

# Essential update - apprenticeship funding and contracting for 2019/2

17 July 2019

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## Agenda

- 10.30 Apprenticeship funding rules 2019/20
- 11:20 Profiling framework and standard starts in 2019/20
- 11.50 Break for refreshments
- 12.15 ILR data collection changes for 2019/20 and future ESFA plans for the Apprenticeship System
- 13:00 Break for lunch
- 13.50 Getting apprenticeship contracting right - the dos and don'ts of managing relationships
- 14:50 Key tips for ESFA audit and Ofsted inspection in 2019/20
- 15.30 Workshop end

# Apprenticeship funding rules 2019/20

*The key changes, additions and 'clarifications' (with plenty of time for Q&A)*

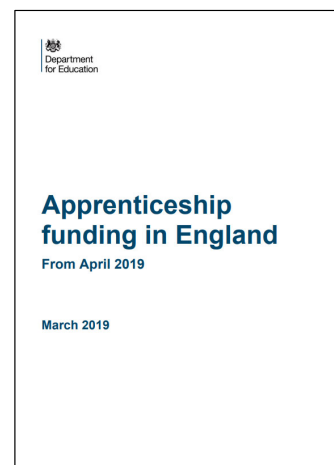
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## Policy update published in March

“This document sets out the policy for apprenticeship funding in England from 1 April 2019. It updates the policy that has been in place since August 2018.”

1. “From 1 April 2019 the rate of co-investment will be reduced to 5% for all new apprenticeship starts, with government funding of 95% provided to cover the remaining costs.”
2. “From 1 April 2019 levy paying employers wishing to support apprenticeships in other businesses, can transfer up to 25% of the annual funding in their apprenticeship service account.”

<https://www.gov.uk/government/publications/apprenticeship-funding>



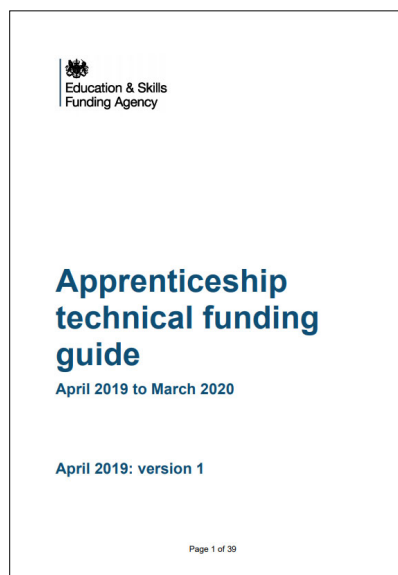
## Technical guide

This document sets out the details of the new apprenticeship funding system for new starts on or after 1 April 2019. It explains how we will calculate funding for organisations receiving funding from us.

### Includes scenarios - which may be useful

Scenario A - The employer and provider negotiate a new total price for the programme.....	29
Scenario B - You retrospectively update the total price.....	30
Scenario C - The apprentice changes programme with the same provider.....	30
Scenario D - The employer chooses a new provider to deliver the apprenticeship.....	31
Scenario E - The apprentice moves to a new employer but remains on-programme with the same provider.....	32
Scenario F - The apprentice takes a break in learning.....	32
Scenario G - The apprentice is made redundant and has more than 6 months of the planned duration of the apprenticeship remaining.....	33
Scenario H - The apprentice is made redundant within 6 months of their planned end date.....	33

<https://www.gov.uk/government/publications/apprenticeship-technical-funding-guide>

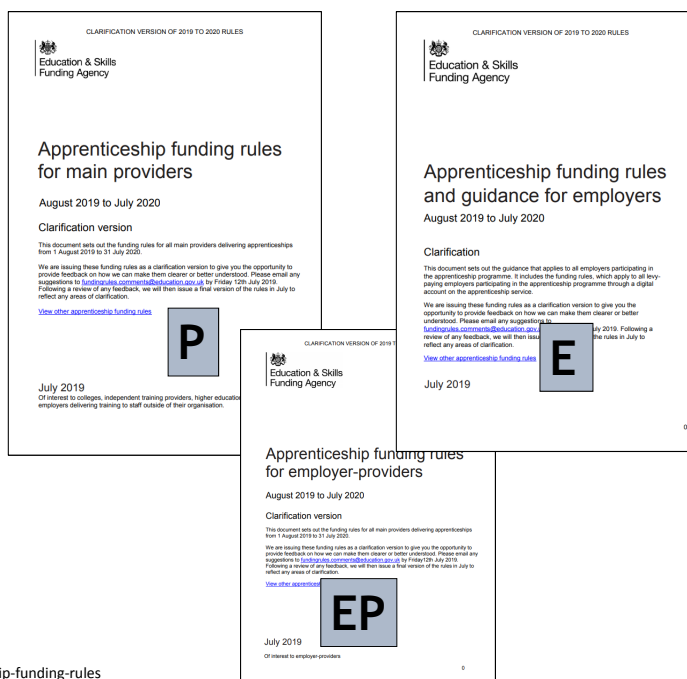


## Three rule books

- Training provider
- Employer-provider
- Employer (levy paying)

Remember: if you are a training provider employing your own apprentices then the employer-provider rules will apply (no profit allowed)

<https://www.gov.uk/guidance/apprenticeship-funding-rules>



## Clarification version

with 5 page summary of changes

We have identified the rules in the 2019 to 2020 funding rules clarification version that have changed from the 2018 to 2019 funding rules in the table below. The employer, employer-provider and provider paragraph numbers are denoted with the prefix E, EP or P respectively.

Change type (excl. restructure)	No.
Clarifications	58
New rules	15
Rule changes	3
New evidence requirements	4
And ESF rules for non-levy apprentices	

<https://www.gov.uk/guidance/apprenticeship-funding-rules>



**Apprenticeship funding rules**  
August 2019 to July 2020

### Summary of changes

#### Introduction

1. This document sets out amendments to the following documents:

- Apprenticeship funding rules and guidance for employers August 2018 to July 2019 version 2
- Apprenticeship funding rules for employer-providers August 2018 to July 2019 version 2
- Apprenticeship funding rules for training providers August 2018 to July 2019 version 2

2. The funding rules form part of the terms and conditions for the use of funds in an employer's 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).

3. These rules will apply to all apprenticeship programmes starting on or after 1 August 2019. Unless otherwise stated, this includes both apprenticeship frameworks and standards.

4. We have identified the rules in the 2019 to 2020 funding rules clarification version that have changed from the 2018 to 2019 funding rules in the table below. The employer, employer-provider and provider paragraph numbers are denoted with the prefix E, EP or P respectively.

5. This document is intended as a summary and does not replace the funding rules themselves. You should refer to the main funding rules document for the definitive rules.

Summary Note:

## New rules

“Apprenticeship delivery must not take place without approval from an associated regulatory body where this is needed. The funding rules have been updated to reflect that some occupations require the training provider to be approved by a regulatory body before being able to deliver apprenticeships.”

“The number of planned off-the-job training hours, for the full apprenticeship, must be documented on the apprenticeship agreement, the commitment statement and the individualised learner record.”

<https://www.gov.uk/guidance/apprenticeship-funding-rules>

## New rule

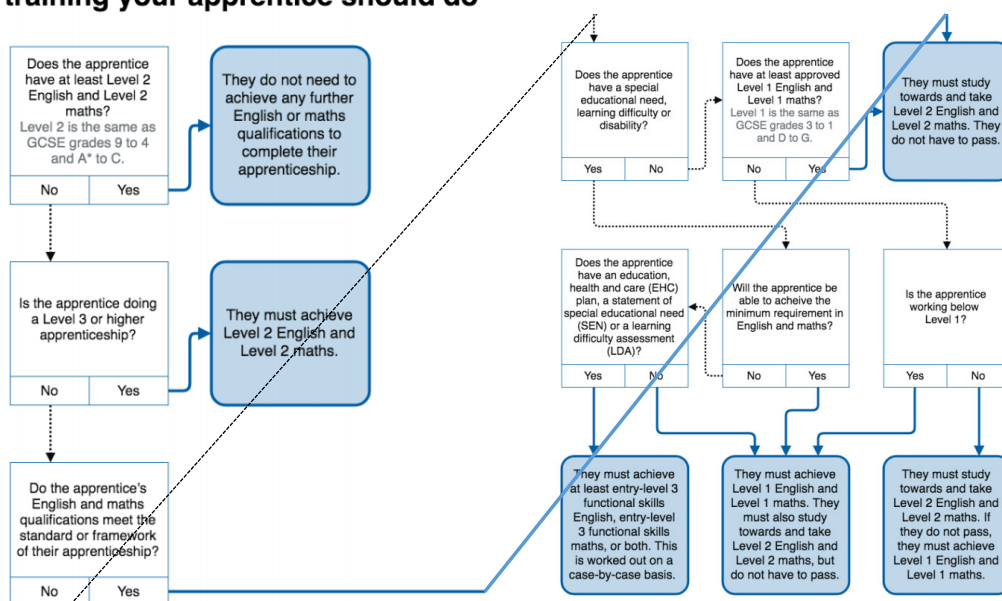
“The rule on funding for concurrent programmes has been expanded and moved into “individuals who are not eligible for funding”. The rule has also been expanded to allow an individual to attract funding for an apprenticeship and some AEB funded provision concurrently.”

- P79** To use funds in the employer’s apprenticeship service account or government-employer co-investment, the individual must not:
- (a) be undertaking another apprenticeship;
  - (b) be undertaking training funded through AEB, where that training will:
    - P79.b.1** replicate vocational and other learning aims covered by the apprenticeship standard or framework, including English and maths;
    - P79.b.2** offer career related training that conflicts with the apprenticeship aims; or
    - P79.b.3** be taking place during working hours. Where an apprentice has more than one job, working hours refers to the hours of the job the apprenticeship is linked to.
  - (c) be in receipt of any other direct DfE funding during their apprenticeship programme; this includes any other DfE funded FE/HE programme including programmes funded by a student loan, but excludes funding outlined in (b); or
  - (d) undertake any part of an apprenticeship whilst on a sandwich placement as part of a degree programme.
- P80** As an exception to P79, an individual may commence an apprenticeship, and attract funding, where they have less than four weeks to completion of an existing Government/DfE/DWP funded course.

<https://www.gov.uk/guidance/apprenticeship-funding-rules>

## Find out what English and maths training your apprentice should do

## New flow-chart



<https://www.gov.uk/guidance/apprenticeship-funding-rules>

## Contracting and subcontracting

### New for 1 August 2019:

- **P169, P178, P179(h), P189** – New Rules: A statement of expectations is required when working with subcontractors
- **P171** – New Rule: Updated to show the types of delivery subcontractors that can be used
- **P192 to P194** – Change to existing rule: Updated to reflect RoATP conditions

**P189** Your contract must make a clear reference to the up-to-date written agreement you have in place with each employer and include a breakdown of all the agreed services and costs.

<https://www.gov.uk/guidance/apprenticeship-funding-rules>

**P178** You must clearly describe to each employer and potential subcontractor, before each subcontracting relationship is agreed the reason for subcontracting and all services you will provide and the associated costs when doing so. This must include a list of **specific costs** for managing the subcontractor; **specific costs** for quality monitoring activities and **specific costs** for any other support activities offered by you to the subcontractor. All of these costs must be individually itemised and describe how each cost contributes to delivering high quality training. You must also explain how such costs are reasonable and proportionate to delivery of the subcontracted apprenticeship training.

**P179h** A detailed description of how the funding retained for each activity detailed contributes to delivering high quality training and how the funding retained is reasonable and proportionate to delivery of the apprenticeship training described.

<https://www.gov.uk/guidance/apprenticeship-funding-rules>

**P171** You must only use delivery subcontractors that satisfy one of the following two criteria:

**(a)** they are on the published Register of Apprenticeship Training Providers and have applied by the main or supporting application routes; or

**(b)** they are either the apprentice's employer, a connected company or charity as defined by HMRC and are on the published Register of Apprenticeship Training Providers, having applied through the employer-provider application route.

<https://www.gov.uk/guidance/apprenticeship-funding-rules>

**P192** 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, or £100,000 if the delivery subcontractor is identified as new, of apprenticeship funding for their delivery from 1 April to 31 March each year.

**P193** You must ensure that you are not one of a number of organisations making payments to any supporting provider that exceed £500,000, or £100,000 if the delivery subcontractor is identified as new, in any one year. We will place restrictions on your future use of delivery subcontractors if this happens.

<https://www.gov.uk/guidance/apprenticeship-funding-rules>



## Already been some ESFA back-tracking

“ESFA recognises that subcontracting has an important role to play in delivering quality learning to apprentices and adult learners. In recent years, we have strengthened our funding rules on subcontracting and we are continuing to do so. We expect providers to maximise the amount of funding that reaches front line delivery of high-quality learning.”

ESFA will, ready for delivery from 1 August 2019:

- revise funding rules and associated compliance measures to incorporate the requirements set out above
- implement a risk-based approach for monitoring these rules
- impose compliance measures when appropriate

These expectations will be reviewed in 18 months.

The implementation of the revisions to the AEB and apprenticeship funding rules will apply to new learner, or apprentice starts from 1 August 2019. We realise there should be an implementation period to allow providers to adjust to the changes and to revise their contracts with their subcontractors. The implementation period of the revised rules will apply as follows:

- From 1 August 2019 for new learner and apprentice starts where a new subcontract is yet to be agreed and entered into, and
- By 30 November 2019 for new learner and apprentice starts where revised subcontracts are required

This means that from 1 December 2019, these revised subcontracting rules apply to all new learner or apprentice starts

<https://www.gov.uk/guidance/apprenticeship-funding-rules>

## The ‘token’ para has not changed...

**P166** At the outset of each apprenticeship, a main provider and employer will agree a plan for its delivery. You must directly deliver some of the apprenticeship training and/or on-programme assessment associated with **each employer’s apprenticeship programme**. By apprenticeship programme we mean the apprentices that are being trained for the employer that has chosen you. The volume of training and/or on programme assessment that you directly deliver for each employer 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 each employer’s programme or involve delivery to just a few of a large number of apprentices.

<https://www.gov.uk/guidance/apprenticeship-funding-rules>



## ‘Clarification’

“Where you and the employer 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 once this has been confirmed. This field in the ILR should be left blank until the price of the end-point assessment has been confirmed”

<https://www.gov.uk/guidance/apprenticeship-funding-rules>

## Completely new EPA paras

**P154** The employer in consultation with the main provider must ensure that the apprentice is prepared and understands the end-point assessment process. Engaging the end-point assessment organisation can be at any time, but to ensure timely delivery of the end-point assessment no less than 3 months’ notice that the apprentice will be ready for the end-point assessment should be given. As part of this process all information required for the end-point assessment should be ready to present to the end-point-assessment-organisation for the gateway.

**P156** At least 3 months before the apprentice reaches the gateway the employer must have:

- (a) selected an organisation from the [Register of End-Point Assessment Organisations](#) (RoEPAO) to deliver the end-point assessment;
- (b) negotiated a price with the end-point assessment organisation. Only those organisations listed on the RoEPAO will be eligible to be funded.

**P157** You are required to complete the ILR field for the assessment price and end point assessment organisation identifier as soon as the price and end point assessment organisation is agreed with the employer. These fields should not be completed prior to this.

<https://www.gov.uk/guidance/apprenticeship-funding-rules>

## Off-the-job change or clarification?

2018/19 rules: “Off-the-job training is training received by the apprentice, during the apprentice’s paid hours, for the purpose of achieving their apprenticeship”

2019/20 rules: “Off-the-job training is training which is received by the apprentice, during the apprentice’s normal working hours....”

2018/19 rules: “Off-the-job training does not include training which takes place outside the apprentice’s paid hours.”

2019/20 rules: “Off-the-job training does not include training which takes place outside the apprentice’s normal working hours.”

2018/19 rules: “To attract government funding at least 20% of the apprentice’s paid hours...”

2019/20 rules: “To be eligible for government funding at least 20% of the apprentice’s normal working hours...”

This appears to rule out studying in evening and getting time off during the day

<https://www.gov.uk/guidance/apprenticeship-funding-rules>

## Break in learning ‘clarification’

**P249** The apprentice may take a break in learning where they plan to return to the same apprenticeship programme. The decision to take a break in learning, the reason for the break and its expected duration must be agreed with the employer. This could include medical treatment, parental leave or leave for other personal reasons.. You must record breaks in learning on the ILR and re-plan the delivery of any remaining training and/or assessment following a break, if required. The employer should revise the apprenticeship agreement if required. A break in learning should not be recorded:

- (a) For annual leave, public holidays and short-term absence (up to 4 weeks);
- (b) When employment or an apprenticeship agreement has ended (redundancy, resignation, dismissal or any other action by the apprentice or the employer that results in the apprenticeship agreement ending). Where an apprentice has been made redundant you should refer to the redundancy section in the rules (see paragraphs P255 to P257).

<https://www.gov.uk/guidance/apprenticeship-funding-rules>

## Notice this subtle restructure

<b>Recognition of prior learning and experience</b>	<p><b>Restructure:</b> The sub-title of the section has been changed from “accounting for prior learning” to “recognition of prior learning and experience” to more accurately reflect the contents.</p> <p>This section has also moved from the “paying for an apprenticeship” section to the “programme eligibility” section.</p>
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**ESFA audits likely to come down hard now on lack of checking and adjusting price for prior learning and experience**

**They should include training for pre-existing relevant prior learning and experience in the list of ineligible costs!**

<https://www.gov.uk/guidance/apprenticeship-funding-rules>

Profiling framework and standard  
starts in 2019/20

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<b>*Reminder*</b>	
Levied employers	Non-levied employers
Definition	
<b>On Digital Apprenticeship System (ACT1)</b> In theory, annual UK payroll £3m+ else a transfer funded receiving employer Levy credit calculated monthly based on 0.5% above £3m payroll for English employees + 10% If no levy credit then co-investment model applies where employer pays provider 5% No allocations (not even for co-investment) and ESFA pay for English and maths and incentives	<b>Not on Digital Apprenticeship System (ACT2)</b> In theory, annual UK payroll less than £3m and not a transfer funded receiving employer Employer relies on finding a provider with available funding allocation Co-investment model applies where employer pays provider 5% Allocation required to fund everything (incl. English and maths and incentives)

**\*Reminder\*****Working out if employer should be levied or not**

HMRC advice was that if employer payroll was £2.8m or more last year then they should register for paying the levy

The government will not identify which employers are levied. So you will have to do your own homework. Companies House and Charity Commission might be a good place to start.

For example, in etc venues accounts to June 2015 their payroll was £7m (all England)

$(£7m \times 0.005) - £15,000 = £20,000$   
 $£20,000 / 12 = £1,667$  monthly tax  
 $£1,667 \times 1 \times 1.1 = £1,883$  monthly credit  
 $£21,996$  annual levy credit

For example, BBC accounts say in 2015/16 their payroll was £990m (let's assume 80% for England)

$(£990m \times 0.005) - £15,000 = £4,935,000$   
 $£4,935,000 / 12 = £411,250$  monthly tax  
 $£411,250 \times 0.8 \times 1.1 = £361,900$  monthly credit  
 $£4,342,800$  annual levy credit

If their monthly pot runs out they switch to 5% cash contribution in return for 95% SFA funding. Unused levy pots fund non-levied employers plus top-up, incentives, English & maths etc (is the theory)

**\*Reminder\***

## The funding bands

Meant to negotiate with employer but reducing for prior learning and experience is an actual funding rule

80% paid monthly with final 20% paid in last month on completion of the framework or EPA (do not need to pass)

For starts from 1 August 2018		For starts between 1 May 2017 and 31 July 2018	
Band Number	Band Maximum	Band Number	Band Maximum
1	£1,500	1	£1,500
2	£2,000	2	£2,000
3	£2,500	3	£2,500
4	£3,000	4	£3,000
5	£3,500	5	£3,500
6	£4,000	6	£4,000
7	£4,500	7	£5,000
8	£5,000	8	£6,000
9	£6,000	9	£9,000
10	£7,000	10	£12,000
11	£8,000	11	£15,000
12	£9,000	12	£18,000
13	£10,000	13	£21,000
14	£11,000	14	£24,000
15	£12,000	15	£27,000
16	£13,000		
17	£14,000		
18	£15,000		
19	£16,000		
20	£17,000		
21	£18,000		
22	£19,000		
23	£20,000		
24	£21,000		
25	£22,000		
26	£23,000		
27	£24,000		
28	£25,000		
29	£26,000		
30	£27,000		

Education & Skills  
Funding Agency

## Apprenticeship technical funding guide

April 2019 to March 2020

April 2019: version 1

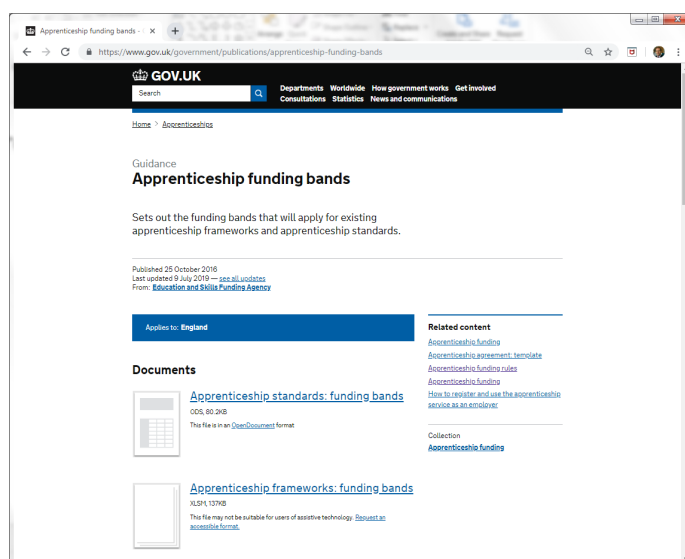
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<https://www.gov.uk/government/publications/apprenticeship-technical-funding-guide>

## Can only know band if you know start date

Band spreadsheet fine for frameworks, if fundable...check dates in LARS

Band spreadsheet \*not reliable\* for standards given rate reviews...check dates and relevant band in LARS



<https://www.gov.uk/government/publications/apprenticeship-funding-bands>

**\*Reminder\*****Other funding factors** (not funded by levy credit but would come out of non-levy allocation)

£1,000 employer incentive for 16-18s and 19-24s who have previously been in care or who have a Local Authority Education, Health and Care plan. Paid to employers in two equal instalments at 3 months and 12 months. This will be paid to the provider and must be passed on to the employer within 30 working days

£1,000 provider incentive for 16-18s and 19-24s who have previously been in care or who have a Local Authority Education, Health and Care plan (plus for one year an extra 20 per cent of the upper limit for frameworks). Paid to providers in two equal instalments at day 90 (3 months) and day 365 (12 months).

£1000 for care leavers, paid to provider 60 days from start and must be paid in full to apprentice within 30 days.

No levy or employer contribution for 16-18s and 19-24s who have previously been in care or who have a Local Authority Education, Health and Care plan at employers with fewer than 50 staff

For additional learning support the SFA will pay providers up to £150 a month, plus additional costs based on evidenced need

Additional provider payments for apprentices who live in the top 27% deprived areas. £600 for top 10% of deprived areas, £300 for next 10% range and £200 for the next 7% range

English and maths at level 1 and 2 funded directly by the SFA at £471 for each qualification (no separate funding for ICT)

Demo of my apprenticeship  
funding calculator - 2019/20  
edition



# ILR data collection changes for 2019/20 and future ESFA plans for the Apprenticeship System

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## Summary of Changes 2019-2020

### Version 2 - Published May 2019

Section	Type of change	Details of change
Learner	Removal	The <a href="#">Off-the-job training</a> field has been removed.
Learner Funding and Monitoring (FAM)	New	<p>The <a href="#">Learner funding and monitoring</a> code list has been updated to include:</p> <p>MCF 5 'Learner holds a pass grade for functional skills level 2 in mathematics'</p> <p>ECF 5 'Learner holds a pass grade for functional skills level 2 in English'</p>
Learning Delivery	New field	<p><a href="#">Planned hours</a></p> <p>For apprenticeships this field collects the Planned off-the-job training hours (as defined in the funding rules) for the individual apprentice in the academic year by the training provider, sub-contracted training providers and the employer.</p>
Learning Delivery	Revision	<p>Revision to Notes section of the <a href="#">Learning actual end date</a> field</p> <p>Change from:</p> <p>For apprenticeship standards, for continuing learners with a Learning Actual End date on or before 31 July 2019 this date must continue to include the training and end point assessment period. For continuing learners where all learning activity has ended on or after 1 August 2019, the learning actual end date must be the end of learning only and must not include the end point assessment period.</p> <p>Change to:</p> <p>For apprenticeship standards on a programme aim, where the learner has completed all learning activities and begun the End point assessment period prior to 1st August 2019, the Learning Actual End date in the 19/20 ILR will continue to include the end point assessment (as per the 18/19 ILR specification). For apprenticeship standards on a programme aim, where the learner has not completed all learning activities by 1st August 2019, the Learning Actual End Date will be completed after all learning has taken place and does NOT include the end point assessment period.</p>

  
Education & Skills  
Funding Agency

## Specification of the Individualised Learner Record for 2019 to 2020

From: [Education and Skills Funding Agency](#)  
Published: 3<sup>rd</sup> May 2019  
Updated: 2019 ([see all updates](#))

Version 2  
May 2019

<https://www.gov.uk/government/publications/ilr-specification-validation-rules-and-appendices-2019-to-2020>



## New off-the-job planned hours field

This comes as a last minute change after the NAO criticised the ESFA for not knowing enough about whether providers were actually delivering off-the-job hours (i.e. doing what they are paid to do)

Approved for internal use only

Planned hours – PHours			
Definition	For apprenticeships this field collects the Planned off-the-job training hours (as defined in the funding rules) for the individual apprentice in the academic year by the training provider, sub-contracted training providers and the employer.		
Reason required	To provide information about the quantum of off-the-job training delivered. To help demonstrate compliance with the funding rules.		
Schema definitions			
XML Element Name	PHours		
Field length	4	Data type	xs:int
Minimum occurrences	0	Maximum occurrences	1
Part of	LearningDelivery		
Collection requirements			
Collected for Apprenticeships (Funding Model 36)			
Valid entries			
Must contain a value in the range of 0 to 9999			
Pattern			
Notes			
<ul style="list-style-type: none"> <li>This field is mandatory for Apprenticeships (Funding model 36).</li> <li>To be recorded against the programme aim of the apprenticeship programme.</li> <li>To be recorded to the nearest whole hour.</li> <li>Planned off-the-job training hours for the individual apprentice over the full apprenticeship (excluding the end point assessment period) by the training provider, sub-contracted training providers and the employer.</li> <li>The information in the ILR may be subject to compliance checks during the academic year and must therefore be supported by the evidence requirements set out in the funding rules for off the job training.</li> <li>It is important that this field should accurately reflect the planned amount of off-the-job training undertaken by the apprentice. Any changes to the values entered in this field during the apprenticeship may be subject to further compliance checks.</li> </ul>			
Change Management Notes			
v2: new for 2019 to 2020			

<https://www.gov.uk/government/publications/ilr-specification-validation-rules-and-appendices-2019-to-2020>

## Change to definition of planned end date

For new starts from 1 August this should not include the EPA period (so date should be the last day of the practical period / training / last hour of off-the-job time)

Learning Plan End Date - LearnPlanEndDate

Learning planned end date - LearnPlanEndDate						
Definition	The date by which the provider and learner plan to complete the learning related to this learning aim.					
Reason required	To calculate expected learning delivery periods and to calculate funding.					
Schema definitions						
XML Element Name	LearnPlanEndDate					
Field length	10	Data type	xs:date			
Minimum occurrences	1	Maximum occurrences	1			
Part of	LearningDelivery					
Collection requirements						
Collected for all aims						
Valid entries						
A valid date, using the date pattern YYYY-MM-DD						
Pattern						
Notes						
<ul style="list-style-type: none"> <li>The planned end date of the learning aim must be entered in this field at the start of the learning aim. This should remain constant and must not be changed. It is not expected to be a rolling date subject to changes.</li> <li>The planned end date must remain the same between teaching years as it is used in success rates to match data from one year to the next.</li> <li>If a learner continues their study beyond the date planned at the start of the learning aim, this should be reflected in the learning actual end date field and the learning planned end date must remain unchanged.</li> <li>It is important that this date is set realistically based on historic performance, published average lengths of stay and a thorough assessment of the learner at initial assessment. See the funding documentation for further information.</li> <li>For apprenticeship standards, the Learning planned end date must include both the training and end point assessment period for continuing learners. For new starts on or after August 2019, the planned end date must only include the learning related to the learning aim and not include the end point assessment period.</li> </ul>						
Change Management Notes						
v1: amendment to Notes section for 2019 to 2020						

<https://www.gov.uk/government/publications/ilr-specification-validation-rules-and-appendices-2019-to-2020>

## Change to definition of actual end date

For end-point-assessments taking place after 1 August 2019 the actual end date should be the last day of learning (practical period) - so exclude the EPA time

Learning Actual End Date - LearnActEndDate			
Definition	The date that the learner completed the learning activities necessary to achieve the learning aim or the date the learner withdrew from the learning activities, accurate to within a week.		
Reason required	To monitor the time taken to complete the learning activities making up the learning aim compared to the expected time. To inform funding calculations, including framework achievements.		
Schema definitions			
XML Element Name	LearnActEndDate		
Field length	10	Data type	xs:date
Minimum occurrences	0	Maximum occurrences	1
Part of	LearningDelivery		
Collection requirements			
Collected for all aims			
Valid entries			
A valid date, using the date pattern YYYY-MM-DD			
Pattern			
Notes			
<ul style="list-style-type: none"><li>This field must be completed for all learning and programme aims once the completion status has been changed from continuing.</li><li>It is sufficient for the date held in this field to be accurate to within a week, providing that any approximation does not result in a learner being wrongly included or excluded in the funding calculations.</li><li>For programme aims, the Learning actual end date of the whole programme must be recorded in this field.</li><li>For apprenticeship standards, for continuing learners with a Learning Actual End date on or before 31 July 2019 this date must continue to include the training and end point assessment period. For continuing learners where all learning activity has ended on or after 1 August 2019, the learning actual end date must be the end of learning only and must not include the end point assessment period.</li><li>For apprenticeship standards on a programme aim, where the learner has completed all learning activities and begun the End point assessment period prior to 1st August 2019, the Learning Actual End date in the 19/20 ILR will continue to include the end point assessment (as per the 18/19 ILR specification). For apprenticeship standards on a programme aim, where the learner has not completed all learning activities by 1st August 2019, the Learning Actual End Date will be completed after all learning has taken place and does NOT include the end point assessment period.</li></ul>			

<https://www.gov.uk/government/publications/ilr-specification-validation-rules-and-appendices-2019-to-2020>

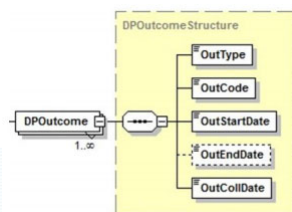
## Achievement date now needed

“For continuing learners where all learning activities have ended and the end point assessment has taken place on or after 1 August 2019. This field will be used to record the end of the apprenticeship standard. This date concludes the End point assessment period that has taken place on or after 1 August 2019. Once this date is returned the Completion status and associated Outcome must be updated accordingly.”

Achievement date - AchDate			
Definition	The date the learning aim or programme aim was achieved by the learner.		
Reason required	Payment of Adult Skills achievement payments for traineeships and apprenticeship funded through the trailblazer funding model.		
Schema definitions			
XML Element Name	AchDate		
Field length	10	Data type	xs:date
Minimum occurrences	0	Maximum occurrences	1
Part of	LearningDelivery		
Collection requirements			
Aim Type 1	Trailblazer apprenticeships (FundModel 81, ProgType 25), Traineeships (ProgType 24), Apprenticeship Standards (FundModel 36, ProgType 25)		
Valid entries			
A valid date, using the date pattern YYYY-MM-DD			
Pattern			
Notes			
Collected for Apprenticeship Standards (FundModel 36, ProgType 25)			
<ul style="list-style-type: none"><li>For continuing learners where all learning activities have ended and the end point assessment has taken place on or after 1 August 2019.</li><li>This field will be used to record the end of the apprenticeship standard. This date concludes the End point assessment period that has taken place on or after 1 August 2019. Once this date is returned the Completion status and associated Outcome must be updated accordingly.</li></ul>			

<https://www.gov.uk/government/publications/ilr-specification-validation-rules-and-appendices-2019-to-2020>

## Complex fields for outcomes now needed for non-levy



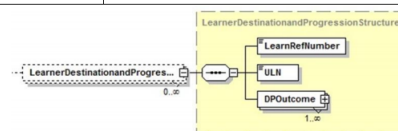
I presume this is for ESF match funding purposes...

<https://www.gov.uk/government/publications/ilr-specification-validation-rules-and-appendices-2019-to-2020>

### Learner Destination and Progression

[back to field listing](#)

Learner Destination and Progression Entity Definition - LearnerDestinationandProgression	
Definition	The destination of the learner when they have completed or withdrawn from the activities on their original learning agreement or plan.
Reason required	<ul style="list-style-type: none"> <li>- To demonstrate how the FE sector is contributing to the future success of learners</li> <li>- Minimum standards and publishing provider level outcomes for traineeships</li> <li>- ESF funding</li> <li>- DfE completion and attainment measure</li> </ul>
Schema definitions	
XML Entity Name	LearnerDestinationandProgression
Minimum occurrences	0
Maximum occurrences	Unbounded
Part of	Message
Collection Requirements	
16-19 excluding Apprenticeships (FundModel 25), ESF (FundModel 70), Other Adult (FundModel 81), Adult Skills (FundModel 35), <b>Non-levy funded apprenticeships (FundModel 36, ACT2)</b>	
XML Elements	
LearnRefNumber	Y
ULN	Y
Child Entities	
DPOOutcome	Y



#### Notes

Collected for Non-levy funded apprenticeships that started on or after 1 August 2018 where the ACT record has remained non-levy. This data is not collected where a levy funded apprenticeship (ACT1) changes employer to become non-levy funded (ACT2)

## Apprenticeship Service developments

### Managing quality apprenticeships Service Roadmap

#### Up to Apr 19

- ✓ Employers can see projections of their levy spend and model against it
- ✓ Employers can post and manage vacancies
- ✓ Employers can transfer apprenticeship funds to other employers
- ✓ EPAOs can apply to join the register to deliver apprenticeship standards
- ✓ Employers can agree to providers managing more of their apprenticeship activity
- ✓ Employers can see when funds are due to expire
- ✓ Employers can leave feedback on their training provider
- ✓ The funding rules are easier to use

#### Apr - Jun 19

- ✓ First pilot phase begins with training providers and non-levy paying employers
- ✓ The co-investment rate for non-levy paying employers is reduced to 5%
- ✓ Employers can transfer up to 25% of their apprenticeship funds to other employers
- ✓ The first funds will expire from levy paying accounts
- ✓ The registration process is simplified
- ✓ Employers can see feedback on training providers in Find Apprenticeship Training
- ✓ Public sector employers can amend reports after they have been submitted to improve accuracy
- ✓ EPAOs can record successful and unsuccessful outcomes

#### Jul- Sept 19

- ✓ The first non-levy paying employers can use the apprenticeship service
- ✓ The process of approving apprentice details is simplified and streamlined
- ✓ Employers can save standards and training providers to their accounts
- ✓ Training providers can add and manage vacancies from their apprenticeship service account
- ✓ Apprentices can leave feedback on their training provider by text
- ✓ EPAOs can see data about current and future apprenticeships through the opportunity finder.
- ✓ Pausing and stopping apprentices is easier

#### Oct – Dec 19

- ✓ Employers can collaborate with their training provider on vacancies
- ✓ Apprentices recruited through the service can be approved quickly and easily
- ✓ Training providers can help employers to set up their accounts
- ✓ Improved support service, including self-service functionality
- ✓ The employer account home page and finance pages are re-designed for a better experience

#### Jan 20 onwards

- ✓ Training providers can bulk upload apprentice data across multiple employers
- ✓ Payments for end-point assessments and training are separated out
- ✓ Content for teachers included on campaign plan

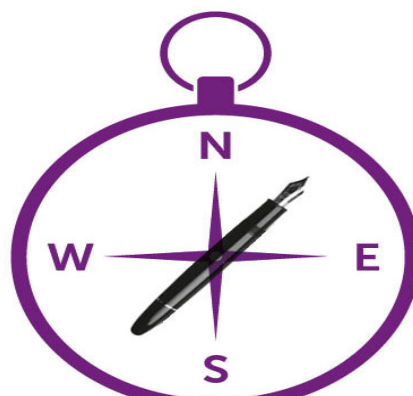
### Managing quality apprenticeships Transformation timeline



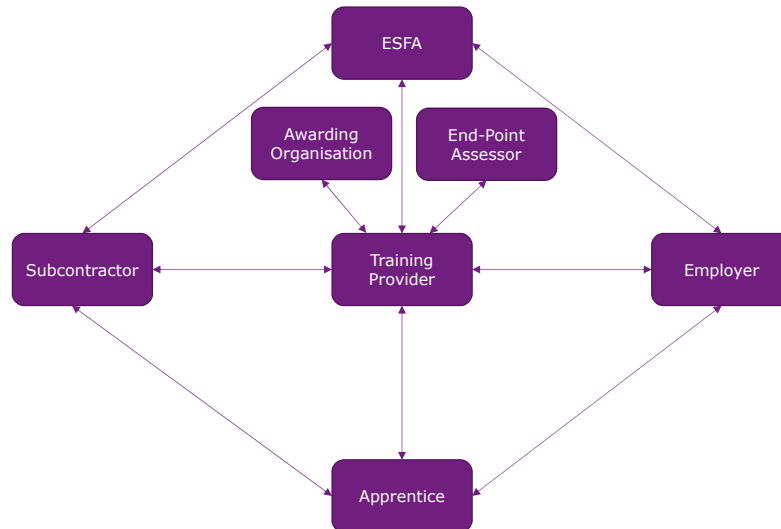
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Mark Taylor  
*Partner*

### Getting contracting right – the dos and don'ts of managing the relationship between the provider and the employer



## Contracting Relationships



Eversheds Sutherland

| 18 July 2019 |

Apprenticeship Delivery Contracts with Employers

## Contractual issues between Providers and Employers

## Form of Contract

- One contract per apprentice or a “call off” per apprentice.
- Inclusion of mandatory terms.
- Reference to the Funding Rules.
- Provider and Employer both have template contracts – which template should we use?
- Ensure contract is in place before starting work.

## Key Terms

- The apprentice must be employed on an appropriate contract in a genuine job.
- The work must be relevant to the apprentice’s studies.
- Apprentice health, safety and welfare.
- Quality, monitoring and review.
- Control of the apprenticeship.

## Payment Terms

- Agreeing a price for training.
- Payment through the Employer's Digital Account.
- Employer co-investment where apprenticeship training is not funded through the Employer's Digital Account.

## Choosing the right Partner

- Absolutely vital to effective contracting;
- Type of Due Diligence:
  - Legal;
  - Financial;
  - Commercial/operational.
- Scope of Due Diligence.



## Other terms

If things go wrong:

- Ensure reporting requirements provide enough information to spot areas of concern.
- Warranties/indemnities/guarantees.
- Set out how disputes should be resolved.
- Insurance obligations.
- Teach out – contingency plan.
- Recovery of materials and learner data.
- Assistance for apprentices who are made redundant.

## Top tips for dealing with key challenges / disputes

- Read termination and dispute resolution mechanisms carefully before taking action.
- Consider whether there is an ability to re-negotiate or agree exit arrangements.
- Fraud issues - may need to provide records to the police consider data protection obligations.
- Consider if missing data may be obtained from third parties eg learners, examination boards, ESFA.
- Maintain adequate audit trail throughout to reduce risk of clawback.

## Subcontracts

### Key Terms

- You are responsible for all the actions of your subcontractors connected to, or arising out of, the delivery of the services which you subcontract.
- You must have a legally binding contract with each subcontractor that includes all the terms set out in the Funding Rules.
- You must make sure that the terms of your subcontracts allow you to:
  - monitor the subcontractor's activity
  - have control over your subcontractors, and
  - monitor the quality of education and training provided by subcontractors.

## New Management Cost Rules

- P178: "You must clearly describe to each employer and potential subcontractor, before each subcontracting relationship is agreed the reason for subcontracting and all services you will provide and the associated costs when doing so..."
- P179: "...you must have an up-to-date written agreement in place with each employer that sets out...the specific amount of funding you will retain...[for various activities]...[and]...a detailed description of how the funding retained...contributes to delivering high quality training and how the funding retained is reasonable and proportionate."

## Subcontracting - key challenges / disputes

- Withholding payment for breach of terms can amount to repudiatory breach of contract itself.
- Subcontractors often fail to provide all learner records and data (can use this as a bargaining tool to secure further payment).
- If fraud issues are detected may need to involve the police and/or ESFA.
- Once terminated:
  - often subcontractors experience financial difficulty/go bust;
  - can be very difficult to obtain copy records to prevent ESFA clawback;
  - additional costs involved with taking on learners or transferring to new provider;
  - may have to liaise with an insolvency practitioner re records/missed payments.
- Reputational issues.

## Commitment Statements between Apprentices, Providers and Employers

### Evidencing your 'Commitment'

- All apprentices, their employers and lead provider must hold a signed copy of the commitment statement setting out how they will support the successful achievement of the apprenticeship before the apprenticeship starts.
- The commitment statement must set out the planned content and schedule for training and end-point assessment. It must also set out what is expected and offered by the employer, lead provider (and any subcontractors) and the apprentice to achieve the apprenticeship.

## Evidencing your 'Commitment' continued

- It should also contain a short summary (two to three pages) setting out:
  - start and end dates of the apprenticeship;
  - details of the elements which are eligible for funding;
  - a list of organisations delivering the training;
  - roles and responsibilities of each party (Employer, Provider and Apprentice); and
  - process for resolving any queries, complaints or disputes.

*ESFA Guidance - Apprenticeship funding and performance management rules for training provider*

- Can be appended to but should remain separate to the legal contract between the Provider and Employer.
- Now no need to explain source of funding, but note need to set out recognition of prior learning.

## Questions?



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This information pack is intended as a guide only. Whilst the information it contains is believed to be correct, it is not a substitute for appropriate legal advice. Eversheds Sutherland (International) LLP can take no responsibility for actions taken based on the information contained in this pack.

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## Key tips for ESFA audit and Ofsted inspection in 2018/19

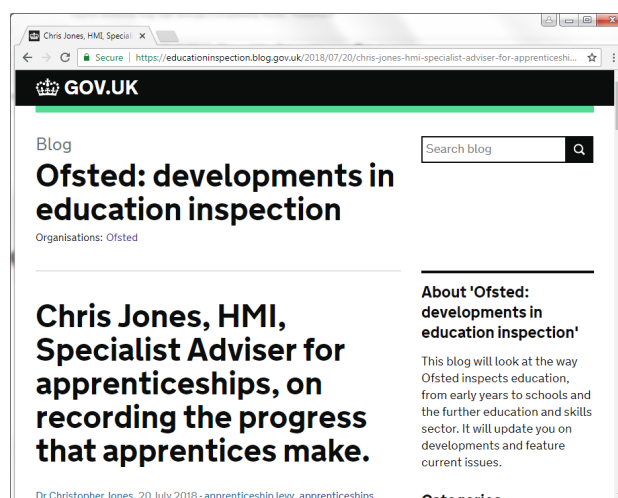
*Both agencies are beefing up their apprenticeship oversight*

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## Ofsted blog (1 of 3)

“Because most apprenticeship standards have no qualifications, inspectors and providers must be clear about the different ways of measuring achievement. As inspectors, we need to consider what these changes mean for inspection practice.”

- Set a baseline
- Record progress



<https://educationinspection.blog.gov.uk/2018/07/20/chris-jones-hmi-specialist-adviser-for-apprenticeships-on-recording-the-progress-that-apprentices-make/>

## Ofsted blog (2 of 3)

“Providers need to evaluate what apprentices know about, and can do, when they start their apprenticeship. They need to measure the apprentice’s progress against the knowledge, skills and behaviours set out in the standard and assessment plan. We see providers asking apprentices to note their occupational knowledge, experience and their level of confidence as they start their apprenticeship, followed by a skills test in English and mathematics.

This approach sets a **‘baseline’** for providers, employers and apprentices. How well apprentices gain knowledge and develop and improve skills all indicates progress. This helps to show that apprentices improve over time.”

<https://educationinspection.blog.gov.uk/2018/07/20/chris-jones-hmi-specialist-adviser-for-apprenticeships-on-recording-the-progress-that-apprentices-make/>



## Ofsted blog (3 of 3)

“For example, what should an apprentice know about or do by their first progress review? What differences do we expect to see at the second review? What skills must apprentices show by the last review and before the end-point assessment?”

“Providers will need to check how they **record progress**. If the tools and software they use only focus on qualifications, they may need to find other methods to measure evidence of the standard specific knowledge, skills and behaviours.”

<https://educationinspection.blog.gov.uk/2018/07/20/chris-jones-hmi-specialist-adviser-for-apprenticeships-on-recording-the-progress-that-apprentices-make/>

### 6. Information: developing a new transparency table for apprenticeship standards qualification achievement rates (QARs)

During the transition period to apprenticeship standards, where new relationships between training providers and end point assessment organisations are being built and consolidated, we recognise that some apprentices are unable to complete their apprenticeship standard at the time it was initially recorded on the ILR.

Where apprentices are planned to complete between May and July 2019, and will not be able to complete until after July 2019, this will impact on provider Qualification achievement rates (QARs).

To account for these delays, we will publish a new transparency table in March 2020. This builds upon the [apprenticeship standards explanatory paper](#) we published alongside the official [National Achievement Rate tables \(NARTs\)](#) last year, giving the sector more information about standards as the programme develops.

The official QAR will be published through the [National Achievement Rate tables](#) in March 2020, and the new table will be published alongside [NARTs transparency tables](#) at the same time.

We will provide more information about this new table in due course, however it will contain as a minimum:

- the key figures from the QAR calculations (the volumes of leavers, achievers and the QAR)
- the apprentices who were excluded from this year's QAR because of delays, meaning that they did not achieve or withdraw by their planned end date
- a subset of the apprentices above who subsequently achieved between August to

<https://www.gov.uk/government/publications/esfa-update-26-june-2019/esfa-update-further-education-26-june-2019#information-developing-a-new-transparency-table-for-apprenticeship-standards-qualification-achievement-rates-qars>

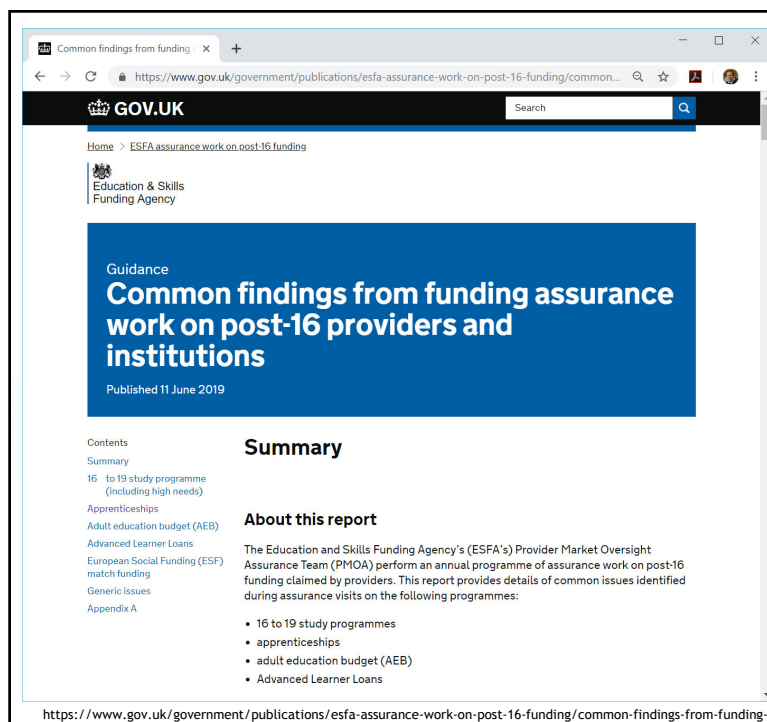
## Minimum standards



“We will continue to apply Minimum Standards to apprenticeships in 2018 to 2019 as a trigger for intervention. The position after this is under review. For 2018 to 2019 for apprenticeships is:

- the threshold remains at 62%
- the tolerance level remains at 40%

<https://www.gov.uk/government/publications/minimum-standards-2018-to-2019>



## ESFA Audit

“The main issue causing funding errors in this area for both carry-in apprenticeships and new starts relates to providers claiming funding without taking into account the learners’ prior learning including prior qualifications for apprenticeships.

For new starts, this would require a reduction to the total negotiated price recorded on the ILR.”

<https://www.gov.uk/government/publications/esfa-audit-work-on-post-16-funding/common-findings-from-funding-assurance-work-on-post-16-providers-and-institutions#apprenticeships>

## ESFA audit docs

### FM36 (New Apps) references

#### Key areas:

> Price and payment

> Off-the-job training

No	Test	Issue	Critical factor	References
1	Does evidence exist to confirm that the learner is eligible for ESFA funding?	i) Eligibility for funding	The learner satisfies the ESFA's eligibility criteria.	APPTP: P60 to P72, Annex A APPEP: EP61 to EP73, Annex A
2	Are the learner and employer eligible and has the programme been correctly identified and coded?	i) Age	Apprentices must be aged 15 or over and have legally left school.	APPTP: P61.1 APPEP: EP62.1
3		ii) Employed status	Apprentices must be employed (except those that satisfy the conditions for redundancy). There must be a genuine job within the employer and the apprentice must be paid a wage consistent with the law for the time they are in work and in off-the-job training.	APPTP: P28 to P31, P38, P39, P231 to P233, P243.15, P248 APPEP: EP23 to EP31, EP39, EP40, EP73, EP239, EP248.4, EP248.14
4		iii) Employment hours	Employers must confirm the hours worked per week or the agreed average weekly hours, including time spent on off-the-job training. All apprenticeship activity must be within paid hours.	APPTP: P49 to P62 APPEP: EP50 to EP53
5		iv) Apprenticeship training agencies (ATAs)	Only recognised ATAs can directly employ apprentices only to deliver an apprenticeship.	APPTP: P80 to P84
6	Is the programme as designed eligible for funding and is the correct funding being claimed?	i) Negotiated price	Funds within the employers digital account or government employer co-investment are used for funding evidenced eligible costs and activities within the agreed price, including any subcontracted delivery of training and on-programme assessment, up to the band maximum, and for training and end-point assessment.	APPTP: P85 to P94, P173 to P175, P189 to P194, P243.1 APPEP: EP81 to EP89, EP159 to EP169, EP231.1 APPTFG: 12, 13

<https://www.gov.uk/government/publications/sfa-financial-assurance-funding-assurance-review-programmes> FM36

## ESFA audit Price and payment

### 3i) Negotiated price

“Funds within the employers digital account or government employer co-investment are used for funding evidenced eligible costs and activities within the agreed price, including any subcontracted delivery of training and on-programme assessment, up to the band maximum, and for training and end-point assessment (required for apprenticeship standards) as recorded in the written agreement.”

### 8i) Payment of employer co-investment

“The employer co-investment recorded in the ILR is evidenced by a transfer of funding visible in the provider's (or subcontractor's) financial systems; this will typically be in the form of a provider invoice and corresponding employer payment for a provider. For an employer-providers, they must evidence how the costs are calculated.”

<https://www.gov.uk/government/publications/sfa-financial-assurance-funding-assurance-review-programmes> FM36

## ESFA audit Off-the-job training

### 2iii) Employment hours

Employers must confirm the hours worked per week or the agreed average weekly hours, including time spent on off-the-job training. All apprenticeship activity must be within paid hours.

### 3xi) Off-the-job training

“The evidence pack must contain details of how the 20% off the job training will be quantified and delivered.”

### 6ii) Learning activity

“The learner's continued participation in learning (including English and maths) is confirmed by evidence of learning activity from the start date of each aim up to the learning actual end date or to date, as applicable.”

<https://www.gov.uk/government/publications/sfa-financial-assurance-funding-assurance-review-programmes> FM36

#### Four strands to evidence requirement:

1. Calculated
2. Timetabled
3. Monitoring delivery of timetable
4. Was 20% threshold met at point of entry into Gateway or end of framework

## Provider Self-Assessment Toolkit

The screenshot shows the PDSAT interface. The left sidebar contains navigation links: Returns, Reports, Favourites, Annotations, Sampler, and Settings. The main area is titled 'Reports' and includes a 'Selected Return' dropdown (FIS-10000948-1718-20180725-153207) and a 'Favourites Group' dropdown (None). Below these is a table of reports with columns for Report ID, Report Name, and Record Count. The reports listed include various categories of apprenticeship data and funding claims. A legend at the bottom left of the main area shows funding model indicators: FM25 (black dot), FM35 (grey dot), FM36 (blue dot), and FM99 (light blue dot).

<https://www.gov.uk/government/publications/ils-data-check-that-it-meets-standards-and-quality-requirements>

## Use the ESFA audit software (PDSAT) before an auditor

PDSAT Report 19A-211 “Allows analysis of negotiated prices to check for disproportionately high numbers of apprenticeships at or above their respective funding band maximum.”

Total negotiated price as proportion of funding band maximum (%)	Count of learners
> 150%	5
141% to 150%	4
131% to 140%	5
121% to 130%	1
111% to 120%	3
101% to 110%	2
100%	2,276
90% to 99%	129
80% to 89%	118
70% to 79%	16
60% to 69%	11
50% to 59%	10
< 50%	10

## Use the ESFA audit software (PDSAT) before an auditor

PDSAT Report 19A-213 Apprenticeship price and start count by duration bands

“Where providers deliver the same apprenticeship programme at the same price, similar planned durations would be expected. Providers should be able to justify any wide variations in planned durations for delivery of the same apprenticeship programmes.”

Apprenticeship name	Total negotiated price	Up to 372 days	Greater than 372 days and up to 18 months	Greater than 18 months and up to 24 months	Greater than 24 months and up to 30 months	Greater than 30 months and up to 36 months	Greater than 36 months
Hair Professional	£9,000.00	6	34	26	57	0	0

## Final Q&A

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