

APPRENTICESHIP AGREEMENT

Notes and references

1. The apprenticeship agreement

The apprenticeship agreement is a statutory requirement for the employment of an apprentice in connection with a recognised apprenticeship framework or approved apprenticeship standard. It forms part of the individual employment arrangements between the apprentice and the employer; it is a contract of service (i.e., a contract of employment) and not a contract of apprenticeship. If all the requirements of section 1 of the Employment Rights Act 1996 are complied with, the apprenticeship agreement can also serve as the written statement of particulars of employment. You are not required to use this template, but the requirements of the legislation as described below must be met when you form your apprenticeship agreement.

2. Why an apprenticeship agreement is required

The Apprenticeships, Skills, Children and Learning Act 2009 (ASCLA) introduced the requirement for an apprenticeship agreement to be in place when engaging an apprentice under a statutory apprenticeship. The requirements for an apprenticeship agreement in relation to a framework apprenticeship can be found in section 32 of ASCLA (as repealed and saved) and the Apprenticeships (Form of Apprenticeship Agreement) Regulations 2012. In relation to standards the requirements can be found in section A1 of ASCLA (as amended by the Enterprise Act 2016) and the Apprenticeships (Miscellaneous Provisions) Regulations 2017.

3. When the apprenticeship agreement must be in place

An apprenticeship agreement must be in place when an individual starts a statutory apprenticeship programme and should remain in place throughout the apprenticeship. The end date, for standards, is when the end-point assessment has been completed. The end date, for frameworks, is when the final relevant qualification has been completed.

4. The ‘practical period’

The practical period is the period for which an apprentice is expected to work and receive training under an approved English apprenticeship agreement. The practical period does not include the end-point assessment. For the purpose of meeting the Education and Skills Funding Agency funding requirements, the start date of the practical period must be the same as the start date on the commitment statement, the Individual Learner Record and the Apprenticeship Service account, if applicable.

5. In certain circumstances, an apprenticeship can be completed without an apprenticeship agreement being in place

To commence a statutory apprenticeship (when an individual starts their apprenticeship programme) it is a legal requirement that an apprenticeship agreement be in place. The two circumstances in which an apprentice can complete a statutory apprenticeship without an apprenticeship agreement are where (i) they are holding office as an apprentice police constable, or as an apprentice minister of a religious organisation; or (ii) where they have been made redundant with less than six months of their apprenticeship's practical period left to run.

6. Who needs to sign the apprenticeship agreement?

The employer and the apprentice need to sign the agreement – it is an agreement between these two parties only. Training providers sign a separate commitment statement which outlines the planned content and schedule for training, what is expected of and offered by the employer, provider and the apprentice, and how to resolve queries or complaints.

7. What you need to do with the signed agreement

You (the employer) must keep the agreement for the duration of the apprenticeship and give a copy to the apprentice and the training provider.

8. Information needed in an apprenticeship agreement

The apprenticeship agreement must comply with the requirements as provided in ASCLA.

For frameworks, it must:

- be a written statement of particulars given to the employee in compliance with section 1 of the Employment Rights Act;
- be governed by the law of England and Wales; and
- specify that it is entered into in connection with a qualifying apprenticeship framework.

For standards, it must:

- provide for the apprentice to work for the employer for reward in an occupation for which a standard has been published by the Institute for Apprenticeships;
- provide for the apprentice to receive training in order to assist the apprentice to achieve the standard in the work done under the agreement;
- specify the apprenticeship's practical period; and
- specify the amount of off-the-job training the apprentice is to receive.

9. Specifying the amount of off-the-job training

This is a requirement of the Apprenticeships (Miscellaneous Provisions) Regulations 2017. Off-the-job training is a critical requirement of apprenticeships and, in order to meet the Education and Skills Funding Agency's funding rules, this must be at least 20% of the apprentice's paid hours over the total duration of the apprenticeship (until gateway for standards). Off-the-job training can only be received by an apprentice during their normal working hours. Maths and English, up to and including level 2, does not count towards the minimum 20% off-the-job training requirement. The amount of off-the-job training should be agreed with the main provider. The provider must account for relevant prior learning the apprentice has received, and reduce the content and duration of off-the-job training as necessary to achieve occupational competence. All apprenticeships must be of minimum duration of 12 months and include at least 20% off-the-job training.

10. Off-the-job training definition

Off-the-job training is defined as training which is received by the apprentice, during the apprentice's normal working hours, for the purpose of achieving the standard or framework connected to the apprenticeship. It is not training received by the apprentice for the sole purpose of enabling the apprentice to perform the work to which the apprenticeship agreement relates. More information, including examples of off-the-job training, can be found on gov.uk¹.

11. The apprenticeship agreement does not mean a change to existing contracts or terms and conditions

Any apprenticeship entered into before 15 January 2018 (the date the Apprenticeships (Miscellaneous Provisions) Regulations 2017 came into force) will not be affected by the additional requirements that must be set out in an apprenticeship agreement. Any apprenticeship entered into after 15 January 2018 in connection with an apprenticeship standard must satisfy the requirements of the 2017 Regulations.

¹ <https://www.gov.uk/government/publications/apprenticeships-off-the-job-training>