



Education & Skills  
Funding Agency

# Apprenticeship funding rules August 2021 to July 2022

## Summary of changes

### Introduction

1. This document sets out amendments to the following documents:
  - Apprenticeship funding rules and guidance for employers  
August 2021 to July 2022 version 1
  - Apprenticeship funding rules for employer-providers  
August 2021 to July 2022 version 1
  - Apprenticeship funding rules for training providers  
August 2021 to July 2022 version 1
2. The funding rules form part of the terms and conditions for the use of funds in an employer's apprenticeship service account or for government-employer co-investment. You must read them in conjunction with your funding agreement with the Secretary of State for Education (acting through the Education and Skills Funding Agency (the ESFA), an executive agency of the Department for Education).
3. These rules will apply to all apprenticeship programmes starting on or after 1 August 2021.
4. We have identified the rules in the 2021 to 2022 funding rules clarification version, version 1 and version 2 that have changed from the 2020 to 2021 funding rules in the table below. The employer, employer-provider and provider paragraph numbers are denoted with the prefix E, EP or P respectively.
5. This document is intended as a summary and does not replace the funding rules themselves. You should refer to the main funding rules document for the definitive rules.

## **Summary Note:**

On 2 July 2021, we published a clarification version of the 2021 to 2022 funding rules. Along with that version of the rules we also published a summary of changes, to make it easy to identify the differences between the 2020 to 2021 and the 2021 to 2022 rules.

We published a clarification version to provide the sector with an opportunity to feedback on any areas of the 2021 to 2022 rules that we could make even clearer before the final version was issued. We have now published version 1 of the 2021 to 2022 rules and this summary of changes includes the additional amends that have been made following the clarification exercise.

## **Learning Support funding**

We received significant feedback about the changes we had proposed to the Learning Support section of the rules and accepted that there were further changes we needed to make for Version 1. We have therefore undertaken a thorough review of this section and have worked closely with provider representatives and other stakeholders. We advise that you read this whole section, as we have restructured this section and have made it clearer about what learning support can be used for and the evidence that is required to support your claims.

## **Apprenticeship Funding: Eligible Costs Review:**

We undertook a consultation earlier this year on the eligible and ineligible costs of training and on-programme assessment. We would like to thank the sector for responding so positively to the consultation which received 78 responses. We will provide a further update in early 2022.

## **Funding Rules 2021/2022 – Version 2 – November 2021**

We are now issuing version 2 of the funding rules to reflect updates to Incentive payments for hiring a new apprentice and Transfers. The specific changes for version 2 are highlighted in the table below.

### **Terminology:**

New rule:

- We use this term to describe new rules that are developed in line with new policy, changes to existing policy, or changes to operational processes. The term describes new actions we expect a relevant individual or organisation to undertake in order to be compliant.

Clarification:

- We use this term to describe the rewording of existing rules for ease of understanding or for the inclusion of a rule that explicitly states, reinforces or emphasises the implicit actions that should already be taken in order to be compliant with the entirety of the funding rules.

Restructure:

- We use this term to describe areas where we have moved rules for ease of understanding.

New content:

- We are introducing new tools to help articulate the rules. We will use this term to confirm when we have added something new.

## Summary of Changes.

Section	Change	Paragraph number
<b>Introduction and purpose of the document</b>	<b>Clarification:</b> To remove reference to the Functional Skills Qualifications temporary flexibilities which have now ended.	P13 EP13 E8
	<b>Clarification:</b> To reflect that the rules on changing to a new version of a standard will apply irrespective of the apprentice's start date and will include existing learners who started their apprenticeship programme in previous funding years.	New for version 1 P13 EP13 E8
<b>What is an apprenticeship?</b>	<b>Clarification:</b> To be clear who is ultimately responsible for on- and off-the-job training.	P22 EP21 E15
	<b>Clarification:</b> Improved clarity around the role of initial assessment in verifying the eligibility of the individual and suitability of the programme for funding.	P23 EP22 E16
<b>Apprenticeship agreement (between the employer and the apprentice)</b>	<b>Clarification:</b> Section reformatted.	P27 EP26 E20
	<b>Clarification:</b> Clarity on the ILR field name and it's link to the apprenticeship agreement.	P27.2 EP26.2 E20.2
<b>Alternative English apprenticeship</b>	<b>Clarification:</b> To be clear on the provider's responsibility in relation to the apprenticeship agreement.	P28 EP27 E21
	Text relating to the previous redundancy policy has been removed	P- EP- E-
<b>Apprentice Wages</b>	<b>Clarification:</b> Added clarity on the provider's role.	P30 EP29 E23
<b>Minimum duration and employment hours</b>	<b>Clarification:</b> Subtitle changed to clarify that there is no 'exception' to the minimum duration, rather there are circumstances where multiple periods of learning can be added together to comply with the requirement.	P39 EP38 E32

	<b>New rule:</b> Sub-rule added to support standards versioning.	P39.2 EP38.2 E32.2
<b>Off-the-job training</b>	<b>Clarification:</b> To be clear that off-the-job training should only be delivered in the practical period.	P41.1 EP40.1 E34.1
	<b>Clarification:</b> To include references to alternative delivery methodologies.	P44.2 EP43.2 E37.2
	<b>Clarification:</b> To be clear that apprentices must be engaged in active learning or on a break in learning (if inactive for 4 weeks or more).	P44.3 EP43.3 E37.3
	<b>Clarification:</b> To be clear that off-the-job training should only be delivered in the practical period.	P45.4 EP44.4 E38.4
	<b>Clarification:</b> To be clear that the delivery of off-the-job training within the practical period requires a first day and a last day of learning.	P52.1/52.2 EP51.1 / 51.2 E45.1 and E45.2
	<b>Clarification:</b> Added clarity around breaks in learning and the impact on off-the-job training.	P54 EP53 E47
	<b>New rule:</b> Where a signed summary statement is required, this should be completed and signed by the relevant parties, and made available as part of the evidence pack, within 12 weeks of the apprentice completing their apprenticeship.	New for version 1 P57.2 EP56.2 E50.2
<b>Recognition of prior learning and experience</b>	<b>Clarification:</b> To clarify that the individual's prior learning and experience must be assessed through a robust Initial Assessment before starting the apprenticeship.	P59 EP59 E-
	<b>Clarification:</b> To specify which knowledge, skills and behaviours must be included in the Initial Assessment.	P59 EP59 E-
	<b>Clarification:</b> To reflect that prior work experience, particularly where the apprentice is an existing employee, or is beginning their apprenticeship after completing another programme with a relevant work placement, must be reflected in the appraisal of knowledge, skills and behaviours.	P60 EP60 E54.1

	<b>Clarification:</b> To clarify where the content, duration and price must be reduced where the individual has prior learning necessary to achieve occupational competence.	P61 EP61 E-
<b>Who can be funded?</b>	<b>Clarification:</b> To be clear that we are referencing eligible training costs.	P68.3 EP68.3 E59.3
<b>Individuals who are not eligible for funding</b>	<b>Clarification:</b> The Ministry of Justice provides that prisoners, both in custody and released on temporary license, cannot sign a contract of employment. Therefore, the rules have been updated to clarify that prisoners are not eligible apprentices.	P81 EP81 E70
<b>Apprentices who need access to learning support</b>	Following consultation with provider representatives and other stakeholders, we have substantially amended this section.	New for version 1 P82 to P91 EP82 to EP91 E71 to E72
<b>Eligible costs</b>	<b>Clarification:</b> To be clear that EPA costs must not be included in the TNP1 price on the ILR.	P104.1 EP97.1 E84.1
<b>Incentive payments for hiring a new apprentice from 1 April 2020 to 30 September 2021</b>	Text relating to incentive payments for hiring a new apprentice from 1 August 2020 to 31 May 2021 has been removed as these no longer apply.	P- EP- E-
	<b>New rule:</b> To reflect that where you apply for an incentive payment in the same month as being eligible to be paid an instalment, you must apply by the 15 <sup>th</sup> day of the month. Where you claim after this date, payment of your instalment will be delayed by a month to allow for necessary payment checks.	P- EP126 E112
	<b>Clarification:</b> To confirm that it is the employer's responsibility to claim the incentive payment on the apprenticeship service for each eligible apprentice.	New for version 1 P- EP120 E106
	<b>Clarification:</b> To reflect that where you apply for an incentive payment in the same month as being eligible to be paid an instalment, payment of your instalment may be delayed by a month to allow for necessary payment checks.	New for version 1 P- EP126 E112

<p><b>Incentive payments for hiring a new apprentice from 1 October 2021 to 31 January 2022</b></p>	<p><b>New rules:</b> From 1 October 2021, employers will be eligible to receive an incentive payment for hiring a new apprentice, if at the start of the apprenticeship, the apprentice is a new employee. From 11 January 2022, employers will be able to use the apprenticeship service to apply for incentive payments for apprentices with an employment start date between 1 October 2021 and 31 January 2022.</p>	<p><b>New for version 2</b> P- EP132 to EP152 E121 to E144</p>
<p><b>Support for English and maths training</b></p>	<p><b>Restructure and clarification:</b> To reflect that these rules apply to all apprentices.</p>	<p>P133.1 and P133.2 EP161.1 and EP161.2 E153.1 and E153.2</p>
	<p><b>Restructure, and clarification</b> on self-assessment.</p>	<p>P147.1 EP175.1 E168</p>
	<p><b>New rule:</b> The box highlights that the suspension of the rule requiring level 2 apprentices to study towards, and attempt, the functional skills assessments at level 2 has been extended to include level 2 apprentices with a planned end date <i>on or before 31 December 2021</i>.</p>	<p>P- EP- E-</p>
	<p><b>Clarification:</b> The box highlights that the rule requiring level 2 apprentices to study towards, and attempt, the functional skills assessment at level 2 is temporarily suspended. Apprentices who are due to take their EPA on or before 31 December 2021 must be passed through gateway to sit their EPA without the need to attempt the level 2 functional skills English and maths assessment. Providers must retain evidence if an apprentice did not take the level 2 assessments due to coronavirus (COVID-19). For apprentices on a standard, this means they must be at gateway on or before 31 December 2021. For apprentices on a framework, they must have achieved all of the requirements of the framework by 31 December 2021.</p>	<p>New for version 1 P- EP- E-</p>
	<p><b>Clarification:</b> To confirm the requirements for level 3 and above apprenticeships where a level 2 qualification in English and maths is required, and</p>	<p>New for version 1 P140 EP168</p>

	the apprentice does not already hold the acceptable qualifications.	E160
<b>End-Point Assessments</b>	<b>Clarification:</b> To remove reference to the Functional Skills Qualifications temporary flexibilities which have now ended.	P- EP- E-
	<b>New rule:</b> To reflect that dialogue with the end-point assessment organisation must commence at least 6 months before the planned end date of the apprenticeship.	P157 EP185 E178
	<b>New rule:</b> To reflect that the employer must both select and negotiate the price with the EPAO at least 6 months before the apprentice reaches the gateway.	P159 EP187 E180
<b>Contracting and subcontracting</b>	<b>Clarification:</b> The reference to new non-levy starts being funded via a contract for services has been removed.	P167 EP- E-
	<b>Clarification:</b> Further clarification on what is meant by “the employer’s apprenticeship programme” and additional examples of what would constitute a “token amount” are provided.	P169 EP196 E188
	<b>Clarification:</b> Additional information relating to the Public Contracts Regulations 2015 is provided.	P171 EP199 E-
	<b>New rule:</b> To be clear that artificial distinctions or convoluted delivery arrangements must not be used to avoid the application of the subcontracting rules.	P172 EP200 E-
	<b>New rule:</b> To be clear subcontracting must not be used to meet short-term funding objectives.	P173 EP201 E190
	<b>New rule:</b> To be clear on the rationale for subcontracting  (NB Existing rule for main providers, now expanded to include employer-providers).	P- EP202 E-
	<b>Clarification:</b> That a main provider can use delivery subcontractors to complement their own delivery and these delivery subcontractors can deliver full or part-apprenticeship training.  (NB Existing rule but only previously included in the	P- EP- E195

	main provider / employer-provider rules).	
	<p><b>Clarification:</b> That a main provider must maintain the relationship with the employer at all times. The main provider must not allow a delivery subcontractor to lead that relationship.</p> <p>(NB Existing rule but only previously included in the main provider / employer-provider rules).</p>	P- EP- E199
	<p><b>New rules:</b> To describe the additional information that must be published alongside the subcontracting rationale.</p>	P175-P178 EP- E-
	<p><b>New rule:</b> That the ESFA will reserve the right to require an explanation where the funding retained as a management fee for a subcontract exceeds 20% of the overall contract but offers little value.</p>	P177 EP203 E-
	<p><b>New rule:</b> That delivery subcontractors must not be used without the appropriate knowledge, skills, and experience of contracting with, and managing, delivery subcontractors.</p> <p>(NB Existing rule for main providers, now expanded to include employer-providers).</p>	P- EP206 E-
	<p><b>New rule:</b> To be clear that learners supported through subcontracting should fully understand the roles and responsibilities of the various parties.</p>	P187 EP211 E-
	<p><b>New rule:</b> To be clear who is responsible for the actions of subcontractors including who is responsible for making alternative delivery arrangements, protecting the audit trail, and / or repaying ESFA when a subcontractor fails to deliver.</p>	P190 EP212 E202-E204
	<p><b>New rule:</b> To be clear who is responsible for ensuring safeguarding is rigorously enforced in subcontracting arrangements.</p>	P192 EP214 E-
	<p><b>New rule:</b> To be clear that it is not acceptable for any staff member with a direct or indirect financial interest in a subcontractor to undertake any management control activities of that subcontractor.</p>	P193 EP215 E-

	<b>New rule:</b> To outline responsibilities in relation to the Prevent duty.	P196 EP218 E-
	<b>New rule:</b> That an employer-provider must not enter into any agreement for brokerage.  (NB Existing rule for main providers, now expanded to include employer-providers).	P- EP220 E-
	<b>Clarification:</b> To be clear that the written contract with a subcontractor must be in place before any delivery takes place.	P199 EP221 E-
	<b>New rules and clarifications:</b> The section has been updated to be clear on what, as a minimum, must be included within the contract with the delivery subcontractor.	P200-P210 EP222-EP232 E-
	<b>New section:</b> To outline the subcontracting threshold and exemption cases process.	New for version 1 P211 to P212 EP233 to EP234 E-
	<b>New section:</b> To summarise all of the rules relating to subcontracting reporting and external audit requirements.	P213-P217 EP235-EP239 E-
	<b>New rule:</b> To change the relevant dates from a financial year to an academic year, to align with the subcontractor declarations.	P220 EP240 E-
<b>When payments are made</b>	<b>Clarification:</b> To reflect changes made in the co-investment section.	P232 EP- E-
<b>Employer co-investment</b>	<b>Clarification:</b> To reflect that we may withhold the final completion payment until all the necessary employer co-investment has been collected.	P247 EP- E-218
	<b>Clarification:</b> To reflect that you must have collected and recorded (on the ILR) at least the amount of co-investment required for the whole programme up to the month before the completion payment is due, not counting any co-investment which might be required for the completion element itself.	P247.3 EP- E-

	<b>Clarification:</b> To reflect that throughout the financial year you should regularly have collected matching co-investment from employers.	P249 EP- E-
	<b>Clarification:</b> To reflect that throughout the financial year you should regularly have collected matching co-investment from employers and that for any change of circumstances, the co-investment is reconciled and any overpayment addressed.	New for version 1 P246 EP- E-
	<b>Clarification:</b> Employers may agree a schedule of co-investment payments with the main provider, which does not match payments made by us each month.	P- EP- E217
<b>Subsidy control</b>	<b>New Rules:</b> Section updated to reflect new Subsidy Control rules.	P269 to P272 EP292 to EP295 E254 to E257
<b>Apprenticeships funded by transfer of levy funds</b>	<b>Clarification:</b> updates to reflect the upcoming launch of the online matching service.	P- EP303, EP307 and EP319 E265, E269 and E282
	<b>Clarification:</b> updated to reflect the rules within the Employer Funding Rules around what happens a transfer payment fails.	P- EP321 E-
	<b>Clarification:</b> updated to reflect the rules within the Employer Funding Rules around monitoring process.	P- EP322 E-
	<b>New rule:</b> updates to reflect that from February 2022, we are removing the restriction on sending employers not being able to receive any transferred funds from other levy-paying employers whilst they are funding a transfer.	<b>New for version 2</b> P- EP310 and EP320 E273 and E283
<b>Change of circumstance</b>	<b>New rule:</b> To reflect where there is a change to the apprentice's programme (including changing to a new version of a standard).	P287.1 EP328.1 E289.1
<b>Breaks in learning</b>	The flowchart has been updated and moved to a new position in the document to follow the text on breaks in learning.	P- EP- E-
<b>Redundancy</b>	- Text related to the previous redundancy policy has been deleted.	P- EP-

		E-
	- The flowchart has been updated.	P- EP- E-
<b>Maternity, adoption and shared parental leave</b>	<b>Clarification:</b> To reflect that a break in learning must be used where the individual has agreed, with their employer and provider, to take a break of 4 weeks or more from their apprenticeship (with or without a break from work) but plans to return to the programme in the future.	P310.1 EP350.1 E308.1
<b>Changing to a new version of a standard</b>	<b>New rules:</b> For when an existing apprentice wishes to move to a different version of the same standard.	P314 to 327 EP354 to EP367 E312 to E322
	<b>Clarification:</b> To reflect that the availability of an end-point assessment organisation must be considered before enabling an apprentice to move versions.	New for version 1 P315 and P320 to P322 EP355 and EP360 to EP362 E313 and E318
<b>Evidence Pack (Programme Eligibility)</b>	<b>New rules:</b> To reflect the evidence requirements for initial assessment.	P360.1 EP389.1 E-
<b>Evidence Pack (Recognition of prior learning)</b>	<b>Clarification:</b> To reflect evidence requirements for recognition of prior learning.	P366 EP395 E-
	<b>Clarification:</b> We have made revisions to aid further clarity.	New for version 1 P366.4 EP395.4 E-
<b>Evidence Pack (Commitment Statement)</b>	<b>Clarification:</b> to reflect the evidence requirements for progress reviews.	P367.3 EP396.3 E-
<b>Evidence Pack (apprentices accessing learning support)</b>	Following consultation with provider representatives and other stakeholders, we have substantially amended this section.	New for Version 1 P370 EP399 E-
<b>Evidence Pack</b>	<b>New:</b> Evidence requirements for incentive payments for hiring a new apprentice from 1	<b>New for version 2</b> P-

<b>(What can be funded)</b>	October 2021 to 31 January 2022	EP401 E-
<b>Evidence Pack (Support for English and maths)</b>	<b>Clarification:</b> To remove reference to the Functional Skills Qualifications temporary flexibilities which have now ended.	P- EP- E-
<b>Evidence Pack (Paying for an apprenticeship)</b>	<b>New:</b> Requirement to hold information on who the sending employer is for transfer funded apprenticeships.	P376 EP403.5 E-
<b>Annex A: Eligibility criteria (who we fund)</b>	<b>Update:</b> Changes to ordinary residence criteria for UK nationals.	P389 EP416 E347
	<b>Update:</b> Changes to ordinary residence criteria for citizens with the Right of Abode.	P390 EP417 E348
	<b>New Rule:</b> A new residency category has been added for UK nationals who have been living in the EEA.	P391 EP418 E349
	<b>New Rule:</b> A new residency category has been added for EEA nationals in the UK (this replaces the EEA citizens section).	P392 to P393 EP419 to EP420 E350 to E351
	<b>New Rule:</b> A new residency category has been added for Non UK nationals (this replaces the Non EEA citizens section).	P394 EP421 E352
	<b>New Rule:</b> A new residency category has been added for family members of UK and EEA nationals (this replaces the family members of EEA nationals section)	P395 to P396 EP423 to EP424 E353 to E354
	<b>New Rule:</b> A new residency category which is exempt from the three year residency rule has been added.	P398.7 EP425.7 E356.7
	<b>New Rule:</b> New rules have been added to explain which family members of nationals with Calais Leave to remain under section 67 can be eligible for funding.	P399 to P400 EP426 to EP427 E357 to E358
	<b>Update:</b> Updates to the Child of a Turkish Worker section to reflect end date of agreement.	P404 EP431 E362

	<b>Update:</b> Updates to the list of British Overseas Territories and EEA Countries we use for establishing eligibility.	P413 to P416 EP441 to EP444 E372 to E375
<b>Glossary</b>	<b>New content:</b> New terms have been added to the glossary.	New for version 1