



# **Direct Earnings Attachment**

## Employer's Guide

### **What this leaflet is about?**

This leaflet explains what you, as an employer, need to do if we ask you to implement a Direct Earnings Attachment. It tells you:

- How to operate and make payments for a Direct Earnings Attachment, and
- What your legal responsibilities are.

This leaflet is intended to help you understand the main points about Direct Earnings Attachments. It is not a full description or statement of the law.

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# **Introduction to Direct Earnings Attachments (DEA)**

Local Authorities (LA's) and the Department for Work and Pensions (DWP) are responsible for recovering money owed to the State as a result of debt arising under the **Social Security Administration Act 1992**.

The **Welfare Reform Act 2012**, which became law in March 2012, allows LA's and DWP Debt Management to ask you, as an employer, to make deductions directly from a customer's earnings.

Local Authorities can do this to recover monies, resulting from housing benefit overpayments.

We do this by asking you to operate a **Direct Earnings Attachment (DEA)**. We do not have to go through the civil courts to do this, unlike the Attachment of Earnings Order (AOE) process, for example.

Within the Welfare Reform Act, the legislation covering DEAs, part of the **Social Security (Overpayment and Recovery) Regulations 2013**, came into force on 8 April 2013. These regulations are available on the internet.

A DEA has its own regulations which operates differently from other orders such as a Deduction from Earnings Order (DEO), Attachment of Earnings Order (AEO) and Council Tax Attachment of Earnings Order (CTAEO). A DEA does not replace any of these other orders and in some circumstances employers may receive requests to implement deductions for multiple orders for the same employee.

You may be familiar with a DEO if you have ever been ordered to make deductions from an employee's earnings or pension for the Child Maintenance Group (CMG) (previously known as the Child Maintenance and Enforcement Group (CMEC), or the Child Support Agency (CSA)), as a way of collecting child maintenance from a non-resident parent.

# **Employers Responsibilities**

As an employer, you have a **legal** obligation to:

- implement a Direct Earnings Attachment when we ask you to by making deductions from the employee's net earnings, after deduction of:-
  - income tax
  - Class 1 National Insurance
  - Superannuation contributions
- make payments to us by the 19<sup>th</sup> of the month following the month the deduction is made
- ensure when payment is sent, the invoice number is quoted so payment can be allocated promptly
- keep a records of the amount of each deduction taken, and the employee from whose earnings it was made
- continue to operate the DEA until the amount stated has been recovered, or the Local Authority advise you to stop.

**If you fail to comply, you may be subject, on conviction, to a fine of up to £1,000.**

## **Providing information**

To the Local Authority - you have a duty to notify us if:

- we ask you to operate a DEA for someone who does not work for you,
- an employee for whom you are operating a DEA, the date they leaves your employment

You must write to us at the address shown on the DEA request letter within 10 days, if any of the above applies to you.

## To your Employee – you have a duty to:

- Notify your employee in writing of:
  - the amount of the deduction taken, including any amount taken for administrative costs. (see section on **Administrative Costs**). If this information is shown on the payslip, it will suffice.

You must do this (and record it) no later than the payday after the one on which the deduction for the DEA was taken.

If you have any problems or queries in setting up the DEA, please ring London Borough of Newham Housing Benefit Overpayment Section 0208 430 6196 or email [HBoverpayments@newham.gov.uk](mailto:HBoverpayments@newham.gov.uk)

## The definition of earnings for DEAs

The table below lists what counts and what does not count as earnings

<b>What counts as 'earnings' for DEAs</b>	<b>What does not count as 'earnings' for DEAs</b>
Wages	Statutory Maternity Pay
Salary	Statutory Adoption Pay
Fees	Ordinary Statutory Paternity Pay
Bonuses	Additional Statutory Paternity Pay
Commission	Any pension, benefit, allowance or credit paid by DWP, a local authority or HMRC
Overtime pay	A guaranteed minimum pension under the Pensions Scheme Act 1993 (b)
Most other payments on top of wages	Amounts paid by a public department of the Government of Northern Ireland or anywhere outside the United Kingdom
Occupational Pensions, if paid with wages or salary	Sums paid to reimburse expenses wholly and necessarily incurred in the course of the employment
Compensation payments	Pay or allowances as a member of Her Majesty's forces, other than pay or allowances payable to them by you as a special member of a reserve force
Statutory Sick Pay	Statutory Redundancy Payments
Payment in lieu of notice	

If the only earnings your employee receives are those in the right hand column, you cannot calculate a DEA deduction; similarly, if any of these are paid as part of the earnings, they are not to be included as part of the employee's net earnings.

You must continue to calculate a DEA deduction, if applicable, each pay period until either we tell you to stop, your employee leaves your employment. The amount stated has been recovered in full.

## Net Earnings

You must take the amount for the Direct Earnings Attachment directly from your employee's **net** earnings. (**Net** earnings are the amounts the employee earns after taking off income tax, National Insurance and contributions to a pension, including Additional Voluntary Contributions, Free Standing Additional Voluntary Contributions and Stakeholder Pension Contributions).

## Protected Net Earnings

You must consider what is known as the Protected Earnings amount which is an amount equal to **60%** of an employee's net earnings. This means that for each pay period where a DEA calculation is applicable, you must additionally ensure (after adding the amount of the DEA to the total amount of other orders that may be already in place) that your employee is left with at **least 60%** of their net wage.

## How to operate a DEA

There are two deduction percentage rates for calculation – **Standard Rate** and **Higher Rate**. We will let you know which rate we want you to apply, when we ask you to operate a DEA.

We ask you to make payments in line with your payroll, so if your employee is paid weekly or monthly, you should pay us at the same time. However if your employee is paid weekly you must still calculate and deduct the payment weekly, but you can pay us monthly if you prefer. It is your responsibility to ensure you take the right amount from your employee's earnings each week or month and pay it to us.

When you calculate the DEA deduction amount, you must:

- Ensure that your employee has enough net earnings in the pay period for you to calculate deductions see table A & B Standard Rate or C & D Higher Rate. Check that the correct percentage rate has been applied against those net earnings.
- In addition make sure that the total of all deductions does not leave your employee with less than the protected earnings proportion, which is **60%** of their total net earnings during the calculating period to which the deduction relates.

## AMOUNTS TO BE DEDUCTED BY EMPLOYERS

**TABLE A: WHERE EARNINGS ARE PAID WEEKLY (Standard)**

Amount of NET Earnings	Deduction (% of NET Earnings)
Less than £100	Nil
Exceeding £100 but not exceeding £160	3
Exceeding £160 but not exceeding £220	5
Exceeding £220 but not exceeding £270	7
Exceeding £270 but not exceeding £375	11
Exceeding £375 but not exceeding £520	15
Exceeding £520	20

**TABLE B: WHERE EARNINGS ARE PAID MONTHLY(Standard)**

Amount of NET Earnings	Deduction (% of NET Earnings)
Less than £430	Nil
Exceeding £430 but not exceeding £690	3
Exceeding £690 but not exceeding £950	5
Exceeding £950 but not exceeding £1,160	7
Exceeding £1,160 but not exceeding £1,615	11
Exceeding £1,615 but not exceeding £2,240	15
Exceeding £2,240	20

**TABLE C: WHERE EARNINGS ARE PAID WEEKLY (Higher)**

Amount of NET Earnings	Deduction (% of NET Earnings)
Less than £100	5
Exceeding £100 but not exceeding £160	6
Exceeding £160 but not exceeding £220	10
Exceeding £220 but not exceeding £270	14
Exceeding £270 but not exceeding £375	22
Exceeding £375 but not exceeding £520	30
Exceeding £520	40

**TABLE D: WHERE EARNINGS ARE PAID MONTHLY (Higher)**

Amount of NET Earnings	Deduction (% of NET Earnings)
Less than £430	5
Exceeding £430 but not exceeding £690	6
Exceeding £690 but not exceeding £950	10
Exceeding £950 but not exceeding £1,160	14
Exceeding £1,160 but not exceeding £1,615	22
Exceeding £1,615 but not exceeding £2,240	30
Exceeding £2,240	40

If there is already a Direct Earnings Order in place from CMG (Care Management Group), or other priority orders are in place, please refer to the examples on the following pages. If you wish to discuss this with us or if you receive a request from CMG after we have asked you to implement a deduction, and you have any questions, please telephone us on 0208 430 6196.



## How to calculate the amount to deduct for DEAs

- Work out the employee's net earnings as defined previously.
- Use table based on frequency of their pay at the Standard or Higher Rate, to find the deduction percentage rate for the employee's net earnings.
- Use the percentage figure against the net earnings figure to calculate the amount to be deducted.
- If an employee is paid 2 weekly, the total net wage is divided by 2 and table A or C is used to check the percentage rate.
- If an employee is paid 4 weekly, the total net wage is divided by 4 and table A or C is used to check the percentage rate.

### Holiday Pay:

If an employee is paid a wage which includes holiday pay paid in advance, the net wage is averaged, and the percentage rate applied to the average figure, as follows:

Employee receives one weeks wage and 2 weeks holiday pay. Total net payment for 3 weeks = £850.

$£850 / 3 = £283.33$

$£283.33 \times 11\% = £31.17$

Total deduction from net wage of £850 = £93.51 ( $£31.17 \times 3$ ).

### Rounding:

The exact amount of the net wage is used against table A & B or C & D. If the percentage amount calculated results in a fraction of a penny, it is rounded to the nearest whole penny, with a result of exactly half a penny being rounded down to the nearest whole penny below, as follows:

Net wage £235.63 per week

$£235.63 \times 7\% = £16.4941$

Weekly deduction = £16.49

Net wage £1547.99 per month

$£1547.99 \times 11\% = £170.278$

Monthly deduction - £170.28

### Administrative costs:

For each pay period when you calculate the DEA deduction, you may also take up to £1 from your employee's earnings towards administrative costs. You can take this even if it reduces the employee's income below the protected earnings proportion.

Where you decide to apply an administration charge of £1.00, this may bring the employees pay below the National Minimum Wage. Employers should check <https://www.gov.uk/national-minimum-wage/employers-and-the-minimum-wage>, or contact the ACAS helpline for advice.

**It is a criminal offence for employers to not pay someone the National Minimum Wage or National Living Wage**

## **Failure to take deductions or incorrect deductions made**

If you fail to take a deduction from the employee's net earnings when it is appropriate to make a deduction, or take an incorrect amount you should correct this on the next payday or paydays.

Where the incorrect amount is because the deduction was less than the amount specified under the regulations then you should first;

- deduct the amount required for the current pay period
- then include the difference between the incorrect and correct amount

Please note that the total to be deducted, including adjustments for an incorrect deduction, along with other deductions in place, must not leave the employee with less than the protected earnings limit of **60%** for each pay period.

Where the incorrect amount is because the deduction was more than the amount specified under the regulations then you should first;

- deduct the amount required for the current pay period
- then reduce the deductions amount by the excess previously taken

It is important to note that if a deduction is reduced in any week or month simply because the DEA along with other orders in place will breach the protected earnings limit of 60% (Example 3 refers) this is NOT a shortfall as described above. A shortfall only occurs when

- an incorrect amount has been deducted in error, or when one or more deductions have been missed.

# **Examples of Direct Earnings Attachment in practice**

## **Example 1**

A weekly paid earner with no prior attachment orders.

A person with net earnings of £385 per week will have a deduction of £57.75 per week (in accordance with the deduction rates table at 15%).

## **Example 2**

A weekly paid earner with an existing attachment order for child maintenance

A person with net earnings of £250 per week with an existing attachment order of £60 per week for child maintenance will have a deduction of £17.50 (in accordance with the deduction table at 7%).

## **Example 3**

A monthly paid earner with existing priority attachment orders totalling £486.

A person with net earnings of £1620 per month should have a DEA deduction of £243 (in accordance with the deduction table at 15%). However, this deduction in addition to the existing deductions of £486, will breach the protected earnings limit of 60%. The maximum deduction we can make in this instance would be £162.

Calculation:

Earnings x 40% = £648 (maximum amount for total deductions)

Existing priority attachment order in place = £486

DEA deduction is = £243

£648 - £486 = £162 (maximum amount available for the DEA deduction)

Therefore, although the deduction rates table states that a deduction of £243 should be taken, the protected earnings limit means that the amount will be restricted to £162

## **What if my employee does not earn enough for me to make the deduction?**

If the weekly or monthly earnings are below the threshold (see table A to B) you cannot calculate a DEA deduction.

You must continue to calculate a DEA deduction, if applicable, each pay period until either we tell you to stop or your employee leaves your employment.

## Making payments

On receipt of a notice to operate a DEA, you must:

- make regular payments to us until informed by us to stop.
- pay the amount you take from your employee's wages to London Borough of Newham as soon as possible, but no later than the 19th day of the month following the month in which you have taken it (*For example, if you take the money on 30 September, you must send it to us before 19 October; if you take the money on 1 October, you must send it to us before 19 November*).

**Internet payments** For internet payments go to the Newham website at [www.newham.gov.uk/](http://www.newham.gov.uk/)

- select "pay it"
- select "housing benefit overpayment"

**Credit/ Debit Cards** For Debit/ Credit Card payments, call the automated 24 hour service on 020 8430 2000. Follow the instructions, ensuring the invoice number and Credit/ Debit Card details are ready.

There will be a short pause while your payment is processed, please wait for the confirmation before proceeding.

### **For BACS or electronic transfers**

Please ensure a remittance advice is e-mailed to [Cash.Control@newham.gov.uk](mailto:Cash.Control@newham.gov.uk).

Our bank details are:

Bank: Lloyds Bank  
Sort Code: 30-00-02  
Account Number:00879113

Please quote **invoice number** stated on the Direct Earnings Attachment request

### **Bank Giro Credit**

You can pay at any bank by giving them the payment and the **invoice number**. The bank will issue you with a counter receipt. Some banks may charge for this service.

You can make postal payments by posting a cheque or postal order to:-

The Cashiers  
Newham Dockside  
1000 Dockside Road  
London E16 2QU

Cheques should be made payable to: "**London Borough of Newham**". You must put the **invoice number** on the back of the cheque otherwise it will not be credited to the correct account.

# **Questions & Answers**

## **Employee has other court orders against them?**

Courts can make orders that mean you must take money directly from your employee's earnings in a similar way to how we ask you to make deductions for a DEA. Your employee may have an Attachment of Earnings Order (England & Wales), Earnings Arrestment (Scotland) or a Deduction from Earnings Order (for Child Maintenance), for example. The DEA can be imposed without a court order, but if your employee has any other deduction orders against them there are rules that tell you which money you should take first.

If your employee has one or more of the following in place, these will take priority over a DEA:

### **England & Wales**

Deduction from Earnings Order (DEO) from CMG

Attachment of Earnings Order (AEO) for Maintenance or Fines

Council Tax Attachment of Earnings Order (CTAEO)

### **Scotland**

Deduction of Earnings Order (DEO) from CMG

Earnings Arrestment (EA)

### **Student Loans**

A student loan repayment also takes priority over a DEA. This applies to both England & Wales and Scotland.

Once these priority orders have been taken into account in your calculation a DEA will then take priority in relation to other orders or notices in date order (in Scotland this will be the date they were received). The amount you can deduct will be subject to the available net earnings above the protected earnings limit of 60% of net earnings.

## **Employee thinks the amount they owe is wrong?**

If your employee thinks that the amount of money they owe is wrong, you should advise them to contact us on the telephone number at the top of the letter they received about the Direct Earnings Attachment.

## **Employee thinks the amount of the deduction is too much?**

If they think that the amount you have calculated is too much, you should first check that the amount being deducted is the correct amount according to table A & B Standard Rate or C & D Higher Rate, on the basis of their earnings and other orders in place. If the amount is correct, you should explain that you have made the deduction as instructed to do so. If they feel that this is too much for them to manage, you should advise them to contact us.

## **What happens once I am operating a Direct Earnings Attachment?**

Once you have started operating a DEA, you must continue to make payments to us until we tell you stop. We shall contact you when deductions are to cease.

If there is a change in circumstances which means that you can no longer operate the DEA, you must notify us in writing within 10 days.

## Where can I get more information?

London Borough of Newham, Housing benefit overpayment Recovery Team on 0208 430 6196  
The line will be open from 9.00 am to 5.00 pm Monday to Friday.  
Email [HBoverpayments@newham.gov.uk](mailto:HBoverpayments@newham.gov.uk)