



Education & Skills  
Funding Agency

# Apprenticeship funding rules for employer-providers

August 2019 to July 2020

## Clarification version

This document sets out the funding rules for all employer-providers delivering apprenticeships from 1 August 2019 to 31 July 2020.

We are issuing these funding rules as an initial version to give you the opportunity to provide feedback on how we can make them clearer or better understood. Please email any suggestions to [fundingrulescomments@education.gov.uk](mailto:fundingrulescomments@education.gov.uk) by Monday 2 July 2019. Following a review of any feedback, we will then issue a final version of the rules in July to reflect any areas of clarification.

[View other apprenticeship funding rules](#)

June 2019

Of interest to employer-providers.

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Contents

Introduction and purpose of the document .....	4
What is an apprenticeship? .....	5
A job with training.....	5
Employment contract .....	6
Apprentice wages.....	6
Off-the-job training .....	7
Apprenticeship agreement between you (as the employer) and the apprentice.....	8
The commitment statement between the employer-provider and the apprentice.....	9
Apprenticeship duration and employment hours.....	11
Who can be funded?.....	13
Individuals who are not eligible for funding .....	15
Apprentices who need access to learning support .....	15
What can be funded?.....	17
Eligible costs .....	17
Ineligible costs.....	19
Additional payments.....	20
Care leavers bursary.....	22
Extra support for small employers .....	23
Flow chart: find out what English and maths training an apprentice should do .....	24
Support for English and maths training .....	25
End-point assessments.....	29
Contracting and subcontracting.....	31
Employer-providers directly delivering training or on-programme assessment.....	31
Using subcontractors .....	31
Delivery of apprenticeship training and on-programme assessment by delivery subcontractors.....	33
Contracting with delivery subcontractors .....	33
Special conditions for subcontracting to supporting providers .....	35
Special conditions for subcontracting to organisations not on the Register of Apprenticeship Training Providers .....	35
Special conditions for all instances where the employer is the delivery subcontractor .....	35
Reporting your use of delivery subcontractors to us.....	35
Disputes and issue resolution.....	36
Paying for an apprenticeship .....	36
The price of an apprenticeship: evidencing cost for employer-providers.....	36
Accounting for prior learning.....	38

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

When payments are made.....	39
Value added tax (VAT).....	39
Funds in your apprenticeship service account.....	40
Qualifying days for funding .....	41
State aid .....	41
Apprenticeships funded by transfers of levy funds .....	42
Introduction for employer-providers.....	42
Rules for sending employer-providers.....	42
Rules for receiving employer-providers.....	44
Delivering the apprenticeship .....	45
Data protection .....	45
Certification .....	45
Changes of circumstances .....	45
Redundancy .....	46
Where training or assessment stops .....	46
Flow chart: what to do if there is a break in learning, withdrawal or redundancy .....	48
Summary of action following a change of circumstances.....	49
Evidence requirements.....	53
Evidence pack.....	53
Programme eligibility (including off-the-job training, apprenticeship agreement, commitment statement, apprenticeship duration and employment hours) .....	53
Learner eligibility (including relevant prior learning and residency) .....	54
Support for English and maths .....	55
Apprentices accessing learning support .....	55
Additional payments (including the care-leaver bursary).....	55
Paying for an apprenticeship .....	56
Subcontracting .....	57
Redundancy .....	57
Completion .....	57
Confirmation and signatures.....	57
Individualised learner record (ILR) .....	58
Self-declarations .....	58
Annex A: Eligibility criteria (who we fund) .....	59
Residency eligibility.....	59
EEA citizens .....	59
Non-EEA citizens .....	60
Individuals with certain types of immigration status and their family members .....	60
Asylum seekers.....	61

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

Family members of EU and EEA nationals .....	61
Children of Turkish workers .....	62
Persons granted stateless leave .....	62
Those in the armed forces or outside of England .....	63
Further information for 16 to 18 year-olds.....	63
Countries or areas where residency establishes eligibility for our funding .....	64
Glossary .....	66

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Introduction and purpose of the document

- EP1** This document sets out the funding rules for employer-providers delivering apprenticeship training and on-programme assessment under the new apprenticeship programme from 1 August 2019.
- EP2** You can find details on the features of the apprenticeship funding system including how we will calculate funding for organisations receiving funding from us in the [Apprenticeship Technical Funding Guide](#).
- EP3** We use the term 'you' to refer to the 'employer-provider', that is, any organisation who delivers some, or all, of the 'off-the-job' training element of an apprenticeship to their own staff and holds a contract with us through which we directly route funds from your [apprenticeship service](#) account or government-employer co-investment. The employer-provider will have overall responsibility for the training and on-programme assessment conducted by themselves, their delivery subcontractors and will have a contractual relationship for the end-point assessment conducted by an end-point assessment organisation. The payment for the end-point assessment is through the employer-provider.
- EP4** We use the term 'employer' to mean an organisation that has a contract of service and an [apprenticeship agreement](#) with an apprentice. This can include an apprenticeship training agency (ATA). This may also include a company or charity whose PAYE scheme the employer has connected to their apprenticeship service account in accordance with HMRC's definition of [connected companies and charities](#). All references to an 'employer' are in relation to the whole organisation and not individual sites or locations.
- EP5** The terms 'we', 'our', 'us' and 'ESFA' refer to the Education and Skills Funding Agency.
- EP6** These rules form part of your terms and conditions for the use of funds in your apprenticeship service account or for government-employer co-investment. You must read them in conjunction with your funding agreement with the Secretary of State for Education (acting through the Education and Skills Funding Agency (the ESFA), an executive agency of the Department for Education).
- EP7** The ESFA may make changes to these rules.
- EP8** You must operate within the terms and conditions of your funding agreement, these rules, and the [individualised learner record specification](#). If you do not, you will be in breach of your funding agreement with the ESFA.
- EP9** If you breach your funding agreement, we reserve the right to take action.
- EP10** We will review and monitor whether the training you provide represents good value for money. If we consider that the funds in your apprenticeship service account, or government-employer co-investment, we have provided are significantly more than the cost of the education and training, we may reduce the amount of funding we pay you after consulting with you.

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

- EP11** We may take action including the recovery of all or part of the government funding from you if we are satisfied that there has been a breach of the funding rules. This includes where claims are made for funding through your apprenticeship service account, government co-investment or additional payments to which you are not entitled.
- EP12** You can contact us through our Business Operations Service Desk by email [SDE.servicedesk@education.gov.uk](mailto:SDE.servicedesk@education.gov.uk) or by telephone on 0370 2640001. You can also contact your employer account manager/adviser.
- EP13** These rules will apply to all apprenticeship programmes starting on or after 1 August 2018. Unless otherwise stated, this includes both apprenticeship frameworks and standards.
- EP14** Any apprenticeship which started before 1 August 2018 will continue to follow the rules in force at the start of the programme. These can be accessed on [GOV.UK](https://www.gov.uk).

### Relevant legislation

- EP15** These rules constitute funding conditions made under section 101 of the Apprenticeships, Skills, Children and Learning Act 2009 (ASCLA 2009), in connection with the Secretary of State's power to fund English statutory apprenticeships under section 100(1A) (as inserted by the Enterprise Act 2016).
- EP16** These rules will make clear where necessary how they apply to English statutory apprenticeships taking place on apprenticeship frameworks and apprenticeship standards.

## What is an apprenticeship?

### A job with training

- EP17** An apprenticeship is a job with an accompanying skills development programme. The job must have a productive purpose and should provide the apprentice with the opportunity to gain the knowledge, skills and behaviours needed to achieve the apprenticeship.
- EP18** Through their apprenticeship, apprentices will gain the technical knowledge, practical experience and wider skills they need for their immediate job and future career. The apprentice gains this through a wide mix of learning in the workplace, formal off-the-job training and the opportunity to practise these new skills in a real work environment.
- EP19** You must be satisfied that the apprenticeship is the most appropriate learning programme for the individual and have evidence that it is either:

**EP19.1** a new job that requires new knowledge and skills; or

**EP19.2** an existing job role, where the individual needs significant

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

new knowledge, skills and behaviours to be occupationally competent.

- EP20** You must provide the apprentice with appropriate support and supervision to carry out their job role.
- EP21** [Recruit an apprentice](#) is a free tool to help you recruit new apprentices into your business. It is not mandatory to use this service.
- EP22** Where you advertise, on recruit an apprentice, you must make it clear in the advert how many hours the apprentice will be expected to work per week for the role and how long the apprenticeship will last. This must meet the minimum duration requirement (see paragraphs EP45 to EP61).

## Employment contract

- EP23** The apprentice must have a contract of service with you, or an apprenticeship training agency (ATA), which is long enough for them to complete the apprenticeship successfully (including, for standards the end-point assessment). The only exceptions to this are:
- EP23.1** Apprentices who have been made redundant less than six months before the final day of their apprenticeship<sup>1</sup> (see paragraph EP39).
  - EP23.2** Apprentices who have been made redundant, with more than six months but less than 12 months of their apprenticeship remaining; these apprentices may seek a further contract of service with a duration of less than 12 months, and we will fund them for up to 12 weeks while they do so (see paragraph EP72).
  - EP23.3** Particular office holders who are alternative apprentices, namely constables of English police forces and ministers or trainee ministers of a religious denomination, who are not engaged under a contract of service. Except for the requirement to have an apprenticeship agreement and a contract of service in relation to these alternative apprentices, you must comply with all the other rules set out in this document.<sup>2</sup>

## Apprentice wages

---

<sup>1</sup> Regulation 6(5), [Apprenticeships \(Miscellaneous Provisions\) Regulations 2017](#)

<sup>2</sup> Regulation 6(6), [Apprenticeships \(Miscellaneous Provisions\) Regulations 2017](#)

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP24** Every apprentice must be paid a lawful wage for the time they are in work and in off-the-job training.

**EP25** You must meet the cost of the apprentice's wages. You can only pay the apprenticeship minimum wage from the start of the apprenticeship programme and not before. You can find information on the national minimum wage, the apprenticeship rate, and the definition of an employee on [GOV.UK](https://www.gov.uk).

### Off-the-job training

**EP26** Off-the-job training is training received by the apprentice, during the apprentice's paid hours, for the purpose of achieving their apprenticeship. It is not training delivered for the sole purpose of enabling the apprentice to perform the work for which they have been employed.

**EP27** Off-the-job training is a statutory requirement for an English apprenticeship.

**EP28** Off-the-job training must be directly relevant to the apprenticeship framework or standard, teaching new knowledge, skills and behaviours required to reach competence in the particular occupation. It can include training that is delivered at the apprentice's normal place of work and can include the following:

**EP28.1** the teaching of theory (for example, lectures, role playing, simulation exercises, online learning, and manufacturer training);

**EP28.2** practical training, shadowing, mentoring, industry visits, and attendance at competitions; or

**EP28.3** learning support and time spent writing assessments/assignments.

**EP29** Off-the-job training does not include:

**EP29.1** training to acquire knowledge, skills and behaviours that are not required in the standard or framework;

**EP29.2** progress reviews or on-programme assessment required for an apprenticeship framework or standard; or

**EP29.3** training which takes place outside the apprentice's paid hours.

**EP30** It is up to you to decide how the off-the-job training is delivered. This may include regular day release, block release and special training days/workshops.

**EP31** To attract government funding at least 20% of the apprentice's paid hours, over the planned duration of the training period within the apprenticeship (for standards this is called the practical period, which ends at the gateway for end-point assessment), must be spent on off-the-job training.



## CLARIFICATION VERSION OF 2019 TO 2020 RULES

- EP32** When calculating the required amount of off-the-job training, the apprentice's statutory leave entitlement should be deducted. Employees who work a 5-day week receive at least 28 days paid annual holiday (this is the statutory leave entitlement referred to in this paragraph and is the equivalent of 5.6 weeks of holiday). You should pro-rata this for part time workers. It should be clear to all parties how you have worked out the amount of off-the-job training required to comply with paragraph EP31 and you must record this in the evidence pack.
- EP33** The content/components of all planned off-the-job training must be set out in the apprentice's commitment statement (see paragraphs EP42 to EP44) and evidence must be available to support the delivery of the commitment statement. It should be clear which elements of the commitment statement have been used towards the calculation of the 20% requirement and which have not (see paragraphs EP28, EP29 and EP35).
- EP34** Apprentices may need more than 20% off-the-job training.
- EP35** English and maths, up to and including level 2, does not count towards the minimum 20% off-the-job training requirement; where required this must be delivered in addition to the minimum requirement.
- EP36** If planned off-the-job training is unable to take place as scheduled, you must ensure this is re-arranged so that the full complement of training set out in the commitment statement can still be delivered. All off-the-job training must take place during paid hours. Apprentices may choose to spend additional time on training outside their paid hours, but this must not be required to complete the apprenticeship and must not be included in the 20% calculation.
- EP37** When the apprentice takes a period of leave from their work, for reasons such as medical treatment, maternity or paternity leave, this will be a break in the training they are to receive (a break in learning). You and the apprentice should revise the date in the apprenticeship agreement on which the apprenticeship was expected to have been completed to account for the duration of the break. The duration of the apprenticeship and the amount of off-the-job training needed to meet the 20% requirement would therefore remain the same as though there had been no break in training (break in learning).

### **Apprenticeship agreement between you (as the employer) and the apprentice**

- EP38** You must have evidence that the apprentice has an apprenticeship agreement with you at the start of, and throughout, their apprenticeship. For standards, this is defined in section A1(3) of the [Apprenticeships, Skills, Children and Learning Act 2009](#) (as amended by the [Enterprise Act 2016](#)); for frameworks, this is defined in section 32 of the same Act.

- EP38.1** In relation to standards, the approved English apprenticeship agreement must also set out (i) the amount of time the apprentice will spend in off-the-job training, and (ii) the planned end date of the apprenticeship's practical

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

period, called the final day. These requirements are provided for in the [Apprenticeships \(Miscellaneous Provisions\) Regulations 2017](#).

**EP38.2** In relation to frameworks, there must be an apprenticeship agreement in place which (i) meets your duty under section 1 of the Employment Rights Act 1996 and (ii) includes a statement of the skill, trade or occupation for which the apprentice is being trained under the apprenticeship framework. These requirements are provided for in the [Apprenticeships \(Form of Apprenticeship Agreement\) Regulations 2012](#).

**EP38.3** A template apprenticeship agreement is available on [GOV.UK](#). This template does not have to be used but the requirements of the legislation as described above must be met when forming an apprenticeship agreement.

**EP39** Apprentices who are made redundant up to six months before the final day of their apprenticeship do not need to be employed under an apprenticeship agreement (see paragraph EP23.1).

**EP40** The signed apprenticeship agreement must be distributed to both signatories (you and the apprentice) and you must keep a copy of this in the evidence pack, along with any revisions.

**EP41** The start date set out in the apprenticeship agreement must match the date in the commitment statement. Details in the commitment statement must be completed before the apprenticeship agreement can be signed.

### **The commitment statement between the employer-provider and the apprentice**

**EP42** Before the apprenticeship starts and before the apprenticeship agreement is signed, you and the apprentice must have contributed to and signed a copy of the commitment statement (often known as the individual learning plan). This should set out how all parties (you (as the employer and as the main provider) and the apprentice) will support the achievement of the apprenticeship.

**EP43** All parties must keep a current signed and dated version. You must keep your version (and previous versions) in the evidence pack with the apprenticeship agreement.

**EP44** The commitment statement must set out:

**EP44.1** The name of the apprentice, their job role and their contracted hours.

**EP44.2** Your details (and any subcontractors involved in the delivery of off-the-job training).

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

- EP44.3** Details of the apprenticeship, including the name of the apprenticeship framework or standard, the level, the start and end-dates for the apprenticeship and (for standards) the dates relating to the end-point assessment period. The start date set out in the commitment statement must align with the start date in the apprenticeship agreement and the ILR.
- EP44.4** The amount of off-the-job training that will be delivered to meet the minimum 20% requirement (see paragraphs EP28, EP29 and EP35 for what can and cannot be included in this calculation).
- EP44.5** The planned content/components and schedule of eligible training (and for standards the end-point assessment). This should include key milestones for mandatory or other qualification achievements. It should also be clear if the component has been used towards the calculation of the minimum 20% off-the-job training requirement.
- EP44.6** Confirmation of funding sources for the planned content/components:
- EP44.6.1** those eligible for funding from the employer's apprenticeship service account or government-employer co-investment;
  - EP44.6.2** those to be fully funded by the ESFA (e.g. English and maths to level 2); and
  - EP44.6.3** those to be fully funded by you (the employer) (e.g. additional components which may not be required to complete the apprenticeship).
- EP44.7** A list of all organisations delivering the training content/components, including English and maths, and the end-point assessment organisation (for standards). We recognise that while new standards continue to be developed, not all end-point assessment organisations will be known at the start of the apprenticeship. The commitment statement must be updated to include these details as soon as they have been confirmed.
- EP44.8** An agreement of what is expected from, and offered by, the apprentice and you as the employer and main provider (and any delivery subcontractors) to achieve the apprenticeship and details of how all parties will work together. This must include contact details and the expected commitment from each party for example:
- EP44.8.1** the apprentice: attendance and commitment to their off-the-job training; and

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP44.8.2** the employer-provider: commitment to wages, time off to train during working hours, delivery of training, support and guidance.

**EP44.9** The process for resolving any queries or complaints regarding the apprenticeship, including quality. This must include details of the escalation route within your organisation and the escalation process to the ESFA through the apprenticeship helpdesk (on 08000 150400 or email [nationalhelpdesk@apprenticeships.gov.uk](mailto:nationalhelpdesk@apprenticeships.gov.uk)).

### Apprenticeship duration and employment hours

#### Updates since 15 March 2019:

- **EP60.2** – Clarification: Updated to show that some apprenticeship standards have multiple options.

**EP45** An apprenticeship must provide for training that lasts for a minimum duration of 12 months. For example, to satisfy this requirement, an apprentice who starts their training on 1 August 2018 must still be receiving training on 31 July 2019 and an apprentice who starts on 1 August 2019 must still be receiving training on 31 July 2020.

**EP46** The framework or standard specification or assessment plan may require this to be longer to support the delivery of the full apprenticeship content. For apprenticeship standards, the end-point assessment can only be taken after the minimum duration has been met (see paragraph EP140).

**EP47** You must ensure the apprenticeship meets the minimum apprenticeship duration rules. This includes where the content, negotiated price and/or duration of the apprenticeship has been adjusted to recognise prior learning (see paragraphs EP185 to EP190).

**EP48** For standards, the apprentice must be employed until the end-point assessment is completed.

**EP49** You must not claim an apprenticeship framework completion certificate on behalf of the apprentice from [Apprenticeship Certificates England](#) if the minimum duration has not been met. For standards, you must ensure that the minimum duration has been met as part of confirming the end-point assessment gateway requirements.

**EP50** The apprentice must be involved in active learning throughout an apprenticeship. The apprentice can, after achieving all of the mandatory requirements of the apprenticeship, stay in learning to embed the skills they have gained through off-the-job training. You must have evidence of this taking place.

**EP51** The minimum duration of each apprenticeship is based on the apprentice working

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

at least 30 hours a week, including any off-the-job training they undertake.

- EP52** The apprentice must work enough hours each week so that they can undertake sufficient regular training and on-the-job activity. This is to ensure the apprentice is likely to successfully complete their apprenticeship. You must keep evidence of the agreed average weekly hours, including time spent on off-the-job training in the evidence pack.
- EP53** You must allow the apprentice to complete the apprenticeship within their working hours. This includes English and maths if required. You should evidence this in the evidence pack.
- EP54** If the apprentice works fewer than 30 hours a week you must extend the expected duration of the apprenticeship on the ILR (pro rata) to take account of this. This will also apply to any temporary period of part-time working. You must also extend the apprenticeship agreement.
- EP55** Where a part-time working pattern is needed, you must agree with the apprentice the extended apprenticeship duration (see paragraph EP56).
- EP56** Where part-time working is agreed, you must:
- EP56.1** record the agreed average number of hours each week;
  - EP56.2** evidence why this working pattern is in place; and
  - EP56.3** extend the minimum duration using the following formula:
    - EP56.3.1**  $12 \times 30 / \text{average weekly hours} = \text{new minimum duration in months.}$
- EP57** Zero-hours contracts are acceptable only where they meet all of the other rules in this document. For an apprentice with a zero-hour contract you must extend the duration of the apprenticeship in proportion to the hours they work.
- EP58** An apprentice with a zero-hours contract must be allowed to complete their apprenticeship in their working hours, including the off-the-job training. Where this is not possible, you must record a break in learning in the apprenticeship.
- EP59** Working fewer than 30 hours a week or being on a zero-hours contract must not be a barrier to successfully completing an apprenticeship. We will monitor working hours data and patterns of behaviour to ensure that sufficient off-the-job activity is done to ensure successful completion of the apprenticeship, regardless of the number of hours worked. We reserve the right to take action where alternative working patterns are not managed appropriately leading to a reduction in the quality of the apprenticeship.
- EP60** If an apprentice starts a new apprenticeship, time on any previous apprenticeship does not apply in meeting the minimum duration requirements. The only exceptions to this are where an apprentice:

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

- EP60.1** Is made redundant with more than six, but less than 12 months remaining before their final day. In these cases they may seek a further apprenticeship agreement which takes their prior apprenticeship experience into account. This further agreement may provide for a duration of less than 12 months.
- EP60.2** Changes their framework pathway / standard option.
- EP60.3** Transfers between main providers, but remains on the same framework or standard.
- EP60.4** Returns to the same apprenticeship after a break in learning.

**EP61** For the exceptions in paragraph EP60 you must have evidence that the total amount of time spent on their apprenticeship, which may include more than one episode of learning, meets the minimum duration requirement.

### Who can be funded?

**EP62** You are responsible for checking the eligibility of the individual at the start of their apprenticeship programme. You can only use funds in your apprenticeship service account, or government-employer co-investment, for those who are eligible. You must retain evidence of the individual's eligibility.

**EP63** To use funds in your apprenticeship service account or government-employer co-investment, the individual must:

- EP63.1** Start their apprenticeship after the last Friday in June of the academic year in which they have their 16th birthday.
- EP63.2** Be able to complete the apprenticeship within the time they have available. If you know an individual is unable to complete the apprenticeship in the time they have available, they must not be funded.
- EP63.3** Not be undertaking another apprenticeship or be in receipt of any other DfE funding during their apprenticeship programme. This includes another apprenticeship or any other DfE funded FE/HE programme. Individuals on a sandwich placement as part of a degree programme must not undertake any part of an apprenticeship during this placement.
- EP63.4** Not be asked to contribute financially to the cost of training, on-programme or end-point assessment. This includes both where the individual has completed the programme successfully or has left the programme early. Costs include any co-investment or additional training and assessment

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

costs, above the funding band, where this is part of the agreed apprenticeship.

- EP63.5** Not use a student loan to pay for their apprenticeship. Where an individual transfers to an apprenticeship from a full-time further education or higher education course, and that course has been funded by a student loan, the loan must be terminated by the individual and you must be satisfied that this has occurred.
- EP63.6** Spend at least 50% of their working hours in England over the duration of the apprenticeship. You must make separate arrangements with the relevant devolved administration if you are planning to deliver apprenticeships to individuals who spend more than 50% of their working hours in a devolved administration over the duration of their apprenticeship, including time spent on off-the-job training. Refer to Annex A (paragraph EP309) for exceptions to this rule.
- EP63.7** Have the right to work in England.
- EP63.8** Have an eligible residency status (information can be found in the residency eligibility section in Annex A).

- EP64** You can only use funds from your apprenticeship service account or employer-government co-investment for apprentices employed by you or a [connected company or charity](#) as defined by HMRC. This also applies where the apprentice is funded by a transfer of funds from another employer.
- EP65** You must give accurate unique learner number (ULN) information to the apprenticeship service, awarding organisations and (for standards) end-point assessment organisations and ensure all information used to register apprentices is correct.
- EP66** We will fund an apprentice to undertake an apprenticeship at a higher level than a qualification they already hold, including a previous apprenticeship.
- EP67** We will fund an apprentice to undertake an apprenticeship at the same or lower level than a qualification they already hold, if the apprenticeship will allow the individual to acquire substantive new skills and you can evidence that the content of the training is materially different from any prior qualification or a previous apprenticeship. More information is detailed in paragraph EP273.4.
- EP68** The age of the apprentice on the day they start their apprenticeship will be used for all age-based eligibility criteria for that apprenticeship.
- EP69** An apprentice's eligibility will not change during the apprenticeship, unless their employment status also changes (see paragraphs EP246 to EP253).
- EP70** You must reassess an individual for any new apprenticeship.

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

- EP71** If you no longer employ the apprentice, you must report them as having withdrawn from the apprenticeship on the ILR. If the apprentice has been made redundant, see paragraph EP254.
- EP72** If an apprentice is made redundant, we will continue to fund their training even if they cannot find another employer. Apprentices who are made redundant within six months of their final day will be funded to completion. We will also fund apprentices' training for 12 weeks where they are made redundant more than six months from their final day, while they seek a further apprenticeship agreement.

### Individuals who are not eligible for funding

- EP73** You must not claim funding for individuals who do not meet the eligibility criteria set out in this document unless they are eligible under the [Education \(Fees and Awards\) \(England\) Regulations 2007](#) (as amended). You must not claim for individuals who:
- EP73.1** are here illegally;
  - EP73.2** are resident in the United Kingdom on a tier 4 (general) student visa unless they are eligible through meeting any other of the categories described in Annex A;
  - EP73.3** are non-EEA citizens in the United Kingdom on holiday, with or without a visa;
  - EP73.4** have overstayed their immigration or visitor visa;
  - EP73.5** are non-EEA citizens and are a family member of a person granted a tier 4 visa, have been given immigration permission to stay in the UK and have not been ordinarily resident in the UK for the previous three years on the first day of learning;
  - EP73.6** are ordinarily resident in the Channel Islands or Isle of Man, unless they are also ordinarily resident within England; or
  - EP73.7** have a biometric residence permit or residence permit imposing a study prohibition or restriction on the individual.

### Apprentices who need access to learning support

- EP74** Learning support is available to meet the costs of putting in place a reasonable adjustment, as set out in section 20 of the Equality Act 2010, for apprentices with a learning difficulty or disability where this affects their ability to continue and complete their apprenticeship. Learning support can be claimed up to the learning actual end-date but only if it required for this period.



## CLARIFICATION VERSION OF 2019 TO 2020 RULES

- EP75** We will provide learning support for apprentices with learning difficulties or disabilities as defined in section 15ZA(6) of the Education Act 1996 (as amended by section 41 of the Apprenticeships, Skills, Children and Learning Act 2009). This includes individuals who self-declare a learning difficulty or disability, and those who do not have a diagnosis of a learning difficulty or disability but in relation to whom the employer-provider has identified to us a learning need.
- EP76** Learning support must not be used to deal with everyday difficulties that are not directly associated with an apprenticeship. If an apprentice needs help at work they may be able to get help from [Access to Work](#).
- EP77** For those that require learning support, you must:
- EP77.1** carry out an assessment to identify the support the apprentice needs;
  - EP77.2** deliver support to meet the apprentice's identified needs, and review progress and continuing needs, as appropriate;
  - EP77.3** record and gather appropriate evidence to show that the actions in paragraphs EP77.1 and EP77.2 have been completed and outcomes are recorded; and
  - EP77.4** report in the ILR that an apprentice has a learning support need and what that support need is.
- EP78** Learning support will be fixed at a monthly rate of £150 when it has been reported in the ILR for the months in which there is an identified learning need. If your costs exceed £150 per month, but less than £19,000 per annum, you can claim via the earnings adjustment statement (EAS). You must use the EAS if your costs are not covered by the monthly rate and you must keep evidence of these costs. You can find further information on the EAS on [GOV.UK](#).
- EP79** You must promptly claim for learning support through the ILR and the EAS. We will not pay you for claims from a previous funding year if you do not claim on time.

### **Apprentices who need access to exceptional learning support (ELS)**

- EP80** Apprentices who need significant levels of support to start or continue learning can get access to exceptional learning support if their support costs more than £19,000 in a funding year.
- EP81** You must submit ELS claims to us at the beginning of the apprentices programme, or when you identify the apprentice requires support costs of more than £19,000 in the funding year, by completing and sending the [ELS claim form](#) so we can authorise your request. You can access the exceptional learning support cost form on [GOV.UK](#).

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## What can be funded?

### Eligible costs

- EP82** You must make sure that the apprenticeship is eligible for funds in your apprenticeship service account or government-employer co-investment before the individual starts. [The hub](#) contains details of all eligible apprenticeships. Apprentices can only be enrolled against an apprenticeship standard once it is identified as approved for delivery on the [Institute for Apprenticeships](#) website.
- EP83** Funds from your apprenticeship service account, government-employer co-investment or the additional funds paid for 16 to 18 year olds on frameworks must only be used for eligible costs directly related to the individual apprenticeship. These funds must only be used to pay for training and assessment, including end-point assessment, to complete an apprenticeship that is eligible for funding up to the limit of the funding band.
- EP84** For organisations that have been accepted onto the [Register of End-Point Assessment Organisations](#) eligible costs are set out in the [Conditions of Acceptance](#) document.
- EP85** For employer-providers and the delivery of training and on-programme assessment, eligible costs are limited to the following:
- EP85.1** Evidenced costs for employer-provider delivery or off-the-job training through a main or supporting provider. This could include some or all of the training aspects of a licence to practise or non-mandatory qualification. In both cases there must be a clear overlap between this training and the knowledge, skills and behaviours needed for the apprenticeship standard.
  - EP85.2** Registration, examination and certification costs associated with mandatory qualifications, excluding any licence to practise (see paragraph EP89.9).
  - EP85.3** Regular planned on-programme assessments (progress reviews) to discuss progress to date against the commitment statement and the immediate next steps required.
  - EP85.4** Self-directed distance learning (where it forms only part of the learning experience), interactive online learning (virtual classrooms) or blended learning relating to the off-the-job training element of an apprenticeship (see paragraph EP89.6).
  - EP85.5** Materials (non-capital items) used in the delivery of the apprenticeship framework or standard. By materials (non-capital items), we mean the equipment or supplies necessary to enable a particular learning activity to happen.

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

These items would not normally have a lifespan beyond the individual apprenticeship being funded.

**EP85.6** Any administration directly linked to training and assessment, including end-point assessment. This includes costs relating to the ongoing development of existing teaching materials, lesson planning, the processing of the ILR and quality assurance.

**EP85.7** Time spent by employees/managers supporting or mentoring apprentices; this must be directly linked to the apprenticeship training and assessment, including end-point assessment, and be in addition to generic line management responsibilities.

**EP85.8** Additional learning and/or the cost to resit an exam linked to a mandatory qualification.

**EP85.9** Additional learning required to retake an end-point assessment.

**EP85.10** Accommodation costs for training delivered through residential modules where the residential training is a mandatory requirement for all apprentices. By mandatory, we mean that there is a specific requirement in the apprenticeship standard which would apply equally to any apprentice, regardless of their location, employer or main provider (including subcontractors). Any costs for residential modules must represent value for money.

**EP85.11** Costs of an apprentice taking part in a skills competition if you have agreed that participation in the competition directly contributes to helping that individual achieve the apprenticeship standard.

**EP86** The costs of taking part in any of the above activities may be included in the total recorded price of training and end-point assessment.

**EP87** If the total negotiated price exceeds the maximum of the funding band, then you must pay in full the difference between the band maximum and the total negotiated price.

**EP88** Any of the eligible costs outlined in paragraph EP85 can be bought in from a third party and we will fund them. Where you buy in the delivery of apprenticeship training and/or on-programme assessment from a third party you must follow the subcontracting rules in paragraphs EP142 to EP172. Funds from an employer's apprenticeship service account or government co-investment must not be used to fund other services from a third party.

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Ineligible costs

**EP89** For employer-providers and the delivery of training and on-programme assessment, ineligible costs include the following:

- EP89.1** Enrolment, employer-provider (or subcontractor) induction, prior assessment, initial diagnostic testing, or similar activity.
- EP89.2** Travel costs for apprentices under any circumstances.
- EP89.3** Apprentice wages.
- EP89.4** Personal protective clothing and safety equipment required by the apprentice to carry out their day-to-day work.
- EP89.5** Development of original teaching materials related to the delivery of a new apprenticeship offer.
- EP89.6** Off-the-job training delivered only by self-directed distance learning.
- EP89.7** Any training, optional modules, educational trips or trips to professional events in excess of those required to achieve the apprenticeship framework or meet the knowledge, skills and behaviours of the apprenticeship standard. This includes training solely and specifically required for a licence to practise.
- EP89.8** Any fees to third parties associated with a licence to practise. This includes registration, examination and certification costs. This applies even where a licence to practise is specified in the apprenticeship standard and assessment plan.
- EP89.9** Any fees to awarding bodies for non-mandatory qualifications (qualifications that are not specifically listed in the standard). This includes registration, examination and certification costs.
- EP89.10** Student membership fees that are required by professional bodies, even where linked to mandatory qualifications.
- EP89.11** End-point assessment costs incurred by you but not included in the price negotiated between you and the end-point assessment organisation.
- EP89.12** English and maths up to level 2 (this is funded separately).
- EP89.13** Repeating the same regulated qualification where the apprentice has previously achieved it, unless it is a requirement of the apprenticeship or for any GCSE where

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

the apprentice has not achieved grade C, or 4, or higher.

**EP89.14** Accommodation costs where the apprentice is resident away from their home base, because of the requirements of their day-to-day work or because this is convenient for the employer-provider (or subcontractor). Residential costs associated with non-mandatory learning, including qualifications, are also excluded.

**EP89.15** Capital purchases including lease agreements. Capital purchases are long-term assets that would have a lifespan beyond the apprenticeship being funded, such as land, buildings, machinery and ICT equipment (e.g. tablets and similar electronic devices).

**EP89.16** Maintenance of capital purchases. This includes vehicle parts and labour, insurance and MOT.

**EP89.17** Time spent by employees/managers supporting or mentoring apprentices, where this is not directly linked to the apprenticeship training and assessment, including end-point assessment.

**EP89.18** Specific services not related to the delivery and administration of the apprenticeship. This includes the recruitment and continuing professional development of staff involved in apprenticeships, company inductions, managing agents, brokerage services (to an employer-provider) and the costs of memberships or other costs paid to employers, or their representatives, associated with procurement registers or opportunities to secure business.

**EP90** You must not pay inducements or any other payment not authorised by us to another training provider or to an end-point assessment organisation in relation to any part of the apprenticeship programme.

### Additional payments

**EP91** You will receive a payment towards the additional cost associated with training if, at the start of the apprenticeship, the apprentice is:

**EP91.1** aged between 16 and 18 years old (or 15 years of age if the apprentice's 16th birthday is between the last Friday of June and 31 August); or

**EP91.2** aged between 19 and 24 years old and has either an Education, Health and Care (EHC) plan provided by their local authority or has been in the care of their local authority as defined in paragraph EP93.

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

- EP92** The apprentice will be eligible for a payment if they have been in the care of the local authority as defined in paragraph EP93. See from paragraphs EP101 to EP106 for more information on the care leaver's bursary.
- EP93** A child in care is defined as
- EP93.1** an eligible child - a young person who is 16 or 17 and who has been looked after by the local authority/health and social care trust for at least a period of 13 weeks since the age of 14, and who is still looked after;
  - EP93.2** a relevant child - a young person who is 16 or 17 who has left care after their 16th birthday and before leaving care was an eligible child; or
  - EP93.3** a former relevant child - a young person who is aged between 18 and 21 (up to their 25th birthday if they are in education or training) who, before turning 18, was either an eligible or a relevant child.
- EP94** Before you claim and are paid any additional payments, you must have evidence that you are eligible for them in respect of each apprentice. You must check this and keep evidence in the evidence pack. You must then report the appropriate code in the ILR.
- EP95** Where these payments are for apprentices aged between 19 and 24 years old at the start of their apprenticeship (see paragraph EP91.2), you must include consent from the apprentice and confirmation that they have an EHC plan or that they have been in the care of their local authority and either:
- EP95.1** a signed email or letter confirmation from a local authority appointed Personal Advisor to confirm they are a care leaver; or
  - EP95.2** evidence of an EHC plan.
- EP96** These payments will be paid as follows:
- EP96.1** 90 days after the apprentice starts, 50% will be paid if the apprentice is still undertaking their apprenticeship; and
  - EP96.2** 365 days after the apprentice starts, the remaining 50% will be paid if the apprentice is still undertaking their apprenticeship.
- EP97** Employer-providers can receive both employer and main provider payments if they meet the eligibility criteria.
- EP98** For frameworks, you will also receive an additional payment of 20% of the funding band maximum if the apprentice is aged between 16 and 18 or is an eligible 19 to 24 year old. This must only be used to fund the eligible costs described in

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

paragraph EP85. The [Apprenticeship Technical Funding Guide](#) gives more information on how uplifts are paid. You do not have to contribute to this additional funding.

- EP99** You will also receive a payment if, at the start of the apprenticeship, the apprentice is undertaking an apprenticeship framework and is recorded on the ILR as having a postcode prior to enrolment, listed within the 27% most deprived areas of the country according to the [index of multiple deprivation \(IMD\) 2015](#). This additional disadvantage uplift is supplementary to the negotiated price and therefore not impacted by the eligible and ineligible costs listed in paragraphs EP85 to EP90. The disadvantage uplift should be used on costs to support the apprentice's training, for example on travel costs or personal support.
- EP100** We will monitor take-up of additional payments to identify any potential fraud or gaming.

### Care leavers bursary

- EP101** Apprentices are eligible to receive a £1,000 payment if they have been in the care of the local authority as defined in paragraph EP93.
- EP102** You must have evidence that the apprentice is eligible for this payment before you claim or are funded for any associated additional payments for you or the employer. This must be a signed email or letter from a local authority appointed Personal Advisor confirming that the apprentice is a care leaver.
- EP103** You must tell the apprentice that they are eligible for the bursary as a care leaver and give them the opportunity to declare that they would like to access the funding. This signed declaration (see paragraph EP276 for more information) must allow the apprentice to confirm that they;
- EP103.1** Understand that they are eligible for and would like to receive a bursary as a care leaver.
  - EP103.2** Understand that if they have been found to have accepted the payment incorrectly or if they are ineligible then the government will require it to be repaid.
  - EP103.3** Have not been paid a care leavers bursary before. This only includes the care leavers bursary paid to providers by the ESFA; other local incentives do not apply.
- EP104** This is a one-off payment. An eligible apprentice must only receive this payment once. An individual must not receive this funding again if they progress to, or start, another apprenticeship. It is your responsibility to ensure that the apprentice has not received this payment previously. We will also monitor this to ensure that the apprentice receives this payment only once and may reclaim duplicate payments.

## **CLARIFICATION VERSION OF 2019 TO 2020 RULES**

- EP105** The bursary payment, due to the apprentice, will be generated 60 days after they start. You must pass this on in full to the apprentice within 30 days of receiving this funding from the ESFA.
- EP106** Once paid, you must evidence that the apprentice has received the bursary payment. This must be a signed confirmation from the apprentice and not a receipt of transaction.

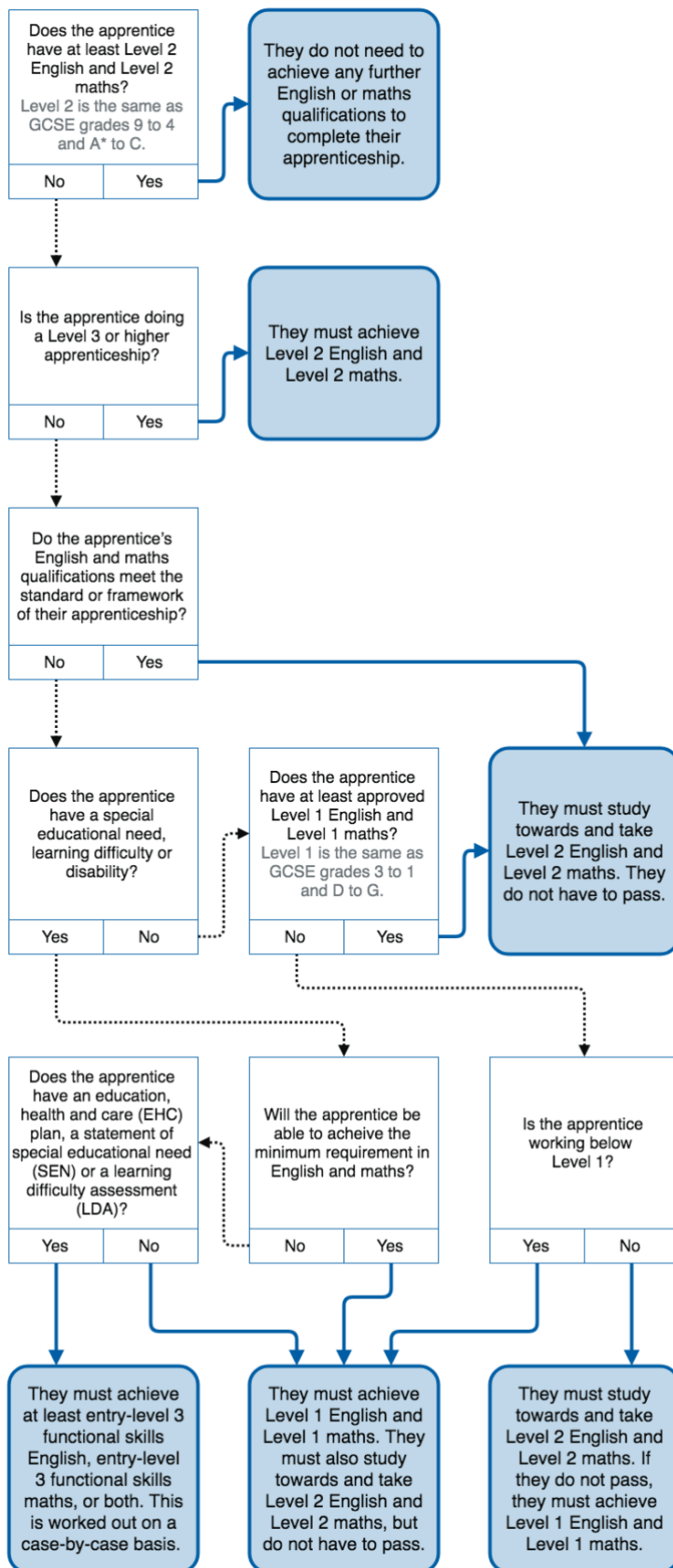
### **Extra support for small employers**

- EP107** Additional exceptions to these rules apply if you employ fewer than 50 people. You can find further information in the Apprenticeship funding and performance-management rules for main providers, August 2019 to July 2020.



# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Flow chart: find out what English and maths training an apprentice should do



# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Support for English and maths training

**EP108** English and maths are essential to supporting longer-term career prospects. This is why all apprentices must be supported to gain these essential skills and secure recognised qualifications.

## Achievement levels

**EP109** As part of our ambition for a world-class technical education system and in line with recommendations from independent experts, progression towards and attainment of, approved level 2 English and maths qualifications is an important part of the apprenticeship programme. For those undertaking a level 3 or higher apprenticeship, it is a requirement that they should hold or achieve an approved level 2 in both subjects before they can successfully complete the apprenticeship.

**EP110** For apprentices undertaking a level 2 apprenticeship:

**EP110.1** We want as many apprentices as possible to achieve level 2 English and maths and we expect all apprentices to work towards level 2 in these subjects and to take the assessment for achievement of the level 2. We recognise that for some a level 2 may be difficult to achieve. In these circumstances, we will accept achievement of level 1 English and maths as sufficient for the successful completion of their apprenticeship, except where the framework or standard specifies a higher level of English and/or maths must be achieved.

**EP110.2** For individuals with special educational needs, learning difficulties or disabilities, who struggle to achieve the regular English and/or maths minimum requirement due to the nature of their difficulty or disability, we will accept achievement of entry level 3 functional skills in English and/or maths (see paragraphs EP122 to EP128 below); and

**EP110.3** You should make every effort to enable apprentices with special educational needs, learning difficulties or disabilities to achieve the minimum English and maths requirements of the specific apprenticeship (as set out in paragraphs EP109 to EP121). This includes appropriate use of access arrangements, reasonable adjustments and other approved qualifications [that are detailed in the 2018 to 2019 list of qualifications in the English and maths legal entitlement offer.](#)

## What we will fund

**EP111** We will fund an apprentice to achieve up to an approved level 2 qualification in English and maths where they do not already hold a suitable equivalent

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

qualification. Acceptable equivalents are set out in a published list on [GOV.UK](https://www.gov.uk) called “Acceptable Current and Prior Equivalent Qualifications for English and Maths Minimum Requirements in Apprenticeship Standards at Level 2 and Above”.

**EP112** The ESFA will pay you for this at the single rate set by us for each eligible qualification undertaken. It will not be deducted from the employer’s apprenticeship service account or require employer co-investment.

**EP113** You can claim funding for apprentices who have not previously attained a GCSE grade A\* to C (or 9 to 4) in English or maths (or both) on the day they start the following qualifications:

**EP113.1** GCSE English language or maths (or both); or

**EP113.2** Functional skills English or maths at level 2 (or both).

**EP114** For level 2 apprenticeships, where a level 2 qualification in English or maths is not required for the apprenticeship and the apprentice does not already hold the acceptable qualifications for their framework or standard, then you should adopt the following approach and can claim funding for an apprentice in the following scenarios:

**EP114.1 Where the apprentice holds neither level 1 nor level 2 approved qualifications and is judged by you to be working below level 1 standard in English/maths:**

Apprentices must study towards and achieve English and maths qualifications of at least level 1 (functional skills level 1 or GCSE grade E or 2), and start, study towards and take the assessments for level 2 qualifications in these subjects. The apprentice is not required to achieve level 2 qualifications in order to successfully complete their apprenticeship. These requirements must be fulfilled before the apprentice takes the end-point assessment or achieves an apprenticeship framework.

You must also ensure that any level 1 training and assessments are taken at an early enough stage in the apprenticeship to allow sufficient time for an apprentice to study towards and take the assessments for the level 2 qualification, after a level 1 has been achieved. Where the apprentice does not achieve the level 2, you can claim only for the training given.

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

### **EP114.2 Where the apprentice does not already hold approved level 1 qualifications, but is judged by the main provider to be working at level 1 standard in English/maths:**

Apprentices must start, continue to study and take the assessment for level 2 English and maths (functional skills level 2 or GCSE). If they do not achieve a level 2, you must then ensure they take the assessment for level 1 maths and/or English – this is because they must secure the level 1 qualification in order to complete their apprenticeship.

You must ensure that any level 2 training and assessments are taken at an early enough stage in the apprenticeship to allow time for the apprentice to take the level 1 assessment if they first do not achieve the level 2. In this scenario we will not fund costs for level 1 training and assessment. These requirements must be fulfilled before the apprentice takes the end-point assessment or achieves an apprenticeship framework.

### **EP114.3 Where the apprentice already holds approved level 1 qualifications:**

Apprentices must start, continue to study and take the assessments for a level 2 English and/or maths (functional skills level 2 or GCSE). This requirement must be fulfilled before the apprentice takes the end-point assessment or achieves an apprenticeship framework.

**EP115** We will fund functional skills English and/or maths at level 1 or below where you (or a subcontractor) has conducted an initial assessment that shows the apprentice needs to study at a lower level before being able to achieve their level 2. The apprentice must be judged to be below level 1 to be funded for a level 1 qualification.

**EP116** In exceptional circumstances, we will fund:

**EP116.1** re-takes of English and/or maths qualifications where apprentices receive further teaching to achieve the required English and/or maths functional skills qualification; and

**EP116.2** [other approved qualifications](#) (including components, where applicable) where an apprentice will need significant, additional numeracy and literacy support that is not met through immediate entry onto a GCSE or functional skills course.

**EP117** If the apprentice is made redundant, they are allowed to continue with their English and/or maths up to and including level 2. You can continue to claim funds at the published apprenticeship English and maths rates.

**EP118** You must not claim funding from the adult education budget for English or maths undertaken by an apprentice.

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP119** Any English and/or maths requirements for the achievement of an apprenticeship standard or framework not set out above must be funded from an employer's apprenticeship service account or through government-employer co-investment.

**EP120** You must provide evidence of prior attainment of English and maths. Guidance for obtaining acceptable evidence is provided in the evidence pack.

### **Judgement of an apprentice's current level**

**EP121** If an apprentice does not have acceptable evidence of previous attainment of English and/or maths you should carry out a judgement of their current level. You must use current assessment tools based on the national literacy and numeracy standards and core curriculum to do this.

### **Exceptions to the regular English and maths minimum requirements, for people with special educational needs, learning difficulties or disabilities**

**EP122** Individuals should be considered on a case-by-case basis and should satisfy all of the following conditions:

**EP122.1** You expect the apprentice to achieve all other aspects of the apprenticeship requirements, become occupationally competent and achieve entry level 3 functional skills in the adjusted subject(s) before the end of their apprenticeship.

**EP122.2** The apprentice has either an existing or previously issued education, health and care (EHC) plan, a statement of special educational need (SEN) or a learning difficulty assessment (LDA).

**EP122.3** You hold or have conducted an evidenced judgement demonstrating that even with support, reasonable adjustments and stepping stone qualifications, the apprentice, will not be able to achieve English and/or maths to the minimum level within the timeframe projected for them to complete all the occupational elements. This would apply to both frameworks and standards.

**EP123** Depending on the apprentice's individual circumstances and outcome of your judgement, this exception may apply to either English and maths (or both). If the exception applies to only one subject, the regular requirements for the non-adjusted subject will apply.

**EP124** Although the apprentice will be exempt from the regular English and/or maths minimum requirements, you must plan and evidence how the apprentice will access further literacy and numeracy development, including level 1 and level 2 courses, as part of their overall training provision, if appropriate.

**EP125** The assessment must be formal and structured and conducted by an appropriate

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

professional associated with you (or a subcontractor), such as the head of SEN or student support. The assessment must be conducted within eight weeks of an apprentice beginning their apprenticeship and must include:

- EP125.1** judgement of the apprentice's current English and maths ability;
- EP125.2** information on how the learning difficulty or disability affects the apprentice's English and maths abilities and a clear indication of whether one or both English and maths are affected;
- EP125.3** judgement of the apprentice's ability to meet the regular English and maths requirements even with appropriate support in place;
- EP125.4** creation of a recommended learning plan to enable the apprentice to achieve entry-level 3 functional skills in the adjusted subject(s) and, where appropriate, to continue to build on their literacy and numeracy skills by accessing further courses; and
- EP125.5** copies of an education, health and care (EHC) plan, a statement of special educational need (SEN) or a learning difficulty assessment (LDA).

**EP126** You must retain all elements of the judgement in the evidence pack.

**EP127** If the apprentice disagrees with the judgement outcome, you must provide a facility for the apprentice to request a second opinion. You must ensure that a second SEN professional independently reviews the outcome. You may determine the format of the review process.

**EP128** Where the apprentice needs to change to entry level 3 for English and/or maths due to their disability or learning difficulty the main provider should record this in the ILR as a change in the usual way.

### End-point assessments

**EP129** End-point assessment is a holistic and independent assessment of the knowledge, skills and behaviours which have been learnt throughout an apprenticeship standard. The requirements for end-point assessment are set out in the assessment plan for each specific standard. Frameworks have different assessment arrangements and do not require end-point assessment.

**EP130** Apprentices will not be able to achieve an apprenticeship standard without satisfying all the requirements of the assessment plan, including the end-point assessment.

**EP131** An apprentice can only take the end-point assessment once they have:

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP131.1** met the minimum duration of the apprenticeship;

**EP131.2** satisfied the gateway requirements set out in its assessment plan; and

**EP131.3** you, as their employer, are content they have attained sufficient knowledge, skills and behaviours to successfully complete the apprenticeship.

**EP132** You must ensure the apprentice is employed until the end-point assessment (where applicable) is completed. The only exception is where the apprentice has been made redundant and we are funding the apprenticeship to completion (see paragraph EP254).

**EP133** Before the apprentice reaches the gateway before moving onto end-point assessment you must:

**EP133.1** select an organisation from the [Register of End-Point Assessment Organisations](#) (RoEPAO) to deliver the end-point assessment; and

**EP133.2** negotiate a price with this organisation for the end-point assessment. Only those organisations listed on the RoEPAO will be eligible to be funded.

**EP134** Although you will be involved in arrangements for end-point assessment, the assessment itself must be independent (subject to paragraph EP135 below). Some assessment plans give the employer-provider specific roles but, with the exception of integrated standards, those who have delivered the training cannot make an end-point assessment judgement for that same group of apprentices.

**EP135** The end-point assessment organisation for an integrated degree standard may also be the training provider, although the assessment must be conducted by someone who has not been involved in the delivery of the apprenticeship.

**EP136** You must contract with the end-point assessment organisation that you have selected and make payment to them for conducting the end-point assessment. You must lead the relationship with the end-point assessment organisation including where you subcontract the delivery of apprenticeship training. The written agreement must set out the arrangements for sharing relevant information about the apprentice so end-point assessment and certification can take place, including arrangements for any re-takes and payments. This should also include arrangements for a change of circumstances, which may delay, or lead to the cancellation of, the end-point assessment.

**EP137** You must ensure that the costs that you claim for the apprenticeship include the amount needed to pay for the end-point assessment. This includes the cost of external quality assurance, which involves an external body (either the [Institute for Apprenticeships](#) or a body approved by it) to ensure the consistency of quality and approach to end-point assessment against a particular standard, regardless

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

of which end-point assessment organisation has carried it out. Costs for external quality assurance will depend on the body undertaking it. You must ensure that you engage actively with any request for information from the external body, where applicable.

- EP138** Eligible costs for end-point assessment organisations are set out in the [Conditions of Acceptance](#) document for organisations on the RoEPAO.
- EP139** We expect that the cost of end-point assessment should not usually exceed 20% of the funding band maximum. This does not mean that end-point assessment must cost 20%; the cost that individual employers will pay for assessment varies between standards and we expect employers to negotiate with assessment organisations to secure value for money. Where the total negotiated price is higher than the funding band maximum the difference must be paid by you as the employer.
- EP140** The end-point assessment can only be taken after the minimum duration has been completed (see paragraph EP45). You must ensure that the entire duration of the apprenticeship standard for both training and end-point assessment is recorded on the ILR as a minimum of 372 days to be eligible for funding.
- EP141** You must keep evidence of payments made to the end-point assessment organisation for conducting the end-point assessment.

## Contracting and subcontracting

### Employer-providers directly delivering training or on-programme assessment

- EP142** Funding for all elements of each apprenticeship will be routed through you, the employer-provider. This includes funding for English and maths.
- EP143** You must directly deliver some of the apprenticeship training and/or on-programme assessment associated with your apprenticeship programme. By apprenticeship programme we mean the apprentices that are being trained by you. The volume of training and/or on-programme assessment that you directly deliver must have some substance and must not be a token amount to satisfy this rule. It must not be limited to a brief input at the start of your programme or involve delivery to just a few of a large number of apprentices. You can find further information in the document [Using Subcontractors in the Delivery of Apprenticeships](#).
- EP144** Employer-providers must evidence the actual costs of delivery of apprenticeship training and on-programme assessment (see paragraphs EP174 to EP184).

## Using subcontractors



## CLARIFICATION VERSION OF 2019 TO 2020 RULES

- EP145** You must take your own legal advice about whether, in subcontracting part of the service delivery, you are a contracting authority awarding a public contract as defined by the [Public Contracts Regulations 2015](#). If you are, then you should comply with the provisions of the 2015 Regulations. You must provide a synopsis of the legal advice for inspection by us.
- EP146** You can use delivery subcontractors to complement your own delivery. Within your apprenticeship programme (conditional on paragraph EP143) delivery subcontractors can deliver full or part-apprenticeship training for frameworks and standards.
- EP147** You must only use delivery subcontractors that satisfy one of the following three criteria:
- EP147.1** they are on the published [Register of Apprenticeship Training Providers](#) and have applied by the main or supporting application routes;
  - EP147.2** they are one of your [connected companies or charities](#) as defined by HMRC and are on the published Register of Apprenticeship Training Providers, having applied through the employer-provider application route; or
  - EP147.3** they are not on the published Register of Apprenticeship Training Providers but will deliver less than £100,000 of apprenticeship training and on-programme assessment under contract across all main providers and employer-providers between 1 April and 31 March each year.
- EP148** You must carry out your own due diligence checks on potential delivery subcontractors including taking account of any relevant Ofsted reports. The process and results must be available for inspection by us. You must not use a potential delivery subcontractor's presence on the Register of Apprenticeship Training Providers, or any other public register or database, as an indicator that they are suitable to deliver to your specific requirements.
- EP149** You must not use a delivery subcontractor that you assess as being unsuitable, or whose quality of delivery is demonstrably inadequate.
- EP150** You must have robust procedures in place to ensure you do not inadvertently fund extremist organisations through the subcontracting of apprenticeship training and/or on-programme assessment.
- EP151** You must not agree the use of any delivery subcontractor where this would require you to subcontract apprenticeship training and/or on-programme assessment to a second level. All of your delivery subcontractors must be contracted directly by you and you may have more than one subcontractor. The restriction on the level of subcontracting is in place to ensure:
- EP151.1** that main providers / employer-providers retain clear and transparent accountability for the quality of training

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

provision;

**EP151.2** that proper and appropriate controls are in place to manage the apprentice experience; and

**EP151.3** that value for money is achieved by mitigating funding being utilised for multiple tiers of subcontractor management.

### **Delivery of apprenticeship training and on-programme assessment by delivery subcontractors**

**EP152** You are responsible for all of the actions of your delivery subcontractors that are connected to, or arise out of, all the apprenticeship training and on-programme assessment that you have subcontracted to them.

**EP153** You carry overall responsibility for the quality of apprenticeship training and on-programme assessment undertaken by your delivery subcontractors.

**EP154** You must manage and monitor all of your delivery subcontractors to ensure that high-quality delivery is taking place that meets our funding rules.

**EP155** You must carry out a regular and substantial programme of quality-assurance checks on the apprenticeship training and on-programme assessment provided by delivery subcontractors, including visits at short notice and face-to-face interviews with staff and apprentices. The programme must:

**EP155.1** include whether the apprentices exist and are eligible; and

**EP155.2** involve direct observation of initial guidance, assessment and delivery of training and/or on-programme assessment.

**EP156** Your findings must be consistent with these funding rules, your expectations and the subcontractor's records. You must report any instances to us where this is not the case.

**EP157** If any of your delivery subcontractors undergoes a change of circumstances that affects its ability to continue to deliver under a subcontract with you, you must make alternative delivery arrangements for each apprentice affected by this. Change of circumstances include going into liquidation or administration, key delivery staff leaving the organisation, or removal from the Register of Apprenticeship Training Providers.

### **Contracting with delivery subcontractors**

**EP158** You must have a legally binding contract with each delivery subcontractor.

**EP159** You must obtain an annual report from an external auditor if the total apprenticeship contracts with your delivery subcontractors will exceed £100,000 in any one financial year. The report must provide assurance on the

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

arrangements to manage and control your delivery subcontractors. The report must comply with any guidance issued by us. You must supply us with a certificate signed by the external auditor and an authorised signatory to confirm you have received a report that provides satisfactory assurance. We may ask you to provide a copy of the full report.

**EP160** Your contract with each delivery subcontractor must specify the following:

- EP160.1** They must keep to our funding rules.
- EP160.2** They must provide you with ILR data so that your data returns to us accurately reflect delivery information.
- EP160.3** They must give us, and any other person nominated by us, access to their premises and to all documents related to their delivery of apprenticeships.
- EP160.4** They must give you sufficient evidence to allow you to:
  - EP160.4.1** assess their performance against Ofsted's common inspection framework or the requirements of the QAA quality code;
  - EP160.4.2** incorporate the evidence they provide into your self-assessment report; and
  - EP160.4.3** guide the judgements and grades within your self-assessment report.
- EP160.5** They must always have suitably qualified staff available to provide apprenticeship training and/or on-programme assessment.
- EP160.6** They must co-operate with you to ensure that there is continuity of learning for apprentices if the subcontract ends for any reason.
- EP160.7** They must tell you if evidence of irregular financial or delivery issues arises. This could include, but is not limited to, non-delivery of training when funds have been paid, sanctions imposed by an awarding organisation, allegations of fraud, an inadequate Ofsted grade, not meeting relevant QAA quality code indicators, allegations or complaints by apprentices, employers, staff members, or other relevant parties.
- EP160.8** They must not use our funding to make bids for, or claims from, any European funding on their own behalf or on our behalf.
- EP160.9** They must not use payments made by us as match funding for ESF projects.

## **CLARIFICATION VERSION OF 2019 TO 2020 RULES**

### **Special conditions for subcontracting to supporting providers**

- EP161** Delivery subcontractors who have successfully applied to the supporting application route of the Register of Apprenticeship Training Providers must not receive more than £500,000 of apprenticeship funding for their delivery from 1 April to 31 March each year.
- EP162** You must ensure that you are not one of a number of organisations making payments to any supporting provider that exceed £500,000 in any one year. We will place restrictions on your future use of delivery subcontractors if this happens.
- EP163** We will exclude any supporting provider that has applied to the Register of Apprenticeship Training Providers through the supporting application route where they allow their funding to exceed this total in any one year.

### **Special conditions for subcontracting to organisations not on the Register of Apprenticeship Training Providers**

- EP164** Organisations who are not on the Register of Apprenticeship Training Providers must not receive more than £100,000 of apprenticeship funding for their delivery from 1 April to 31 March each year.
- EP165** You must ensure that you are not one of a number of organisations making payments to any organisation not on the Register of Apprenticeship Training Providers where the total apprenticeship funding they receive exceeds £100,000 in any one year. We will place restrictions on your future use of delivery subcontractors if this happens.
- EP166** We will exclude any organisation from delivering apprenticeship training as a subcontractor where they allow their funding to exceed this total in any one year.

### **Special conditions for all instances where the employer is the delivery subcontractor**

- EP167** Where the employer is the delivery subcontractor they must only be paid the actual costs of delivery. Employers must not profit from apprenticeship delivery to their own employees.

### **Reporting your use of delivery subcontractors to us**

- EP168** You must provide a fully completed delivery subcontractor declaration by the dates we will give you. This will be at least twice between 1 April to 31 March each year. If you do not make the declaration on time, we will suspend your payments. If you do not subcontract, you must still provide a nil return to confirm this.
- EP169** You must also update your subcontractor declaration if your subcontracting

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

arrangements change during the year.

## Disputes and issue resolution

- EP170** You are responsible for resolving issues and disputes between you and your delivery subcontractors.
- EP171** Agreements entered into by you must be legally binding. Dispute resolution should be in accordance with the terms of the written agreement, which ultimately would be enforceable through the courts.
- EP172** Apprentices must be made aware by you, as the employer-provider, that they can contact the apprenticeship helpline regarding apprenticeship concerns, complaints and enquiries. The contact number and website must also be included in the apprentice's commitment statement.

## Paying for an apprenticeship

- EP173** The funding method for an apprenticeship is determined at the start of each apprentice's programme. Where the employer does not have an apprenticeship service account at the start of the apprenticeship, it will be funded through government-employer co-investment for its duration unless the apprentice changes employer. Even if the employer subsequently becomes a levy-payer, the apprenticeship will not be funded from the employer's apprenticeship service account.

## The price of an apprenticeship: evidencing cost for employer-providers

- EP174** You can receive funds from your apprenticeship service account or government-employer co-investment for training delivered to your own employees if you are approved by us as an employer-provider on the Register of Apprenticeship Training Providers.
- EP175** Approved employer-providers can directly deliver all or part of their apprenticeship training programme to their own employees or those employed by a connected company or charity.
- EP176** This delivery can be funded using funds in your apprenticeship service account or government-employer co-investment.
- EP177** You must report to the ESFA the full cost of training and assessment including (where required) the end-point assessment for each apprentice, as this will determine how much of the funds in your apprenticeship service account or government-employer co-investment can be paid.
- EP178** You:

**EP178.1** Must enter costs for training and end-point assessment

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

(where applicable) onto the ILR (where you do not know the details of the end-point assessment organisation at the start of the apprenticeship, you must enter the price for end-point assessment when this has been confirmed).

**EP178.2** Must evidence how all costs are calculated (this is for transparency and to ensure value for money - in the case of a main provider and a separate employer there is a negotiation of costs; this cannot be achieved when the employer and main provider are the same entity).

**EP178.3** Must account for prior learning. You must reduce the content, duration, and price where the individual has prior learning necessary to achieve the apprenticeship; funds must not be used to pay for skills already attained by the apprentice - you must document how you have assessed the individual's prior learning and include this in the evidence pack.

**EP178.4** Can include payroll, pay slips, expense claims, hourly pay rates for staff delivering training, and assessment to apprentices and training plans that include the hours of training delivered.

**EP178.5** Are allowed to claim salaries plus on-costs of employees directly involved in the administration of apprenticeship training. On costs include employment costs such as employer pension contributions, national insurance and employee benefits; travel and subsistence costs for these employees can also be used if these directly relate to apprenticeship delivery.

**EP178.6** Are allowed to claim for accommodation and facilities where the employer can demonstrate that this has been used for training and/or end-point assessment for the apprentice during the time claimed.

**EP178.7** Cannot claim for employee's time for any activity not connected to the administration, training or on-programme assessment of the apprenticeship; bonuses or profit are also ineligible costs.

**EP179** If you evidence costs that are more than the maximum allowed by the funding band for the chosen apprenticeship, then you must pay in full the difference between the band maximum and the total cost. This cannot be funded from the apprenticeship service account or co-investment. The funding bands, and the standards and frameworks placed within them, may be subject to change.

**EP180** Where you have insufficient funds in your apprenticeship service account, the ESFA will pay the government's co-investment contribution towards the costs of training and you will be expected to meet the remaining costs.

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP181** The only exceptions to employer co-investment are:

- EP181.1** English and maths, to achieve the required government standard (see paragraphs EP108 to EP128);
- EP181.2** where you qualify for extra support for small employers (see paragraph EP107);
- EP181.3** for any learning support for the apprentice (see paragraphs EP74 to EP81);
- EP181.4** for any additional payments and disadvantage funding (see paragraphs EP91 to EP100); and
- EP181.5** where you deliver to your own staff as an employer-provider.

**EP182** You may subcontract the delivery of part of an apprenticeship to another organisation and should follow the rules set out in paragraphs EP142 to EP172 for subcontracting.

**EP183** We will monitor training and end-point assessment costs to ensure that you achieve best value, such as economies of scale, which you should take into consideration when you calculate delivery costs.

**EP184** The costs of training and (where required) assessment must reflect any reduction in length or content of the apprenticeship to ensure that funds are not used to pay for skills already attained.

### Accounting for prior learning

**EP185** Funds must not be used to pay for training for skills, knowledge and behaviours already attained by the apprentice. We may take action to recover apprenticeship funding where this happens.

**EP186** You must account for prior learning when calculating the actual cost of the apprenticeship. You must reduce the content, duration and cost, where the individual has prior learning necessary to achieve the apprenticeship.

**EP187** Where you account for prior learning and the reduction of content would mean the apprenticeship would take less than the minimum duration to complete (as set out in paragraph EP45) or would fail to meet the requirement for the apprentice to spend 20% of their time in off-the-job training (as set out in paragraph EP31) the apprenticeship is ineligible for funding.

**EP188** You must assess the individual's prior learning before starting the apprenticeship. You must quantify and evidence the proportion of prior learning already attained, quantify the proportion of off-the-job training content that will not be covered, and quantify the amount that the funding will be reduced by.

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP189** You must include a thorough appraisal of the apprentice's existing knowledge, skills and behaviours against those required to achieve the apprenticeship. Where applicable, you must include in your appraisal any knowledge, skills and behaviours gained from the following:

**EP189.1** Work experience, particularly where the apprentice is an existing employee;

**EP189.2** Prior education or training and associated qualifications in a related sector subject area; or

**EP189.3** Any previous apprenticeship undertaken.

**EP190** The initial assessment must be documented in the evidence pack.

### When payments are made

**EP191** We will pay 80% of the cost up to the maximum value of the funding band, in equal monthly instalments according to the planned duration of the apprenticeship, regardless of how training is scheduled over the planned duration. This will be deducted from your apprenticeship service account where funds are available.

**EP192** We will pay the remaining balance of the agreed price up to the maximum value of the funding band when the apprentice has undertaken all the activity relevant to the apprenticeship, including:

**EP192.1** All mandatory elements of the framework; or

**EP192.2** Completing all elements of the end-point assessment for standards.

**EP193** The deductions from your apprenticeship service account will mirror these payments where funds are available.

**EP194** Where apprenticeship training is not funded from your apprenticeship service account (e.g. levy payers with insufficient funds), we will pay 80% of the government co-investment funding in equal monthly instalments according to the planned duration of the apprenticeship, regardless of how training is scheduled over the duration of the apprenticeship.

### Value added tax (VAT)

**EP195** Supplies of training, or end-point assessment, which are paid by government funding, including the apprenticeship levy, are exempt from VAT. This includes additional payments (see paragraphs EP91 to EP100). Prices entered onto the ILR should not include VAT.



## CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP196** The ESFA does not provide advice on VAT. You must always seek your own advice on VAT from HMRC if you are in any doubt about VAT treatment.

### Funds in your apprenticeship service account

**EP197** You must only add PAYE schemes for you or your connected companies or charities (according to HMRC's definition) to your apprenticeship service account.

**EP198** Public bodies cannot usually be connected for apprenticeship levy purposes. If you are setting up an apprenticeship service account for a public body, you should only add the PAYE scheme or schemes for one employer, that is, a government department, local authority or non-ministerial department.

**EP199** There are some exceptions where public bodies are considered to be corporate bodies, companies or charities. If your organisation is connected as defined by HMRC employment allowance connection rules and shares one apprenticeship levy allowance, then you could set up an account with another connected employer.

**EP200** We will monitor accounts to check that PAYE schemes are properly used. If we have any questions, we may ask you to provide evidence that the employers sharing an apprenticeship service account are connected.

**EP201** You must:

**EP201.1** remove PAYE schemes from your apprenticeship service account that are no longer operated by the employer associated with the account (or who leaves the group of connected companies);

**EP201.2** ensure the PAYE scheme for the apprentice's employer is associated with the same apprenticeship service account which records the apprenticeship for them; and

**EP201.3** manage users associated with your account including:

**EP201.3.1** removing users who are not authorised to act on your behalf; and

**EP201.3.2** controlling who can add users.

**EP202** You are responsible for recording the required details of the apprenticeship in your apprenticeship service account and this must correspond with the information recorded on the ILR.

**EP203** You must not allow any third party to authorise payments through your apprenticeship service account.

**EP204** As a result of retrospective changes to the amount of apprenticeship levy declared to HMRC, the balance in your apprenticeship service account could go

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

up or down. If an adjustment reduces your balance to a negative value that persists, the ESFA may ask you to pay us this value, discounted by the co-investment rate in place when the apprenticeship started. We will provide you with details of this payment including the amount due and when to make a payment.

**EP205** If your organisation is subject to structural changes including mergers and acquisitions, you must contact us.

### Qualifying days for funding

**EP206** To qualify for apprenticeship funding the apprentice must be in learning for a minimum of 42 days between the learning start date and learning planned end-date.

**EP207** Where funding is paid for an apprentice who does not subsequently meet the qualifying period, we will recover the funding from you.

### State aid

#### Updates since 15 March 2019:

- **EP210 – New Rule:** The new employer co-investment rate for apprenticeships starting on or after 1 April 2019 is 5%. This impacts the related state aid rules.

**EP208** Funds received by employer-providers from your apprenticeship service account (including government top-ups to funds), government-employer co-investment and additional payments do not fall within the scope of state aid control from 1 August 2019 to 31 July 2020.

**EP209** The waiving of the employer contribution for small employers, (see paragraph EP107) is likely to amount to state aid, and the state aid rules will therefore apply to such cases.

**EP210** Transfers of funds are subject to state aid regulations. For any transfer an employer receives, a percentage of the transferred funds will count towards their de minimis state aid limit. This percentage represents the amount of co-investment you would have otherwise had to contribute towards the apprenticeship, if funds had not been transferred. The percentage rate is dependent on when the apprenticeship started:

Co-investment rates for apprenticeships that started:	
before 1 April 2019	on or after 1 April 2019
10%	5%

**EP211** You must ensure you complete a state aid declaration for funding you receive as a result of the waiver of the employer contribution for small employers and

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

transfers. You are responsible for retaining a copy of this declaration in the evidence pack.

## Apprenticeships funded by transfers of levy funds

### Updates since 15 March 2019:

- **EP212 to EP213** – Change: Transfer allowance percentage is increasing to 25%. These funds will be available in the 2019 to 2020 transfer allowance.

## Introduction for employer-providers

**EP212** Levy-paying employers can transfer a percentage of their levy funds, which were declared for the previous tax year, to other employers, including apprenticeship training agencies (ATAs). From April 2019 the transfer allowance percentage will increase from 10% to 25%. These funds will be available once the transfer allowance has been re-calculated.

The transfer allowance will be calculated from the total amount of levy declared during the previous tax year, with the English percentage applied, plus the 10% government top-up payment. This allowance is recalculated every tax year and any unused allowance will not be carried forward.

**EP213** Employer-providers receiving transferred funds will only be able to use them to pay for training and assessment for apprenticeship standards, for new apprenticeship starts. A transfer must be agreed and put in place before an apprentice (being funded by the transfer) starts their apprenticeship.

**EP214** A transfer of funds will not take place where the receiving employer is eligible for full government funding, because they have fewer than 50 employees and the apprentice is:

**EP214.1** 16 to 18 years old; or

**EP214.2** an eligible 19 to 24 year old.

## Rules for sending employer-providers

**EP215** A sending employer-provider is a levy-paying employer-provider who wishes to transfer levy funds in their apprenticeship service account to another employer to support their delivery of an apprenticeship standard starting from 1 May 2018. These funds can only be used for the cost of apprenticeship training and assessment.

**EP216** We will calculate the transfer allowance around the start of each tax year (the calculation is based on the period 12 levy figure declared to HMRC). The transfer allowance is calculated on declared levy multiplied by the English percentage,

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

along with the 10% automatic top up from Government.

- EP217** If you are part of an account with connected organisations, your transfer allowance will be calculated from the total levy declared by all organisations included within the account at the time of the calculation. You will not have an individual transfer account.
- EP218** Provided you do not exceed the transfer cap, you are able to transfer funds to any number of employers.
- EP219** To send a transfer you must re-sign the ESFA employer agreement, which has been updated to include transfers.
- EP220** You must agree with the receiving employer which apprenticeship standard their chosen apprentice will be undertaking and the price that they have agreed with their chosen main provider and end-point assessment organisation. You will need to confirm these details through the apprenticeship service and ensure you do not exceed your transfer cap.
- EP221** By agreeing to fund an apprenticeship with a transfer you are committing to fund the apprenticeship over its entire duration until completion. You will need to ensure that you have enough transfer allowance to cover these costs over the relevant number of years. You will not be able to stop payments once you have approved the apprenticeship on the apprenticeship service and transfer payments will be deducted from your levy account prior to your own apprenticeships.
- EP222** The transfer amount should cover 100% of the eligible training and assessment costs, up to the funding band maximum, of the apprenticeship standard. This does not include English and maths training up to and including level 2, which is funded separately.
- EP223** You cannot jointly fund an apprenticeship with another levy-paying employer or employer-provider.
- EP224** A transfer of funds will not take place where the receiving employer is eligible for full government funding, because they have fewer than 50 employees and the apprentice is:
- EP224.1** 16 to 18 years old; or
- EP224.2** an eligible 19 to 24 year old.
- EP225** The eligibility criteria are detailed in the extra support for small employers section of the [Apprenticeship Funding: Rules and Guidance for Employers](#).
- EP226** You must not impose conditions on the transfer, such as choosing the receiving employer's main provider or end-point assessment organisation for them.
- EP227** You must not seek or accept any incentives or inducements or any other payments not authorised by us in exchange for sending a transfer.

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

- EP228** The funds that you transfer will retain their initial date of expiry; the date of transfer will not affect this.
- EP229** As a sending employer-provider, you will not be able to receive any transferred funds from another levy-paying employer, while you are funding a transfer.

### Rules for receiving employer-providers

- EP230** A receiving employer-provider is any (levy-paying or non-levy paying) employer-provider who receives a transfer of funds from a levy-paying employer.
- EP231** You cannot use a transfer to fund an apprenticeship if you are eligible for full government funding because you have fewer than 50 employees and your apprentice is:
- EP231.1** 16 to 18 years old; or
  - EP231.2** an eligible 19 to 24 year old.
- EP232** The eligibility criteria is detailed in the extra support for small employers section of the [Apprenticeship Funding: Rules and Guidance for Employers](#). As a transfer of funds will not take place and the apprenticeship will be 100% funded by government, you must not enter these apprenticeships on your apprenticeship service account.
- EP233** For the purposes of apprenticeships funded by a transfer, the receiving employer-provider is treated as a levy-paying employer.
- EP234** To receive a transfer you must sign the [ESFA employer agreement](#) and ensure apprenticeships funded by a transfer follow the rules in this document.
- EP235** The transfer amount you receive should cover 100% of the eligible training and assessment costs, up to the funding band maximum, of the apprenticeship standard. This does not include English and maths training up to and including level 2, which is funded separately.
- EP236** You will need to set up an apprenticeship service account, if you do not already have one. You will need to enter details of the apprenticeship that the transferred funds relate to. If you are not a levy-paying employer-provider then you can only use this account for apprentices funded through transferred funds – if any apprentices, which are not funded through transfers, are entered then all payments will be suspended and you will be notified. Once you have rectified your data the suspension of payments will be lifted.
- EP237** If you already have an apprenticeship service account, you may use this to receive a transfer.
- EP238** The rules on what apprenticeship funding can be spent on are set out in the eligible costs section (paragraphs EP82 to EP88).

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP239** Before entering the details on your apprenticeship service account, you must:

**EP239.1** agree with the sending employer which apprenticeship standard your apprentice will be undertaking; and

**EP239.2** confirm the cost of the apprenticeship on the apprenticeship service. You and the sending employer will need to approve these details through the apprenticeship service.

**EP240** If you are a levy-paying employer-provider, you must not transfer funds to other employers while you are in receipt of transferred funds.

### Delivering the apprenticeship

#### Data protection

**EP241** Employer-providers must comply with their obligations under data protection legislation, in particular any notification requirements and the duty to appoint a data protection officer.

**EP242** Data protection legislation means (i) the Data Protection Act 1998 and, for the periods when they are in force, (ii) the General Data Protection Regulation (Regulation (EU) 2016/679) and the Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing laws as amended from time to time, and (iii) the Data Protection Act 2018 (subject to royal assent).

#### Certification

**EP243** For frameworks, you must apply for the apprenticeship completion certificate from Apprenticeship Certificates England within three months of completion of learning.

**EP244** For standards, the end-point assessment organisation is responsible for claiming the apprenticeship completion certificate from the ESFA.

**EP245** Where applicable you must apply for, and give, apprentices certificates from awarding organisations for achieving a mandatory qualification and evidence this in the evidence pack.

### Changes of circumstances

**EP246** If any circumstances change you must revise existing agreements or create new agreements. This includes but is not limited to:

**EP246.1** changes to price;

**EP246.2** changes to the apprentice's eligibility;

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP246.3** any updates required to your apprenticeship service account;

**EP246.4** changes to the apprentice's contract or working pattern;

**EP246.5** changes to the apprenticeship duration;

**EP246.6** changes to subcontractors; or

**EP246.7** breaks in learning.

**EP247** We will monitor take-up of additional payments and unusual patterns of activity to identify any potential fraud or gaming.

**EP248** The apprentice may take a break in learning where they plan to return to the same apprenticeship programme and this agreed with you. This could include medical treatment, parental leave or leave for other personal reasons. Annual leave, public holidays and short-term absences (up to 4 weeks) must not be recorded as breaks in learning. You should record the break in learning on the ILR and re-plan the delivery of any remaining training and/or assessment following a break, if required. You should revise the apprenticeship agreement if required.

**EP249** We will stop making payments from funds in your apprenticeship service account or government-employer co-investment if an apprentice has a break in learning.

**EP250** If an apprentice is on a break in learning when an additional payment is due, the payment will be delayed until the apprentice resumes their apprenticeship and has reached an overall total of 90 or 365 days in learning.

**EP251** Throughout the apprenticeship any changes as well as breaks in learning must be reported to us. You must account for these changes and ensure the minimum duration rules (see paragraphs EP45 to EP61) are met.

**EP252** You can find detailed information on how changes of circumstances affect how funding is calculated in the [Apprenticeship Technical Funding Guide](#) for starts from 1 August 2018.

**EP253** Please refer to the [ILR guidance](#) for details of how to record these changes in circumstance on the ILR. We will update this guidance as new changes of circumstance arise. If you need any further advice, please contact us.

### Redundancy

**EP254** Where an apprentice is made redundant, you must record the change in employment status in the ILR and stop payments in your apprenticeship service account.

### Where training or assessment stops

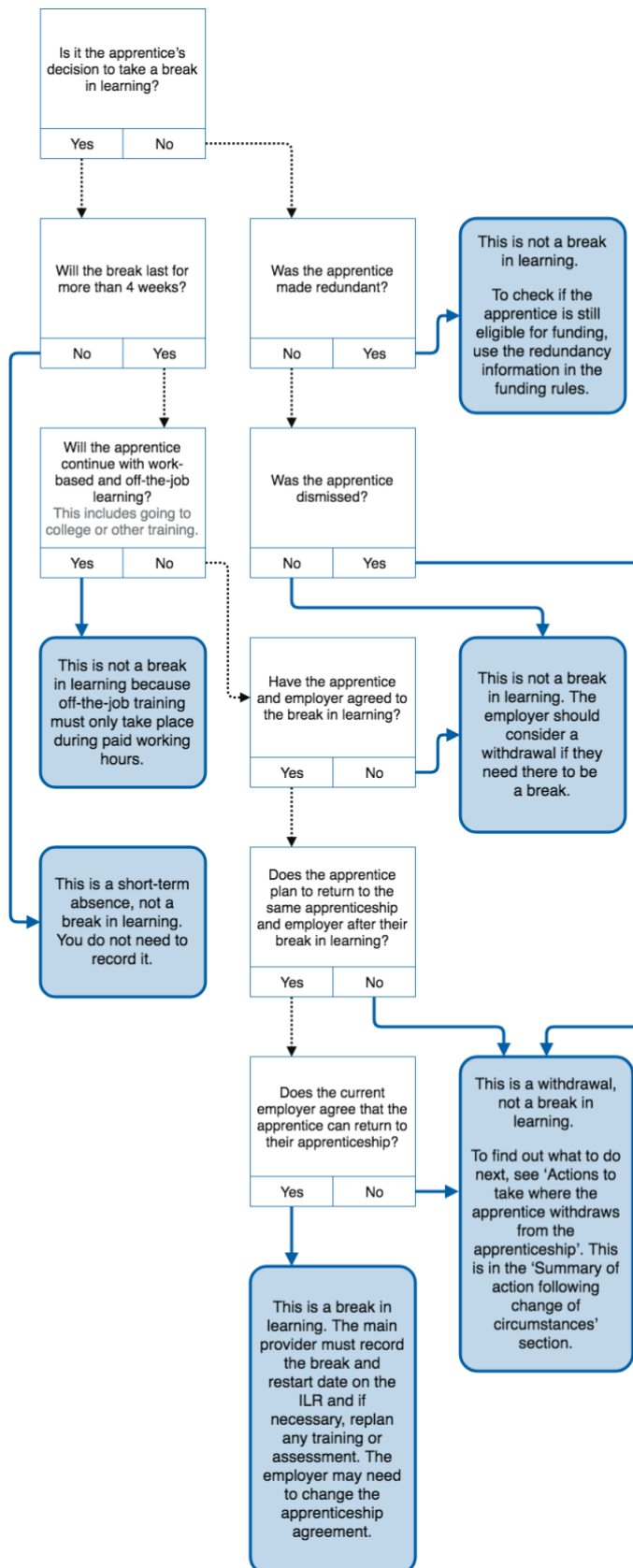
## CLARIFICATION VERSION OF 2019 TO 2020 RULES

- EP255** Where a change of circumstance means that training and/or assessment is no longer being delivered, no further funds from an your apprenticeship service account, government-employer co-investment or additional payments will be made.
- EP256** In these circumstances you must calculate the cost of the training and, where applicable, the end-point assessment delivered to date.
- EP257** If an apprentice leaves without completing their apprenticeship, the last date of learning, including the apprenticeship programme learning aim, is the date you have evidence the apprentice was still in learning for any learning that is part of their apprenticeship.
- EP258** When a change of circumstance results in over-payment of funds from your apprenticeship service account or government-employer co-investment, any over-payment must be repaid by you.
- EP259** Apprentices who started their programme before 1 May 2017 must not be withdrawn and re-started onto the same apprenticeship, or another apprenticeship at the same level in a similar subject after 1 May 2017 solely to enable them to be funded by the new funding system. If the apprentice was on a break in learning, they can enrol on a new apprenticeship in the new funding system if it is in their best interests. We will monitor any breaks in learning during this period to identify any abuse of this exception.
- EP260** If any change of circumstances is not included above, you should seek advice from us about what action you should take. Please email our Business Operations Service Desk at [SDE.servicedesk@education.gov.uk](mailto:SDE.servicedesk@education.gov.uk).



# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Flow chart: what to do if there is a break in learning, withdrawal or redundancy



# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Summary of action following a change of circumstances

**Actions to take when there is a change in price where the employer-provider revises the training or assessment cost, or assessment cost is added after the start of the programme**

**EP261** The employer-provider must:

- EP261.1** evidence the new actual cost;
- EP261.2** confirm the new cost on the apprenticeship service. If funded by a transfer, both the sending and receiving employers will need to agree the new apprenticeship in the apprenticeship service;
- EP261.3** revise agreements and/or the commitment statement as required; and
- EP261.4** update the price on the ILR.

### Effect on funding

After applying the funding band limit, we will hold 20% of the new total price back as the completion payment and deduct any funding already received. The remainder will be spread equally over the remaining planned duration. Additional payments are unaffected.

**Actions to take where there is a break in learning where the apprentice requires a break in their apprenticeship due to illness, maternity, or other personal reasons**

**EP262** The employer-provider must:

- EP262.1** stop payments through their apprenticeship service account;
- EP262.2** reactivate the apprenticeship in their apprenticeship service account when the apprentice returns to learning;
- EP262.3** extend the practical period of the apprenticeship agreement as required;
- EP262.4** record the break and restart dates in the ILR; and
- EP262.5** calculate a revised price with the employer when the apprentice resumes learning and this must be entered on the ILR. If a different price had been entered previously on the apprenticeship service account, the revised price must also be entered here, on or before the new start date.

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

### Effect on funding

Funding from an employer's apprenticeship service account or government-employer co-investment stops until the apprentice resumes their apprenticeship. Funding is capped across both periods of learning so that the overall earnings do not exceed the funding band maximum. Funding will recommence based on the new start date in the ILR. All additional payments stop until apprentice resumes their apprenticeship. Any additional payments already made are retained.

**Actions to take where the apprentice withdraws from the apprenticeship, where the apprentice is no longer employed by the employer-provider and has withdrawn from their programme (not redundancy) OR the apprentice chooses to withdraw prior to completion but remains with the same employer**

**EP263** The employer-provider must:

**EP263.1** stop payments through their apprenticeship service account. This includes where the apprenticeship is funded by a transfer; and

**EP263.2** record the end date of the apprenticeship on the ILR.

### Effect on funding

Funding from an employer-provider's apprenticeship service account or government-employer co-investment stops. The employer co-investment should be reconciled to the date of withdrawal and a balancing payment may be made by us. All additional payments stop until the apprentice resumes their apprenticeship. Any additional payments already made are retained.

**Action to take where the apprentice starts a new role with the same employer-provider and requires a different apprenticeship programme**

**EP264** The employer-provider must:

**EP264.1** calculate a new price for training and assessment for the new apprenticeship, taking into account relevant learning from the first apprenticeship; and

**EP264.2** enter the details of the new programme, price and effective date on the apprenticeship service. If funded by a transfer, both the sending and receiving employers will need to agree the new apprenticeship in the apprenticeship service.

### Effect on funding

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

Funding from an employer's apprenticeship service account or government co-investment for the first programme stops. Any employer co-investment for the first programme should be reconciled to the date of transfer and a balancing payment may be made by us.

Funding from an employer's apprenticeship service account or government co-investment for the second programme is made for the new programme. Each programme price is capped separately. Additional payments are received once for each apprenticeship.

The co-investment rate for the new apprenticeship will be at the rate in force at the time it starts.

### **Action to take where the apprentice is made redundant with more than 6 months of apprenticeship remaining**

**EP265** The employer-provider must:

- EP265.1** stop payments from their apprenticeship service account, including where the apprenticeship is funded by a transfer; and
- EP265.2** retain evidence of when the apprentice was made redundant, and report the change in employment status to us.

### **Effect on funding**

Funding from the first employer's apprenticeship service account stops. Any employer co-investment due from the first employer should be reconciled to the date of redundancy and any differences in employer co-investment received to those due should be repaid to the employer or main provider.

The apprentice is funded through 100% government co-investment for up to 12 weeks. Employer additional payments stop. Main provider additional payments remain unchanged.

### **Action to take where apprentice is made redundant with less than 6 months of apprenticeship remaining**

**EP266** The employer-provider must:

- EP266.1** stop payments from their apprenticeship service account, including where the apprenticeship is funded by a transfer; and
- EP266.2** retain evidence of when the apprentice was made redundant, and report the change in employment status to us.

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

### **Effect on funding**

Funding from the first employer's apprenticeship service account stops. Any employer co-investment due from the first employer should be reconciled to the date of redundancy and any differences in employer co-investment received to those due should be repaid to the employer or main provider.

The apprentice is funded through 100% government co-investment for up to 12 weeks. Employer additional payments stop. Main provider additional payments remain unchanged.

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Evidence requirements

### Evidence pack

- EP267** You must hold evidence to assure us that you are using the funding appropriately. Most evidence will occur naturally from your normal business process.
- EP268** The evidence pack must contain evidence to support the funding claimed and must be available to us if we need it.
- EP269** Evidence in the evidence pack must assure us that the apprentice exists.
- EP270** The apprentice and/or you must confirm the information they provide is correct when it is collected. You must have evidence of this, which can include electronic formats.
- EP271** Where information is held centrally, you only need to refer to the source.

### Programme eligibility (including off-the-job training, apprenticeship agreement, commitment statement, apprenticeship duration and employment hours)

**EP272** The evidence pack must include the following:

- EP272.1** A copy of the apprenticeship agreement, between you and the apprentice, that meets the criteria set out in paragraphs EP38 to EP41. For example it must include the duration of the apprenticeship and, for standards, the duration of the practical period.
- EP272.2** Written confirmation from you that the apprentice will be allowed to complete the apprenticeship within their working hours, including any English and maths required.
- EP272.3** A copy of the current commitment statement signed and dated by you and the apprentice. You must also keep previous versions. The commitment statement must meet the criteria set out in paragraph EP44, for example it must include details of how the 20% off-the-job training, excluding English and maths, has been quantified and how it will be delivered. By details we mean a plan of delivery.
- EP272.4** Confirmation that delivery has taken place against the commitment statement and that records are available.

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Learner eligibility (including relevant prior learning and residency)

**EP273** The evidence pack must include the following:

**EP273.1** Confirmation that the apprentice is aged over 15 and has legally left school.

**EP273.2** Confirmation from the apprentice that they are not enrolled on another apprenticeship or DfE funded HE / FE programme at the same time.

**EP273.3** Confirmation that you have seen the learner's immigration permission (where necessary) and are satisfied the learner is eligible for funding; where a learner's permission to stay has expired you must hold evidence that an application to remain has been made.

**EP273.4** Your assessment and evidence of eligibility for funding and a record of what evidence the apprentice has provided, including that the apprenticeship leads to substantive new skills and that the learning is materially different where the apprenticeship is at the same level as, or lower level than, prior qualifications. This assessment must include an analysis of the apprentice's existing knowledge, skills and behaviours versus those required to complete the apprenticeship. This also includes evidence of prior attainment for English and maths. This evidence could include the following:

**EP273.4.1** information from the apprentice's personal learning record, where this information is unavailable or an apprentice is unable to provide evidence of prior attainment please refer to [GOV.UK](https://www.gov.uk);

**EP273.4.2** evidence of proof of equivalency from [UK Naric](https://www.uknaric.co.uk) where an individual has an international qualification;

**EP273.4.3** details of previous qualifications, including modules / units undertaken compared to the content of the apprenticeship, demonstrating how they are materially different where appropriate;

**EP273.4.4** skills gap analysis, demonstrating the new skills needed by the individual and how the apprenticeship will address these; or

**EP273.4.5** details of any relevant experience and achievements, both inside and outside their current working role.

**EP273.5** Evidence that the apprentice will spend at least 50% of their working hours in England over the duration of the apprenticeship including time spent on off-the-job training. Where the business footprint is larger than England this could include a roster for a

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

typical month for the apprentice along with written confirmation from the employer.

## Support for English and maths

**EP274** Where applicable, the evidence pack must include the following:

- EP274.1** Details of how English and maths will be delivered, including a plan of delivery and evidence of delivery taking place against that plan.
- EP274.2** All initial assessments for English and maths, including evidence of prior attainment.
- EP274.3** Additional information where the apprentice is assessed as exempt from the normal English and maths requirements. In these circumstances you must also include:
  - EP274.3.1** a copy of the authorisation by an appropriate professional, for example the head of special education needs (SEN) or student support;
  - EP274.3.2** evidence of how the apprentice's learning difficulty or disability affects their English and/or maths abilities;
  - EP274.3.3** the apprentice's recommended learning plan to achieve entry level 3 in English and/or maths (as appropriate); and
  - EP274.3.4** the apprentice's education, health and care (EHC) plan, statement of special educational need (SEN), or learning difficulty assessment (LDA).

## Apprentices accessing learning support

**EP275** Where applicable, the evidence pack must include the following:

- EP275.1** Details of any support needs identified, including an assessment of learning needs, how you will meet these needs (including how you will review progress and continuing or changing needs), and a record of all outcomes.
- EP275.2** Additional information where exceptional learning support (ELS) is claimed for an apprentice. In these circumstances, you must also include the application and supporting evidence for the claim.

## Additional payments (including the care-leaver bursary)



## CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP276** Where applicable, the evidence pack must include the following:

- EP276.1** Confirmation of eligibility for any additional payments, including an email or letter confirmation from a personal advisor or local authority confirming the individual's care leaver status or evidence of an education, health and care (EHC) plan where the apprentice is aged between 19 and 24 years old.
- EP276.2** For the care leavers bursary, a signed declaration by the apprentice to confirm that they:
  - EP276.2.1** understand that they are eligible for and would like to receive a bursary as a care leaver;
  - EP276.2.2** understand that if they have been found to have accepted the payment incorrectly or when they are ineligible then government will require it to be repaid; and
  - EP276.2.3** have not been paid a care leavers bursary before.
- EP276.3** Evidence of payment to the apprentice where they receive the care-leaver bursary and forwarded within 30 days. This must be a confirmation from the apprentice and not only a receipt of transaction.
- EP276.4** Evidence and copies of receipts for any additional payments you claim.

### Paying for an apprenticeship

**EP277** The evidence pack must include the following:

- EP277.1** Confirmation that you have accounted for prior learning, and that where it affects the learning or the funding of any of the apprenticeship that you have adjusted the content, duration and price accordingly.
- EP277.2** The supporting evidence about why you have claimed funding and the level of funding for an apprentice, it should be clear only eligible costs have been included in the price.
- EP277.3** Copies of any state aid declarations and receipt of transferred levy funds where applicable.
- EP277.4** Evidence of the written agreement with and payments made to the end-point assessment organisation for conducting the end-point assessment where appropriate.
- EP277.5** Evidence of payments where you are paying for apprenticeship training above the funding band maximum.

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Subcontracting

**EP278** Where applicable, the evidence pack must include the following:

- EP278.1** details of any subcontractor, clearly identifying who they are. This must match the information reported to us in the ILR; and
- EP278.2** a legally binding contract with each subcontractor.

## Redundancy

**EP279** Where applicable, the evidence pack must include a copy of the apprentice's redundancy note.

## Completion

**EP280** The evidence pack must include the following:

- EP280.1** All records and evidence of completion. This must be available within three months of you reporting it in the ILR.
  - EP280.1.1** For standards, evidence of completion would include written confirmation from the EPAO to you about the outcome of the end-point assessment, evidence that the minimum duration requirement has been met, and, where applicable, evidence that the employer's co-investment has been collected and recorded.
  - EP280.1.2** For frameworks, evidence of completion would include evidence that the apprentice has undertaken all mandatory elements of the framework, evidence that the minimum duration requirement has been met, and, where applicable, evidence that the employer's co-investment has been collected and recorded.

## Confirmation and signatures

**EP281** Where evidence is electronic, you must have wider systems and processes in place to assure you that apprentices exist and are eligible for funds.

**EP282** You must keep effective and reliable evidence. You are responsible for making the evidence you hold easily available to us when we need it.

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Individualised learner record (ILR)

- EP283** The evidence pack must include all information reported to us in the ILR and the earnings adjustment statement (EAS), and if it applies, the supporting evidence for the data you report.
- EP284** You must accurately complete all ILR fields for an apprentice as required in the ILR specification, even if they are not used for funding. Where your data does not support the funding you have claimed, we will take action to get this corrected and could recover funds.
- EP285** The ILR must accurately reflect what has happened. You must not report inaccurate information even where you perceive that this would result in a more equitable claim for funding or accurate record of performance.

## Self-declarations

- EP286** Where a self-declaration is needed, this must state the apprentice or employer's details and describe what is being confirmed.
- EP287** If an apprentice self-declares prior attainment, you must check this in the personal learning record and query any contradictory information with the apprentice. The PLR will not necessarily override the apprentice's self-declaration. In the event of a missing or incorrect qualification you should refer to the learner registration bodies [\(LRB\) user guide](#).

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Annex A: Eligibility criteria (who we fund)

### Updates since 15 March 2019:

- **EP294** – Clarification: Clarification: We'll publish the full details of any changes to eligibility criteria after the EU Exit in due course.
- **EP297.3** – Change: Added the new residency type “Calais limited leave to enter or remain”.

**EP288** To use funds in the employer’s apprenticeship service account or government-employer co-investment, the individual must have a valid and eligible residency status.

### Residency eligibility

**EP289** Any individual, or relevant family member, who has applied for an extension or variation of their current immigration permission in the UK is still treated as if they have that leave. Keeping this permission applies as long as the application was made before their current permission expired. Their leave continues until the Home Office make a decision on their immigration application.

**EP290** An individual, or relevant family member, is considered to still have the immigration permission that they held when they made their application for an extension. Their eligibility would be based upon this status.

### Right of Abode in the UK

**EP291** The right of abode is a status under United Kingdom immigration law that gives an unrestricted right to live in the United Kingdom. It was introduced by the Immigration Act 1971. Individuals with the right of abode are eligible for funding if they have been ordinarily resident in the UK for at least the previous three years before the start of the apprenticeship and have the right to work in the UK.

### EEA citizens

**EP292** An EEA citizen is eligible for funding if they:

**EP292.1** are a citizen of a country within the European Economic Area (EEA) (including other countries determined to be within the EEA or those with bilateral agreements); and

**EP292.2** have been ordinarily resident in the EEA (including other countries determined to be within the EEA or those with bilateral agreements) for at least the previous three years on the first day of the apprenticeship.

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP293** The European Economic Area (EEA) includes all the countries and territories listed below (from paragraph EP318).

**EP294** Nationals of any EU (or EEA) countries who have been ordinarily resident in the EEA (including other countries determined to be within the EEA or those with bilateral agreements) for at least the previous three years before the first day of the apprenticeship must be treated equally to UK residents while the UK remains part of the EU. That will remain the case for the full funding year 1 August 2019 to 31 July 2020. Full details of any changes to eligibility criteria after the UK has left the EU will be published in due course.

**EP295** The eligibility of individuals who do not meet the requirements in paragraph EP292 is stated below.

### Non-EEA citizens

**EP296** A non-EEA citizen is eligible for funding if they have permission from the UK government to live in the UK (not for educational purposes), and have been ordinarily resident in the UK for at least the previous three years before the start of the apprenticeship.

### Individuals with certain types of immigration status and their family members

**EP297** Any individual with any of the statuses listed below, is eligible to receive funding and is exempt from the three-year residency requirement rule. You must have seen the individual's immigration permission in these circumstances:

**EP297.1** refugee status;

**EP297.2** discretionary leave to enter or remain;

**EP297.3** exceptional leave to enter or remain (including Calais leave);

**EP297.4** indefinite leave to enter or remain;

**EP297.5** humanitarian protection;

**EP297.6** leave outside the rules;

**EP297.7** section 67 of the Immigration Act 2016; or

**EP297.8** the husband, wife, civil partner and child of any of the above in this paragraph (that is paragraphs EP297.1 to EP297.7).

**EP298** The individual's immigration permission in the UK may have a 'No recourse to public funds' condition. This does not include education or education funding, so this does not affect an individual's eligibility, which must be decided under the normal eligibility conditions.

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Asylum seekers

**EP299** Asylum seekers are eligible to receive funding if they:

- EP299.1** have lived in the UK for six months or longer while their claim is being considered by the Home Office, and no decision on their claim has been made; or
- EP299.2** are in the care of the local authority and are receiving local authority support under section 23C or section 23CA of the Children Act 1989 or section 21 of the National Assistance Act 1948.

**EP300** An individual who has been refused asylum will be eligible if they:

- EP300.1** have appealed against a decision made by the UK government against granting refugee status and no decision has been made within six months of lodging the appeal;
- EP300.2** are granted support for themselves under section 4 of the Immigration and Asylum Act 1999; or
- EP300.3** they are in the care of a local authority and are receiving local authority support for themselves under section 23C or section 23CA of the Children Act 1989.

## Family members of EU and EEA nationals

**EP301** In the explanations below, the 'principal' is the European Union (EU) or EEA national. The 'family' or 'family member' is the apprentice, and must be the husband, wife, civil partner, child, grandchild, dependent parent or grandparent of the 'principal'.

**EP302** If the individual, who is a family member of an EEA national, has been ordinarily resident in the EEA for the three years prior to the start of their course, they are eligible for funding.

**EP303** This table shows the eligibility for family members if:

- EP303.1** the family member is now ordinarily resident in England, but has not been ordinarily resident in the EEA for at least the previous three years before the start of learning; and
- EP303.2** the principal has been resident within the EEA for the last three years.

	Principal ordinarily resident in the EEA for three years
--	--

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

		EU (including UK) citizen	Non-EU EEA citizen	Non-EEA citizen
Family member not ordinarily resident in the EEA for three years	EU (including UK) citizen	Eligible	Eligible	Not eligible
	Non-EU EEA citizen	Eligible	Not eligible	Not eligible
	Non-EEA citizen	Eligible	Not eligible	Not eligible

### Children of Turkish workers

**EP304** A child of a Turkish worker is eligible if;

**EP304.1** the Turkish worker is ordinarily resident in the UK;

**EP304.2** the Turkish worker is, or has been, lawfully employed in the UK; and

**EP304.3** the child has been ordinarily resident in the EEA and/or Turkey for the full three-year period before the start of their programme.

### Persons granted stateless leave

**EP305** A person granted stateless leave is a person who has:

**EP305.1** extant leave to remain as a stateless person under the immigration rules (within the meaning given in section 33(1) of the Immigration Act 1971); and

**EP305.2** been ordinarily resident in the UK and Islands throughout the period since the person was granted such leave. The UK and Islands are; England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man.

**EP306** A stateless person must:

**EP306.1** be ordinarily resident in the UK on the first day of the apprenticeship; and

**EP306.2** have been ordinarily resident in the UK and Islands throughout the three-year period preceding the first day of the apprenticeship.

**EP307** Certain family members are also eligible under this category:

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP307.1** the spouse or civil partner of a person granted stateless leave (and who was the spouse or civil partner of that person on the leave application date), who is ordinarily resident in the UK on the first day of the apprenticeship, and who has been ordinarily resident in the UK and Islands throughout the three-year period preceding the first day of the apprenticeship; or

**EP307.2** the child of a stateless person or of the stateless person's spouse or civil partner (and who was the child of that stateless person or the child of the stateless person's spouse or civil partner on the leave application date), was under 18 on the leave application date, is ordinarily resident in the UK on the first day of the apprenticeship, and has been ordinarily resident in the UK and Islands throughout the three-year period preceding the first day of the apprenticeship.

**EP308** 'Leave application date' means the date on which a persons granted stateless leave made an application to remain in the UK as a stateless person under the immigration rules (within the meaning given in section 33(1) of the Immigration Act 1971).

### Those in the armed forces or outside of England

**EP309** As an exception, we will also allow the following individuals to be funded from an employer's apprenticeship service account or using government-employer co-investment:

**EP309.1** Armed forces and Royal Fleet Auxiliary personnel to undertake a statutory English apprenticeship wherever they are based in the United Kingdom.

**EP309.2** Members of other nations' armed forces stationed in England and their family members, where the family member has a right to work in the United Kingdom, if the armed forces' individual has been ordinarily resident in England for three years. We will not fund family members that stay outside of England.

**EP309.3** Apprentices whose occupation involves significant travel outside of the UK as part of their job (such as in travel or tourism) or work offshore (such as on an oil platform) and they have an identified registered work location in England. You must not claim for the additional expense of delivering learning outside of England.

### Further information for 16 to 18 year-olds

**EP310** 16- to 18-year-olds are eligible to be funded for an apprenticeship if any of the following clauses apply:



## CLARIFICATION VERSION OF 2019 TO 2020 RULES

- EP310.1** they are accompanying or joining parents who have the right of abode, leave to enter or leave to remain in the UK (or accompanying or joining parents who are EEA nationals);
- EP310.2** they are the children of diplomats;
- EP310.3** they are the children of teachers coming to the UK on a teacher exchange scheme;
- EP310.4** they are entering the UK (where not accompanied by their parents) and are British (or EEA) citizens;
- EP310.5** they have a passport that has been endorsed to either show they have the right of abode in the United Kingdom or to show that they have no restrictions on working in the UK;
- EP310.6** they are an asylum seeker;
- EP310.7** they are placed in the care of the local authority; or
- EP310.8** they meet the requirements for any other eligible category in this document.

**EP311** You can find further information on eligibility from the UK Council for International Student Affairs ([UKCISA](#)).

### Countries or areas where residency establishes eligibility for our funding

**EP312** Member states of the European Union. You can access a list of European Union (EU) member states on the [EU website](#).

**EP313** Other territories are categorised as being within the European Union for the purposes of the fees regulations; these are as follows:

- EP313.1** Cyprus: any Cypriot national living on any part of the island qualifies for EU residency and is considered an EU national;
- EP313.2** Finland: includes the Aland Islands;
- EP313.3** France: the French Overseas Department (DOMS) (Guadeloupe, Martinique, French Guiana (Guyana), Reunion and Saint-Pierre et Miquelon) as part of metropolitan France;
- EP313.4** Germany: includes the former German Democratic Republic and the tax-free port of Heligoland;
- EP313.5** Portugal: includes Madeira and the Azores but not Macau;
- EP313.6** Spain: includes the Balearic Islands, the Canary Islands, Ceuta and Melilla; and

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

**EP313.7** United Kingdom: includes Gibraltar.

**EP314** The Channel Islands and Isle of Man are part of the United Kingdom and Islands but not part of the EU. The Channel Islands and Isle of Man are not classed as part of England for apprenticeship funding purposes. The UK, Channel Islands and Isle of Man are collectively referred to as the UK and Islands.

**EP315** Andorra, Monaco, San Marino and the Vatican are not part of the EU.

**EP316** For funding eligibility purposes, EEA and eligible overseas dependent territories are defined as all member states of the EU and Iceland, Liechtenstein, Switzerland, Norway and all the eligible British Overseas Territories and EU overseas territories (listed in paragraph EP318 below).

**EP317** Although Switzerland is not part of the formally recognised EEA, its nationals are eligible under various international treaties signed by the UK and Swiss governments.

**EP318** Individuals who are nationals of certain British Overseas Territories and of certain European overseas territories are eligible for funding, ensuring they comply with the three-year rule on residence in the EEA. These are as follows:

- Anguilla
- Bermuda
- British Antarctic Territory
- British Indian Ocean Territory
- British Virgin Islands
- Cayman Islands
- Falkland Islands
- Henderson Island
- Montserrat
- Pitcairn, Ducie and Oeno Islands
- South Georgia and the South Sandwich Isles
- St Helena and its dependencies
- Turks and Caicos Islands
- Greenland and Faroe Isles
- Antilles (Bonaire, Curacao, Saba, St Eustatius and St Maarten)
- Aruba
- New Caledonia and its dependencies
- French Polynesia
- Saint Barthélemy
- The Territory of Wallis and Futuna Islands
- Mayotte
- French Southern and Antarctic Territories

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## Glossary

### Account

An employer's account or apprenticeship service account is part of the apprenticeship service that will allow employers to view the funds that they have available to direct us to pay for their chosen apprenticeship training and assessment in England.

### Apprentice

An apprentice is an individual who receives apprenticeship training and, where applicable, end-point assessment through an apprenticeship framework or standard funded by us.

### Apprenticeship

An apprenticeship is a job with an accompanying skills development programme. This includes the training and (where required) end-point assessment for an employee as part of a job with an accompanying skills development programme. The full definitions of (i) an English apprenticeship (frameworks) and (ii) an approved English apprenticeship (standards) can be found in Part 1 of the [Apprenticeships, Skills, Children and Learning Act 2009](#).

### Apprenticeship agreement

An [apprenticeship agreement](#) is between an employer and an apprentice, either in accordance with the Apprenticeships, Skills, Children and Learning Act 2009 sections 32 to 36 (for frameworks) or section A1 (for standards – an approved English apprenticeship agreement).

### (The) Apprenticeship service

The [digital interface](#) to services designed to support the uptake of apprenticeships. The service is aimed primarily at employers who engage with main providers and apprenticeship assessment organisations to deliver and facilitate the apprenticeship programme. It allows employers to choose, and pay for, the apprenticeship training that they want and will support the uptake of apprenticeships. The service contains information coming from a range of different sources, including main providers.

### Apprenticeship service account

The area on the apprenticeship service where employers can manage their funding and apprentices, view their account balance and plan their spending.

### Apprenticeship training agency (ATA)

An organisation whose main business is employing apprentices who are made available to employers for a fee.

### Apprenticeship levy

The apprenticeship levy will be a levy on UK employers to fund new apprenticeships. In England, control of apprenticeship funding will be put in the hands of employers through the apprenticeship service. The levy will be charged at a rate of 0.5% of an employer's pay bill. Each employer will receive an allowance of £15,000 to offset against their levy payment.

### Break in learning

This is a break in training where an individual is not continuing with their apprenticeship but has told the employer beforehand that they intend to resume their apprenticeship in the future.

### Commitment statement

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

A statement held by the main provider, the apprentice and their employer. The commitment statement sets out how the apprentice will be supported to successful achievement of the apprenticeship. It must be signed by the apprentice, their employer and the main provider, and all three parties must retain a current signed and dated version.

### **Contract for service**

A contract between a contractor and a client.

### **Contract of service**

A contract between an employee and employer.

### **Delivery subcontractor**

Delivery subcontractors are any organisation contracted through a main provider or employer-provider to deliver apprenticeship off-the-job training, English or maths or planned on-programme assessment. This excludes end-point assessment organisations; end-point assessment organisations are not delivery subcontractors. It also excludes subcontractors you use for different services, including help with marketing or data management, as well as those who deliver training to an apprentice that is in addition to the apprenticeship and not funded through this route.

### **Distance learning**

Learning delivered remotely (not face-to-face). This could include, but is not limited to, e-learning and webinars.

### **Earnings adjustment statement (EAS)**

The [earnings adjustment statement](#) is how main providers claim funding that cannot be claimed through the individualised learner record.

### **Employed**

An individual who has a contract of service. This does not include individuals who are self-employed.

### **Employer**

We use the term 'employer' to mean an organisation that has a contract of service and an apprenticeship agreement with an apprentice. This can include an apprenticeship training agency (ATA). This may also include a company or charity whose PAYE scheme the employer has connected to their apprenticeship service account in accordance with HMRC's definition of [connected companies and charities](#). All references to an 'employer' are in relation to the whole organisation and not individual sites or locations, groups, and companies linked by directors.

### **Employer-provider**

Any organisation who delivers some, or all, of the 'off-the-job' training element of an apprenticeship to their own staff and holds a contract with us through which we directly route funds from their apprenticeship service account or government-employer co-investment. The employer-provider will have overall responsibility for the training and on-programme assessment conducted by themselves, their delivery subcontractors and will have a contractual relationship for the end-point assessment conducted by an end-point assessment organisation. The payment for the end-point assessment is through the employer-provider.

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## **End-point assessment organisation**

End-point assessment organisation are organisations on the [Register of End-Point Assessment Organisations](#). End-point assessment organisations are selected by the employer. You and the end-point assessment organisation will need a form of contract in writing in order for them to be paid for delivering the end-point assessment as part of the agreed apprenticeship programme.

## **Evidence pack**

A collection of documents and information brought together to form a single point of reference relating to the learning that is taking place. This provides the evidence to prove that the apprentice exists and is eligible for funding, and for the learning to be provided.

## **Exceptional learning support (ELS)**

[Exceptional learning support](#) is when the needs of the apprentice are over £19,000 in a single year.

## **Final day**

The date entered onto the [ILR](#) when the apprentice is expected to complete the practical period of their apprenticeship. This is the end of the training period and does not include end-point assessment (for standards).

## **Framework**

The term framework (sometimes referred to as apprenticeship framework) covers the apprenticeship frameworks which are available for delivery. The legislation relating to frameworks (English apprenticeships) has been repealed but saved until frameworks have been phased out (Deregulation Act 2015 (Commencement No. 1 and Transitional Saving Provisions) Order 2015).

## **Functional skills**

Applied practical skills in English, maths and ICT that provide the individual with the essential knowledge, skills and understanding to enable them to operate effectively and independently in life and work.

## **Funding agreement**

Throughout this document the term ‘funding agreement’ is used to include:

- [the apprenticeship levy provider funding agreement](#);
- the contract for services between the employer and main provider;
- [the contract for services – apprenticeships](#) (between the ESFA and main providers delivering apprenticeships to non-levy-paying employers).

## **Gateway requirements**

These are requirements set out in the assessment plan that must be met by the apprentice prior to undertaking end-point assessment of the apprenticeship standard. They will include the completion of English and maths qualifications (where applicable) and completion of any on-programme mandatory qualifications (where applicable) along with satisfactory evidence (as determined by the employer, in consultation with the main provider) that the apprentice has achieved the necessary knowledge, skills and behaviours set out in the standard.

## **Government-employer co-investment**

Government-employer co-investment is funding that is not paid for from an employer's apprenticeship service account (because the employer does not pay the levy or has insufficient

## CLARIFICATION VERSION OF 2019 TO 2020 RULES

levy funds in their apprenticeship service account). Employers will need to make a mandatory co-investment with the government.

### **Higher and degree apprenticeships**

An apprenticeship where the main learning is at level 4 or above (including higher education qualifications).

### **(The) Hub**

[The hub](#) provides online services including the return of your ILR and completed EAS. You can also search all learning aims, components of qualifications, apprenticeship frameworks and standards along with their validity and funding details.

### **Immigration permission**

The permissions, or otherwise, granted by the government of the United Kingdom for an individual to reside here.

### **Individualised learner record (ILR)**

The primary data collection requested from training providers for further education and work-based learning in England. The data is used widely, most notably by the government, to monitor policy implementation and the performance of the sector. It is also used by organisations that allocate funding for further education.

### **Integrated standard**

An integrated standard is where the end-point assessment is incorporated into the main learning aim (usually a degree or other full higher education qualification). In these cases, there is no need for an additional independent assessment.

### **Learning**

The term learning in this document, when used, is interchangeable with training. See the definition of training [here](#).

### **Levy-paying employer**

An employer with an annual pay bill of over £3 million.

### **Licence to practise**

Where it is a legal (or statutory) requirement for all practitioners to obtain a licence which confirms the licence holder meets prescribed standards of competence, including situations in which it is unlawful to carry out a specified range of activities for pay without first having obtained a licence.

### **Main provider**

Any organisation holding a contract with us through which we directly route funds from an employer's apprenticeship service account or government-employer co-investment. The main provider will have the overall responsibility for the training and on-programme assessment conducted by themselves and their delivery subcontractors, and have a contractual relationship on behalf of the employer for the end-point assessment conducted by an end-point assessment organisation. The payment for the end-point assessment organisation is through the main provider.

### **Mentoring**

# CLARIFICATION VERSION OF 2019 TO 2020 RULES

To include in off-the-job training, mentoring must impart new learning to the apprentice directly linked to the achievement of the apprenticeship by a more senior or experienced member of staff. This does not include general line management. The apprentice must not be doing productive work.

## **Ordinarily resident**

For funding purposes, a person who normally lives in the country, is allowed to live there by law, and return there after temporary trips outside the country. Temporary absences from a country due to the learner or a relevant family member working or travelling abroad would be discounted when considering ordinary residency.

## **Personal learning record (PLR)**

The [personal learning record](#) (PLR) allows individual apprentices access to their past and current achievement records. These can be shared with schools, colleges, further education training providers, universities or employers when making an application to further their education, training and employment.

## **Practical period**

The period for which the employer and apprentice agree that the apprentice will work and receive training under their approved English apprenticeship agreement. It does not include end-point assessment (for standards).

## **Register of Apprenticeship Training Providers**

From May 2017, levied employers will be able to choose a main provider from a new register, the [Register of Apprenticeship Training Providers](#) (RoATP). The register will encourage diversity and competition in the training provider market, supporting quality and employer choice. To be added to the register, organisations must pass tests on due diligence, financial health, and tests on quality, capacity and capability.

## **Register of End-Point Assessment Organisations**

A [Register of End-Point Assessment Organisations](#) from which an employer can select an organisation (to be contracted by a main provider) to deliver the end-point assessment as part of the employer's agreed apprenticeship programme.

## **Self-directed distance learning**

This is where the apprentice is working alone with on-line material. The material is not delivered in real time and there is no interactive support.

## **Standard**

We use the terms 'standard' and 'apprenticeship standard' to cover the apprenticeship standards which have been approved and published by the Institute for Apprenticeships. Apprentices can only be enrolled against an apprenticeship standard once it is identified as 'approved for delivery' on the [Institute for Apprenticeships](#) website. The Deregulation Act 2015, the Enterprise Act 2016 and the Technical and Further Education Act 2017 inserted the statutory provisions relating to standards (approved English apprenticeships), and the Institute for Apprenticeships and its functions, into ASCLA 2009.

## **Start of learning**

The date on which learning begins. We do not consider enrolment, induction, diagnostic assessment or prior assessment to be part of learning.



# CLARIFICATION VERSION OF 2019 TO 2020 RULES

## **Subcontractor**

A legal entity that has a contractual relationship with a main provider to deliver apprenticeship training funded by us.

## **This document**

This document refers to the [Apprenticeship Funding: Rules for Employer Providers](#) August 2019 to July 2020.

## **Training**

We use the term training to mean the delivery of training and on-programme assessment by a main provider or any organisation contracted to a main provider for this purpose.

## **Training provider**

Term training provider refers to any organisation on the Register of Apprenticeship Training Providers and appointed by an employer and/or holding a current funding agreement with us or contracted through a main provider for the delivery of training and on-programme assessment, as part of the employer's agreed apprenticeship programme. This includes companies, charities, bodies, colleges, universities, sole traders, and other types of legal entity, including those who are in the same group as, or are associated with, the main provider. This excludes individuals who are self-employed or supplied by an employment agency and who are working under the main provider's direction and control, in the same way as an employee.

## **Unique learner number**

A 10-digit number used to match a learner's achievement to their personal learning record (PLR).

## **Written agreement**

The main provider must have a written agreement in place with the assessment organisation and make payment to them for conducting the end-point assessment. The written agreement must set out the arrangements for end-point assessment including arrangements for any re-takes and the transaction of payments.

## **Zero-hour contracts**

Contracts which do not specify a set number of hours for the employee.



# **CLARIFICATION VERSION OF 2019 TO 2020 RULES**

© Crown copyright 2019

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence.

To view this licence,

visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or e-mail: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

## **CLARIFICATION VERSION OF 2019 TO 2020 RULES**

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This document is also available from our website [gov.uk/ESFA](https://gov.uk/ESFA).

If you have any enquiries regarding this publication or require an alternative format, please contact us [SDE.servicedesk@education.gov.uk](mailto:SDE.servicedesk@education.gov.uk).