

Employer's guide to Direct Earnings Attachments

Direct Earnings Attachments (DEAs) allow us to recover overpaid Housing Benefit by making deductions from earnings without the need to apply for a court order.

They give us the opportunity to recover overpaid benefits from people who are employed if they have either refused to repay, are unable to agree an acceptable repayment plan or have not kept to a repayment arrangement.

A DEA has its own rules which follow some of the workings of a Deduction from Earnings Order (DEO) and some workings of an Attachment of Earnings Order (AEO). A DEA does not replace either of these other orders and you may still receive requests to apply deductions for a DEO or AEO for your employees.

If we request that you apply a DEA, you must do so unless you:

- are a new business, or
- have fewer than 10 employees.

If this applies to you, you can operate a DEA if your employee agrees, but you are not required to do so.

1. Your responsibilities

As an employer, you must:

- apply a Direct Earnings Attachment when we ask you to make deductions from the employee's net earnings (unless you are a new business or have fewer than 10 employees)
- make sure you take the right amount from your employee's earnings each week or month
- make payments of the amounts deducted to us by the 19th day of the month following the month the deduction is made
- keep a record of each deduction taken, and the employee from whose earnings it was made
- continue to operate the DEA until we advise you to stop, or your employee leaves your employment.

If you fail to fulfil the above responsibilities, you could be fined up to £1,000.

2. Providing information to us and your employee

We will send you a notice asking you to apply a DEA to your employee's earnings. This will include all the information you need to set up the DEA.

You must write to us within 10 days of the date of your letter if:

- we ask you to operate a DEA for someone who doesn't work for you
- an employee for whom you are operating a DEA leaves your employment
- you are a new business, or have fewer than ten employees.

You must also tell us straight away if your business stops trading.

You must write to your employee to tell them:

- the amount of the deduction taken, including any amount taken for administrative costs (further information about administrative costs is given below), or provide this information on their payslip
- how that deduction was worked out.

You must do this (and record it) no later than the payday on which the deduction for the DEA is made.

3. How to operate a DEA

We will send you a notice which tells you to apply a DEA for your employee and gives you the information you will need to apply it, including:

- the name, address and National Insurance number of the person from whose wages you will make the deduction
- if we have it, their staff number, payroll number or similar identifying number
- the percentage rates at which deductions are to be made
- the proportion of their wages which is protected (further information is given below)
- when to send us payments
- if you are paying us by direct credit transfer, the account into which the payments are to be transferred
- if you are paying by cheque, the address to which you are to send the payments.

3.1 The deductions

Once you receive the notice, you will need to check that your employee earns enough to allow a deduction to be made. If they do, you then need to calculate how much to take from their earnings using the information we provide and make the deductions.

3.2 Payroll software

Your payroll software may not have yet been updated to deal with DEAs. The Department for Work and Pensions is working with the Chartered Institute of Payroll Professionals, employer representatives and payroll software providers to develop long-term solutions but until your software is changed, you will also need to follow the instructions below as well as other general guidance in this document. Once your system is updated, the information in this section may no longer be needed.

If your computer system has not yet been updated to deal with DEAs, you will need to:

- manually calculate the amount to deduct from the employee's earnings (further information is given in section 5)
- manually check whether there are any other orders currently in place; the DEA may take priority over these (further information is given in section 7)
- in cases where the DEA takes priority over another order, consider whether other orders need to stop or deduction amounts need to be recalculated
- where other orders can't be applied, remove these manually from the payroll system as appropriate and reinstate these once the DEA ends.

If, after reading through this guidance, you still have unanswered queries, please phone the Corporate Income Team on 01304 872392.

3.3 Payment to us

Once you have taken the money from your employee's earnings, you must pay it to us within set time limits. We will 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 can pay us four-weekly if you prefer. If this is the case, you must still calculate and deduct the payment every week. Please let us know if you will be doing this by phoning us on 01304 872392.

It is your responsibility to make sure you take the right amount from your employee's earnings each week or month and pay it to us. Details of how you can make payment to us are given in section 12 of this document.

4. What counts as earnings for a DEA?

What counts as 'earnings' for DEAs	What doesn't 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
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 gained in the course of the employment
Periodic payments by way of compensation for the loss, ending or sacrifice, or reduction in the payments, of any office or employment	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	Lump sum redundancy payments and pay 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 when calculating a DEA.

Please contact us on 01304 872392 if you need any further information or help in operating a DEA.

5. How to work out the amount to deduct

When calculating the DEA deductions amount, you must:

- work out the employee's net earnings
- use table A or B (below) to find the right deduction percentage rate for the employee's net earnings
- make sure that your employee has enough net earnings in the pay period for you to calculate a deduction (see tables A and B below)
- check that the correct percentage rate has been applied against those net earnings
- apply the percentage figure against the net earnings figure to calculate the amount to be deducted.
- check that the total of all the deductions does not leave the 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.

5.1 What are net earnings?

You must take the amount for the Direct Earnings Attachment directly from your employee's **net** earnings. Net earnings are the earnings left after deduction of:

- Income Tax
- Class 1 National Insurance contributions
- Contributions to a work place pension (including Additional Voluntary Contributions, Free Standing Additional Voluntary Contributions and Stakeholder Pension Contributions).

5.2 Amounts to be deducted by the employer

Table A: Where earnings are paid weekly	
Amount of net earnings	Deduction (percent 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	
Amount of net earnings	Deduction (percent 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%

a) Protected earnings level

Please note: the total of all deductions (the DEA plus any other deductions in place) cannot leave the 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.

b) Employees who are paid every two weeks

If an employee is paid two-weekly, the total net wage is divided by two and table A is used to check the percentage rate.

c) Employees who are paid every four weeks

If an employee is paid four-weekly, the total net wage is divided by four and table A is used to check the percentage rate.

Note: Do not leave an employee with less than 60% of their total net earnings.

d) 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. For example:

- The employee received one weeks wage and two weeks holiday pay. Total net payment for three weeks = £850.
- $£850 \div 3 = £283.33$
- $£283.33 \times 11\% = £31.17$
- Total deduction from the net wage for three weeks of £850 = £93.51 ($£31.17 \times 3$).

e) Rounding

The exact amount of the net wage is used against table A and B. 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 £1,547.99 per month
- $£1,547.99 \times 11\% = £170.278$
- Monthly deduction = £170.28

f) Administrative costs – what you can charge your employee

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.

6. If you fail to take deductions or make incorrect deductions

If you fail to take a deduction from the employee's net earnings when you should have, 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:

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

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

- deduct the amount required for the current pay period, then
- reduce that deduction 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 any other orders in place, will breach the protected earnings limit of 60%, this is **not** considered a shortfall as described above.

A shortfall only occurs when an incorrect amount has been deducted in error, or where one or more deductions have been missed.

Please also 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.

7. Your employee has other court orders against them, which has priority?

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. For example, your employee may have an Attachment of Earnings Order (England and Wales) or a Deduction from Earnings Order (for child maintenance). The DEA can be enforced 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, they will take priority over a DEA:

7.1 England and Wales

- Deduction from Earnings Order (DEO) from the Child Maintenance Group (CMG)
- Attachment of Earnings Order (AEO) for maintenance or fines
- Council Tax Attachment of Earnings Order (CTAEO).

7.2 Scotland

- Deduction of Earnings Order (DEO) from CMG
- Earnings Arrestment (EA).

7.3 Student Loans

A student loan repayment also takes priority over a DEA. This applies to 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 depend on the available net earnings above the protected earnings limit of 60% of net earnings.

8. If your employee does not earn enough for you to make the deduction

- If the weekly or monthly earnings are below the threshold (see table A and B), you cannot calculate a DEA deduction.
- You must tell us why a deduction cannot be made by using a Direct Earnings Attachment payments schedule (see section 12.4 for information on this).
- You must continue to calculate whether a DEA deduction can be made, each pay period until either we tell you to stop or your employee leaves your employment.

9. If your 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 urgently contact the Corporate Income Team on 01304 872392.

10. If your employee thinks the deduction amount is too much

If your employee thinks that the amount you have calculated is too much, you should first check that the amount being deducted is correct according to table A or B, 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.

11. 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 to stop or you have deducted the maximum amount that needs to be recovered from the earnings. We will contact you when deductions are to stop or if the amount deducted needs to change.

If there is a change of circumstances which means that you can no longer operate the DEA, you must tell us in writing within 10 days of that change happening. In the first instance, please phone us to let us know as we may be able to speed up the administration process.

If you need to tell us about a change like this, please phone the Corporate Income Team on 01304 872392 or email us at ddcincome@ekservices.org

12. How to make payments to us

When you receive a notice to operate a DEA, you must:

- make regular payments to us until we tell you to stop or the maximum amount to be recovered has been taken from your employee's earnings
- pay the amount you have taken from your employee's wages to us 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 30th September, you must send it to us before 19th October. If you take the money on 1st October, you must send it to us before 19th November.

12.1 By BACS (Automated Credit Transfer)

This is our preferred method of payment, because of its security and quick clearance times.

When setting up a payment by this method, you will need the following information:

- **Dover District Council bank sort code:** 60-07-04
- **Dover District Council bank account number:** 59272864
- **Account name:** Dover District Council
- **Employee's LA reference number:** This will be shown on the DEA notice you will be sent.

If the payment is for one employee, enter the employee's LA reference number. If the payment covers multiple employees, enter 'DEA' as the reference.

If you are paying by BACS, you will need to send a Direct Earnings Attachment payment schedule to us so we know who the payment refers to. Please see section 12.4 for details about this.

12.2 By cheque

If you need to pay by cheque, please make it payable to '**Dover District Council**' and write the employee's LA reference number on the back of the cheque. Please send the cheque to:

Dover District Council
White Cliffs Business Park
Dover
CT16 3PJ

If you are paying by cheque, you will need to attach a Direct Earnings Attachment payment schedule to the cheque so we know who the payment refers to. Please see section 12.4 for instructions about this.

12.3 By phone

If your bank offers a bill paying facility and you wish to make a payment using the phone/internet banking/automated credit transfer, the bank account details to quote for the transfer of funds are:

- **Sort code:** 60-07-04
- **Account Number:** 59272864
- **Reference:** This will be the employee's LA Reference Number as shown on the DEA notice

12.4 Direct Earnings Attachment payments schedule

For payments by BACS (Automated Credit Transfer) or cheque you must send us a Direct Earnings Attachment payments schedule (you can find this on our website).

The Direct Earnings Attachment payments schedule must include the following details for each person for whom you were asked to make deductions from earnings:

- their full names (first names and last name)
- their LA reference number as shown on the DEA notice you were sent, and
- the amount of the deduction (in pounds sterling) that has been deducted, or the reason why a deduction cannot be made when appropriate.

The amount of the automated credit transfer or cheque must be the same as the total amount of deductions shown on the Direct Earnings Attachment payments schedule. Please do not send cash through the post.

If you prefer, you can email an electronic copy of the schedule to us at incomesection@dover.gov.uk and payment can follow. Please include 'DEA notice' in the subject of your email.

13. 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 line 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 line with the deduction table at 7%)
- **Example 3 - A monthly paid earner with existing priority attachment orders**
A person with net earnings of £1,620 per month should have a DEA deduction of £243 (in line 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 for example 3

- 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.

14. Where can I get more information and advice?

If you need more information about, or help to operate a Direct Earnings Attachment, please ring the Council Corporate Income Team on 01304 872392. We will be happy to discuss any questions you may have.

15. Direct earnings attachment - employers checklist

A	Does the person named in the notice work for you?	<ul style="list-style-type: none">▪ Yes – go to B▪ No – tell us within 10 days
B	Are you a new business or do you have fewer than 10 employees?	<ul style="list-style-type: none">▪ Yes – contact us on 01304 872392▪ No – go to C

C	Are there any orders for deductions already in place that will take priority over the DEA and prevent it being set up?	<ul style="list-style-type: none"> ▪ Yes – tell us within 10 days ▪ No – go to D
D	Calculate your employee’s net earnings for DEA purposes (see section 5 for guidance).	
E	Do they earn enough to allow deductions to be made? (See section 5 for guidance).	<ul style="list-style-type: none"> ▪ Yes – go to F ▪ No – tell us within 10 days
F	Decide how much of their net earnings will be deducted (see section 5 for guidance).	
G	If you deduct that amount, will they be left with less than 60% of their wages - the protected amount? (See section 5 for guidance).	<ul style="list-style-type: none"> ▪ Yes – if possible, adjust your deductions level to leave them with 60% of their net earnings. If this isn’t possible, tell us within 10 days that no deductions can be made ▪ No – go to H
H	Make sure the total amount deducted through this and previous deductions is not more than the total amount stated in the notice.	
I	Make the necessary arrangements to your payroll for the deduction to be made.	
J	Notify your employee of the amount to be deducted no later than the pay day on which the deduction is made.	
K	Pay the amount deducted from your employee’s earnings to us no later than the 19th day of the month following the month in which the deduction was made. If paying by BACS or cheque, send us a Direct Earnings Attachment payment schedule with details of the payment. (see section 12 for guidance).	