



Department
for Business
Innovation & Skills

**CONSULTATION ON PREVENTING
MISUSE OF THE TERM
'APPRENTICESHIPS' IN RELATION
TO UNAUTHORISED TRAINING**

JULY 2015

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1. Consultation on preventing misuse of the term 'apprenticeships' and 'apprentice' in relation to unauthorised training

Introduction

This consultation invites you to submit information on the Government's proposal to protect against misuse of the term 'apprenticeship' and 'apprentice' by unauthorised training providers.

We would particularly welcome views from prospective and current apprentices, employers and training providers.

Apprenticeships policy is a devolved matter in Scotland, Wales and Northern Ireland. This consultation only applies to England.

Issued: 29 July 2015

Respond by: 19 August 2015

Enquiries to: apprenticeshipslegislation@bis.gsi.gov.uk

2. Executive Summary

1. Delivering three million new apprenticeship starts during this Parliament is a key priority for the Government. For this to be achieved all parties, including prospective apprentices, parents and employers, need to have confidence that an apprenticeship is a high quality choice consisting of employment with training.
2. The Government has already defined the key characteristics of an approved English apprenticeship to ensure that these deliver high quality outcomes for young people – real employment, with high quality on and off the job training, lasting over 12 months.
3. As the apprenticeship brand grows, and there is an increasing focus on, and status of, apprenticeships, Government is concerned that there may be a temptation for the term 'apprenticeship' to be applied to lower-quality courses that do not meet the high standards of statutory apprenticeships in an effort to make them more attractive to employers or learners.
4. There is a risk that this could dilute the apprenticeship brand and affect the reputations of training providers of statutory apprenticeships, as well as result in negative experiences for people who undertake lower-quality courses thinking they are an apprenticeship. This would have an adverse impact on delivering apprenticeship growth and the economic and social benefits such growth will bring. At present there is no protection of the term 'apprenticeship' that could allow Government to take action in these instances.
5. We have therefore developed proposals to address this risk and prevent the misuse of the term. The measure, which Government intends to introduce as part of the Enterprise Bill this Autumn, would prohibit training providers using the term 'apprenticeship' or 'apprentice' in relation to any course or training in England unless it is a statutory apprenticeship.
6. Training providers are critical to delivering high quality apprenticeships and the vast majority are successful in delivering excellent training. This legislation will not have an impact on the vast majority who will be compliant with it. The aim of this legislation is to affect the behaviour of some providers at the margins which detract from the overall positive picture.
7. It is important to note that this measure will not affect employers that offer their own contracts of apprenticeship or other non-statutory internal apprenticeship training. Nor will it have any effect on persons who have already achieved an apprenticeship qualification previously.

3. How to respond

8. When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and, where applicable, how the views of members were assembled.
9. You can reply to this consultation online at <https://bisgovuk.citizenspace.com/apprenticeships/consultationonprotectingthetermappr enticeship>
10. The consultation response form is available electronically on the consultation page: <https://www.gov.uk/government/consultations/protecting-the-term-apprenticeship> (until the consultation closes). The form can be submitted:
 - Online
 - by email to: apprenticeshipslegislation@bis.gsi.gov.uk
 - by hard copy to Apprenticeships Unit

Department of Business, Innovation and Skills
2nd Floor,
1 Victoria Street,
London,
SW1H 0ET
11. If you would like to provide evidence, further information, or a paper in support of your views you can do so by forwarding this to the email address given above.
12. If you are submitting the form via email please make it clear which organisation you represent by clearly marking this on the email.
13. Respondents may wish to answer some or all of the questions posed. Respondents are invited to provide as much information and evidence as possible in support of their views and to enable new ideas to be explored.
14. Other versions of the document in Braille, audio or other formats are available on request. You may make printed copies of this document without seeking permission. This consultation will close on 19 August 2015.

4. Confidentiality & Data Protection

15. Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
16. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

5. Help with queries

17. Questions about the policy issues raised in the document can be addressed to:

apprenticeshipslegislation@bis.gsi.gov.uk

6. The proposals

18. An apprenticeship is a job with high quality training. It allows the apprentice to gain technical knowledge, real practical experience and wider skills required for their immediate job and future career. These are acquired through a mix of learning in the workplace, formal off the job training and the opportunity to practice new skills in a work context. This broad mix of transferable skills gained differentiates Apprenticeships from training delivered to meet narrowly focused job needs.
19. The Government has taken steps to give employers and apprentices confidence and clarity on the quality measures that Government apprenticeships possess – most recently in our March 2015 Quality Statement.¹ This includes:
 - a. achievement of English and Maths at Level 2 as a minimum, minimum hours of employment and duration of an Apprenticeship, and the requirement to spend at least 20% of employed time receiving off the job training.
 - b. new measures, including employer co-investment, quality gateways to approve expressions of interest, standards and assessment plans and a register of apprenticeship assessment organisations. Further measures under development include a statement of commitment signed by providers, employers and apprentices and a whistleblowing hotline.
20. Government's high profile commitment to achieve 3 million more apprenticeship starts in the Parliament will continue to increase the status and focus on apprenticeships, and the quality that they offer. However, this also increases the risk that a small number of training providers could use the term 'apprenticeship' to refer to a course of learning which does not meet these strict quality measures.
21. Employers, parents and prospective apprentices could therefore be misled into thinking they were being offered a high quality Government funded apprenticeship, when this is not the case. Further, the rights and reputations of training providers who do offer statutory apprenticeships could be undermined.
22. Legally, in the absence of legislation, there is nothing to stop misuse from occurring at present as the term 'apprenticeship' or 'apprentice' has not been protected in legislation.
23. Government considers that action is needed to protect the strong reputation of apprenticeships and high quality training providers, prevent the dilution of the apprenticeship brand and give employers confidence that they are investing in a high quality product. This will strengthen their standing, and help ensure that apprenticeships are recognised as a career path equal to higher education.

¹ www.gov.uk/government/publications/apprenticeship-trailblazer-quality-statement

Proposed Option

24. Government is clear that any measure to protect the 'apprenticeship' term should not prohibit employers from offering their own internal, fully funded apprenticeships.
25. We propose that Government creates an offence which would prohibit a person using the term 'apprenticeship' or 'apprentice' in relation to any course or training in England unless it is in relation to a Government funded apprenticeship. This would not affect employers who would be free to offer any training to their own employees and apprentices (including those with contracts of apprenticeship).
26. Employers would still be free to access other skills training from a provider, but the provider would not be able to advertise it as relating to an apprenticeship if it does not relate to approved apprenticeship training. Thus training providers would be prevented from offering poor quality 'apprenticeship' training without introducing new burdens on employers.
27. An Impact Assessment for this measure will also be published.
28. Other options were considered by Government as an alternative to legislating, but were considered as not being workable or effective enough in addressing the risk of poor-quality schemes being misrepresented as high-quality apprenticeships without this proposed supporting legislation. These alternative options included:
 - a. Trademarking of approved English apprenticeships, apprenticeship standards and associated logos.
 - b. Introducing a complaints hotline for employers and apprentices to report providers that are advertising poor quality apprenticeships.
 - c. Pursuing proactive communications to protect the apprenticeship brand and promote Government's commitment to quality within Government funded apprenticeships.
29. We would consider that a breach of this measure would result in a penalty and we are currently determining what form an appropriate sanction and enforcement regime may take. The Government expects that the overwhelming majority of training providers will want to comply with new legislation and thus we envisage a light touch approach to enforcement activity. However, a deterrent is necessary in case of non-compliance. We propose that the maximum penalty would be a fine following prosecution in the Magistrates' Court.

7. Consultation questions

30. This consultation explains the Government's proposals and the rationale. We welcome comments on this option and the questions below.

Q.1: Are you aware of any instances of the term 'apprenticeship' being used to advertise courses other than apprenticeships eligible for Government funding?
Q.2: If 'yes', please provide any additional detail of such instances that might be relevant, particularly if it can help to indicate the scale of the issue.
Q.3: Are there any unintended consequences that may arise as a result of this proposal?
Q.4: If 'yes' please provide detail of what unintended consequences there may be?
Do you have any other comments that might aid the consultation process as a whole?

8. What happens next?

31. Responses made to this consultation will inform the policy development of this proposal and will be taken into account in the draft clauses within the Enterprise Bill in Autumn 2015.

32. We understand the need to give clarity to stakeholders. We will issue information made as a result of the consultation as soon as possible and within 3 months of the consultation closing. Any decisions made will be published and posted to the BIS website.

Annex 1: Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

Angela Rabess
BIS Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telephone Angela on 020 7215 1661
or e-mail to: angela.rabess@bis.gsi.gov.uk

Annex 2: Consultation on preventing misuse of the term 'apprenticeships' in relation to unauthorised training response form

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 19/08/2015

Please return completed forms to:

Apprenticeships Unit
Department of Business, Innovation and Skills
2nd Floor,
1 Victoria Street,
London,
SW1H 0ET

apprenticeshipslegislation@bis.gsi.gov.uk

Please tick the box below that best described you as a respondent to this consultation:

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

Question 1: Are you aware of any instances of the term 'apprenticeship' being used to advertise courses other than apprenticeships eligible for Government funding?

Yes/No

Question 2: If 'yes', please provide any additional detail of such instances that might be relevant, particularly if it can help to indicate the scale of the issue.

Comments:

Question 3: Are there any unintended consequences that may arise as a result of this proposal?

Yes/No

Question 4: If 'yes', please provide details of what unintended consequences there may be?

Comments:

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Comments:

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply



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