



## **DRAFTING NOTE FOR STATUTORY APPRENTICESHIP AGREEMENTS IN ENGLAND**

### **Terminology**

Throughout this Drafting Note **“Governing Body”** or **“Governing Bodies”** will be used to denote the entity or entities within the school or academy trust company that exercise the functions of the employer under the appropriate constitutional arrangements.

The term **‘Catholic school(s)’** or **‘school(s)’** will mean all Catholic schools and colleges, including schools in the trusteeship of a religious order. This includes maintained schools, academies in England, independent schools, sixth form colleges and non-maintained special schools.

### **Introduction**

The Governing Bodies of schools, as employers, can play an important role in reducing the number of people at risk of unemployment through providing opportunities for young people (especially school leavers) or those returning to work; or for more senior leadership roles.

The Government has introduced a new Apprenticeship Levy which came into force on 6th April 2017. Briefly, the stated purpose of the Levy is to fund apprenticeships to significantly increase the quality and quantity of apprenticeships in England and achieve 3 million new starter apprentices by 2020. Please see Appendix 3 for further details on the Apprenticeship Levy.

The Government believes that *“the apprenticeship levy will boost [the] economic productivity [of this country], while increasing [it’s] skills base and giving millions a step on the ladder of opportunity. We want to encourage Local authorities and schools to work together, using the levy to meet skills gaps and plan future workforce needs”*.

## **Purpose of this drafting note**

The purpose of this drafting note is to raise awareness of the current law and regulatory structure of apprenticeship agreements in England; to advise on how to incorporate standard contractual clauses that may be needed in a model CES employment contract for a valid statutory apprenticeship agreement and finally to set out the financial benefits of using statutory apprentice agreements (through the Apprenticeship Levy).

Therefore this is an opportunity specifically for Catholic schools and academies to enable individuals to become apprentices so that they can develop and demonstrate the knowledge, skills and behaviours they need to perform effectively in a particular occupation and to ensure that they can learn to carry out this role whilst preserving and developing the Catholic character of the school or academy.

## **Sections in this drafting note:**

This drafting note consists of the following sections:

- Apprenticeship Agreements in England
- Using CES model contracts of employment
- New starters: wording to add to the contract
- Existing employees: wording to add to the contract
- Certificate of Completion of Apprenticeship

## **Appendices to the drafting note:**

- Appendix 1: Apprenticeship Agreements under a framework (existing structure)
- Appendix 2: Apprenticeship Agreements under approved standards (future structure)
- Appendix 3: An explanation of the Apprenticeship Levy

# APPRENTICESHIP AGREEMENTS IN ENGLAND

## What are apprenticeships?

Apprenticeships are jobs with work-based training programmes designed around the needs of employers, which lead to nationally recognised qualifications, as well as key skills and, in most cases, a relevant knowledge-based qualification. Apprentices work alongside experienced staff; gain job-specific skills; earn a wage and get holiday pay and time off for study related to their role (usually one day a week).

## Educational levels and lengths of apprenticeships

An apprenticeship itself usually takes between 1 to 5 years to complete depending on the level being acquired. Some apprenticeships also require an assessment at the end of the programme to assess the apprentice's ability and competence in their job role. They have the following equivalent educational levels:

Name	Level	Equivalent educational level
Intermediate	2	GCSE
Advanced	3	A level
Higher	4,5,6 and 7	Foundation degree and above
Degree	6 and 7	Bachelor's or master's degree

Some apprenticeships may also provide an additional qualification, such as a diploma.

## What is expected of an apprentice?

As a result of the Apprenticeship Levy (please see Appendix 3), schools and academies can benefit from a fund which can be used to pay for all training (subject to funding band caps) and assessment costs. However the funds cannot be used for wages, travel and subsistence (whether connected to the training or not), managerial costs, traineeships or set up costs. In order to be eligible for funding through the Apprenticeship Levy the apprentice/employee must:

- be employed in a real job in full time employment either as an existing employee or a new hire (set at a minimum of 30 hours per week).
- work towards achieving an approved apprenticeship "framework" or "standard";
- be trained for a period of at least 12 months; and
- have completed 20% structured off-the-job training, before the end-point assessment, to develop competence in an occupation [Off-the- job training is learning which is undertaken outside the normal day-to-day working environment and contributes towards the achievement of the apprenticeship. It must not be delivered as part of their normal working duties and must be directly relevant to the apprenticeship].

An example given in “Apprenticeship off-the-job training: policy background and examples”<sup>1</sup> published on 26<sup>th</sup> June 2017 by the Department for Education suggests that an experienced employee who has recently been promoted to a managerial position could undertake an apprenticeship in management to assist them with their new role. The 20% of time to be spent on off-the job training could be their attendance at external training courses with a chosen training provider.

### **Who can apply?**

Potential apprentices for statutory apprenticeship agreements in England must be:

- 16 or over by the end of the summer holidays;
- living in England; and
- not in full-time education

### **Where would an apprentice fit?**

There are a range of apprenticeships that can be offered within your school to train both new and existing employees. Generally apprentices could train in support roles such as IT, catering or administration. Some examples could include:

- Teaching Assistants
- Classroom Assistants
- Learning Support Assistants
- Behaviour Support Assistant/Coordinators
- Pastoral/Welfare Support Assistants
- Bilingual Support Assistants
- ICT or science technicians
- premises staff and to support grounds maintenance staff

It could also extend to those who may be considering increasing their skillset in order to train for more senior and/or managerial roles within the education sector (for example for leadership formation and/or managerial roles).

It is also possible to undertake an apprenticeship at a lower level than existing qualifications provided that it satisfies the other requirements. For example, in the management scenario given above, the individual may already be trained to masters (or higher) level but this would not prevent them from undertaking an apprenticeship to gain a qualification at a lower level in a different subject area, provided it was relevant to their role. For example a Headteacher could seek to gain a diploma in Accounting through an apprenticeship in order to increase their managerial and leadership skills together with their financial acumen.

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

## Two types of statutory apprenticeship agreements

This note does not set out the requirements for “contracts of apprenticeships” which place much heavier burdens and obligations (financial and otherwise) upon employers and are generally avoided by most employers.

This note will only explain the requirements of the following two versions of statutory apprenticeship agreements for use by employers for apprentices in England. They are designed to ensure that apprentices are treated the same as other employees and they must be in writing:

- **Apprenticeship Agreements under a Framework - See Appendix 1 to this Drafting Note**

These are statutory apprenticeship agreements pursuant to the Apprenticeships, Skills, Children & Learning Act 2009 (the ASCL Act) under a qualifying apprenticeship framework. For the purposes of this note we refer to this type of apprenticeship as the “frameworks” structure.

- **Apprenticeship Agreements under approved Standards – See Appendix 2 to this Drafting Note**

These are statutory approved English apprenticeship agreements pursuant to the Deregulation Act 2015 under an approved Apprenticeship Standard designed by employers. For the purposes of this note we refer to this type of apprenticeship as the “standards” structure

Currently roles within the education sector are governed by the frameworks structure. The government intends that this frameworks structure will soon be replaced by the standards structure. Existing apprenticeship arrangements under the frameworks structure will carry on for as long as required.

The timeline for the move to standards within the education sector is not yet confirmed.<sup>2</sup> The Government will continue to give advance warning of framework withdrawals on their website and through their established communications channels.

## Register of apprenticeships

The training provider for an apprentice under a statutory apprenticeship agreement must be on the Register of Apprenticeship Training Providers. You can find out more about the register at the following link:

<https://www.gov.uk/government/collections/register-of-apprenticeship-training-providers>

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<sup>2</sup> <https://www.gov.uk/government/publications/removal-of-apprenticeship-frameworks>

## USING CES MODEL CONTRACTS OF EMPLOYMENT

An apprenticeship agreement is intended to have the same status as ordinary contracts of employment.

A CES model contract of employment can therefore be adapted to create a statutory approved English apprenticeship agreement for any level of apprenticeship (see page 3 of this Drafting Note).

Any additional provisions should be set out in Appendix 2 in the CES model contract (see page 8 of this Drafting Note onwards).

Please note that schools<sup>3</sup> are always advised to seek assistance from their human resources provider and/or to seek independent legal advice to ensure that the apprenticeship agreement is tailored appropriately for the particular role.

Please also note that this drafting note focuses exclusively on apprentice employees over the age of 18 where there is no need to appoint a guardian as a party to the contract of employment. Although the Government does provide further information on this issue.<sup>4</sup>

### TYPES OF CONTRACTS AVAILABLE

There are therefore 8 CES model contracts that can be adapted to suit the requirements of a statutory approved English apprenticeship agreements. You will need to determine which contract most closely fits the role of the apprentice and further details can be found on the CES website and particularly in the CES User Guide:

1. CES Model Leadership Contract Group 1
2. CES Model Leadership Contract Group 2
3. CES Model Teacher Contract
4. CES Model Lead Practitioner Contract
5. CES Model Support Staff Contract
6. CES Model Instructor/Unqualified Teacher Contract
7. CES Model Lay Chaplain Employed by a Governing Body Contract
8. CES Model Lay Chaplain Employed by a Diocese Contract

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<sup>3</sup> For a definition of schools please see page 1 of this drafting note

<sup>4</sup> For further information please see:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/634339/A\\_parents\\_guide\\_to\\_apprenticeships.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/634339/A_parents_guide_to_apprenticeships.pdf)

## **TYPES OF SCHOOLS/EMPLOYERS**

The above 8 model contracts of employment are available with small but important amendments for the following types of employers:

- Voluntary aided schools (available online)
- Voluntary academies (available online)
- Voluntary academies with flexible pay and conditions (please contact the diocese)
- Voluntary aided schools jointly run by the Catholic Church and Church of England (please contact the diocese)
- Voluntary academies jointly run by the Catholic Church and Church of England (please contact the diocese)
- Voluntary academies jointly run by the Catholic Church and Church of England with flexible pay and conditions ((please contact the diocese))

## **AMENDMENTS TO THE CES MODEL CONTRACT OF EMPLOYMENT**

For detailed information on how to complete the CES model contracts of employments please refer to the Notes to Users available on the CES website for schools and academies respectively.

### **MAIN BODY OF THE CONTRACT:**

In short, the model contracts in each category are set up in such a way that in the main body of the contract:

(i) **information highlighted in yellow** must be deleted where it does not apply in a particular case leaving just the information in the contract that is relevant to the particular school/college and/or employee

(ii) **Information highlighted in green** requires the user to input information to make the contract operational on a day to day basis in accordance with the individual school/college's needs.

### **APPENDIX 2 in the CES MODEL CONTRACT OF EMPLOYMENT:**

Additional contractual clauses should be added to Appendix 2 of the relevant CES model contract of employment for a valid statutory apprenticeship agreement. You will find these suggested clauses overleaf. They are designed to be general and not prescriptive clauses.

Wording for New Starters and for Existing Employees has been separated.

Certain wording has been highlighted in yellow and green in Appendix 2 for New Starters and Existing Employees overleaf (similar to the main body of the contract).

## NEW STARTERS

### WORDING IN MAIN BODY OF THE CES CONTRACT

Please select the following clauses from the CES model contract of employment:

**For all types of roles:**

3.1 Your Post is for a fixed-term which expires on [ENTER DATE HERE] because [ENTER REASON FOR TEMPORARY FIXED-TERM CONTRACT HERE] (You may wish to refer to Appendix 2 as the reason)

**For CES Support Staff contracts please select:**

16.1 In the case of a fixed-term contract Your employment will terminate automatically on the date specified in Clause 3.1 unless Your employment is terminated by the Governing Body by giving to You not less than the statutory minimum period of notice required by the Employment Acts.

**For all other contracts please select:**

15/16.1 In the case of a fixed-term contract Your employment will terminate automatically on the date specified in clause 3.1, unless Your employment is terminated by the Governing Body by giving to You not less than the minimum period of notice required by the Burgundy Book expiring at the end of a school term as defined by the Burgundy Book.

**For all types of roles**, should you need to provide further detail regarding hours of work required please set out the following:

8.4 ENTER ANY OTHER DETAIL/DESCRIPTION PARTICULAR TO THE "HOURS OF WORK". IF THERE ARE NO ADDITIONAL DETAILS, PLEASE DELETE THIS SUB-CLAUSE IN ITS ENTIRETY.

## NEW STARTERS

### WORDING IN APPENDIX 2 TO THE CES CONTRACT

*(in italics)*

*(clauses in red are optional)*

#### **PREAMBLE**

You are being offered an apprenticeship by the **[Governing Body/Academy Trust Company]** from **[DATE]** to **[DATE]**. The Apprenticeship is for the duration of this period or on successful completion of the Apprenticeship whichever is sooner.

This document sets out what is required from You as an apprentice in the occupation of **[provide details of the skill, trade or occupation for which the apprentice is training under the relevant apprenticeship framework or standard]** and will be known as the terms of Your Apprenticeship and is a **[statutory apprenticeship agreement/approved English apprenticeship agreement]**;

Whilst you will be able to and are welcome to apply for further employment with the **[Governing Body/Academy Trust Company]**, you do not have redeployment rights and there is no guarantee of regular employment on the successful completion of this Your Apprenticeship;

#### **ADDITIONAL CLAUSES**

##### **PROBATIONARY PERIOD**

1. The first **[length of probationary period in months]** of Your employment will be a probationary period, during which Your performance will be monitored. The probationary period may be extended by the **[Governing Body/Academy Trust Company]**. During the probationary period Your employment may be terminated by either party giving the statutory notice period of one week to the other in writing.

##### **DETAILS OF TRAINING UNDER YOUR APPRENTICESHIP**

2. Your Apprenticeship is a statutory apprenticeship agreement within the meaning of the Apprenticeships Skills, Children and Learning Act 2009 Section A1(3) and forms a part of your contract. It is not to be treated as a contract of apprenticeship.
3. Training and education will be provided in accordance with any assessment plan and standards produced by the Institute of Apprenticeship and Technical Education (or any equivalent regulatory body) as may be published from time to time.

4. Your training will be organised in conjunction with [INSERT NAME OF TRAINING PROVIDER] (“the training provider”). The Governing Body reserves the right to change the nominated training provider from time to time.
5. The [Governing Body/Academy Trust Company] will ensure that you receive in-house training and, where necessary, approved external training as determined by the [Governing Body/Academy Trust Company] to assist you to achieve the [insert name of the Apprenticeship Framework or Standard].
6. For the purposes of Your confirmed attendance at approved external training and in undertaking any required assessment, as determined by the [Governing Body/Academy Trust Company] from time to time, the [Governing Body/Academy Trust Company] will:
  - a. Permit you to take paid leave of absence from work;
  - b. Bear any enrolment, tuition and/or examination or assessment fees payable to the extent these are not funded by the Government;
  - c. Reimburse you for reasonable travel, accommodation, living and other expenses you incur as determined by the [Governing Body/Academy Trust Company].
7. In accordance with 6 you will continue to be paid during any period when you are absent from work in order to attend approved external training or undertake [study or revision or] the required assessment as determined by the [Governing Body/Academy Trust Company].
8. Except where the requirements of its business state otherwise, permit you to take [paid or unpaid] leave of absence from work for such period or periods as it may allow in order to study or revise for the required assessment as determined by the [Governing Body/Academy Trust Company].
9. You agree to permit the [Governing Body/Academy Trust Company] to enquire of any training provider or tutor as to your progress and attendance at the appropriate external training and as to the result of the required assessment.
10. [You are not required to repay any costs for training paid by the [Governing Body/Academy Trust Company] as a result of Your Apprenticeship unless early termination of Your Apprenticeship is due to Your actions.]

#### **DUTIES**

11. During your training You are expected to:

- a. Attend and complete training with **[INSERT NAME OF TRAINING PROVIDER]** at a venue determined by your employer from time to time] or [such training provider nominated from time to time]] as determined by the **[Governing Body/Academy Trust Company]**
- b. Upon request of the **[Governing Body/Academy Trust Company]** produce for inspection all such certificates, reports and records of attendance, course work and examination results as are issued in respect of your attendance at the training courses provided by the training provider
- c. Authorise the **[Governing Body/Academy Trust Company]** to apply to the proper authority for copies of all or any matters relating to your training and any other information reasonably required in respect of them.
- d. Consent to the exchange of information personal to you and your training with the training provider and the **[Governing Body/Academy Trust Company]** to ensure the continued monitoring of your performance during your Apprenticeship
- e. Apply Yourself diligently to the acquisition of the knowledge and skills taught at the training courses provided by the training provider.
- f. Follow the procedures set out by the training provider that are in accordance with this Agreement and all policies and procedures adopted by the **[Governing Body/Academy Trust Company]**
- g. Inform the **[Governing Body/Academy Trust Company]** of any change in personal circumstances.

#### **DISCIPLINARY PROCEDURES**

12. For the avoidance of doubt, all policies and procedures adopted by the **[Governing Body/Academy Trust Company]** will apply to you and additionally in the event that you:
  - a. Fail or repeatedly fail to achieve the necessary standard as defined by the training provider
  - b. Commit any breach or non-observance of any of the provisions of this contract
  - c. Become unable to complete Your Apprenticeship.

#### **SALARY**

13. The **[Governing Body/Academy Trust Company]** will pay your salary in respect of normal working hours for each day spent in attendance at the training provider and/or at all approved tests and examinations. If You absent yourself from the training provider during the required hours and/or any tests and examinations without authorisation the **[Governing Body/Academy Trust Company]** may withhold pay for the hours of non-attendance, and you consent in such circumstances that the **[Governing Body/Academy Trust Company]** may make such a deduction from your salary. This clause shall apply to Your attendance at all training providers notified to you from time to time. You acknowledge and agree that you **[can/shall]** be required to attend training

*provided by the training provider outside normal working hours as part of this Your Apprenticeship.*

**TERMINATION**

14. *For the avoidance of doubt, the [Governing Body/Academy Trust Company] may terminate your employment (as specified in this contract) under this contract even if such termination results in you being unable to achieve the standard set by the Institute for Apprenticeships and Technical Education (or equivalent regulatory body) [or losing existing or prospective benefits under any scheme or arrangement provided or arranged by the [Governing Body/Academy Trust Company]]*

*\*end of wording\**

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## EXISTING EMPLOYEES

### WORDING IN APPENDIX 2 TO THE CES CONTRACT

*(in italics)*

#### **PREAMBLE**

*You are being offered an apprenticeship by the [Governing Body/Academy Trust Company] from [DATE] to [DATE]. The Apprenticeship is for the duration of this period or on successful completion of the Apprenticeship whichever is sooner.*

*The terms of this Apprenticeship Agreement are in addition to Your contract with the [Governing Body/Academy Trust Company] and on the successful completion of this your Apprenticeship; you will continue to be employed pursuant to Your contract of employment with the [Governing Body/Academy Trust Company].*

*This Appendix sets out what is required from You as an apprentice in the occupation of [provide details of the skill, trade or occupation for which the apprentice is training under the relevant apprenticeship framework or standard] and will be known as the terms of Your Apprenticeship and is a [statutory apprenticeship agreement/approved English apprenticeship agreement];*

#### **ADDITIONAL CLAUSES**

*[INSERT CLAUSES 2 – 14 FROM “WORDING IN APPENDIX 2 TO THE CES CONTRACT” FROM SECTION: NEW STARTERS]*

*\*end of wording\**

## CERTIFICATE OF COMPLETION

It is good practice to ensure that the progression and completion of an Apprenticeship agreement is closely monitored through to its conclusion and that a certificate of completion is offered as appropriate at the end:

### WORDING FOR CERTIFICATE

*(in italics)*

The **[Governing Body/Academy Trust Company]** certifies that:

1. *This Apprenticeship Agreement terminated on [DATE] and has been complied with by the Apprentice **[NAME OF APPRENTICE]***
2. *During the period of training the Apprentice has attained the following:  
**[LIST awards, qualifications and/or certificates of further education and skills tests results]***

*Signed.....*

*For and on behalf of **[Governing Body/Academy Trust Company]***

*Dated.....*

*\*end of wording\**

# APPENDIX 1

## APPRENTICESHIP AGREEMENTS UNDER A FRAMEWORK

Frameworks are currently available for employers to use within the education sector for apprenticeship roles. Compliance with the Specification of Apprenticeship Standards for England (SASE) is currently a statutory requirement of the ASCL Act. However SASE frameworks are now being withdrawn by the Government. The withdrawal will be a staged process and will continue until all frameworks are closed in 2020. They will be replaced by the second and future intended structure of apprenticeships (explained in Appendix 2 to this Drafting Note).

For the time being, an apprenticeship framework sets out the minimum requirements to be included in a recognised English apprenticeship framework and<sup>5</sup>:

- covers all the statutory requirements for an apprenticeship programme in England;
- is used by colleges, employers and training providers to make sure that all apprenticeship programmes are delivered consistently and to national standards;
- includes the names of all qualifications and what each qualification is worth; and
- gives guidance on how to get on to an apprenticeship programme, the time it will take and career paths available after an apprenticeship

Apprenticeship Frameworks Online (“AFO”) contains detailed information on all of the apprenticeship frameworks currently available. It covers intermediate level, advanced level, and higher apprenticeship frameworks. The frameworks available for those in the education sector are currently:

- *Supporting Teaching and Learning in Physical Education*
- *Supporting Teaching and Learning in Schools*

There are 3 publications<sup>6</sup> to assist you in determining the following details:

- the specification: This sets out the minimum requirements to include in a recognised English apprenticeship framework
- the information requirement: This sets out the non-statutory requirements for supporting information on equality and diversity, entry conditions and progression routes to be included in an annex to a recognised English apprenticeship framework
- the guidance: This explains the SASE requirements for framework developers, and English issuing authorities who must consult the guidance when deciding whether a framework submission complies with the SASE.

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<sup>5</sup> <https://www.gov.uk/government/publications/apprenticeship-frameworks-live-list>

<sup>6</sup> <https://www.gov.uk/government/publications/specification-of-apprenticeship-standards-for-england>

Statutory guidance sets out what schools and local authorities must do to comply with the law. You should follow the guidance unless you have a very good reason not to. It contains information on both publicly funded and non-funded frameworks with England and Wales.

AFO contains detailed information on all of the apprenticeship frameworks currently available<sup>7</sup> It contains information on both publicly funded and non-funded frameworks in England and Wales. The Education and Skills Funding Agency only supports frameworks which are publicly funded.

An apprenticeship certificate must be in place for the full apprenticeship to be recognised. You can get the certificate from Apprenticeship Certificates England when an apprentice has completed all elements of their apprenticeship<sup>8</sup>

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<sup>7</sup> <http://www.afo.sscalliance.org/frameworkslibrary/>

<sup>8</sup> <https://acecerts.co.uk/web/forms-documentation>

## APPENDIX 2

### APPRENTICESHIP AGREEMENTS UNDER APPROVED STANDARDS

These agreements are not yet applicable to apprenticeship roles within the “Childcare and Education” sector.

An explanation of these agreements is included, at this stage, for information purposes to create an awareness of the future structure envisaged by the government for apprenticeships in England.

Generally, from 26 May 2015, approved English apprenticeship agreements with simpler general apprenticeship standards approved by the Secretary of State have begun to replace apprenticeships under the Apprenticeships, Skills and Learning Act 2009 in England (but not Wales) (as amended by the Deregulation Act 2015).

The approved apprenticeship standard in relation to an approved English apprenticeship agreement means the standard which applies in relation to the work to be done under the apprenticeship<sup>9</sup>. Replacing apprenticeship frameworks will mean;

- changing the government funding of the third-party provider so that, instead of funding being routed through the provider (the current system), it is routed through the employer;
- implementing a system of co-investment where the Government and the employer share the cost of third-party training; and
- removing the current full funding of third-party training for younger apprentices

#### **What is required for an approved apprenticeship agreement under an approved apprenticeship standard to be valid?**

It must<sup>10</sup>:

- provide for an individual to work as an apprentice in a sector for which the Secretary of State has published an approved apprenticeship standard.
- provide for the apprentice to receive training in order to assist the apprentice to achieve the approved apprenticeship standard in the work done under the agreement.
- satisfy any other conditions specified by the Secretary of State in regulations.

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<sup>9</sup> sA2 and sA17, *Apprenticeships, Skills, Children & Learning Act 2009 (as amended by the Deregulation Act 2015)*

<sup>10</sup> *Apprenticeships, Skills, Children and Learning Act 2009 (ASCLA 2009) (as amended by the Deregulation Act 2015)*

## What are standards?

The government has advised<sup>11</sup> that groups of employers (currently known as “trailblazers”) are working together to design new world-class apprenticeship standards that respond to the needs of their industries. There are more than 1,400 employers involved in developing new apprenticeships with 260 apprenticeship standards already published.<sup>12</sup>

Work done by an apprentice under a Trailblazer apprenticeship is to be treated as work done under an approved English apprenticeship even if that work began before the approved English apprenticeship scheme came into force where he/she began to work under the arrangement before 26th May 2015 and continues to do so for any period afterwards.

A standard published by the Secretary of State before 26th May 2015 in connection with work under a Trailblazer apprenticeship is to be treated as if it were an approved apprenticeship standard published under the Apprenticeships, Skills, Children and Learning Act 2009 Chapter A2.<sup>13</sup>

For these purposes a person works under a ‘Trailblazer apprenticeship’ if arrangements made by the Secretary of State and known as Trailblazer apprenticeships apply in relation to the work<sup>14</sup>. Where an approved apprenticeship standard is published for a sector or kind of work for which there has been a recognised English framework in place, that framework will be withdrawn<sup>15</sup>. This has not yet happened in the Childcare and Education sector (as explained below).

## Standards currently being developed

An apprenticeship standard is only available for delivery when both the standard and assessment plan is approved and a funding band (core government contribution) has been assigned to the standard.

Within the “Childcare and Education” sector no “standard” has yet received approval for delivery of a “standard and assessment plan”. Standards are either “in development” or “have been published (awaiting approval)” for the following apprenticeship roles:

- Academic professional;
- Children, young people and families manager;
- Children, young people and families practitioner;
- Education learning mentor;
- Further education lead teacher;
- Further education assessor-coach;

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<sup>11</sup>[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/628714/Apprenticeship\\_standards.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/628714/Apprenticeship_standards.pdf)

<sup>12</sup> <https://www.gov.uk/government/news/institute-for-apprenticeships-guidance-published-for-consultation>

<sup>13</sup> as inserted by the Deregulation Act 2015 s 3(1), (2), Schedule 1 paragraph 1, 5 from a date to be appointed in relation to the approved English apprenticeship

<sup>14</sup> SI 2015/994 Schedule para 9(3)

<sup>15</sup> please see the *Future of Apprenticeships in England: Guidance for Trailblazers from standards to starts and SI 2015/994 Schedule paras 9, 10*

- Further education learning and skills teacher;
- Learning & development consultant / business partner;
- Learning & development practitioner;
- School business director;
- School business manager;
- Teacher; and
- Teaching assistant

### Who are developing the standards?

Early work on developing a **Teacher apprenticeship** standard is also underway, led by a group of schools coordinated by the Teaching Schools Council. There is not yet a firm timescale for the introduction of a teaching apprenticeship, but we expect more information to become available in the New Year. In addition a consortium of schools led by Hughenden Primary in Buckinghamshire, are developing a **Teaching Assistant apprenticeship** standard and assessment criteria. The aim is to have this in place by the end of 2017<sup>16</sup>.

### The Institute of Apprenticeship and Technical Education (“The Institute”)<sup>17</sup>

This is a crown, non-departmental public body sponsored by the Department for Education. Its main functions are<sup>18</sup>:

- to set quality criteria for the development of apprenticeship standards and assessment plans;
- to review, approve or reject them;
- to advise on the maximum level of government funding available for standards; and
- to ensure arrangements are in place to quality assure all end point assessments

The Government has advised that:

*“Independent, and with employers at its heart, the Institute for Apprenticeships will be responsible for approving new apprenticeship standards and how apprentices will be assessed to ensure they respond to the needs of business and give learners the skills and experience they need to succeed”*

Alongside the Institute, groups of employers called ‘trailblazers’ (as explained above) are designing new apprenticeship standards that set out the exact skills, knowledge and behaviours needed.

In short, the old apprenticeship frameworks are being phased out and will eventually be replaced by approved apprenticeship standards<sup>19</sup>

<sup>16</sup> <https://www.gov.uk/topic/further-education-skills/apprenticeships>

<sup>17</sup> <https://www.gov.uk/government/organisations/institute-for-apprenticeships/about>

<sup>18</sup> <https://www.gov.uk/government/news/institute-for-apprenticeships-guidance-published-for-consultation>

<sup>19</sup> [http://www.legislation.gov.uk/uksi/2015/994/pdfs/uksi\\_20150994\\_en.pdf](http://www.legislation.gov.uk/uksi/2015/994/pdfs/uksi_20150994_en.pdf)

# APPENDIX 3

## APPRENTICESHIP LEVY in ENGLAND

The Apprenticeship Levy came into force on 6th April 2017. Briefly, the purpose of the Levy is to fund apprenticeships to significantly increase the quality and quantity of apprenticeships in England and achieve 3 million new starter apprentices by 2020.

From 6th April 2017 all employers operating in the UK with a pay bill over £3m are required to invest in apprenticeships by way of payment of a levy calculated at 0.5% of their total pay bill. There will be a levy allowance of £15,000 which is, in effect, an offset of the levy amount i.e. 0.5% of total pay bill less £15,000 = amount payable.

The Levy applies to employers in all sectors, including education, and is collected through employers PAYE. In England employers who pay the levy will be able to access funding for apprenticeship training and assessment via a new Digital Apprenticeship Service. Available funding can be used to meet the cost of apprenticeship training and assessment against an approved apprenticeship framework or standard. This can be for both existing employees as well as new starters.

There is a wealth of information available in the public domain. We would recommend that each school seeks advice and support from their legal/HR provider in terms of calculating and paying the Levy, as well as accessing the funding available in due course.

### Guidances on the Apprenticeship Levy

- HMRC has issued guidance for employers which sets out when and how payments should be made<sup>20</sup>.
- The Department for Education and the Education and Skills Funding Agency has jointly published various guidance documents and advice which set out matters ranging from how to calculate the Levy to technical guidance on how to access the funding once collected<sup>21</sup>.
- The Department for Education also issued a briefing (“DfE briefing”) for schools and education stakeholders on the Apprenticeship Levy and public sector duty which sets out who pays the levy in the particular category of school<sup>22</sup>.

### Who is responsible for paying the Levy?

The DfE briefing noted above confirms “foundation and voluntary aided schools typically employ their own staff and so they [are] responsible for paying the levy”. The DfE Guide “Apprenticeship Funding” helpfully states “foundation and voluntary aided schools generally employ their own staff in the same way as academies, i.e. the governing body is considered

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<sup>20</sup> <https://www.gov.uk/guidance/pay-apprenticeship-levy>

<sup>21</sup> More information can be found here: <https://www.gov.uk/government/collections/apprenticeship-changes> and here: <https://www.gov.uk/topic/further-education-skills/apprenticeships>.

<sup>22</sup> <http://amazingapprenticeships.com/resources/apprenticeship-levy-and-public-sector-duty-briefing-for-schools-and-education-stakeholders/>

to be the employer for the purposes of Class 1 secondary NICs. Therefore they accrue and pay levy liability based on their own pay bill. They have one £15,000 allowance". Some local authorities are including voluntary aided schools in calculating their own liability as employer in community schools. The Local Government Association has issued information to local authorities as result of a spate of enquiries<sup>23</sup> which provides: that "HMRC has stated that only VA/foundation schools with a paybill of over £3 million need to be set up on a new HMRC payroll reference number.

Those VA/foundation schools with paybills under £3 million, with the same payroll reference number as the LA, do not have to split out with a separate payroll reference number. However, local authorities, in reporting the amount of levy due, will need to find a way of excluding the pay of the small VA schools from the calculation of the authority's liability for the levy. We understand software houses are working on a development to ensure those VA schools with paybills under the threshold, that remain on the main council payroll reference number, will be excluded from the levy calculation".

In our view, the guidance taken together with the Local Government Association's information categorically defeats any suggestion that a voluntary aided school's pay bill should be included in the local authority's own calculations of the Levy (as the employer of staff in community schools).

The government pay 90% of the cost of apprenticeship training and assessment for:

- employers that have a pay bill of less than £3m and
- those that have used all the funds in their digital account.
- The employer will be required to pay the remaining 10%.

### **Public Sector Duty<sup>24</sup>**

As part of the 3 million starts commitment, the Government wants to expand the number of apprenticeships within the public sector. They have stated that this will "*improve the capacity and capability of the public sector, ensuring that it benefits from the same positive impacts as in the rest of the economy and enable more people to achieve their potential*". As part of this the Government "*want to encourage Local authorities and schools to work together, using the levy to meet skills gaps and plan future workforce needs*".

The government has therefore proposed targets for public sector organisations, including publicly funded schools, to increase the number of apprentices they employ. Details of how this will work are being finalised. The government's response to the consultation will be published in due course.<sup>25</sup>

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<sup>23</sup> [http://www.local.gov.uk/schools-and-education/-/journal\\_content/56/10180/8141908/ARTICLE](http://www.local.gov.uk/schools-and-education/-/journal_content/56/10180/8141908/ARTICLE)

<sup>24</sup> <http://amazingapprenticeships.com/resources/apprenticeship-levy-and-public-sector-duty-briefing-for-schools-and-education-stakeholders/>

<sup>25</sup> Further information can be found at: <https://www.gov.uk/government/consultations/public-sector-apprenticeship-targets>