

ESFA Apprenticeship Funding Rules 2022 – 2023 Questions Concerns and Comments – DRAFT 1 190621

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General implications from the Rule changes

1. To follow but include:
 - Time needed to implement the changes – this is insufficient notice for August 2023 starts
 - Disproportionate impact on long programmes
 - The impact on learners and employer choice, and the restrictions on overall flexibility in the design of the programme
 - Significant resourcing impact on high-volume programmes
 - Balancing higher education and degree awarding regulation requirements with ESFA apprenticeship funding rules
 - The impact on recruitment of mid-career learners: now higher risk, more evidence requirements for apprentice, employer and provider - is this general policy change simply designed to push funding back to young, entrant level apprentices ?

A 'learning activity' every 4 weeks [P] and BIL after 4 weeks without a 'learning activity' [P]

2. The rule specifies that 'active learning' must take place at least every 4 weeks (or a break in learning must be used). In long programmes over 3 to 5 years it is quite common to have learning activity at certain points less frequent than this e.g. when apprentices are engaged in on the job project activity in the workplace required for their EPA.
3. The impact on costs of delivery arising are very significant when combined - from the off the job learning logging, tracking, monitoring, admin chasing of employer and apprentice, Apprenticeship Service changes, employer liaison, apprentice tracking - all for a gain for the apprentice that we cannot truly see – what exactly are the issues in HE apprenticeship delivery that we are trying to fix?.

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4. We think this proposal will result in a significant increase in BILs and is unworkable and unimplementable, with a wide range of negative impacts for apprentice and employer:
 - a. removing the apprentice and employer choice in scheduling learning when best suits them and their home/work arrangements.
 - b. excessing impact on routine movements in learning for example apprentices unavoidably absent from learning activities in week 4 due to illness that could have easily been rescheduled in week 5 then put retrospectively on a BiL.
 - c. disproportionately affecting/ pressurising certain sectors- health and care during the winter flu season, retail in December pre-Christmas and January sales, term time only apprentices and SME employers who need coverage during the mid-July to mid-September holiday period.
 - d. we understood the rules stipulated that a breaking learning was at the apprentice's request and is not something that we can force on an apprentice or employer.
 - e. disproportionately affecting apprentices who are struggling to manage their learning due to home circumstances or mental health for example, who, given time, we may be able to coach through rather than placing them immediately on a break in learning. This goes against BIL and support good practice - We would typically only discuss a BIL when other attempts to engage and progress the apprentice, with their employer engaged, have failed. Surely this is the point of the BiL being a criteria in the Monitoring Framework?
 - f. Apprentices will be engaged in self-directed study, online recorded lectures or research elements that typically they schedule to their own timetable - Managing a 4 week 'activity' **cannot** be done by the provider alone unless the apprentice is updating their learning log and submitting this every month. Implementing this rule therefore is entirely dependent on apprentices to both undertake activity when this is may not fit with work based learning activity and to submit learning logs every month on time. And what sanctions do we invoke when they are repeatedly late with each month's mandatory time logging? We do not have the means to control this activity. Apprentice must research and learn outside the tutor led sessions.
 - g. Make block release an issue to deliver for those who have agreed this specific design with their employers and as above, who deliver England wide. The purpose of block is to concentrate the learning time because this model better supports the occupation at work. Apprentices typically then schedule their own time to contain their sessions at their own pace having been out of the office for a week.
 - h. Every break in learning will require a pause by the employer on their apprenticeship service account- creating additional bureaucracy for them as apprentices go on and off their breaks. This will be hugely disruptive and resource intensive. Do employer realise this is the implication. For employers with large and complex programmes across many providers, for example a typical large local authority might have 50 providers and 400 apprentices using 20 plus Standards, this will create an unmanageable workload and confusion
 - i. Funding will start and stop, creating confusion and difficulty for employers trying to manage their levy draw down and reconcile their funding.
 - j. This also contradicts itself in the BIL diagram on page 75 (flowchart) where the rule stipulates that a learner that is just behind cannot be placed on a BIL.
5. There are also some impacts for HE :
 - a. Degree provision design and approval is part of formal university regulations. It is possible that this change would require a redesign and a formal revalidation of many degree apprenticeships. We may have to stop starts immediately for this redesign /revalidation to take place.
 - b. This will also potentially change provision for other apprentices already on programme.

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- c. HE teaching staff, who cannot take holidays for most of the rest of the year, tend to take these during August so delivery, particularly in specialist areas with fewer staff, may not be possible in every programme during this time due to staffing constraints.

The change from 20 % OTJL to 6 hours a week off the job training

6. In the degree apprentice, teaching covers normally more than 6 hours per week. We are mindful that the comms to employers must be VERY clear that this is an absolute minimum – we will be far in excess of this in many HE apprenticeships
7. What happens when they leave early ? how do you calculate the statutory leave time?
8. With logging OTJ in general, if an apprentices take 60 hours to complete an estimated 70 hour module, does this mean we would need to go back and update the training plan to reflect the actual hours taken?

Eligible and ineligible cost

9. This new list does not align with the IfATE Apprenticeship Costing Template which does not include elements now eligible for funding - the IfATE are out of sync with ESFA policy change – please address this with IfATE colleagues
10. Do we know what the outcome of the eligible / ineligible cost review yet, they seem to have made changes without releasing the outcomes of the surveys

The INA

The 'Productive Job

11. - please provide a definition of what this is and the evidence required to make this judgement .
12. The 'productive job' discussion takes place usually at the employer Training Needs Analysis or in early discussions as we map the right apprenticeship to the employers requirements and roles- This might be months ahead of the skills scan:
 - a. Are you now saying this must all be one process ?
 - b. That this discussion must be documented ?
What audit evidence is needed for this – a JD..? an employer declaration, an apprentice declaration ?

The Skills Scan & RPL

Skills Scan

13. Where the rule stipulates 'diagnostic testing of occupational competence and diagnostic testing of English and maths prior attainment (where relevant) we assume that 'where relevant' applies to English and maths only' – all apprentice must have a diagnostic/skills scan
14. What do ESFA want to see as evidence of / in the 'discussion' ? what are the actual areas or decisions is this process attempting to demonstrate?
15. How do we assess accurately in the skills scan - the RPL definition, evidence test for accepting a judgement, and the action expected needs to be far clearer – this is a black art as much as a science:
 - a. what evidence is wanted to prove that there has been a robust assessment ?

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- b. What do we do when evidence points to partial meeting part of an element of the KSB or learning programme? Are we expected to count this partial meeting of the KSB in the calculation when in reality they could not pass the module without this being included in the context of the learning plan?
- c. How do you evidence that 'this information will inform a tailored training plan'?
- d. How can we discount 'duration'? Being exempt from module 2 in year 1 does not change the planned end date or the schedule of other learning in the programme.
- e. What is the status of the apprentice during the time they are exempt? . They can't be on a BiL, but their time shouldn't be counted in the 6 hours a week either as they have achieved the KSB so don't need any other learning either.

RPEL and the new calculation for reducing funding for prior learning [P]

- 16. The self-assessment gives the apprentice as much time as they need to consider their outcome and to discuss with their employer. Recording this discussion outcomes, e.g, the employer submitting their views on the skills scan as part of the skills scan submission would be more effective than a discussion.
- 17. The model requires the provider to reduce the price by at least 50% of the prior learning percentage, from the maximum funding band. Assessing prior learning and skills is typically delivered through a self-assessment and application process with oversight by the course team on areas requiring investigation. Interviews with apprentice are carried out depending on institution and occupation practice, and needs to be robust but pragmatic. Exchange of findings or information with employers tends to be via email. The impact of a forensic conversation with every employer and apprentice replacing this self assessment would be very time consuming - For example; Civil Engineering has 28 KSBs in the published Standard. Below is just one of the 28:
 - a. *The mathematical, scientific and engineering principles, methods and modelling that underpin the design and construction of civil engineering infrastructure. This will include understanding structural and ground responses, properties of materials and their predicted behaviour as part of integrated systems. Examples include, knowledge of the design and construction of buildings, transportation systems, water and wastewater networks, foundations and temporary works, coastal protection, understanding slope stability, retaining walls, ground water movement, elastic/plastic and failure behaviour of materials such as concrete, steel, asphalt and timber, behaviour of structural elements such as beams, land surveying and formulating applicable mathematical solutions through suitable software.*
- 18. This calculation does not take into account that some learners will learn slower and cost providers significantly more than the funding band.
- 19. How exact are we being asked to assess - If an apprentice scores 'some knowledge' or '4 out of 10' on the range from 'no skill' to 'expert in this skill element' on a skill scan, what does this mean for the reduction in funding - does this mean we must discount this whole element even though they don't have the evidence for a full exemption, or make a partial discount even though they will still need to go through this whole module in order to pass so will need the learning to pass the module? We need specific evidence of what is acceptable.
- 20. This makes mid-career apprentice applicants much higher risk to engage.
- 21. The RPL calculation in the rules clashes with the university RPL regs, and may clash with other requirements like AMBA too.

The INA 'documented discussion' [P 23]

- 22. Does 'discussion' mean a meeting and not an email discussion and document exchange as many are now? This will add considerable time to the application process and is too late for September 2023 starts- recruitment is already under way.

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23. Can we have a group discussion with apprentice and their line manager ? What about a cohort form a single employer? Would a group discussion be acceptable? In some public sector apprenticeship there are hundreds of starts in the same employer s e.g. Police, paramedic 1-1 may have the same line manager for early stages of their apprenticeship e.g. with the apprentice coordinator who may have multiple apprentice will be very onerous on the employer.
24. Does this rule mean these conversations surrounding the skills scan have to take place at the same time? We will already have confirmed that the apprenticeship is fit for purpose based on the job roles proposed. This is about the apprentice and does not need their engagement.
25. The new rule stipulates a 'documented' discussion with the employer and individual following initial assessment – Does the signed commitment statement/training plan meet this requirement or is there another document now needed e.g. notes form the discussion or a signed declaration from the employer that they agree with the training plan and have had the opportunity to discuss the proposed plan of learning?.

The Training Plan [P]

26. With standards, particularly those that do not contain a mandated qualification e.g. senior leader, what evidence of the plan to achieve competency is required:
 - a. will the list of academic modules, assignments be acceptable with mode and approximate timeline e.g. start/ finish month be enough ?

Tri-partite review frequency [P]

27. Just giving us a minimum figure for Tri-partite reviews per year would be simpler - we can timetable these as appropriate to best suit the programme, employer and apprentice. Currently the intent and implementation are a bit unclear– this makes a significant difference as illustrated below:
 - a. The Tri-partite review frequency differs based on whether we calculate this over the full year (52 weeks) or the working year (i.e. 52 weeks minus their 5 weeks leave). Which is the eligible year'
 - b. Dividing the frequency of Tri-partite reviews into either definition does not produce a round figure so do we round up or down - e.g.:
 - i. $52/12 = 4.33$. is this 4 or 5 per year ?
 - ii. $47/12 = 3.91$. is this 3 or 4 per year ?
28. Please confirm that this applies only to NEW STARTS from 1st August.
29. Tri-partite review attendance is as much an issue for employers and their time. Do they want more frequent reviews ?
30. And what sanctions will ESFA apply when employers repeatedly do not show up for planned and diarised reviews and do not respond to written reminders, verbal reminders, formal letters or other escalations setting out the importance of this to the programme?:
 - a. What is your expectation – can we terminate the apprenticeship – which punishes the apprentice?
 - b. How will this affect our QARs and monitoring framework scores ? Is this an accepted 'no fault' [on our part] withdrawal?
 - c. What evidence is expected if any of the above apply ?
31. To note that the employer is the only party, even though this is their fault, that does not receive any sanctions when they fail to meet their responsibilities in the apprenticeship .

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Delivering online learning as the main provider [P163]

32. There has always been a rule that you cannot deliver an 'online only' apprenticeship. The new rule states that the main provider in a subcontract must not 'only deliver elements taught online or by distance learning'. This will affect some degree apprenticeship programmes where the main provider delivery is online to complement the subcontractor face to face in a blended learning design:
- What about employer choice?. They have to agree the delivery model in a subcontracted apprenticeship - this is already a Funding Rule. Is this more about the employer agreeing to the model proposed than stopping the model all together?
 - What is the desired model for the main provider with a subcontractor - live face to face *in person only* ? Is live face to face online not acceptable despite this working during Covid?
 - What is this rule trying to address ? if a blended programme is acceptable, why must the main provider only be required deliver some face to face?
 - Universities have a wide geographic reach for their programmes for example when they are the Employer's preferred provider for all staff across England or where they have a specialism that is in limited supply which attracts employers from across England. For delivery that is cost effective for employers using this model is part of the design that employers want. Excluding online delivery will prevent these arrangements from taking place.

Seconded Apprentices [P]

33. 'The apprentice must spend the majority of their apprenticeship duration with their employer, who remains responsible for the apprenticeship and the apprentice's wages' :
- What evidence is required as proof of 'majority' of time or that the employer is responsible for the apprentice wages
 - This wages structure is not technically usually what happens in a formal secondment – in this case the receiving employer takes over the wages by paying these to the sending employer – is this acceptable ?
 - Does this need to be in the training plan?. Can it be agreed at any time and reflected in an updated training plan ?

PAYE Scheme [P]

34. How do we evidence that an apprentice is on the PAYE scheme? Pay slip? P 60 ? other ?
35. Can the rule state 'evidence of payroll must be in place and not stipulate when?. Or specify the RO1 or 2 return to allow time for the employer time to run their payroll and generate the evidence?
36. Application processes start months before the apprenticeship start date. What about apprentices who have not yet started their job at by point of application and contracting e.g. school leavers or others working out their notice ?:
37. What is acceptable evidence if they are not yet on the employer's payroll ?? an employer declaration ? An email from HR with the payroll number and NI number? Involving HR teams may take time.
38. What is then needed after they start? a pay slip - which they won't get until the end of their first month? A signed contract of employment? Some of these take time to emerge in the first few weeks.
39. What is the evidence for those already employed ? a pay slip ?