



Skills Funding  
Agency

# Apprenticeship funding: draft rules for training providers

May 2017 to March 2018

This document sets out the draft funding rules which will apply to all training providers delivering the apprenticeship programme following the introduction of the apprenticeship levy.

October 2016

Of interest to colleges, training providers, higher education institutions and employers delivering training to staff outside of their organisation.

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# Introduction and purpose of the document

1. This document sets out the draft funding rules for training providers delivering the new apprenticeship programme from 1 May 2017.
2. We will work with employers and training providers to ensure these rules are presented in the most appropriate way to suit their particular needs and to take into account their contracting approach and how they will access funding.
3. We use the term 'you' to refer to the 'main provider', that is any organisation holding a contract with us through which we directly route funds from an employer's digital account or government-employer co-investment. The main provider will have the overall responsibility for the training and on-programme assessment conducted by themselves, their subcontractors and end-point assessment conducted by apprentice assessment organisations. Where we use the term, 'you' we are also referring to any organisation contracted by you to deliver the apprenticeship on your behalf.
4. The terms 'we', 'our', 'us' and 'SFA' refer to the Skills Funding Agency.
5. These rules will form part of your terms and conditions for the use of funds in an employer's digital account or for government-employer co-investment and you must read them in conjunction with your funding agreement with the Secretary of State for Education acting through the Skills Funding Agency (the SFA), an executive agency of the Department for Education.
6. The SFA may make changes to these rules.
7. If you are a training provider delivering the new apprenticeship programme, you must operate within the terms and conditions of your funding agreement, these rules, and the [Individualised Learner Record \(ILR\) Specification](#). If you do not, you will be in breach of your funding agreement with the SFA.
8. Training providers can contact us through our Business Operations Service Desk at [servicedesk@sfa.bis.gov.uk](mailto:servicedesk@sfa.bis.gov.uk) or telephone 0370 2640001. You can also contact your provider management manager/adviser.
9. These rules will apply to all apprenticeship programmes starting on or after 1 May 2017. This includes both apprenticeship frameworks and standards. We will use the generic term apprenticeship for all types of apprenticeship, unless we state otherwise.
10. Any apprenticeship which started before 1 May 2017 will continue to follow

the rules in the [documents](#) below.

10.1. Skills Funding Agency: common funding rules 2016 to 2017.

10.2. Apprenticeships: common funding rules 2016 to 2017.

10.3. Apprenticeship framework funding rules 2016 to 2017.

10.4. Apprenticeship standards funding rules 2016 to 2017.

## Understanding the terminology

11. In this document we use the term 'apprenticeship' to mean the training and (where applicable), end-point assessment for an employee as part of a job with an accompanying skills development programme.
12. We use the term 'apprentice' to include all those who receive apprenticeship training and (where applicable) end-point assessment through an apprenticeship framework or standard funded by us.
13. We use the term 'funding agreement' to include:
  - 13.1. the apprenticeship levy provider funding agreement
  - 13.2. the contract for services between the employer and provider
  - 13.3. the contract for services - apprenticeships
14. We use the term 'this document' to refer to the Apprenticeship funding: draft rules for training providers, May 2017 to March 2018.
15. We use the term 'provider' to include any organisation on the Register of Apprenticeship Training Providers and appointed by an employer and/or holding a current funding agreement with us or contracted through a main provider for the delivery of training and on-programme assessment as part of the employer's agreed apprenticeship programme. This includes companies, charities, bodies, colleges, universities, sole traders and other types of legal entity, including those who are in the same group as, or are associated with, the main provider. This excludes individuals who are self-employed or supplied by an employment agency and who are working under the main provider's direction and control, in the same way as an employee.
16. We use the term 'delivery subcontractor' to include any organisation contracted through a main provider or employer-provider to deliver apprenticeship training or on-programme assessment. This excludes end-point assessment organisations and subcontractors you use for other purposes, including help with marketing or data management. This excludes subcontractors who deliver training to an apprentice that is in addition to the apprenticeship and not funded through this route.
17. We use the terms 'standard' and 'apprenticeship standard' to cover the apprenticeship standards which employers have designed and are available for delivery between May 2017 and March 2018. This is defined as those standards that have had their assessment plan approved and have been published alongside their allocated funding band.

18. We use the terms 'framework' and 'apprenticeship framework' to cover the apprenticeship frameworks which are available for delivery between May 2017 and March 2018.
19. We use the term 'employer' to mean an organisation that has a contract of employment with an apprentice, including apprenticeship training agencies. This may also include a company whose PAYE scheme the employer has connected their digital account in accordance with HMRC's definition of connected companies.
20. We use the term 'apprentice assessment organisation' to include any organisation on the [Register of Apprentice Assessment Organisations](#) (RAAO) and selected by an employer and contracted by a main provider for the delivery of end-point assessment as part of the employer's agreed apprenticeship programme.
21. We use the term 'training' to mean the delivery of training and on-programme assessment by a main provider or any organisation contracted to a main provider for this purpose.
22. From April 2017, all employers operating in the UK, with a pay bill of over £3 million each year will be required to contribute to a new apprenticeship levy. Employers can benefit from this investment by training apprentices.
23. The 'digital apprenticeship service' is the service that will allow employers to choose and pay for the apprenticeship training that they want and will support the uptake of apprenticeships. The service is designed primarily for employers, with information coming from a range of different sources including training providers.
24. We use the term 'employer's digital account' to mean the part of the digital apprenticeship service that will allow employers to view the funds that they have available to spend on apprenticeships in England and pay for their chosen apprenticeship training and assessment.
25. We use the term 'government-employer co-investment' to mean funding that is not paid for from an employer's digital account because the employer does not pay the levy or has insufficient levy funds in their account. Employers will be required to make a mandatory co-investment with the government as detailed in paragraphs 175 to 178.

## What is an apprenticeship?

26. An apprenticeship is a job with an accompanying skills development programme. Apprentices cannot be employed solely to deliver an apprenticeship; there must be a genuine job available after they have completed their apprenticeship. Apprentices gain the technical knowledge, practical experience and wider skills they need for their immediate job and future career. The apprentice gains this through a wide mix of learning in the workplace, formal off-the-job training and the opportunity to practise new skills in a real work environment.
27. Off-the-job training is defined as learning which is undertaken outside of the normal day-to-day working environment and leads towards the achievement of an apprenticeship. This can include training that is delivered at the apprentice's normal place of work but must not be delivered as part of their normal working duties. It cannot include any on-programme assessment required for an apprenticeship framework.
28. Apprentices must be an employee on the first day of their apprenticeship and be paid at least a wage consistent with the law for the time they are in work and in off-the-job training. You can find information on the definition of an employee and information on the national minimum wage on [GOV.UK](https://www.gov.uk). You can find a full definition of an approved English apprenticeship on the [legislation website](#).
29. To use funds in an employer's digital account or from government-employer co-investment for an apprenticeship, you must:
  - 29.1. retain evidence of the apprentice's employment
  - 29.2. be satisfied that this is the most appropriate learning programme and have evidence that it is:
    - 29.2.1. a new job role, or
    - 29.2.2. an existing job role, where the individual needs significant new knowledge and skills and
  - 29.3. have evidence that the apprentice spends at least 20% of their time on off-the-job training
  - 29.4. have evidence that the job allows the apprentice to gain wider employment experience as part of the apprenticeship
30. An apprenticeship is a full-time programme. You must not use funds from an

employer's digital account or government-employer co-investment for any part of any apprentice's programme where either you or another party claim funding from another government department or other agency for the same purpose. This includes any funding from the Education Funding Agency for that individual.

31. You must not claim funding for any part of any apprentice's programme that duplicates provision they have received from any other source.
32. You must evidence that an apprentice has an [apprenticeship agreement](#) at the start of and throughout their apprenticeship, between the employer and apprentice as defined in the [Apprenticeships, Skills, Children and Learning Act 2009](#).
  - 32.1. This can be a written statement of particulars under the [Employment Rights Act 1996](#), a contract of employment or a letter of engagement, where the employer's duty under the 1996 Act is treated as met.
  - 32.2. You must keep a copy of any revisions to the apprenticeship agreement resulting from a change in circumstance in the evidence pack.
  - 32.3. Apprentices who are made redundant through no fault of their own, up to six months before the planned end-date of their apprenticeship, do not need to be employed under an apprenticeship agreement. (Please see paragraph 201.)
33. A written agreement and a commitment statement (please see paragraphs 184 to 186) must be in place at the start, and for the entire length of the apprenticeship (and updated as needed), with signed copies. These must be re-distributed to all three parties (training provider, employer and apprentice).

## **Apprenticeship duration**

34. The minimum duration of an apprenticeship is one year unless the framework or standard specification or assessment plan requires it to be longer. In apprenticeship standards, the end-point assessment can only be taken after the minimum duration has been met. (Please see paragraph 128.)
35. You must not claim an apprenticeship framework completion certificate on behalf of the apprentice from Apprenticeship Certificates England if the minimum duration has not been met. For standards, you must ensure end-point assessment organisations do not claim the standard completion certificate from the certifying body if the minimum duration has not been met (please see paragraph 34).
36. The apprentice must be involved in active learning or monitored workplace

practice throughout an apprenticeship. The apprentice can, after achieving all mandatory requirements of an apprenticeship, stay in learning until they meet the minimum duration and embed the skills they have gained. You must have evidence that the apprentice continues in learning.

37. If the apprentice works fewer than 30 hours a week you must extend the minimum duration (pro rata) to take account of this. For example, if the apprentice only works 20 hours a week, you must extend the planned length by 50% – so, the apprentice must be in learning for at least 18 months. Where the working hours of an apprentice temporarily fall below 30 hours a week, you must extend the duration of the programme and record this in the ILR at the end of learning using the actual end-date. You must not change the planned end-date on the ILR.
38. When an apprentice changes their framework or standard, transfers between providers or returns after a break in learning:
  - 38.1. you must have evidence that the total amount of time spent on their apprenticeship meets the minimum duration funding rule for the continued apprenticeship
  - 38.2. if they start a new apprenticeship, previous durations do not apply in meeting the minimum duration requirements

## **Who can be funded?**

39. You are responsible for checking the eligibility of the individual at the start of their apprenticeship programme and can only use funds in the employer's digital account or government-employer co-investment for those who are eligible. You must retain evidence of the individual's eligibility.
40. To use funds in the employer's digital account or government-employer co-investment, the individual must:
  - 40.1. start their apprenticeship after the last Friday in June of the academic year in which they have their 16<sup>th</sup> birthday
  - 40.2. be able to complete the apprenticeship within the time they have available; if you know an individual is unable to complete the apprenticeship in the time they have available, they cannot be funded
  - 40.3. not be enrolled on another apprenticeship at the same time as any new apprenticeship they start
  - 40.4. not be asked to contribute financially to the direct cost of learning or use a student loan to pay for their apprenticeship

- 40.5. spend at least 50% of their working hours in England over the duration of the apprenticeship
- 40.6. have the right to work in England
- 40.7. be one of the following:
  - 40.7.1. a citizen of a country within the European Economic Area (EEA) (including other countries determined within the EEA or those with bilateral agreements), or have the right of abode in the UK, and have been ordinarily resident in the EEA (including other countries determined within the EEA or those with bilateral agreements), for at least the previous three years on the first day of learning
  - 40.7.2. a non-EEA citizen with permission from the UK government to live in the UK, (not for educational purposes) and have been ordinarily resident in the UK for at least the previous three years before the start of learning
41. Annex A of this document includes further rules on individuals with unusual eligibility status as well as the list of all the countries and territories in the European Economic Area (EEA).
42. As exception to the rules above, we will also allow the following individuals to be funded from an employer's digital account or using government-employer co-investment.
  - 42.1. Armed forces and Royal Fleet Auxiliary personnel to undertake a statutory English apprenticeship wherever they are based in the United Kingdom.
  - 42.2. Members of other nations' armed forces stationed in England and their family members, where the family member has a right to work in the United Kingdom, if the armed forces' individual has been ordinarily resident in England for three years. We will not fund family members that stay outside of England.
  - 42.3. Apprentices whose occupation involves significant travel outside of the UK as part of their job (such as in travel or tourism) and they have an identified registered work location in England. You cannot claim for the additional expense of delivering learning outside of England.
43. Wales, Scotland and Northern Ireland have their own funding arrangements. You must develop arrangements with the relevant devolved administration if you are planning to deliver apprenticeships to individuals who do not spend at least 50% of their working hours in England over the duration of their apprenticeship in England, including time spent on off-the-job training.
44. You must not claim funding for individuals who do not meet the eligibility

criteria set out in this document unless they are eligible under the Fees and Awards Regulations 2007 Act (as amended). This includes individuals who:

- 44.1. are here illegally
  - 44.2. are resident in the United Kingdom on a Tier 4 (general) student visa unless they are eligible through meeting any other of the categories described above
  - 44.3. are non-EEA citizens in the United Kingdom on holiday, with or without a visa
  - 44.4. have overstayed their immigration or visitor visa
  - 44.5. are non-EEA citizens and are a family member of a person granted a Tier 4 visa, have been given immigration permission to stay in the UK and have not been ordinarily resident in the UK for the previous three years on the first day of learning
  - 44.6. are ordinarily resident in the Channel Islands or Isle of Man, unless they are also ordinarily resident within England
  - 44.7. have a biometric residence permit or residence permit imposing a study prohibition or restriction on the individual
45. Where you are using funds from an employer's digital account you must have confirmation from the employer that the apprentice is employed by that employer or a [connected company](#) as defined by HMRC.
  46. Any eligible individual can be funded to undertake an apprenticeship at a higher level than a qualification they already hold, including a previous apprenticeship.
  47. We will fund an apprentice to undertake an apprenticeship at the same or lower level than a qualification they already hold, if the apprenticeship will allow the individual to acquire substantive new skills and you have evidence that the content of the training is materially different from any prior qualification or a previous apprenticeship.
  48. The age of the apprentice on the day they start their apprenticeship will be used for all age-based eligibility criteria for that apprenticeship.
  49. An apprentice's eligibility will not change during the apprenticeship, unless their employment status changes. (Please see paragraphs 200 to 201.)
  50. You must reassess an individual for any new apprenticeship.
  51. Individuals who are not eligible for funding when they start an apprenticeship will not be funded for the same apprenticeship, even if they become eligible

at a later date. If an individual becomes eligible, a different apprenticeship can be funded.

52. If an apprentice becomes unemployed, self-employed or redundant during the apprenticeship, this will make their apprenticeship and funding ineligible at that point and you should report them as having withdrawn from the apprenticeship on the ILR. The only exception to this is for apprentices who are made redundant through no fault of their own within six months of the planned end-date of their apprenticeship. We will continue to fund them even if they cannot find another employer (please see paragraph 201).

## **Learners with learning difficulties and disabilities**

53. We will provide learning support for apprentices to help with learning that affects their ability to continue and complete their apprenticeship. This can be claimed up to the learning actual end-date. Learning support should be claimed by a provider to meet the costs of putting in place a reasonable adjustment as part of the Equality Act 2010.
54. This must not be used to deal with everyday difficulties that are not directly associated with an apprenticeship.
55. You must:
  - 55.1. carry out a thorough assessment to identify the support the apprentice needs
  - 55.2. agree and record the outcome of your assessment in the evidence pack
  - 55.3. deliver support to meet the apprentice's identified needs, and review progress and continuing needs, as appropriate
  - 55.4. record all outcomes in the evidence pack and keep evidence of the assessment of the needs
  - 55.5. report in the ILR that an apprentice has a learning support need
56. Learning support is earned at a fixed monthly rate, which should be enough to cover your costs. If the support cost exceeds that earned from the fixed monthly rate, and you provide evidence of this, you can claim excess learning support using the Earnings Adjustment Statement (EAS). You can find further information on the EAS on [GOV.UK](https://www.gov.uk).
57. You must promptly claim for learning support through the ILR and the EAS. We will not pay you for claims from a previous funding year if you do not claim on time.
58. The maximum value of learning support each year claimed through the monthly rate and excess learning support claimed through the EAS is

£19,000. If learning support costs for an apprentice exceeds this maximum, you will need to complete the exceptional learning support (ELS) forms so we can authorise you to claim exceptional learning support. You can access the Exceptional Learning Support cost form on [GOV.UK](https://www.gov.uk).

59. To claim exceptional learning support (ELS) for an apprentice aged 19 to 24 without an Education, Health and Care plan (EHC plan), you must confirm why the individual does not have an EHC plan. This should be a letter or email from the apprentice's local authority stating the reason(s) why the individual does not need an EHC plan.

## **Apprenticeship training agency (ATA)**

60. You must not employ apprentices solely to deliver an apprenticeship; there must be a genuine job available after they have completed their apprenticeship. The only exception to this is where an apprentice is employed through a recognised ATA because the job is with a third party.
61. An ATA is an organisation whose main business is employing apprentices who are made available to employers for a fee. They must:
  - 61.1. be set up as a distinct legal entity so that apprentices can have employment contracts with the ATA
  - 61.2. report that the apprentice is employed by an ATA in the ILR
62. An ATA must follow our ATA framework. You can find information on ATAs on [GOV.UK](https://www.gov.uk).
63. Where the apprentice is employed by a levy-paying ATA they must follow the rules set out in [Apprenticeship funding: rules and guidance for levy-paying employers](#).
64. Group training associations that offer an ATA service to employers must follow ATA-specific rules.

## What can be funded?

65. You must make sure that the apprenticeship is eligible for funds in the employer's digital account or government-employer co-investment before the individual starts. The [Hub](#) contains details of eligible apprenticeships. Apprentices can only be enrolled against an apprenticeship standard once we have approved and published the assessment plan on [GOV.UK](#).
66. Funds from an employer's digital account or government-employer co-investment can only be used for activity directly related to the apprenticeship. These funds can only be used to pay for training, education and assessment, including end-point assessment, to attain an apprenticeship that is eligible for funding up to the limit of the agreed funding band. This includes the following.
  - 66.1. On-the-job and off-the-job training through an externally-contracted provider or evidenced costs for employer-provider delivery (please refer to the [Apprenticeship funding: draft rules for employer-providers](#)).
  - 66.2. Planned on-programme assessment and the formal end-point assessment including any costs associated with external quality assurance and the certification of the apprenticeship.
  - 66.3. E-learning (as part of blended learning that includes practical workplace learning).
  - 66.4. Registration, materials, examination and certification where delivered as part of the apprenticeship programme.
  - 66.5. Any administration directly linked to the training, education and end-point assessment. For example, processing of the ILR and so on.
  - 66.6. Funding to re-take qualifications or non-accredited elements required for the apprenticeship providing additional learning takes place.
  - 66.7. Accommodation costs for learning delivered through residential modules where the residential learning is a requirement for all apprentices. Any costs for residential modules must represent value for money.
  - 66.8. To help an apprentice take part in a skills competition if the employer and provider have agreed that participation in the competition directly contributes to helping that individual achieve the apprenticeship standard. The costs of taking part would be worked into the price for the apprenticeship training, agreed between employer and provider. This price must be within the funding band for that particular standard.
67. Funds in an employer's digital account or government-employer co-

investment cannot be used for any of the following.

- 67.1. Enrolment, induction, prior assessment, initial diagnostic testing or similar activity.
- 67.2. Accommodation costs where the apprentice is resident away from their home base, because of the requirements of their day-to-day work or because this is convenient for the employer.
- 67.3. Travel costs for apprentices under any circumstances.
- 67.4. Apprentices' wages.
- 67.5. Personal protective clothing and safety equipment required by the apprentice to carry out their day-to-day work.
- 67.6. Capital purchases.
- 67.7. Any training or optional modules in excess of those required, educational trips or trips to professional events not specified in the apprenticeship standard or needed to achieve the apprenticeship framework.
- 67.8. Re-sits for qualifications or end-point assessment needed for the apprenticeship where no additional learning is required.
- 67.9. Time spent by employees / managers supporting apprentices, mentoring or the time of other employed staff arranging training support, except where this is directly linked to the training, education and end-point assessment for an employer-provider. For example, we would not expect to pay for any time spent by the apprentice's line manager for any of these activities.
- 67.10. Training assessment, exams or tests in any skills and knowledge solely and specifically required to acquire licences to practice, or the certification of any licence to practice, where these are a legal requirement that must be obtained by practitioners to confirm that the licence holder meets prescribed standards of competence for that sector or industry.
- 67.11. Specific services not related to the delivery and administration of the apprenticeship; including company induction, bespoke or additional training or assessment not needed to meet the apprenticeship requirements.
- 67.12. Off-the-job training delivered only by distance learning, although you can include online and other blended learning activity as part of the delivery of an apprenticeship.
- 67.13. Repeating the same regulated qualification where the apprentice has previously achieved it unless it is a requirement of the apprenticeship or for any GCSE where the apprentice has not achieved grade C, or 4, or higher.

68. You can only use funds in the employer's digital account to pay for apprenticeship training and assessment for apprentices employed by that employer or a connected company.
69. Where an apprentice is employed by a non-levy-paying ATA, the ATA will be able to access support for training and assessment through government and employer co-investment.

## **Additional payments**

70. You will receive a payment towards the additional cost associated with training if, at the start of the apprenticeship, the apprentice is:
  - 70.1. aged between 16 and 18 years old (or 15 years of age if the apprentice's 16<sup>th</sup> birthday is between the last Friday of June and 31 August)
  - 70.2. aged between 19 and 24 years old and has either an Education, Health and Care plan provided by the local authority, or has been in the care of the local authority as defined in paragraph 71
  - 70.3. undertaking an apprenticeship framework and recorded on the ILR as having a postcode prior to enrolment, listed within the 27% most deprived areas of the country according to the Index of Multiple Deprivation (IMD) 2015
71. A child in care is defined as:
  - 71.1. an eligible child - a young person who is 16 or 17 and who has been looked after by the local authority/Health and Social Care Trust for at least a period of 13 weeks since the age of 14, and who is still looked after
  - 71.2. a relevant child - a young person who is 16 or 17 who has left care after their 16<sup>th</sup> birthday and before leaving care was an eligible child
  - 71.3. a former relevant child - a young person who is aged between 18 and 21 (up to their 25<sup>th</sup> birthday if they are in education or training) who, before turning 18, was either an eligible or a relevant child, or both
72. Before any apprenticeship starts, you must have evidence that you are eligible for these payments in respect of each apprentice. You must check this and either the employer, or the apprentice, must provide you with evidence to keep in the evidence pack.
73. Where these payments are for apprentices aged between 19 and 24 years old at the start of their apprenticeship (please see paragraph 70.2), you must include approval from the apprentice to inform the employer that they have

an Education, Health and Care plan or that they have been in the care of the local authority and either:

73.1. a signed, original declaration(s) from the apprentice to confirm they are a care leaver, or

73.2. evidence of an Education, Health and Care plan

74. These payments will be paid as follows.

74.1. 90 days after the apprentice starts 50% will be paid.

74.2. 365 days after the apprentice starts the remaining 50% will be paid.

75. You will also receive the additional payments due to the employer and you must pass these on in full to the employer within 30 working days of receiving this funding from us.

## **Apprenticeship Grant for Employers (AGE) for 16- to 24- year-olds**

76. AGE can only be claimed for an employer with fewer than 50 employees who would not otherwise be in a position to recruit an apprentice aged 16 to 24 at the start of their apprenticeship, into employment through an approved apprenticeship framework. Employers who hold a Conditions of Funding (Grant) – employer funding agreement with us for apprenticeships cannot have an AGE funding agreement and cannot claim AGE.

77. An eligible employer can claim a maximum of five AGE grants in total, subject to eligibility.

78. These funding rules must be read together with the latest AGE 16 to 24 employer fact sheet which details the terms and conditions of the Grant; your AGE 16 to 24 provider funding agreement; and the technical guidance note which you can access on [GOV.UK](https://www.gov.uk).

79. The employer must not have started an apprentice (of any age or at any level) in the previous 12 months prior to the start date of the first apprentice claiming the AGE.

80. You can only offer AGE if you have a signed AGE 16 to 24 provider funding agreement. You must not offer AGE to an employer if this would result in your commitments to employers exceeding your agreed contract value.

81. AGE is not available for apprenticeship standards.

82. AGE is available for eligible apprentices who started their apprenticeship on or before 31 July 2017, subject to affordability.

## Employer eligibility

83. You must check that an employer is eligible before applying for the Grant. You must provide the employer with a copy of the latest AGE 16 to 24 employer fact sheet and ensure they understand the criteria.
84. You must correctly complete the requirements in the AGE 16 to 24 employer declaration and ensure the employer understands the timetable to process an eligible claim and for the payment to be received. You can find [more information about AGE](#) on GOV.UK.
85. Check your own ILR records to confirm that they have not accessed apprenticeship funding with you in the last 12 months.
86. Check that the employer identifier used in the Individualised Learner Record (ILR) relates to the correct legal entity employing the apprentice and that the record confirms that their recorded total aggregate workforce, is fewer than 50.
  - 86.1. Ensure that the employer is aware that if they, or any other branches or divisions in their business, have accessed apprenticeship programme funding for any employers undertaking training with them in the last 12 months, they will not be eligible for the AGE Grant.
  - 86.2. Ensure that the employer is aware that payment timing is dependent on a timely and correctly completed record by you, and that this will take at least eight weeks after the 13-week eligibility trigger for this to be processed by the SFA and paid by you.
87. Public sector organisations who meet the eligibility criteria can apply for the Grant. For the purposes of the Grant, the number of employees for schools and doctors' surgeries is based on the site, not the local authority.
88. In specific circumstances, certain franchises that employ fewer than 50 employees (as recorded on EDS) are eligible to claim the grant.

## Qualifying apprentices

89. To be eligible, learners must:
  - 89.1. be aged between 16 to 24 years old at the start of their apprenticeship
  - 89.2. be living in England
  - 89.3. start on an SFA-approved apprenticeship framework before their 25th birthday
  - 89.4. not be an existing employee but a new recruit with the employer

- 89.5. still be employed with the employer making the claim at the date of the 13-week qualifying period from the 'learning' start date as recorded on the ILR
90. An eligible employer can claim for an existing part-time employee (contracted to work fewer than 20 hours a week) with a new full-time apprenticeship job role which must be a minimum of 30 hours a week.
91. Where the apprentice is subject to a break in learning the employer may still be eligible for an AGE Grant where the apprentice has been correctly coded on the ILR. Please refer to technical guidance note hosted on [GOV.UK](https://www.gov.uk) on how to process apprentices who have a break in learning.
92. Where an eligible employer is recruiting a 16- to 24-year-old who started their apprenticeship with another employer, they may be potentially eligible for the Grant. The employer must commit to employ the apprentice for a minimum of 12 months or the duration of the apprenticeship, whichever is the longer. The ILR must be updated to record the new employer's employer identifier.
93. You must:
- 93.1. help employers check their eligibility and to understand their commitment when applying for the Grant; advising employers of eligibility and the reasons why
  - 93.2. clarify the process of applying for the Grant, including timescales for when employers will receive payment
  - 93.3. check against the data available to ensure the claim is accurate and successfully processed
  - 93.4. submit applications on behalf of eligible employers through the ILR ensuring that the ILR is correctly coded, including the correct employer identifier for the employer and the current learning delivery monitoring (LDM) code for AGE
  - 93.5. record the AGE LDM code on the ILR at the earliest opportunity; you should submit an ILR record for the apprentice with the correct AGE LDM codes as part of your next data return and before the 13-week qualifying period
  - 93.6. obtain and retain eligibility evidence
  - 93.7. investigate and resolve employer complaints and issues relating to AGE claims
  - 93.8. co-operate and supply information to the Skills Funding Agency where a complaint has not been resolved to the satisfaction of the complainant and has been escalated to the SFA in accordance with your AGE 16 to 24 Provider Funding Agreement

- 93.9. make payments to eligible employers no later than 30 days after receipt of funding from the Skills Funding Agency

## **Devolution**

94. Employers who recruit apprentices in areas where the AGE 16 to 24 budget has been devolved are not eligible for an AGE grant funded by the SFA. Your Provider Funding Agreement includes further information on when a devolution agreement is agreed and the impact this will have on your contract value.
95. You must signpost employers to the devolved area where the AGE budget is managed locally through devolution. You can access an up-to-date list of areas where AGE is managed locally and how to contact them on GOV.UK.
96. You must include the correct learning delivery monitoring (LDM) code on the Individualised Learner Record (ILR) to identify that the employer is claiming a Grant. You should also use the same code for apprentices where their employer's postcode falls within a devolved area's footprint. You can find further guidance on valid LDM codes and recording AGE learners on GOV.UK.

## **Application process and evidence requirements**

97. You must verify apprentice and employer eligibility for the AGE grant at the start of the discussion with employers about their AGE 16 to 24 and retain any evidence you collect to demonstrate this.
98. You and the employer must complete and sign the AGE [16 to 24 Employer Declaration](#) (you can access this on GOV.UK.) as soon as possible but always before the 13-week period is reached. You must provide a copy of the signed declaration with the employer once it has been completed and signed by both parties.
99. You must refer to the technical guidance note for details on how to process your AGE claim and comply with the performance management rules when delivering AGE.

## **Recovery of funds**

100. If you identify the employer or apprentice as being ineligible before the 13-week qualifying period, you must update the ILR record and contact the employer to make them aware of the change.
101. Where your ILR submission makes an employer ineligible, we will recover the funds. You must update the ILR record at the earliest opportunity.

## **Apprenticeship training agency (ATA) requirements**

102. ATAs that have successfully completed the ATA recognition process and are on the National Register of Approved ATAs are able to offer the Grant to eligible 'host employers' committed to support the apprentice for a minimum of 12 months or the time they take to completed their apprenticeship programme, whichever is the longer.
103. Recognised ATAs will work with the training organisation network to claim the Grant on behalf of the 'host employer' (as ATAs will not be administrating Grants on behalf of the employer). The entire £1,500 should be passed to the 'host employer' by the training organisation. ATAs and the training organisation must not hold back or top-slice any element of the £1,500, directly or indirectly. Grant payments cannot be split between host employers.
104. You must use the version of the Employer Declaration which is specifically for eligible host employers who are applying through an ATA.

## Extra support for small employers

105. The government will fund all of the apprenticeship training costs, up to the maximum value of the funding band for the apprenticeship, for employers employing fewer than 50 people (49 or less), if on the first day of the apprenticeship, the apprentice is:
- 105.1. aged between 16 and 18 years old (or 15 years old if the apprentice's 16<sup>th</sup> birthday is between the last Friday of June and 31 August)
  - 105.2. aged between 19 and 24 years old and either has:
    - 105.2.1. an Education, Health and Care plan provided by the local authority, or
    - 105.2.2. has been in the care of the local authority as defined in paragraph 71
106. You must not request any employer contribution (please see paragraphs 175 to 178) to the cost of an apprenticeship up to the maximum value of the funding band if an employer employing fewer than 50 people (49 or fewer) recruits an eligible apprentice.
107. If the price agreed between you and the employer is above the maximum value of the funding band for the apprenticeship, the employer must pay in full the difference between the band maximum and the agreed price.
108. Before any apprenticeship starts, you must have evidence that the apprentice and employer are eligible for the waiving of the employer contribution. The employer must provide evidence that they employed an average of 49 or fewer employees in the 365 days before the apprentice was recruited using the calculation set out in paragraph 109, and you must keep this in the evidence pack.
109. We define the number of employees as the number of people with a contract of employment. This must be calculated using the average number of employees with a contract of employment in the 365 days before the apprentice is recruited. If the average number of employees is 49 and the recruitment of apprentices takes this number to 50, the employer will still be eligible to receive this extra support. However, if the average number of employees is 50 and the recruitment of apprentices takes this number to 51, the employer will not be eligible to receive this extra support.

## Support for English and maths training

110. We will fund apprentices to achieve qualifications in English or maths (or both), if they do not meet the required standard (please see below). This will be paid in full to the provider by the SFA at the rate we set, and will not be

deducted from the employer's digital account or require employer co-investment.

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

111.1. GCSE English language or maths

111.2. Functional Skills English or maths at Level 2

112. We will fund Functional Skills English or maths below Levels 1 or 2 if you have conducted a thorough initial assessment using current assessment tools based on the national literacy and numeracy standards and core curriculum that shows the apprentice needs to study a lower level before being able to achieve their Level 2.

113. In exceptional circumstances, we will fund:

113.1. [approved 'stepping-stone' qualifications](#) (including components, where applicable) to support progression to English or maths Functional Skills or GCSEs at Level 2 to address specific skills gaps

113.2. re-takes of GCSE English or maths where the apprentice has a grade lower than grade 4 (or C) and they receive further teaching

113.3. Ofqual-regulated and SFA-approved Level 1 and Level 2 awards and certificates in British Sign Language (BSL) as an alternative to Functional Skills English for apprentices whose first language is BSL

114. Apprentices studying an Advanced Early Years Education apprenticeship, must achieve the English and maths requirements through GCSE or iGCSE. We will not fund Functional Skills or other alternative qualifications for these apprentices.

115. Any English and maths requirements of the apprenticeship in addition to the above, must be funded within the funding band assigned to the apprenticeship and will be funded from the employer's digital account or through government-employer co-investment. Alternatively, it can be funded above the funding band and paid for in full by the employer.

116. For Level 2 apprenticeships where Level 2 English or maths are not required for the apprenticeship and the apprentice does not already hold acceptable qualifications (see published list) apprentices must:

116.1. achieve a Functional Skills qualification of at least Level 1 English and maths before taking the end-point assessment or achieving an apprenticeship framework

116.2. take the Level 2 English and maths test before they complete their

apprenticeship but they do not have to achieve English and maths to complete their apprenticeship

117. For apprenticeships at Level 3 and above, or where Level 2 English and maths are a mandatory part of the framework and the apprentice does not already hold acceptable qualifications (please see published list):
  - 117.1. apprentices must achieve Level 2 Functional Skills or GCSE qualifications in English and maths before taking the end-point assessment or achieving an apprenticeship framework
118. If the employer ceases trading or the apprentice is made redundant, the apprentice is allowed to continue with their English and maths up to and including Level 2. You can continue to claim funds at the published apprenticeship English and maths rate.
119. An apprentice must not be funded from the adult education budget for English or maths.

## End-point assessments

120. End-point assessment is an holistic assessment of the knowledge, skills and behaviours which have been learnt throughout an apprenticeship standard. The requirements for end-point assessment are set out in the assessment plan for the specific standard.
121. Apprentices will not be able to achieve an apprenticeship standard without satisfying all the requirements of the assessment plan, including the end-point assessment.
122. An apprentice can only take the end-point assessment once they have satisfied the gateway requirements set out in the assessment plan and their employer and training provider are content they have attained sufficient skills, knowledge and behaviours.
123. The employer must select an apprentice assessment organisation to deliver the end-point assessment from the [Register of Apprentice Assessment Organisations](#) (RAAO). Only those organisations listed on the RAAO will be eligible to be funded.
124. Although you may be involved in arrangements for end-point assessment, the assessment itself must be independent and meet the requirements set out in the assessment plan for the standard. Providers who have delivered the training must not undertake end-point assessment for that same group of apprentices.
125. The exception to this rule is any standard identified as an 'Integrated Degree

Level Standard'. The end-point assessment organisation in these cases may also be the provider.

126. Where an independent assessment is required, you must contract with the apprentice assessment organisation that has been selected by the employer and have a written agreement in place with this assessment organisation and make payment to them for conducting the end-point assessment. The written agreement must set out the arrangements for end-point assessment, including arrangements for any re-takes and payments.
127. You must ensure that the price you agree with the employer for the apprenticeship includes the amount needed to pay for the end-point assessment (including any re-takes). This includes the cost of external quality assurance, which involves an external body (as named in the assessment plan) ensuring consistency of quality and approach to end-point assessment against a particular standard, regardless of which apprentice assessment organisation has carried it out. You must ensure that you engage actively with any request for information from the external body, where applicable.
128. The end-point assessment can only be taken after the minimum duration has been completed (please see paragraph 34). You must ensure that the entire duration of the apprenticeship standard for both training and end-point assessment is recorded on the ILR as a minimum of 372 days to be eligible for funding.
129. You must keep evidence of payments made to the Apprentice Assessment Organisation for conducting the end-point assessment.

# Contracting and subcontracting

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

130. You can only be funded for apprenticeship delivery to employers who do not pay the apprenticeship levy if you have a contract for service – apprenticeships, with us.
131. Funding for each apprenticeship will be routed through a single provider.
132. 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. The volume of training and/or on-programme assessment that you directly deliver for each employer must have some substance and cannot be a token amount to satisfy this rule. It should 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.

## Agreeing the use of subcontractors with employers

133. You must take your own legal advice about the impact of Public Contracts Regulations 2015 on your recruitment of delivery subcontractors and have this advice available for inspection by us and employers on request.
134. You can use delivery subcontractors to complement your own delivery if requested by an employer and agreed at the start of an apprenticeship. Delivery subcontractors can deliver full or part apprenticeship frameworks and standards.
135. You must only use delivery subcontractors that satisfy one of the following three criteria.
  - 135.1. They are on the published Register of Apprenticeship Training Providers and have applied via the main or supporting application routes.
  - 135.2. They are the apprentice's employer or a [connected company](#) as defined by HMRC and are on the published Register of Apprenticeship Training Providers, having applied through the employer-provider application route.
  - 135.3. They are not on the published Register of Apprenticeship Training Providers but will deliver less than £100,000 of apprenticeship training and on-programme assessment under contract across all main providers and employer-providers between 1 May 2017 and 31 March

2018.

136. You must not agree the use of delivery subcontractors with an employer if you do not have knowledge, skills and experience of contracting with, and managing, delivery subcontractors.
137. You must carry out your own due diligence checks on potential delivery subcontractors. The process and results must be available for inspection by us and employers. You must not use a potential delivery subcontractor's presence on the Register of Apprenticeship Training Providers, or any other public register or database, as an indicator that they are suitable to deliver to your, or the employer's, specific requirements.
138. You must not agree with an employer the use of a delivery subcontractor that you assess is unsuitable, or whose quality of delivery is demonstrably inadequate, even where the employer decides not to work with you as a consequence.
139. You must have robust procedures in place to ensure you do not inadvertently fund extremist organisations through subcontracting of apprenticeship training and/or on-programme assessment.
140. You must not agree the use of any delivery subcontractor where this would require you to subcontract apprenticeship training and/or on-programme assessment to a second level. All of your delivery subcontractors must be contracted directly by you.
141. You must maintain the relationship with each employer at all times. You must not allow a delivery subcontractor to lead that relationship.

### **Your written agreement with each employer**

142. If you and an employer agree the use of delivery subcontractors, you must have a written agreement in place with each employer that sets out the following.
  - 142.1. The apprenticeship training and/or on-programme assessment that you will directly deliver.
  - 142.2. The amount of funding you will retain for your direct delivery.
  - 142.3. The apprenticeship training and/or on-programme assessment that each delivery subcontractor will contribute to the employer's apprenticeship programme.

- 142.4. The amount of funding you will pay each delivery subcontractor for their contribution.
- 142.5. The amount of funding you will retain to manage and monitor each delivery subcontractor.
- 142.6. The support you will provide each delivery subcontractor in exchange for the amount of funding you will retain.
- 142.7. The monitoring you will undertake to ensure the quality of the apprentice training and/or on-programme assessment you have contracted your delivery subcontractors to carry out.
- 142.8. Any actual or perceived conflict of interest between you and any delivery subcontractors. For example, where you and a delivery subcontractor are part of the same group, share common directors or senior personnel, or where you will benefit financially from using a particular delivery subcontractor.

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

- 143. You are responsible for all of the actions of your delivery subcontractors that are connected to, or arise out of, all the apprenticeship training and on-programme assessment that you subcontract.
- 144. You carry overall responsibility for the quality of apprenticeship training and on-programme assessment undertaken by your delivery subcontractors.
- 145. You must manage and monitor all of your delivery subcontractors to ensure that high-quality delivery is taking place that meets our funding rules.
- 146. You must carry out a regular and substantial programme of quality-assurance checks on the apprenticeship training and on-programme assessment provided by delivery subcontractors, including visits at short notice and face-to-face interviews with staff and learners. The programme must:
  - 146.1. include whether the learners exist and are eligible
  - 146.2. involve direct observation of initial guidance, assessment and delivery of training and/or on-programme assessment
- 147. Your findings must be consistent with these funding rules, your expectations and the subcontractor's records. You must report any instances to us where this is not the case.
- 148. If any of your delivery subcontractors undergoes a change of circumstances

that affects its ability to continue to deliver under a subcontract with you, you must make alternative delivery arrangements for each affected apprentice, in agreement with their employer. This includes going into liquidation, administration, key delivery staff leaving the organisation, or removal from the Register of Apprenticeship Training Providers. The change of delivery arrangement must be recorded in your written agreement with the employer.

### **Contracting with delivery subcontractors**

149. You must have a legally binding contract with each delivery subcontractor.
  
150. You must obtain an annual report from an external auditor if the apprenticeship contracts with your delivery subcontractors will exceed £100,000 in any one financial year. The report must provide assurance on the arrangements to manage and control your delivery subcontractors. The report must comply with any guidance issued by us. You must supply us with a certificate signed by the external auditor and an authorised signatory to confirm you have received a report that provides satisfactory assurance. We may ask you to provide a copy of the full report.
  
151. Your contract with each delivery subcontractor must specify the following.
  - 151.1. They must keep to our funding rules.
  - 151.2. They must provide you with ILR data so that your data returns to us accurately reflect delivery information.
  - 151.3. They must give us and any other person nominated by us access to their premises and all documents related to their delivery of apprenticeships.
  - 151.4. They must give you sufficient evidence to allow you to:
    - 151.4.1. assess their performance against Ofsted's Common Inspection Framework
    - 151.4.2. incorporate the evidence they provide into your self-assessment report
    - 151.4.3. guide the judgements and grades within your self-assessment report
  - 151.5. They must always have suitably qualified staff available to provide apprenticeship training and/or on-programme assessment.
  - 151.6. They must co-operate with you to ensure that there is continuity of learning for apprentices if the subcontract ends for any reason.

- 151.7. They must tell you if evidence of irregular financial or delivery issues arises. This could include, but is not limited to, non-delivery of training when funds have been paid, sanctions imposed by an awarding organisation, allegations of fraud, an inadequate Ofsted grade, allegations or complaints by learners, employers, staff members or other relevant parties.
- 151.8. They must not use our funding to make bids for, or claims from, any European funding on their own behalf or on our behalf.
- 151.9. They must not use payments made as match funding for ESF projects.

### **Special conditions for subcontracting to employer-providers**

- 152. Organisations who have successfully applied through the employer-provider route of the Register of Apprenticeship Training Providers are only eligible to deliver apprenticeship training and/or on-programme assessment to apprentices employed by them or a [connected company](#) as defined by HMRC. You must ensure any employer-providers who are delivery subcontractors to you meet this requirement.
- 153. Employer-providers must evidence the actual costs of delivery of apprenticeship training and on-programme assessment (please see the [Apprenticeship funding: draft rules for employer-providers](#)).

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

- 154. Delivery subcontractors who have successfully applied to the supporting application route of the Register of Apprenticeship Training Providers cannot receive more than £500,000 of apprenticeship funding for their delivery from 1 April to 31 March each year (for the first year this is 1 May 2017 to 31 March 2018).
- 155. You must ensure that you are not one of a number of organisations making payments to any 'supporting' provider that exceed £500,000 in any one year. We will place restrictions on your future use of delivery subcontractors if this occurs.
- 156. We will permanently exclude any provider that has applied to the Register of Apprenticeship Training Providers through the supporting application route where they allow their funding to exceed this total in any one year.

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

- 157. Organisations who are not on the Register of Apprenticeship Training Providers cannot receive more than £100,000 of apprenticeship funding for their delivery from 1 April to 31 March each year (for the first year this is 1

May 2017 to 31 March 2018).

158. You must ensure that you are not one of a number of organisations making payments to any organisation not on the Register of Apprenticeship Training Providers that exceed £100,000 in any one year. We will place restrictions on your future use of delivery subcontractors if this occurs.
159. We will permanently exclude any organisation from delivering apprenticeship training as a subcontractor where they allow their funding to exceed this total in any one year.

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

160. You must provide a fully completed Subcontractor Declaration Form by the dates we will give you. This will be at least twice between 1 May 2017 and 31 March 2018. If you do not return the form on time, we will suspend your payments. If you do not subcontract, you must still provide a nil return form to confirm this.

### **Disputes and issue resolution between the employer and main provider**

161. The main provider is responsible for resolving issues and disputes between the employer and other providers. Training providers and assessment organisations must provide employers and apprentices with their written complaints and dispute resolution procedure, policy and process. The first contact point for this must be included in the written agreement and in the commitment statement.
162. Agreements entered into by the employer and main provider are legal agreements and dispute resolution should be in accordance with the terms of the written agreement and ultimately would be enforceable through the courts.
163. Apprentices and their employers must be made aware by the main provider that they can contact the apprenticeship helpline regarding apprenticeship concerns, complaints and enquiries. The contact number and website must also be included in the employer's written agreement and in the apprentice's commitment statement.

# Paying for an apprenticeship

## The price of an apprenticeship

164. Employers, main providers and their contracted providers must agree a price to meet the costs of training and for standards the end-point assessment for each apprenticeship.
  - 164.1. The agreed price must reflect any reduction in length or content of the apprenticeship to ensure the funds are not used to pay for skills already attained.
  - 164.2. You must enter the agreed prices for training and end-point assessment (where applicable) on to the ILR. The prices entered onto the ILR must not include any VAT which may be charged on employer co-investment.
  - 164.3. If the employer negotiates a price that is more than the maximum allowed by the funding band for the chosen apprenticeship, then the employer must pay in full the difference between the band maximum and the agreed price. This cannot be funded from the digital account or co-investment. You may charge VAT on the difference.

## When payments are made

165. Where the employer's digital account is used to fund training, we will pay 80% of the agreed price up to the maximum value of the funding band, in equal monthly instalments according to the planned duration of the apprenticeship.
166. Where apprenticeship training is not funded from the employer's digital account (non-levy payers and levy payers with insufficient funds), we will pay 80% of the government co-investment funding in equal monthly instalments according to the planned duration of the apprenticeship.
167. We will pay the remaining balance of the agreed price up to the maximum value of the funding band when the apprentice has undertaken all the learning activity relevant to the apprenticeship, including:
  - 167.1. all mandatory elements of the framework, or
  - 167.2. taking the end-point assessment for standards
168. Where apprenticeship training is not funded from the employer's digital account, (non-levy payers and levy payers with insufficient funds), to be eligible for the completion payment you must have:

168.1. collected the co-investment from the employer and

168.2. reported the cash value on the ILR

## **Value added tax (VAT)**

169. Supplies of training which are paid by Government funding, including the apprenticeship levy are exempt from VAT. This includes additional payments (please see paragraphs 70 to 75). Prices entered on to the ILR should not include VAT (please see paragraph 164).

170. You are responsible for determining the VAT treatment on your invoices to employers.

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

172. If you add VAT to invoices and the employer is VAT registered, the employer may be able to recover that VAT through its VAT returns. In determining the costs of training or end-point assessment, an employer will need to check with you if VAT will be added and verify, internally or with HMRC, if it can be recovered.

## **Funds in an employer's digital account**

173. Where the employer's digital account is used to fund training and assessment, employers are responsible for recording the required details of the apprenticeship. They can give you permission to enter this information on their behalf. To be funded from an employer's digital account this must correspond with the information recorded on the ILR.

174. Only the employer can confirm the spending of funds from their digital account. An employer cannot delegate this function to you and you must not take on this responsibility.

## **Employer co-investment**

175. Where apprenticeship training is not funded from the employer's digital account (non-levy payers, and levy payers with insufficient funds), employers must co-invest 10% of the agreed training cost up to the maximum value of the funding band and 100% where this is above the funding band.

175.1. You will need to invoice employers separately for any employer co-investment, including any VAT.

176. The only exceptions to employer co-investment are for:

176.1. English and maths to achieve the required government standard (please see paragraphs 110 to 119)

176.2. where the employer qualifies for small employer support (please see paragraphs 105 to 109)

176.3. for any learning support (please see paragraphs 53 to 59)

177. At least every three months you must:

177.1. collect the co-investment from employers and

177.2. report the cash value you receive on the ILR

178. The employer co-investment must be a transfer of funding visible in your financial systems. This will typically be in the form of a provider invoice and corresponding employer payment.

## **Qualifying days for funding**

179. The apprentice must be in learning for a minimum of 42 days between the learning start date and learning planned end-date before they qualify for funds from an employer's digital account or government-employer co-investment, including learning support.

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

## **State aid**

181. Provider who receive funds from, and funds in, an employer's digital account and government top-ups to funds in the digital account, government-employer co-investment and additional payments, do not fall within the scope of state aid control from 1 May 2017 to 31 March 2018. Receipt of the AGE Grant by employers and the waiving of the employer contribution for small employers, (please see paragraphs 105 to 109) are subject to state aid regulations.

## Recovery of funds

182. We will review and monitor whether the training you provide represents good value for money. If we consider that the funds in an employer's digital account or government-employer co-investment we have provided is significantly more than the cost of the education and training, we may reduce the amount of funding we pay you after consulting with you.
  
183. We may take action including to recover all or part of government funding from you where we are satisfied that there has been a breach of the funding rules. This includes where claims are made for funding through the employer's digital account, government co-investment or additional payments to which you and/or the employer is not entitled.

# Delivering the apprenticeship

## The commitment statement between the employer, apprentice and main provider

184. Before the apprenticeship starts you must ensure that the apprentice and their employer holds a signed copy of the commitment statement setting out how they will support the successful achievement of the apprenticeship. It must be signed by the apprentice, their employer and the main provider, and all three parties must keep a current signed and dated version. This must be retained with, or in, the written agreement between the employer and main provider, which must be the contract for services between the provider and employer where funded from an employer's digital account.
185. Apprentices who are aged between 15 and 17 when they start an apprenticeship must have their commitment statement signed by a parent or legal guardian. This applies until they reach their 18th birthday.
186. The commitment statement must set out:
  - 186.1. the planned content and schedule for eligible training (and must also include end-point assessment if they are undertaking a standard)
  - 186.2. what is expected and offered by the employer, main provider (and any subcontractors) and the apprentice to achieve the apprenticeship
  - 186.3. provide a short summary, typically no longer than two to three pages, and should include the following as a minimum:
    - 186.3.1. details of the apprenticeship being followed, including start and end-dates for the apprenticeship training and (where applicable) end-point assessment and key milestones for mandatory or other qualification achievements
    - 186.3.2. details on which elements are eligible for funding from the employer's digital account or government-employer co-investment and necessary to meet any end-point assessment, those which are extra and not eligible for co-investment but will be fully funded by the employer, and those fully funded by the SFA including English and maths
    - 186.3.3. the list of all organisations delivering the training including English and maths and the apprentice assessment organisation (where applicable)

186.3.4. roles and responsibilities for the employer, provider and apprentice and arrangements for how the three parties will work together; this must include contact details and the expected commitment from each party to ensure the smooth running and day-to-day delivery of the apprenticeship, including, for example:

- apprentice; attendance and study time
- employer; commitment to wages and time off to study in the working day
- provider; support and guidance available and how to access this

186.3.5. the process for resolving any queries or complaints regarding the apprenticeship, including quality; this must include details of the escalation route within the main provider's own organisation and the escalation process to the SFA through the apprenticeship helpline

## **Employment hours**

187. You must

187.1. keep evidence of the agreed average weekly hours, including study hours in the evidence pack and

187.2. ensure the apprentice meets the minimum apprenticeship duration rules

188. You must make it clear in any advert for a vacancy how many hours will be expected.

189. The employer must allow the apprentice to complete the apprenticeship within their working hours and provide you with evidence of this for you to keep in the evidence pack.

## **Starting, participating, completing and leaving**

190. You must:

190.1. have evidence that learning took place and that the apprentice was not certificated for prior knowledge

190.2. retain evidence that the apprentice has completed their apprenticeship

190.3. where applicable, apply for, and give apprentices certificates from awarding organisations for achieving a learning aim, and evidence this in the evidence pack

190.4. report and accurately complete all ILR fields for an apprentice

190.5. give accurate unique learner number (ULN) information to the digital apprenticeship service, awarding organisations and (where required) Apprentice Assessment Organisations and ensure all information used to register apprentices is correct. You can find more information on [GOV.UK](https://www.gov.uk)

191. If an apprentice leaves without completing their apprenticeship, the last date of learning, including the apprenticeship programme learning aim, is the date you have evidence the apprentice was still in learning for any learning that is part of their apprenticeship.

192. Apprentices who start their programme before 1 May 2017 must not be withdrawn and re-started onto the same apprenticeship, or another apprenticeship at the same level in a similar subject after 1 May 2017 solely to enable them to be funded by the new funding system. If the apprentice was on a break in learning, they can enrol on a new apprenticeship in the new funding system if it is in their best interests. We will monitor any breaks in learning during this period to identify any abuse of this exception.

## **Certification**

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

194. For standards, the apprentice assessment organisation is responsible for claiming the apprenticeship completion certificate from the certification issuing body. We will publish further information regarding arrangements for claiming completion certificates later in the year.

## Changes to the apprenticeship, main provider or employer

195. If any circumstances change that affect any agreement made between you and the employer, you must revise existing agreements or create new agreements. This includes changes to price and apprenticeship eligibility and any updates required to the employer's digital account.
196. We will monitor take-up of additional payments closely to identify any fraudulent activity including behavioural patterns.
197. We will stop making payments from funds in an employer's digital account or government-employer co-investment if an apprentice has a break in learning.
198. You must not record a break in learning for short-term absences, such as holidays.
199. If an apprentice is on a break in learning when an additional payment is due, the payment will be delayed until the apprentice resumes their apprenticeship and has reached an overall total of 90 or 365 days in learning.

## Redundancy

200. Where apprentices are made redundant, you must:
  - 200.1. make reasonable efforts to find the apprentice a new employer
  - 200.2. record the change in employment status in the ILR
  - 200.3. record apprentices more than six months from their planned end-date as having left learning if a new employer is not found within 12 weeks
201. Apprentices who are made redundant through no fault of their own, within six months of the planned end-date of their apprenticeship and are unable to find another employer, may continue their apprenticeship without being employed under an apprenticeship agreement (please see paragraph 32). In these circumstances:
  - 201.1. you can continue to deliver the apprenticeship as long as all the remaining elements and, for apprenticeship standards, the end-point assessment, can be successfully delivered
  - 201.2. we will fund 100% of the remaining costs of the price agreed between you and the employer up to the funding band for the apprenticeship

201.3. you must support the apprentice through to the end of the apprenticeship, including any assessment

201.4. you must have evidence that you have made reasonable efforts to find the apprentice a new employer

## **Where training or assessment is no longer being delivered**

202. Where a change of circumstance means that training and/or assessment is no longer being delivered, no further funds from an employer's digital account, government-employer co-investment or additional payments will be made.

203. In these circumstances you must agree with the employer the cost of the training and, where applicable, the end-point assessment delivered to date. You must ensure the employer has paid any mandatory co-investment due for any training or end-point assessment already delivered.

204. When a change of circumstance results in over-payment of funds from an employer's digital account or government-employer co-investment, any over-payment must be repaid by the provider. The main provider must follow the arrangements set out in their agreement with the employer for any over-payment by the employer.

205. You must agree with the employer any reimbursement for employer co-investment made for learning paid for, but not undertaken, or learning delivered, but not yet paid up to the employee's leave date, or the date of their break in learning, as needed.

206. If any change of circumstances are not included above, you should seek advice from us about what action you should take. Please email [servicedesk@sfa.bis.gov.uk](mailto:servicedesk@sfa.bis.gov.uk).

# Evidence requirements

## Evidence pack

207. The evidence pack must contain evidence to support the funding claimed and must be available to us if we need it.
208. Evidence in the evidence pack must assure us that the apprentice exists.
209. The apprentice and/or employer must confirm the information they provide is correct when it is collected. You must have evidence of this, which can include electronic formats.
210. Where information is held centrally, you only need to refer to the source.
211. The evidence pack must include the following.
  - 211.1. A copy of the written apprenticeship agreement or confirmation that the employer has been told about their legal duty for an apprenticeship agreement.
  - 211.2. All information reported to us in the ILR and the Earnings Adjustment Statement (EAS), and if it applies, the supporting evidence for the data you report.
  - 211.3. Your assessment and evidence of eligibility for funding and a record of what evidence the apprentice has provided.
  - 211.4. Confirmation of eligibility for any additional payments including, a signed, original declaration from the apprentice to confirm they are a care leaver, or evidence of an Education, Health and Care plan where the apprentice is aged between 19 and 24 years old.
  - 211.5. Confirmation of eligibility for any waiving of the employer contribution including evidence from the employer that they had an average of 49 or fewer employees with a contract of employment in the 365 days before the apprentice was recruited.
  - 211.6. All initial assessments for English and maths.

- 211.7. Information on prior learning that affects the learning or the funding of any of the apprenticeship.
- 211.8. A description of how you will deliver the apprenticeship and how the apprentice will achieve.
- 211.9. The supporting evidence about why you have claimed funding and the level of funding for an apprentice, including details of any employer contribution.
- 211.10. Details of any support needs identified, including an assessment and how you will meet these needs.
- 211.11. Where ELS is being claimed for an apprentice aged 19 to 24 without an EHC plan, a letter or email from the apprentice's local authority stating the reason(s) why the individual does not need an EHC plan.
- 211.12. Confirmation that learning has taken place and that records are available.
- 211.13. All records and evidence of completion. This must be available within three months of you reporting it in the ILR.
- 211.14. Details of any subcontractor clearly identifying who they are. This must match the information reported to us in the ILR.
- 211.15. Details of any end-point assessment organisation (where applicable) clearly identifying who they are.
- 211.16. The apprentice's job role, including any significantly new skills required for a new role, and that they are not enrolled on another apprenticeship at the same time.
- 211.17. Evidence that the apprenticeship leads to substantive new skills and that the learning is materially different where the apprenticeship is at the same or lower level than prior qualifications.
- 211.18. Written confirmation from the employer that the apprentice will spend at least 50% of their working hours in England over the duration of the apprenticeship including time spent on off the job training.
- 211.19. Any relevant experience and achievements, both inside and outside their current working role.
- 211.20. The learning and skills they have to carry out while on their apprenticeship outside of identified qualifications.

- 211.21. Details of employment including: the name of the employer and the agreed contracted hours of employment, including paid training and 20% 'off-the-job' time, the total planned length of the apprenticeship.
- 211.22. Written confirmation from the employer that the apprentice will be allowed to complete the apprenticeship within their working hours.
- 211.23. Details of how the 20% 'off-the-job' training will be quantified and delivered.
- 211.24. A signed and dated written agreement between you and the employer, updated as required which must be the contract for services between the provider and employer where funded from an employer's digital account.
- 211.25. The commitment statement signed and dated by the apprentice, employer and main provider.
- 211.26. Copies of any state aid declarations for the AGE grant and waiving of the employer contribution for small employers.

## **Confirmation and signatures**

- 212. Where evidence is electronic, you must have wider systems and processes in place to assure you that apprentices exist and are eligible for funds.
- 213. You must keep effective and reliable evidence. You are responsible for making the evidence you hold easily available to us when we need it.

## **Individualised Learner Record (ILR)**

- 214. You must accurately complete all ILR fields as required in the ILR Specification, even if they are not used for funding. Where your data does not support the funding you have claimed, we will take action to get this corrected and could recover funds.
- 215. The ILR must accurately reflect what has happened. You must not report inaccurate information even where you perceive that this would result in a more equitable claim for funding or accurate record of performance.

## **Self-declarations**

216. Where a self-declaration is needed, this must state the apprentice or employer's details and describe what is being confirmed.
  
217. If an apprentice self-declares prior attainment, you must check this in the personal learning record (PLR) and query any contradictory information with the learner. The PLR will not necessarily override the apprentice's self-declaration.

## **Annex A - Exceptional eligibility criteria (who we fund)**

### **Exceptional eligibility status**

#### **(To be read together with paragraphs 39 to 52)**

218. Where an individual or relevant family member has applied for an extension or variation of their current immigration permission in the UK they will be treated as if they have that leave. This only applies if the application was made before their current permission expired. Their leave continues until the Home Office make a decision on their immigration application.
219. An individual or relevant family member, is considered to have the immigration permission that they held when they made their application for an extension, and their eligibility would be based upon this status.
220. Any individual with any of the statuses listed below, is eligible to receive funding and are exempt from the three-year residency requirement rule. You must have seen the individual's immigration permission in these circumstances.
- 220.1. Refugee Status.
  - 220.2. Discretionary Leave to Enter or Remain.
  - 220.3. Exceptional Leave to Enter or Remain.
  - 220.4. Indefinite Leave to Enter or Remain.
  - 220.5. Humanitarian protection.
  - 220.6. Leave Outside the Rules.
  - 220.7. The husband, wife, civil partner and child of any of the above in this paragraph. (that is, 220.1 to 220.6).
221. The individual's immigration permission in the UK may have a 'No recourse to public funds' condition. This does not include education or education funding, so this does not affect an individual's eligibility, which must be decided under the normal eligibility conditions.
222. Asylum seekers are eligible to receive funding if:
- 222.1. they have lived in the UK for six months or longer while their

claim is being considered by the Home Office, and no decision on their claim has been made, or

222.2. they are in the care of the local authority and are receiving local authority support under section 23C or section 23CA of the Children Act 1989 or section 21 of the National Assistance Act 1948

223. An individual who has been refused asylum will be eligible if:

223.1. they have appealed against a decision made by the UK government against granting refugee status and no decision has been made within six months of lodging the appeal, or

223.2. they are granted support for themselves under section 4 of the Immigration and Asylum Act 1999, or

223.3. they are in the care of a local authority and are receiving local authority support for themselves under section 23C or section 23CA of the Children Act 1989

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

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

226. This table shows the eligibility for family members if:

226.1. the family member is now ordinarily resident in England, but has not been ordinarily resident in the EEA for at least the previous three years before the start of learning, and

226.2. a principal has been resident within the EEA for the last three years

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

227. A child of a Turkish worker is eligible if all of the following apply.

227.1. The Turkish worker is ordinarily resident in the UK.

227.2. The Turkish worker is, or has been, lawfully employed in the UK.

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

228. 16- to 18-year-olds are eligible to be funded for an apprenticeship if any of the following clauses apply.

228.1. They are accompanying or joining parents who have the Right of Abode, Leave to Enter or Leave to Remain in the UK (or accompanying or joining parents who are EEA nationals).

228.2. They are the children of diplomats.

228.3. They are the children of teachers coming to the UK on a teacher exchange scheme.

228.4. They are entering the UK (where not accompanied by their parents) and are British (or EEA) citizens.

228.5. They have a passport that has been endorsed to either

show they have the Right of Abode in the United Kingdom or to show that they have no restrictions on working in the UK.

228.6. They are an asylum seeker.

228.7. They are placed in the care of the local authority.

228.8. They meet the requirements for any other eligible category in this document.

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

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

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

231. Other territories are categorised as being within the European Union for the purposes of the fees regulations; these are as follows.

**Cyprus:** any Cypriot national living on any part of the island qualifies for EU residency and is considered an EU national.

**Finland:** includes the Aland Islands.

**France:** the French Overseas Department (DOMS) (Guadeloupe, Martinique, French Guiana (Guyana), Reunion and Saint-Pierre et Miquelon) is part of metropolitan France and is part of the EU.

**Germany:** includes the former German Democratic Republic and the tax-free port of Heligoland.

**Portugal:** Madeira and the Azores are part of the EU; Macau is not.

**Spain:** the Balearic Islands, the Canary Islands, Ceuta and Melilla are part of the EU.

**United Kingdom:** Gibraltar is part of the territory of the EU.

**To note:** the Channel Islands and Isle of Man are part of the United Kingdom and Islands but not part of the EU.

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

232. For funding eligibility purposes, EEA and eligible overseas dependent territories is defined as all member states of the EU and Iceland, Liechtenstein, Switzerland, Norway and all the eligible British overseas territories and EU overseas territories listed in paragraph 234 below).

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

234. Learners who are nationals of certain British overseas territories and of certain European overseas territories are eligible for funding, depending on the three-year rule on residence in the EEA. These are as follows.

Anguilla

Bermuda

British Antarctic Territory

British Indian Ocean Territory

British Virgin Islands

Cayman Islands

Falkland Islands

Henderson Island

Montserrat

Pitcairn, Ducie and Oeno Islands

South Georgia and the South Sandwich Isles

St Helena and its dependencies

Turks and Caicos Islands

Greenland and Faroe Isles

Antilles (Bonaire, Curacao, Saba, St Eustatius and St Maarten)

Aruba

New Caledonia and its dependencies

French Polynesia

Saint Barthélemy

The Territory of Wallis and Futuna Islands

Mayotte

French Southern and Antarctic Territories



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