



Direct Earnings Attachments (DEA):

An Employer's Detailed Guide

Last Updated 29/01/19

Contact Details

If you have any queries regarding the Direct Earnings Attachment, please telephone Accounts Receivable on (01723) 232399 or email accountsreceivable@scarborough.gov.uk. Alternatively, you may prefer to send in your query in writing to the following address:

Scarborough Borough Council
Accounts Receivable
Town Hall
St Nicholas Street
Scarborough
YO11 2HG

The offices are open from 8.30 am to 5.00 pm Monday to Friday
(except BankHolidays)

Introduction to Direct Earnings Attachments (DEA)

Scarborough Borough Council (SBC) is responsible for recovering money owed to the State as a result of debt arising under the **Social Security Administration Act 1992**.

Where the authority administering Housing Benefit has been unable to recover money owed by customers voluntarily, that money may be recovered by deduction from the customer's earnings.

The **Welfare Reform Act 2012** became law in March 2012 and allows SBC Accounts Receivable to serve notice on an employer to make deductions directly from their employee's earnings. We do not have to go through the civil courts to do this, unlike the Attachment of Earnings Order (AOE) process, for example.

A DEA has its own regulations 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 any of these other orders and in some circumstances employers may receive requests to implement deductions for a DEO and a DEA for the same employee.

Please be aware Direct Earnings Attachments have a different set of deduction rates to follow.

Your responsibilities – Legal Requirements- PLEASE READ

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, i.e. after deduction of:
 - income tax
 - Class 1 contributions
 - Amounts deductible by way of contributions to a work place pension scheme which provides payment of annuities or lump sums
 - to the employee on retirement at a specified age or on becoming incapacitated at an earlier age
 - on the employees death, to the personal representative, widow, surviving civil partner, relatives or dependants
- ⊕ make payments 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 SBC advise you to stop or your employee leaves (We will always advise you in writing)

If you fail to comply, you may be subject, on conviction, to a fine of up to £1,000.00 per offence and a criminal record.

Additionally you have a duty to notify SBC in writing or by phone within 10 days of the DEA notice:

- we ask you to operate a DEA for someone who does not work for you,
- an employee for whom you are operating a DEA leaves your employment,
- when you believe regulation 18 applies to your business and you wish to exercise this right.

How do I operate a DEA?

We will send you a Direct Earnings Attachment Request (Notice) which will ask you to apply a DEA for the named employee. A letter will also be sent to your employee informing them. This notice will include:

- ⊕The total amount of the overpayment
- ⊕Your employee's National Insurance number, name, address and payroll number (if known)
- ⊕When to send us payments
- ⊕Where to send and what to quote on any payments to us
- ⊕If the deductions are to be taken at the standard or higher percentage rate
- ⊕An Employers Guidance leaflet which will show details regarding the protected earnings proportion and a table to show which percentage rate the deductions should be made
- ⊕Confirmation slips that should be returned to SBC within **10 days**

On receipt of a notice to operate a DEA, you should return the reply slip confirming when and how much the first deduction will be within 10 days of the date of the Notice.

The notice has effect from the next pay-day which falls a minimum of 22 days after the day on which it is given or sent.

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 must still calculate and deduct the payment weekly, but you can pay us monthly if you prefer.

Payments must be made to Scarborough Borough Council by the 19th day of the month following the month the deduction is made.

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.

You must continue to calculate a DEA deduction every pay day until one of the following changes of circumstances occurs;

- We advise you to stop – This will ALWAYS be in writing
- The employee leaves your employment
- The employee dies and the salary is paid AFTER the date of death
- The amount to recover is no longer outstanding
- We asked you to apply a fixed rate deduction

If your employee leaves your employment, or you are issued a notice for somebody who you do not employ, you must notify Scarborough Borough Council in writing within 10 days.

Table of amounts to be deducted by employer

The letter issued to you as an employer will clearly state if the deductions are to be taken at the **higher rate** or **standard rate**.

TABLE A: WHERE EARNINGS ARE PAID WEEKLY		
AMOUNT OF NET EARNINGS	DEDUCTION (% OF NET EARNINGS)	
	Standard Rate Overpayment	Higher Rate Overpayment
£100.00 or less	Nil	5
Exceeding £100 but not exceeding £160	3	6
Exceeding £160 but not exceeding £220	5	10
Exceeding £220 but not exceeding £270	7	14
Exceeding £270 but not exceeding £375	11	22
Exceeding £375 but not exceeding £520	15	30
Exceeding £520	20	40
TABLE B: WHERE EARNINGS ARE PAID MONTHLY		
AMOUNT OF NET EARNINGS	DEDUCTION (% OF NET EARNINGS)	
	Standard Rate Overpayment	Higher Rate Overpayment
£430.00 or less	Nil	5
Exceeding £430 but not exceeding £690	3	6
Exceeding £690 but not exceeding £950	5	10
Exceeding £950 but not exceeding £1,160	7	14
Exceeding £1,160 but not exceeding £1,615	11	22
Exceeding £1,615 but not exceeding £2,240	15	30
Exceeding £2,240	20	40

If an employee is paid 2 weekly, the total net wage is divided by 2 and table A 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 is used to check the percentage rate.

Regulation 18

If you were an existing micro business before 8 April 2013 or a new business (in a partnership or a sole trader) which started between 8 April 2013 and 31 March 2014 you can claim exemption under Regulation 18.

You are only a micro business if you had and have continued to have less than 10 employees in any six month period. Please contact us for further information.

If you wish to exercise Regulation 18 you must notify Accounts Receivable within 10 days of the date of the DEA Notice.

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 Earnings Limit

An employee must be left with 60% of their net earnings after the DEA deductions (and any deductions for other orders) have been made. If the full DEA deduction, after other orders, reduces the net earnings to below the 60%, then a partial DEA deduction can be made up to the protected earnings level. This level applies even if we ask you to apply a fixed rate deduction.

There is no limit to the number of attachments that can be in place at any one time, subject, to the Protected Earnings Limit. E.g. you can have two AOE in place and a DEA if the PEL is not met.

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. 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:

Standard Rate Overpayment

Net wage £235.63 per week

$£235.63 \times 7\% = £16.4941$

£32.9882

Weekly Deduction = £16.49

Net wage £1547.99 per month
month

$£1547.99 \times 11\% = £170.278$

Monthly Deduction = £170.28

£340.56

Higher Rate

Net wage £235.63 per week

$£235.63 \times 14\% =$

Weekly Deduction = £32.99

Net wage £1547.99 per

$£1547.99 \times 22\% = £340.5578$

Monthly Deduction =

Informing your employee

You must inform your employee of the amount of the deduction including any amount deducted for administrative costs and how that amount was calculated. Such notification must be given or sent not later than the pay-day on which the deduction is made or, where that is impracticable, not later than the following pay-day.

The definition of earnings for DEA's

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 Social Security Act Pensions Act 1975
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	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.

Administration Charge

Each time you make a deduction you:

- May deduct £1.00 from your employees earnings towards your administrative costs for operation the order (even if this reduces your employees income below the protected earnings limit)
- Must inform your employee in writing about each deduction (including the amount you can deduct towards your costs) on the pay day on which it is made or, where this is impractical, not later than the following payday

An administration charge can only be applied when a deduction is actually made and cannot be deducted on any weeks/months when no deduction is made. The maximum charge is £1.00 per deduction, therefore, if a deduction was for a number of pay periods added together, for example holiday pay in advance, the administration charge can still only be £1.00.

Please be aware if you choose to make an administration charge, it must not bring your employees pay below the National Minimum Wage or National Living Wage. For more information please visit://www.gov.uk/national-minimum-wage/employers-and-the-minimum-wage, or contact the ACAS helpline for advice.

The actual deductions taken under a DEA are exempt from the National Minimum Wage and National Living Wage criteria.

Payments of a bonus

If a bonus is paid at the same time as the normal wage, then the deduction should be made on the total amount. Should the bonus be paid at a different time, then deductions should be made on both the standard wage AND the bonus payment.

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

If the weekly or monthly earnings are below the threshold shown on table A & B on page 5, if the only earnings your employee receives are those in the right hand column in the table on page 8 or if deductions are already in place which take the employee's wage below the protected earnings limit of 60% as mentioned above, you cannot make a DEA deduction.

But 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. This will ensure that deductions are made if wages increase.

There is no limit to the number of attachments that can be in place at any one time, subject, to the Protected Earnings Limit.

Please inform Accounts Receivable each time you are unable to make a deduction by emailing Accountsreceivable@scarborough.gov.uk or writing to Accounts Receivable, Town Hall, St Nicholas Street, Scarborough, North Yorkshire, YO11 2HG.

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, or take an incorrect amount you should correct this on the next payday (or paydays if the protected earning limit is reached).

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.

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% 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.

Calculating deductions

If you are using a computerised payroll system but it has not been updated to include the DEA calculations, you will need to;

1. Manually calculate the amount to deduct from earnings (using table A & B on page 6)
2. Manually check whether there are any other orders currently in place - as the DEA may take priority over these
3. In cases where the DEA does take priority over another order, consider whether other orders need to cease or deduction amounts be recalculated.
4. Ensure, in cases where other orders cannot be applied that these are removed manually from the payroll system and subsequently reinstated once a DEA ceases.
5. In cases where the DEA cannot be applied, you must ensure you inform Scarborough Borough Council as soon as is reasonably practicable

Examples of Higher Rate Overpayment Deductions

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 £111.50 per week (in accordance with the deduction rates table at 30%).

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 £19.00 (in accordance with the deduction table at 10%).

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 £486 (in accordance with the deduction table at 30%). 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 = £486

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

Therefore, although the deduction rates table states that a deduction of £486 should be taken, the protected earnings limit means that the amount will be restricted to £162

Examples Of Standard Rate Overpayment Deductions

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 £12.50 (in accordance with the deduction table at 5%).

Example 3

A monthly paid earner with existing priority attachment orders totalling £486.00

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 £486.00, 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 = £243.00

£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

Making payments to Scarborough Borough Council

On receipt of a notice to operate a DEA, you must pay the amount you take from your employee's wages to Scarborough Borough Council 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*).

Methods of Payment

Whichever payment method you choose, please ensure that you quote your payment reference (starting with 800) with your payment. Alternatively, payment remittances should be sent to remittances@scarborough.gov.uk.

Debit or Credit Cards



Payment may be made by calling our automated Freephone payment line on **0800 083 0493** and following the instructions. Our Freephone is available 24 hours a day, 7 days a week.

You can also make payment via the website www.scarborough.gov.uk just follow the 'Pay For It' link

Payment by Direct Credits (BACS)



Bank: Natwest Scarborough

Account Name: Scarborough Borough Council Direct Credits Account

Sort Code: 54 - 41 - 24

Account Number: 47561459

Payment by Cheque

Please post cheques and remittances to the address shown on the title page of this guide

Questions & Answers

Q) Employee has other court orders against them?

A) 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.

Q) Employee thinks the amount they owe is wrong?

A) 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.

Q) Employee thinks the amount of the deduction is too much?

A) If they think that the amount you have calculated is too much, you should first check that the amount being deducted is the amount directed by Scarborough Borough Council according the table shown on page 5, 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.

Q) What happens once I am operating a Direct Earnings Attachment?

A) Once you have started operating a DEA, you must continue to make payments to us until we tell you stop or until the amount overpaid is cleared in full. We shall contact you in writing if 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.

Q) Where can I get more information?

A) If you need more information about, or help to operate a Direct Earnings Attachment, please contact Accounts Receivable on 01723 232399.

Q) How are loans treated?

A) If you lend money to your employee and then recover the loan through your employee's wages, you must make the DEA deductions before you take any repayments towards the loan.