

Coronavirus (COVID-19) update

New government guidance for apprentices

On 06 April 2020, the Government published further guidance for apprentices, as well as for employers, training providers, end-point assessment organisations and external quality assurance providers, during the continuance of the current COVID-19 pandemic.

The guidance, which can be found [here](#), is part of the cross-government efforts to respond to the impact of COVID-19. The Education and Skills Funding Agency (ESFA) is implementing new measures, for the duration of the pandemic, to make it easier for apprenticeships to continue and complete, in a different way if they need to, or to break and resume an apprenticeship later when that becomes possible.

The guidance sets out some temporary flexibilities that are being introduced to apprenticeships, during the pandemic, and provides answers to common questions related to these changes.

The Institute for Apprenticeships and Technical Education (IFATE) has also published [new guidance](#) on the delivery of assessment.

By way of an overview, the key changes can be summarised as follows:

- It is confirmed that apprentices who are placed on furlough may continue their training, as long as the apprenticeship scheme does not provide services or generate revenue for their employer.
- The approach is to encourage, where possible, both training, and assessment, to take place remotely and via e-learning.
- It is clarified that apprentices ready for assessment, but who cannot be assessed due to COVID-19 issues, can have their end-point assessment rescheduled. Apprentices whose gateway is delayed can have an extension to the assessment timeframe.
- It is confirmed that, where apprentices are made redundant, the overriding aim is to find them alternative employment and continue their apprenticeship as quickly as possible and within 12 weeks.

- Breaks in learning are permissible where the interruption to learning due to COVID-19 is greater than 4 weeks, and guidance is provided in relation to how such breaks should be recorded.
- It is confirmed that HM Treasury will not be pausing apprenticeship levy payments for employers.

The guidance and measures are implemented with immediate effect and will last until further notice. The guidance is very comprehensive, but we set out below a sample of what we believe will be some of the most frequently asked questions.

Some frequently asked questions

Our staff, including our apprentices, are critical workers and, as such, are still required to be available at their usual place of work in their usual job role. How can our apprentices continue their learning?

You have several options that you may consider. Are your apprentices able to engage in digital or distance learning at a convenient time within their agreed working hours? Can they be offered additional on-site mentoring support? Consider whether they could take a short pause in their learning, of less than 4 weeks, while still completing the training by the planned end-date. Alternatively, they could take a formal break in learning of 4 weeks or more, and you could re-calculate the planned end-date upon their return to learning.

I am having to move critical worker staff into different and/or business-critical roles that aren't related to their apprenticeship. What happens to their apprenticeship if they can't continue training?

Apprenticeship training must be linked to the job role that the individual is undertaking. Where this link is broken temporarily, the aim of the guidance is that apprentices can promptly resume their apprenticeship and continue to successfully complete the end-point assessment at a future date. Funding rules currently state that a break in learning must be initiated by the apprentice. Employers and training providers can now temporarily also report and initiate a break in learning where the interruption to learning is greater than 4 weeks.

I am having to move critical worker staff into different and/or business-critical roles that are connected to their apprenticeship. Can they continue training?

Where apprentices can remain on their programme, they should continue to fulfil the minimum 20% off-the-job training entitlement. If a critical worker apprentice has been redeployed into another role, then some of this activity may still count towards off-the-job training, but this should be discussed and agreed between the employer and provider. All off-the-job training must be relevant new training that develops the knowledge, skills and behaviours of the apprentice and, where funding is being accessed, it must be delivered by an organisation on the Register of Apprenticeship Training Providers. Evidence of delivery must be kept.

What if my apprentice needs to self-isolate?

Apprentices who need to self-isolate are encouraged to speak to both their employer and training provider about the best way to continue with the apprenticeship or report a break in learning. Options include an increase in e-learning, a short pause of less than 4 weeks in the apprenticeship during the period of self-isolation (this will not affect the planned end-date of the apprenticeship), a formal break in learning of 4 weeks or more (which will result in the planned end-date for the apprenticeship being re-scheduled, and will need to be reported to the ESFA), or, re-scheduling the planned assessment activity for a later date.

If my apprentice can't work or attend training, should I still pay them?

An apprenticeship is a job with training, so even when your apprentice is unable to carry out their training, they are still employed and should be paid in line with their contractual terms of employment. Where your apprentice is unable to work, we suggest that you seek advice in relation to your options. The government is providing a range of support to employers to help them retain and pay the wages of employees (including apprentices) during the coming months, including via the Coronavirus Job Retention Scheme. We have recently produced a separate update about this, which can be accessed [here](#).

My apprentice is working from home, and their classroom provision has been withdrawn. What are the options?

If your apprentice is unable to attend scheduled learning events, there are several options available, including exploring the potential for the training

provider to offer digital or distance learning, agreeing a short pause if it is likely that the apprenticeship can resume in less than 4 weeks and that it will still be able to be completed by the planned end-date, or, agreeing a formal break in learning of 4 weeks or more which the training provider will need to report to the ESFA and which will result in the planned end-date of the apprenticeship being re-scheduled.

Can my apprentice change training provider if a different provider is offering more on-line/digital delivery?

In theory, a change in training provider can occur at any time, although it is likely to be more difficult in the current climate. When an apprentice and employer start working with a new training provider, certain activity must take place to ensure the apprenticeship programme and apprentice are eligible for funding. Evidence must be collected and retained to support this activity but can be held in a digital or electronic format.

Can training continue for furloughed apprentices?

Yes, where apprentices are furloughed, they can continue to train for their apprenticeships, as long as it does not provide services to, or generate revenue for their employer.

If my apprentice continues to do off-the-job training, can this be more than one day a week?

Yes. The normal off-the-job training rules will apply, so training can be done as a block where this is agreed between the provider and the employer. The 20% minimum off-the-job training over the length of the apprenticeship will still need to be satisfied.

Will my apprentice still be entitled to be paid for continuing learning if they have been furloughed?

Yes. While the apprentice cannot undertake work for you while on furlough leave, they can still undertake training. Where you require the continuation of training, you should continue to pay the appropriate minimum wage for the time spent training. This will be covered as part of the furlough payment claimed in the first instance. However, where the time spent training attracts an appropriate minimum wage in excess of the furlough payment, you should top up the furlough payment.

What if it is necessary to make my apprentice redundant?

The existing laws in relation to making an employee redundant are unchanged and should still be followed in this eventuality. It is recommended that the initiatives introduced under the Government's Job Retention Scheme are considered prior to embarking upon a programme of redundancies. Where you do decide to make your apprentice redundant, your apprentice should speak to their training provider as the apprenticeship training may be able to continue. The training provider may still be able to offer training based on individual circumstances in the short term. They may also be able to support your apprentice in finding a new employer. If that move becomes permanent, you should look to see which alternative apprenticeship your apprentice can transfer to. See "Find Apprenticeship Training" in the Government's guidance and liaise with your training provider in the usual way.

I'm considering asking my apprentice to take a period of unpaid leave. What happens to the apprenticeship during this time?

Many employers who had planned to ask employees to take unpaid leave during this period will now be able to access the government's Coronavirus Job Retention Scheme and receive financial support to keep the apprentice employed. You should consider whether it may be appropriate to furlough your apprentice as an alternative. Once back at work, your apprentice can resume their apprenticeship. We recommend that you seek advice if you are unsure about this.

Will levy payments be paused for employers?

HM Treasury has no current plans to pause the collection of the apprenticeship levy because of the COVID-19 disruption. The Government's position is that the Chancellor has already set out an unprecedented package of support for businesses and employers and that it remains committed to any further supportive action wherever necessary.

Will the time available to employers to spend their levy funds be extended?

Employers already have 24 months in which to spend their levy funds before these expire. For now, there is no intention to make any changes to current arrangements.

Should we use the 'Stop' or 'Pause' apprentice facility in the apprenticeship service?

In the circumstances related to COVID-19, employers should use the 'Pause' function in the service. Employers must **only** use the 'Stop' function when they are certain that training will not resume at any point. Using 'Pause' will stop payments temporarily and allow the employer and apprentice to resume the apprenticeship at a later date.

What will happen if my apprentice is not well enough to take his/her end-point assessment?

It is recommended that the apprentice contacts the training provider as soon as possible, to allow them maximum time to re-schedule the assessment.

Where the end-point assessment plan states that assessment must be conducted face-to-face, but cannot be under the current circumstances, can we conduct these remotely?

Where an assessment method requires face to face engagement, this can be conducted remotely, subject to these arrangements being agreed, in advance by the provider. Remote tests will need to be supervised by an appropriately trained invigilator or assessor. Where such alternatives are not appropriate, a pause and re-scheduling might be the only viable option.

Can End-Point Assessments (EPA's) be staggered to ease pressure on EPAO's?

It is the responsibility of the provider and employer to agree the schedule of end-point assessment. You should refer to the assessment plan for the apprenticeship standard to check if there is a time limit for the assessment taking place following gateway. Where an end-point assessment cannot be undertaken immediately, a pause and re-scheduling might be the only viable option.

My apprentices are ready for EPA but can't take it. Should they be paid more than the Apprenticeship Minimum Wage now?

An apprentice is classed as an apprentice until they have taken their end-point assessment. Apprentices must be paid at least the Apprentice Minimum Wage, but an employer can choose to pay an apprentice more than this. All employers must comply with National Minimum Wage legislation.

Closing summary

The information set out in this update represents our current understanding of the guidance that is available in relation to apprentices, but it should not be viewed as a substitute for seeking advice. We recommend that specific advice is taken in relation to any of the issues set out if further clarity or help is needed. The coronavirus (COVID-19) pandemic is a very fluid and rapidly changing situation, and further information and guidance continues to be issued on a regular basis. Advice should always be sought as to the most up to date situation.

If you would like further information or support with coronavirus and apprentices, or any employment law or HR issue that you may be facing, please contact Partner, Simon Brian.

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