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# Your Apprenticeships Guide



Andrew Willis  
Head of Legal & Advisory

## Apprenticeships are a great way to fill a role, while providing valuable work experience.

However, it's important that you completely understand what you have to do, what funding is available and what you may have to pay under the Apprenticeship Levy.

Apprenticeships combine nationally recognised qualifications with on-the-job work experience, allowing individuals the opportunity to study while working and giving employers the opportunity to hone and train individuals in a style which suits their business. Apprenticeships are generally offered to school leavers or young people, however they can be offered to existing employees or older individuals who wish to retrain in a new sector. There are broadly two forms of apprenticeship documentation; the contract of apprenticeship and the apprenticeship agreement.

### Apprenticeship Contracts

This is a bit of a red herring as contracts of apprenticeship are governed by case law and currently are only relevant in Scotland. If you operate in England and Wales please skip this section. For our Scottish audience here's a bit more detail:

Individuals working under a contract of apprenticeship are classed as employees, however, the main purpose of a contract of apprenticeship is the training, not the job, therefore these types of apprenticeships will place a greater burden on the employer. Significantly, attempts to terminate the apprenticeship contract because the apprentice is not deemed capable of carrying out their duties is likely to be unlawful because the purpose of the apprenticeship is to train the individual to become capable. Instead, the employer must show that they have supported, encouraged and managed the apprentice to enable them to achieve the level which is expected of them and, in some cases, this may have to include discussing the apprentice's training needs with the learning provider.

Termination of the contract of apprenticeship will also differ in comparison to a contract of employment. Contracts of apprenticeship will usually be a fixed term contract, for a period such as 12 months or until gaining a stated qualification. A fair dismissal may be achieved where the reason is gross misconduct but this may depend on the wording of the contract.

The employer will have to show that they have done everything reasonably practicable to deal with the misconduct, taking in to account whether a more lenient approach has to be taken for the inexperienced, and often younger, apprentice. The usual warning procedure invoked for 'normal' employees is not appropriate for those on contracts of apprenticeship.

Where employers are found to have unlawfully terminated the contract of apprenticeship, the liability can be substantial. Previous cases have shown that where apprentice contracts are terminated before the end, they can be awarded compensation for the remainder of the contract and for future earnings, taking in to account that they have not been able to complete the apprenticeship.

### Apprenticeship Agreement

Introduced by the Apprenticeship, Skills, Children and Learning Act 2009, in England and Wales an apprentice can be taken on under an apprenticeship agreement. An agreement will only be classed as such

Where:

- Under the agreement, the apprentice carries out work for the employer
- The agreement is in the prescribed form
- The agreement states it is governed by the laws of England and Wales
- The agreement states that it is entered into in connection with a qualifying apprenticeship framework

The agreement must also contain all elements required by the Employment Rights Act 1996 for a contract of employment, e.g. length of fixed term of employment, pay details, working hours etc. The main advantage of an apprenticeship agreement is that this is a contract of service and not a contract of apprenticeship, therefore, under this agreement the focus is on the job, rather than the training. This results in the apprentice having the same employment protection as employees engaged under a contract of employment – much more flexibility than under a contract of apprenticeship.

For employers, this means that they can treat apprentices like ‘normal’ employees and the normal dismissal rules will apply, so, apprentices working under an agreement can be dismissed for their capability or for their conduct without having to take the extra steps to show they have gone over and above to address this issue. To achieve a fair dismissal, employers will still need to show that they have a fair reason for dismissing and that they have followed a fair procedure.

However, employers may wish to take extra steps for inexperienced apprentices and can carry out a balancing act against the time and expenses spent on the apprentice and the misconduct or capability in question.

## Funding

Funding for apprenticeship training will differ across the UK because each country is responsible for their own training budgets. Generally, part of the training, if not all, will be funded by the government or local councils and this will go directly to the provider.

Funding can also be applied for where the employer is providing the training internally.

Grants may also be available for eligible employers; where there are less than 50 employees and the apprentice is aged 16 – 24. Larger employers will be able to fund apprenticeship training through the apprenticeship levy from April 2017.

## Apprenticeship Levy

From April 2017, larger employers are legally required to pay an apprenticeship levy, regardless of whether they already pay in to an existing industry scheme. The levy affects employers operating in the UK with an annual pay bill of more than £3 million.

Employers will be required to pay 0.5% of their annual pay bill on a monthly basis, minus a £15,000 annual allowance applied by the government. This allowance applies each month at a rate of £1,250 and any unused allowance can be carried over from one month to the next. Group employers will only be able to use one £15,000 allowance. The government will also add a further 10% on to the levy amount paid each month.

Employers will calculate, report and pay the levy to HMRC, through the normal PAYE process by the 19th (or 22nd if reporting electronically) of the following month. The first month employers will actually pay the apprenticeship levy is May 2017.

The money will be held in a digital apprenticeship account to be used for paying the training and assessment costs of the apprenticeship. Funds will expire 2 years after they have entered the account so must be used within this time.

**For advice and support on apprenticeships contact Croner’s experts on 0808 145 3386.**

# Let's talk

**PHONE** 0808 145 3490

**ONLINE** [croner.co.uk](http://croner.co.uk)

Croner Group Limited registered  
in England & Wales,  
No. 8654528.  
Registered Office:  
Croner House,  
Wheatfield Way,  
Hinckley, LE10 1YG.

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