

# Direct Earnings Attachment (DEA) Policy

New powers have been granted to Local Authorities to maximise the recovery of Housing Benefit Overpayments.

This allows Local Authorities to obtain Attachment of Earnings without having to go to Court to get a County Court Judgment first.

This process will allow recovery at less cost for both the council and the debtor.

A notice will be sent to the debtor requesting details of their employer or employers if more than one, to ignore the letter is a criminal offence and the debtor will end up with a criminal record and a £1000 fine.

DEAs give us the opportunity to recover overpaid housing benefit from people who are employed and unable to agree an acceptable repayment plan or who have defaulted on a voluntary arrangement.

This is not our preferred method of recovery, a voluntary repayment plan which is paid on time every week or month is the best and most cost effective solution.

## **Relevant Legislation: (Debtor)**

The following legislation allows us to request DEA's: The Social Security (overpayments and recovery) Regulations 2013 (SI2013 No. 384) Part 6 allows for the use of Direct Earnings Attachments.

Part 6 regulation 17(1)(b) – Allows for the recovery by deduction from earnings by an authority administering housing benefit, if the amount is recoverable under section 115 of the act.

<http://www.legislation.gov.uk/ukSI/2013/384/regulation/17/made>

Part 6 regulation 23 (2) – requires the debtor to supply the following details in writing within 7 days of the request:

- Name and address of their employer or employers if more than one,  
and
- The amount of their earnings or expected earnings,  
and
- The place of work, nature of their work and any staff or payroll number or similar.

Part 6 regulation 23 (1) – requires the debtor to inform us of when they leave this employment and details of any new employer.

<http://www.legislation.gov.uk/ukxi/2013/384/regulation/23/made>

### **Relevant Legislation: (Employer)**

Part 6 regulation 20(2) – requires the employer to make deductions in accordance to the order from the net earnings which they would otherwise pay to the debtor.

<http://www.legislation.gov.uk/ukxi/2013/384/regulation/20/made>

Part 6 regulation 22(1) – require the employer to be paid to the LA by 19<sup>th</sup> day of the month following the month in which the deduction is made.

Part 6 regulation 22(3) – the employer must keep a record of all deductions paid to the LA for each employee.

<http://www.legislation.gov.uk/ukxi/2013/384/regulation/22/made>

Part 6 regulation 30 – lists the following offences:

- a. Regulation 20(2)
- b. Regulation 22(1)
- c. Regulation 22(3)
- d. Regulation 23

Schedule 2 – Amounts to be deducted by employers:

<http://www.legislation.gov.uk/ukxi/2013/384/schedule/2/made>

## **What Bath and North East Somerset Council will do:**

- a. We will make sure that the overpayment is correct and where possible the overpayment has been offset against any benefit due.
- b. We will send notification of the overpayment to the benefit claimant.
- c. If Housing Benefit is no longer payable an invoice will be sent within one month of the overpayment being created if the overpayment is created while the customer is in our office or on the telephone or we are able to speak to the customer about the overpayment and it is agreeable.

If the overpayment is created without the customer present and we are unable to contact them an invoice will be issued after one month.

- d. A reminder will be issued to the debtor if no payment is received after 14 days.
- e. A final reminder is sent 14 days after that.
- f. If no response or payment has been received then as a last resort a letter will be sent demanding employment details.
- g. Similarly if the debtor was repaying the debt by instalments and missed an instalment, a reminder letter will be sent. If the payments do not recommence then as a last resort a letter will be sent demanding employment details.
- h. If the debtor has not supplied the requested information within 7 days of request a reminder will be sent.
- i. If the information has still not been supplied a request will be made to the Magistrate Court (Part 6 regulation 30) to impose the stage 3 file which is currently £1000 as shown in the Criminal Justice Act 1982 part III 37(2).
- j. If no payment has been received but the information has been supplied, then Bath and North East Somerset Council will write to the employer instructing them to make deductions from the debtors net salary. A copy of the letter will also be sent to the debtor. An employers guide will be included. The rates are shown in Appendix 1. (See link under Section 2).
- k. If the employer is exempt from the DEA order if they:  Are a new business  An existing micro-business (fewer than 10 employees) during the exemption period

<b>The definition of earnings for DEA's What counts as "earnings" for DEA's</b>	<b>What does not count as "earnings" for DEA</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 Social Security Act Pensions Act
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 & necessarily in the course of the employment.
Compensation Payments	Pay or allowances as a member of Her Majesty's forces, other than pay or allowances paid to them by you as a special member of a reserve force.
Statutory Sick Pay	Redundancy payments or pay in lieu of notice.