An Employer's Guide to Direct Earnings Attachment for Recovering Benefit Overpayments

Purpose of this document

This document explains what you, as an employer, need to do if we ask you to operate a Direct Earnings Attachment (DEA). It sets out:

- How to administer a DEA and make the required payments, and
- Your legal responsibilities when operating a DEA.

This guide highlights the key points you need to be aware of. It is not intended to be a comprehensive guide or a full 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 (DEA) 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 19th of the month** following the month the deduction is made.
- Ensure that, when payment is sent, the **invoice number is quoted** so the payment can be allocated promptly.
- **Keep a record of the amount** of each deduction made and the employee from whose earnings it was taken.
- **Continue to operate the DEA until the amount stated has been fully recovered, or until the Local Authority advises you to stop.**

If you fail to comply with these obligations, you may be liable, on conviction, to a fine of up to £1,000.

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Providing information

To the Local Authority

You have a **duty to notify us** if:

- We ask you to operate a Direct Earnings Attachment (DEA) for **someone who does not work for you.**

- An employee for whom you are operating a DEA **leaves your employment (you must tell us the date their employment ends).**

You must contact us using the telephone number or email address at the bottom of this page.

To your Employee

You have a duty to:

- **Notify your employee in writing of the amount deducted from their earnings, including any amount taken for administrative costs** (see section on Administrative Costs on page 6).
  - If this information is shown on the employee's payslip, this will be sufficient.

You must do this (and keep a record) no later than the payday following the one on which the DEA deduction was made.

If you require further information or have any queries regarding the operation of a Direct Earnings Attachment (DEA), please contact:

London Borough of Newham
Housing Benefit Overpayment Section

Telephone: 020 8430 6196
Opening hours: 9.00 am to 5.00 pm
Monday to Friday

Email: HBoverpayments@newham.gov.uk

The definition of earnings for DEAs

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

What counts as 'earnings' for DEAs	What does not count as 'earnings' for DEAs
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 listed in the right-hand column, you cannot calculate a (DEA) deduction.

If any of these payments are made as part of the employee's earnings, they must not be included when calculating the employee's net earnings.

The definition of earnings for DEAs (continued)

You must continue to calculate a Direct Earnings Attachment (DEA) deduction, where applicable, in each pay period until one of the following applies:

- 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 (DEA) directly from your employee's net earnings.

Net earnings are the amounts the employee earns after deducting:

- Income Tax
- National Insurance contributions
- Pension contributions, including:
  - Additional Voluntary Contributions (AVCs)
  - Free-Standing Additional Voluntary Contributions (FSAVCs)
  - Stakeholder Pension contributions.

Protected Net Earnings
You must also take into account the Protected Earnings Amount. This is equal to 60% of the employee's net earnings.

For each pay period where a DEA deduction applies, you must ensure that:

- After deducting the DEA and
- After taking into account any other earnings orders already in place

the employee is left with at least 60% of their net earnings.

How to operate a DEA

There are **two deduction percentage rates** used to calculate a Direct Earnings Attachment (DEA):

- **Standard Rate**, and
- **Higher Rate**.

We will tell you which rate to apply when we ask you to operate a DEA.

We ask that **payments are made in line with your payroll cycle**. For example:

- If your employee is paid weekly, you should calculate and deduct the DEA weekly.
- If your employee is paid monthly, you should calculate and deduct the DEA monthly.

If your employee is paid weekly, you may choose to pay the deductions to us monthly instead of weekly. However, it remains your responsibility to ensure that the **correct amount is deducted from the employee's earnings each week or month** and paid to us.

When you calculate the DEA deduction amount, you must:

- Ensure that your employee has sufficient net earnings in the pay period to make a deduction (see the next page for **Tables A and B for the Standard Rate,** or **Tables C and D for the Higher Rate**).
  - Check that the correct percentage rate has been applied to those net earnings.

- Ensure that the total of all deductions does not leave your employee with less than the **Protected Earnings Amount**, which is **60% of their total net earnings** for the pay period to which the deduction relates.

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How to operate a DEA (continued)

Amounts to be deducted by employers
When calculating deductions, ensure you use the correct table for the Direct Earnings Attachment (DEA) request you have received.

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 £1160	7%
Exceeding £1160 but not exceeding £1615	11%
Exceeding £1615 but not exceeding £2240	15%
Exceeding £2240	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 £1160	14%
Exceeding £1160 but not exceeding £1615	22%
Exceeding £1615 but not exceeding £2240	30%
Exceeding £2240	40%

If there is already a Direct Earnings Order in place from CMG (Care Management Group), or if 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 contact us.

London Borough of Newham
Housing Benefit Overpayment Section
Telephone: 020 8430 6196
Opening hours: 9.00 am to 5.00 pm
Monday to Friday
Email: HBoverpayments@newham.gov.uk

How to calculate the amount to deduct for DEAs

- Work out the employee's net earnings as defined previously.
- Use the table that matches the employee’s pay frequency and the Standard or Higher Rate to find the applicable deduction percentage for the employee’s net earnings.
- Apply the percentage rate to the net earnings figure to calculate the amount to be deducted.
- If an employee is paid fortnightly (2-weekly), divide the total net earnings by 2 and use Table A (Standard Rate) or Table C (Higher Rate) to determine the percentage rate.
- If an employee is paid 4-weekly, divide the total net earnings by 4 and use Table A (Standard Rate) or Table C (Higher Rate) to determine the percentage rate.

Holiday Pay
Where holiday pay is paid in advance as part of an employee’s wages, the total net earnings must be averaged. The appropriate DEA percentage rate should then be applied to the average net earnings, as shown below.

Example: Holiday pay paid in advance
An employee receives one week’s wages plus two weeks’ holiday pay (a total of 3 weeks’ pay).

- Total net payment for 3 weeks: £850
- Average weekly net earnings: £850 / 3 weeks = £283.33
- DEA deduction rate (Table A): 11%
- Weekly DEA deduction: £283.33 × 11% = £31.17
- Total DEA deduction from £850: £31.17 × 3 = £93.51

Rounding
The exact amount of the employee’s net earnings must be used when applying Tables A and B or Tables C and D.

If the percentage calculation results in a fraction of a penny, the amount must be rounded to the nearest whole penny. Where the amount is exactly half a penny, it must be rounded down to the nearest whole penny, as shown below.

Examples: Rounding

Weekly pay
- Net wage: £235.63 per week
- £235.63 × 7% (Table A) = £16.4941
- Weekly DEA deduction: £16.49

Monthly pay
- Net wage: £1,547.99 per month
- £1,547.99 × 11% (Table D) = £170.278
- Monthly DEA deduction: £170.28

Administrative costs – what you can charge your employee
For each pay period in which you calculate a (DEA) deduction, you may also deduct up to £1.00 from your employee’s earnings to cover administrative costs.

You may take this charge even if it reduces the employee’s income below the Protected Earnings Amount.

Where you decide to apply the £1.00 administration charge, this may reduce the employee’s pay below the National Minimum Wage or National Living Wage. Employers should therefore check their obligations carefully. Further information is available at: https://www.gov.uk/national-minimum-wage/employers-and-the-minimum-wage or by contacting the ACAS helpline for advice.

Fixed Rate Deductions
In exceptional circumstances, we may write to you to apply a fixed-rate deduction for an employee. This revised amount should be applied from the next pay date after you receive the notice, and for each subsequent pay date. However, if earnings for any pay date fall below the threshold shown in Tables A and B (Standard Rate) or Tables C and D (Higher Rate), no DEA deduction can be made.

You must always ensure that the Protected Earnings Rate is applied, including when a fixed-rate deduction has been requested.

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

If you fail to take a deduction from an employee's net earnings when one should have been made, or if you deduct an incorrect amount, you must correct this on the next payday or subsequent paydays, as appropriate.

Where too little has been deducted
If the incorrect amount occurred because the deduction was less than the amount required under the regulations, you should:

- Deduct the correct amount for the current pay period, and
- Add the difference between the amount that should have been deducted and the amount actually deducted.

The total amount deducted (including any adjustment and any other orders already in place) must not leave the employee with less than the protected earnings limit of 60% in that pay period.

Where too much has been deducted
If the incorrect amount occurred because the deduction was more than the amount required under the regulations, you should:

- Deduct the correct amount for the current pay period, and
- Reduce the deduction by the excess amount previously taken.

Important clarification
If a deduction is reduced in any week or month solely because applying the DEA alongside other orders would breach the protected earnings limit of 60% (see Example 3), this is not treated as a shortfall.

A shortfall only occurs where:

- An incorrect amount has been deducted in error, or
- One or more required 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 DEA deduction of £57.75 per week, based on a 15% deduction rate in accordance with the applicable deduction table.

Example 2
A weekly-paid earner with an existing attachment order for child maintenance.

A person with net earnings of £250 per week, and an existing child maintenance attachment of £60 per week, will have a DEA deduction of £17.50 per week, based on a 7% deduction rate in accordance with the applicable deduction table.

Example 3
A monthly-paid earner with existing priority attachment orders totalling £486 per month.

A person with net earnings of £1,620 per month would normally have a DEA deduction of £243, based on the 15% deduction rate in the relevant table.

However, taking this DEA deduction in addition to the existing priority deductions of £486 would breach the Protected Earnings Limit, as the employee must be left with at least 60% of their net earnings.

The maximum DEA deduction that can be made in this case is therefore £162.

Calculation:

- Net earnings: £1,620
- Maximum total deductions allowed 40%: Earnings £1,620 x 40% = £648
- Existing priority attachment orders: £486
- DEA deduction: £243
- Amount available for DEA deduction: £648 - £486 = £162

Although the deduction rates table indicates that a DEA deduction of £243 should be taken, the Protected Earnings Limit restricts the DEA deduction to £162.

What if my employee does not earn enough for a deduction to be made?

If an employee's weekly or monthly net earnings are below the relevant threshold (see the appropriate deduction tables), no DEA deduction can be made for that pay period.

You must continue to assess the employee's earnings in each pay period and apply a DEA deduction when earnings are sufficient, until either we tell you to stop, or the 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 deducted from your employee's wages to the **London Borough of Newham** as soon as possible, but **no later than the 19th day of the month** following the month in which the deduction was made. For example: If you take the deduction on 30 September, you must send the payment by 19 October. If you take the deduction on 1 October, you must send the payment by 19 November.

Paying online

To make an online payment, go to: www.newham.gov.uk then select **'Pay it'** and then choose **'Housing benefit overpayment'.**

Please make sure you have your **employee's invoice number** ready before starting.

Paying by Debit or Credit Card

To make a debit or credit card payment, call our **24-hour automated payment line** on **020 8430 2000.**

Before you call, please have ready:

- Your **employee's invoice number**, and
- Your **debit or credit card details.**

Follow the recorded instructions. There may be a short pause while your payment is processed. **Please wait until you hear the confirmation message** to make sure your payment has been successful.

Paying by BACS or electronic transfer

If you pay by BACS or electronic transfer, please email remittance advice to:

HBoverpayments@newham.gov.uk

Our bank details are:

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

Important

- Please quote the **invoice number** shown on your Direct Earnings Attachment request as the payment reference. This helps us ensure your payment is applied to the correct account.

Paying by Post

You can make a payment by cheque or postal order by post.

Please send it to:

The Cashiers
Newham Dockside
1000 Dockside Road
London E16 2QU

Important information

- Make cheques payable to **London Borough of Newham.**
- Please write your **invoice number on the back of the cheque or postal order.** This helps us make sure your payment is credited to the correct account.

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Questions and Answers

What if an employee has other court orders?
Courts can make orders that require you to deduct money directly from an employee's earnings, in a similar way to a Direct Earnings Attachment (DEA). For example, an employee may have:

- An Attachment of Earnings Order (England and Wales)
- An Earnings Arrestment (Scotland)
- A Deduction from Earnings Order for child maintenance

A DEA can be imposed without a court order. However, where an employee has other deduction or attachment orders in place, there are rules that determine which deductions take priority.

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

England and 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
Student loan repayments also take priority over a (DEA). This applies in England and Wales and in Scotland.

Once all priority orders (including student loan repayments) have been taken into account, a DEA will then take priority over other orders or notices in date order (in Scotland, this is the date the order was received). The amount you can deduct for a DEA is limited to the employee's available net earnings above the Protected Earnings Limit, which is 60% of their net earnings.

What if an employee thinks the amount they owe is wrong?
If your employee believes that the amount they owe is incorrect, you should advise them to contact us directly using the telephone number shown at the top of the Direct Earnings Attachment letter they received.

What if an employee thinks the deduction is too high?
If an employee believes that the deduction you have calculated is too high, you should first check that the deduction is correct by referring to Tables A and B (Standard Rate) or Tables C and D (Higher Rate), taking into account their earnings and any other attachment orders in place.

If the amount is correct, you should explain to the employee that the deduction has been made in accordance with the instructions you have received.

If the employee feels that the deduction is too much for them to manage, you should advise them to contact us directly.

What happens once I am operating a Direct Earnings Attachment?
Once you have started operating a (DEA), you must continue to make deductions and payments to us, until the amount stated is recovered in full, or we tell you to stop.

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

Where can I get more information?
If you need further information or have any queries, please contact:

London Borough of Newham
Housing Benefit Overpayment Section

Telephone: 020 8430 6196
Opening hours: 9.00 am to 5.00 pm
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