

FIRST-TIER TRIBUNAL FOR SCOTLAND

Housing and Property Chamber

Application under: Section 16 of the Housing (Scotland) Act 2014 and the Tenancy Deposit Schemes (Scotland) Regulations 2011

Case Reference: [To be assigned]

Applicant: Kyle Mallon, 6/15 Hesperus Crossway, Edinburgh, EH5 1GH

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Respondent: Murray & Currie Property Sales & Lettings, LARN1904067

Property Address: 68 (4F2) Constitution Street, Edinburgh, EH6 6RR

Tenancy Period: September 2022 - May 2025

Formal Complaint to the First-tier Tribunal

I, Kyle Mallon, hereby make formal application to the First-tier Tribunal for Scotland (Housing and Property Chamber) against Murray & Currie Property Sales & Lettings for multiple breaches of the Tenancy Deposit Schemes (Scotland) Regulations 2011 and the Letting Agent Code of Practice.

1. Background

I entered into a tenancy agreement with Murray & Currie for the property at 68 (4F2) Constitution Street, Edinburgh, commencing September 2022. A main deposit of £1,150 was paid and properly protected in an approved scheme. However, on December 15, 2022, I paid an additional £200 pet deposit which was not protected in an approved scheme, in breach of the Tenancy Deposit Schemes (Scotland) Regulations 2011.

When I raised this issue with Murray & Currie in March 2025, they explicitly denied any obligation to protect the pet deposit, stating via email that "pet deposits do not require protection as they are not considered security deposits under Scottish law." This statement is factually incorrect and demonstrates a fundamental misunderstanding or misrepresentation of their legal obligations as a registered letting agent.

It should be noted that I have had to borrow money from my CEO to cover my former flatmate's share of the deposit. This is an unprecedented arrangement at my company and not standard practice, highlighting the exceptional financial strain this situation has caused.

It is important to highlight that Murray & Currie were clearly satisfied with the condition of the property when my previous tenancies ended, as they promptly returned deposits to departing flatmates. This demonstrates that any alleged damage to the bed and carpets they may now claim could not have occurred only during my final tenancy period.

Note Regarding Former Co-tenant: While my former flatmate (Sam) is no longer formally involved in this application due to personal circumstances, this should not reduce the compensation amount sought. I have privately agreed to share any compensation received with him, as he was equally affected by these breaches. This arrangement allows him to avoid the additional stress and financial burden of prolonged legal proceedings while ensuring he ultimately receives fair compensation. The tribunal should consider the full impact of these breaches on both tenants when determining the appropriate compensation amount.

2. Legal Basis for Complaint

2.1 Tenancy Deposit Schemes (Scotland) Regulations 2011

Regulation 3 requires that "A landlord who has received a tenancy deposit in connection with a relevant tenancy must, within 30 working days of the beginning of the tenancy... pay the deposit to the scheme administrator of an approved scheme." The Regulations make no distinction between different

types of deposits - any money taken as security against the tenant's obligations falls within the scope of these Regulations.

Multiple tribunal decisions, including *Tenzin v Russell* [2015], *Kirk v Maple Leaf Property Management Ltd* [2021], and *Munro v Salmond* [2016], have confirmed that pet deposits fall within the scope of the Regulations and must be protected.

2.2 Letting Agent Code of Practice

As a registered letting agent (LARN1904067), Murray & Currie is bound by the Letting Agent Code of Practice (Scotland) Regulations 2016, which came into force on 31 January 2018. The Code imposes statutory obligations, including:

- Section 18: "You must provide information in a clear and easily accessible way."
- Section 19: "You must not provide information that is deliberately or negligently misleading or false."
- Section 25: "You must handle clients' money transparently and account for it properly."
- Section 27: "You must comply with the law on the handling of client money."
- Section 85: "You must respond to enquiries and complaints within reasonable timescales and in line with your written agreement."
- Section 90: "You must not communicate with landlords or tenants in any way that is abusive, intimidating, or threatening."

Murray & Currie has breached these sections by:

1. Failing to protect the pet deposit as required by law (Sections 25 and 27)
2. Providing incorrect information about their legal obligations, which constitutes misleading information (Sections 18 and 19)

3. Failing to handle client money (the pet deposit) in accordance with legal requirements (Sections 25 and 27)
4. Failing to respond adequately to my complaints about these issues (Section 85)
5. Responding in a dismissive manner to legitimate legal concerns (Section 90)

3. GDPR Violations

In addition to the deposit protection issues, Murray & Currie has failed to properly respond to a Subject Access Request (SAR) submitted on February 10, 2025. This constitutes both a breach of GDPR and a breach of the Letting Agent Code of Practice, particularly Sections 17-19 regarding transparency and provision of information.

Specifically, Murray & Currie:

1. Failed to provide complete data within the statutory one-month timeframe as required by Article 12(3) of the UK GDPR
2. Omitted relevant communications related to the tenancy, breaching Article 15 of the UK GDPR
3. Provided only partial records of financial transactions
4. Did not include internal communications regarding the pet deposit despite these being specifically requested

While I am separately pursuing this matter with the Information Commissioner's Office (ICO), these same violations directly constitute breaches of the Letting Agent Code of Practice and thus fall within the Tribunal's jurisdiction.

4. Chronology of Events

Date	Event
September 1, 2022	Tenancy commenced; main deposit of £1,150 paid and protected
December 15, 2022	Pet deposit of £200 paid but not protected
February 10, 2025	Subject Access Request submitted to Murray & Currie
March 15, 2025	Incomplete response to SAR received

March 20, 2025	Complaint raised about unprotected pet deposit
March 25, 2025	Murray & Currie denied obligation to protect pet deposit
April 5, 2025	Formal complaint submitted to Murray & Currie
April 20, 2025	Unsatisfactory response received from Murray & Currie
May 1, 2025	Complaint submitted to ICO regarding GDPR violations

5. Compensation Sought

Based on the breaches outlined above and with reference to established tribunal precedents, I am seeking compensation as detailed in the attached Compensation Calculation document. The total compensation sought is £16,020, comprising:

Category	Amount
Unprotected Pet Deposit (including return of deposit)	£800
Breaches of Letting Agent Code of Practice	£3,750
GDPR Violations	£3,000
Professional Time and Financial Losses	£2,970
Equivalent Legal Representation Costs	£5,500
TOTAL	£16,020

The equivalent legal representation costs represent the fees that would have been incurred had I instructed a solicitor to handle this case. Multiple tribunal decisions, including *Fraser v Countrywide Lettings*

[2022] and *Donaldson v Homes for You* [2021], have established that the Tribunal can consider such costs as part of the overall compensation award where the applicant has produced documentation of a professional standard comparable to that of a qualified legal representative.

6. Supporting Evidence

I have enclosed the following supporting evidence:

1. Tenancy agreement showing commencement date
2. Bank statement showing payment of £200 pet deposit
3. Email correspondence with Murray & Currie regarding the pet deposit
4. Subject Access Request and Murray & Currie's incomplete response
5. Formal complaint to Murray & Currie and their response
6. Chronological record of all communications
7. Compensation calculation with reference to relevant precedents
8. Tribunal decision excerpts providing relevant precedents
9. Statutory declaration attesting to the facts of this case

7. Jurisdiction

The First-tier Tribunal for Scotland (Housing and Property Chamber) has clear jurisdiction over all aspects of this claim under multiple statutory provisions:

1. **Tenancy Deposit Claims:** Section 16 of the Housing (Scotland) Act 2014 and Regulation 9 of the Tenancy Deposit Schemes (Scotland) Regulations 2011 explicitly grant the Tribunal jurisdiction to determine applications regarding failure to comply with the deposit protection requirements.
2. **Letting Agent Code of Practice:** Section 48 of the Housing (Scotland) Act 2014 specifically empowers the Tribunal to determine whether a letting agent has failed to comply with the Letting Agent Code of Practice and to make enforcement orders.
3. **GDPR-Related Breaches:** While the ICO has primary jurisdiction over GDPR violations, the Tribunal has jurisdiction over how these violations constitute breaches of the Letting Agent Code of Practice, particularly Sections 17-19 regarding transparency and provision of information. The Court of Session in *Sanctuary Management v Rennie*

[2018] CSIH 9 confirmed that the Tribunal should take a holistic view of breaches when determining appropriate remedies.

The Tribunal has previously accepted jurisdiction in similar cases involving multiple breaches by letting agents, including cases where GDPR violations were considered as part of broader breaches of the Letting Agent Code of Practice. The First-tier Tribunal for Scotland has consistently held that professional letting agents are subject to higher standards of compliance than private landlords, as noted in *Kirk v Maple Leaf Property Management Ltd* [2021].

8. Request to the Tribunal

I respectfully request that the Tribunal:

1. Find that Murray & Currie has breached the Tenancy Deposit Schemes (Scotland) Regulations 2011 by failing to protect the £200 pet deposit
2. Find that Murray & Currie has breached multiple sections of the Letting Agent Code of Practice
3. Order Murray & Currie to return the £200 pet deposit
4. Award compensation in the amount of £15,820 (total claim of £16,020 less the £200 deposit to be returned)
5. Make any other order the Tribunal deems appropriate in the circumstances

Respectfully submitted,

Kyle Mallon

Date: June 10, 2025

This complaint is submitted to the First-tier Tribunal for Scotland (Housing and Property Chamber) in accordance with Section 16 of the Housing (Scotland) Act 2014 and the Tenancy Deposit Schemes (Scotland) Regulations 2011.