complaints.
3. Enquiries: Substantive responses provided to written, email, or web-based enquiries.
4. Web Access: Web access is available 24x7, excluding scheduled downtime.
5. Dispute Resolution: Disputes are resolved by ADR, measured from the day the adjudicator receives the papers.
6. ADR Decision Notification: Notifications of final ADR decisions are dispatched to landlords and tenants.
7. Deposit Protection Confirmation: Confirmations of deposit protection are dispatched to landlords.
8. Return of Disputed Deposits: Disputed deposits are returned.
9. Quality of ADR decisions: an acceptable level of complaints regarding ADR.
10. Data uploaded to DLUHC chosen sharing platform on 5th day of each month
11. Quality of data provided: Data to be supplied with accuracy checks completed to ensure returns are fit for purpose.
12. Any errors in data are reposted to DLUHC and put right within X days.
13. In addition, a statistical data report is expected to be provided every six months. This data includes:

CURRENT DEPOSITS

- Number of deposits protected
- Value of deposits protected
- Total number of deposits protected since launch
- Unclaimed Deposit Data

COMPLAINTS 6 MONTHS

- Number of Operational Complaints
- Quality of service provision
- Quality of guidance (including website) provided
- Quality (including independence) of complaints system
- Complaints related to the ADR process
- Number of Upheld Operational Complaints
- Number of non-Upheld Operational Complaints
- Number of Dispute Complaints
- Number of Upheld Dispute Complaints
- Number of non-Upheld Dispute Complaints

ADR CASES

- Total number of disputes since launch
- Number of disputes decided in 6-month
- % of ADR Decisions awarded in full to Landlords for 6-month period
- % of ADR Decisions awarded in full to Tenants for 6-month period
- % of ADR Decisions split between Landlords and Tenants for 6 months
- Value of ADR Decisions paid to Landlords/Agents for 6-month period
- Value of ADR Decisions paid to Tenants for 6-month period

- Total number of claims against the scheme since launch

CLAIMS WITHIN INSURANCE SCHEMES

- Value of valid claims against the scheme since launch
- Value of valid claims against the scheme since launch
- Number of claims against the scheme at (current reporting period)
- Value of valid claims against the scheme at (current reporting period)

INTEREST TO TENANTS

- Total amount of Interest accrued for Tenants
- Total amount of Interest paid to tenants.

Monitoring and Evaluation

The Authority will monitor the performance of the schemes via the monthly reporting of KPIs.

The Authority will also require schemes to attend quarterly performance review meetings.

The Authority is interested to hear from potential suppliers about the most effective ways to monitor and evaluate the performance and effectiveness of the schemes.

The Authority also expects suppliers to commit to open book accounting to better understand the performance of schemes.

4 OUTPUTS/DELIVERABLES

- 4.1 **To deliver and maintain** either a custodial and/or insured Tenancy Deposit Protection service for landlords, tenants and lettings agents for the duration of the contract period.
- 4.2 **To deliver a quality service** which not only meets statutory requirements, but exceeds it.
- 4.3 **To provide a quality Alternative Dispute Resolution service** for tenants and landlords to help avoid the need to go to court.
- 4.4 **To ensure value for money for landlords and agents**, providing an effective service which enables them to fulfil their statutory obligations.
- 4.5 **To ensure value for money for tenants** by ensuring their deposit is protected and providing a timely and quality service.
- 4.6 **Continuously forecast change and manage impact and risk early and effectively.**
- 4.7 **To agree operational performance indicators with the Authority.**
- 4.8 **To provide ongoing monitoring and data collection** to make service and organisational improvements and recommend changes to the Authority.
- 4.9 **To demonstrate a clear commitment to delivering social value and public good** as part of service provision.

5 KEY DATES & TENDERING PROCESS

- 5.1 It is anticipated that a procurement may start in summer 2024 with the contract to commence in April 2026. These indicative dates are for information purposes only. DLUHC reserve the right to amend these dates at any time, and Potential Suppliers rely on them entirely at their own risk.

6 RESPONSE

- 6.1 Please respond by email to commercialtenders@levellingup.gov.uk with the following by 12 pm GMT 03rd May 2024 (the “Response Deadline”).

General supplier questions

- Q1 Would you be interested in bidding for this project?
- Q2 Is this project deliverable in the timeframe proposed, in particular the transitional timeframes?
- Q3 Is what the Authority asking for clear?
- Q4 What, if anything, has the Authority missed or overlooked in setting out their requirement?
- Q5 Is there anything here which is irrelevant, outdated or unnecessary?
- Q6 What are the associated costs to set up an operation which delivers the key objectives as set out in sections 3 and 4?

Section 3: Objectives

- Q7 Do you have any views on the objectives of the TDP schemes?
- Q8 Concerning objective 1, do you have any concerns should HMG decide to only pursue the provision of the custodial schemes and removing the option of an insured scheme?
- Q9 Concerning objective 1, do you have any views on how long a contract may need to run to ensure an effective provision of service which aligns with the other objectives listed?
- Q10 Concerning objective 2, in what ways could statutory requirements be delivered in a system that is more tenant led and focussed?
- Q11 Concerning objective 3, please outline what you consider to be a clear and effective ADR service.
- Q12 Are the proposed Social Value Themes, Policy Outcomes and Criteria appropriate for this requirement? Please elaborate on your reasons why and/or suggest alternatives that could be applied and why these alternatives would be more relevant
- Q13 Concerning objective 4, please outline what potential social value you could offer as part of the delivery of the overall service.
- Q14 Concerning objective 5, please outline what potential social good you could provide outside of the provision of the basic service.
- Q15 Concerning service provision, would a business model based on providing both custodial and insured protection be the best way to deliver the proposed objectives and outcomes?
- Q16 Concerning KPIs, are these relevant to the operation of these contracts and do you have any suggestions of other possible KPIs, in particular regarding ADR and the return of unclaimed deposits?
- Q17 Concerning monitoring and evaluation, what would be the most effective way to monitor the performance of schemes?
- Q18 In your opinion, what is the level of risk of modern slavery in your supply chain? Can modern slavery risks be managed / mitigated within the service?

7 QUESTIONS AND CLARIFICATIONS

- 7.1 Potential Suppliers may raise questions or seek clarification regarding any aspect of this PTME document at any time prior to the Response Deadline. Questions must be submitted by email to commercialtenders@levellingup.gov.uk only. **Please use the reference “CPD4126218 – Tenancy Deposit Protection Scheme PTME” in the subject line of your emails.**
- 7.2 To ensure that all Potential Suppliers have equal access to information regarding this PTME exercise, responses to questions raised by Potential Suppliers will be published in a “Questions and Answers” document, which will also be circulated by email, with updates appearing at regular intervals (approximately two to three working days).
- 7.3 Responses to questions will not identify the originator of the question.
- 7.4 If a Potential Supplier wishes to ask a question or seek clarification without the question and answer being revealed, then the Potential Supplier must state this in their email and provide its justification for withholding the question and any response. If the Authority does not consider that there is sufficient justification for withholding the question and the corresponding response, the Potential Supplier will be invited to decide whether:
 - 7.4.1 the question/clarification and the response should in fact be published; or
 - 7.4.2 it wishes to withdraw the question/clarification.

8 GENERAL CONDITIONS

- 8.1 This PTME will help the Authority to refine the requirements and to understand the potential level of interest in the delivering requirements. It will also aid Potential Supplier’s understanding of the requirements in advance of any formal competitive tender exercise.
- 8.2 The Authority reserves the right to change any information contained within this PTME at any time, and Potential Suppliers rely upon it entirely at their own risk.
- 8.3 The Authority reserves the right not to proceed with a competitive tender exercise after this PTME or to award any contract.
- 8.4 Any and all costs associated with the production of such a response to this PTME must be borne by the Potential Supplier.
- 8.5 No down-selection of Potential Suppliers will take place as a consequence of any responses or interactions relating to this PTME.
- 8.6 The Authority expects that all responses to this PTME will be provided by Potential Suppliers in good faith to the best of their ability in the light of information available at the time of their response.
- 8.7 No information provided by a Potential Supplier in response to this PTME will be carried forward, used or acknowledged in any way for the purpose of evaluating the Potential Supplier, in any subsequent formal procurement process.