



Department
for Business
Innovation & Skills

**GOVERNMENT RESPONSE TO THE
CONSULTATION ON PROTECTING
THE TERM 'APPRENTICESHIP'
FROM MISUSE**

SEPTEMBER 2015

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1. Overview of the consultation proposals

1. Delivering three million apprenticeships during this Parliament is a key priority for the Government. We want to make sure that everyone can have confidence that an apprenticeship is a high quality route consisting of employment with training.
2. As the apprenticeship brand grows, we are concerned that there is a greater risk that the term 'apprenticeship' could be misused and applied to lower-quality courses.

This could damage the Government's apprenticeship brand and have a negative impact on growth.

3. The term 'degree' is protected in legislation and protecting the term 'apprenticeship' in the same way will help to ensure that apprenticeships are viewed with the same regard as Higher Education.
4. The consultation paper¹ set out the Government's intention to protect the term 'apprenticeship' from misuse. We asked for views on the proposals which will be included in the Enterprise Bill.
5. The consultation provided further detail on the key elements of the proposal, the aims of which are to:
 - Strengthen and protect the reputation of the apprenticeship brand for training providers, employers and apprentices.
 - Prevent the term apprenticeship from being applied to courses that do not meet the criteria of a government apprenticeship.
 - Give confidence to employers, parents and prospective apprentices that they are engaging in high quality apprenticeships and protect the reputation of those training providers that already offer high quality statutory apprenticeships.
 - Still enable employers to offer their own, fully funded apprenticeships. This would mean that whilst training providers would be prevented from labelling other training as an apprenticeship we would not be introducing new burdens on employers.
6. We also set out our proposals for the penalty for breach of this measure, which would be a maximum of a fine following prosecution in the Magistrates Court.

Further details are set out in the original consultation document.

¹ www.gov.uk/government/consultations/protecting-the-term-apprenticeship

2. Conducting the consultation

7. The consultation was launched on 29 July and closed on 19 August to give the Government time to consider the responses ahead of the introduction of the Enterprise Bill.
8. The consultation was sent to over 500 key stakeholders and was put on the Gov.uk and Citizen Space websites. We have received 92 responses (Annex A) from a wide variety of interested parties including employers, private training providers, colleges, schools, universities, apprentices and representative groups.

3. Summary of responses received

Summary of responses

9. The majority of the responses were supportive of the aims of the legislation and the need to protect the term 'apprenticeship' from misuse. Many recognised the value of the apprenticeship brand and the importance of protecting the investment in apprenticeships by business, government and others. They felt that this proposal would help to enhance the reputation of apprenticeships, ensuring that they are seen as an attractive choice to start a successful career.
10. Almost all of the responses explicitly stated their support for ensuring that apprenticeships are high quality and this measure is designed to support this aim.
11. Those responses that raised concerns about the policy fell mainly into two categories.
 - First, those wanting the policy to go further and also to apply to employers. Whilst the Government has considered expanding this measure to employers it feels that the potential costs of doing so would outweigh the benefits. There are many employers that offer high-quality apprenticeships of their own and we do not want to prohibit this practice, nor do we want to put in place any measures that could be perceived as burdensome or put off employers from offering apprenticeships.
 - Second, those concerned about potential unintended consequences. These unintended consequences were in relation to de-valuing and discrediting apprenticeships that have already been achieved or a view that this issue could be addressed by non-legislative means.
12. We do not intend to revoke previously achieved apprenticeships so this measure will not have an effect on those who have already completed their apprenticeship.
13. We have considered a number of other options as an alternative to legislating (for instance trademarking the apprenticeship brand). On balance, we did not consider that these would be sufficiently effective in addressing the risk of other training programmes being misrepresented as high-quality apprenticeships.
14. Other issues raised were in relation to how this might adversely affect people with disabilities and if it would lead to an increase in entry requirements. We are committed to ensuring that apprenticeships remain accessible to all and, as apprenticeships are jobs, entry requirements are determined by individual employers.

Are you aware of any instances of the term 'apprenticeship' being used to advertise courses other than apprenticeships eligible for Government funding?

15. Out of those that responded to this question (82 in total) 40% said that they were aware of the term being misused. A majority of respondents cited anecdotal evidence rather than specific examples.
16. Examples given included students on full time courses believing that they were doing an apprenticeship and providers using the term to describe part-time study that does not fully meet the needs of statutory apprenticeships.
17. One employer organisation said that they regularly receive applications from students at local colleges who think they are on an apprenticeship, when in reality they are only been taught technical qualifications.
18. It was suggested that this type of misuse devalued the apprenticeship brand and could cause confusion amongst employers, parents and potential apprentices. Respondents felt that this measure would be a good opportunity to address this.
19. One large employer had discovered colleges and training providers using their company logo and name to advertise apprenticeships without their consent and were finding it time consuming and costly to deal with this issue.
20. One respondent was worried about how it would affect those (providers, professional bodies) that supply apprenticeship training to employers that do not receive any government funding.
21. Training providers and other partners are critical to delivering high quality apprenticeships and the vast majority are successful in delivering excellent training. The aim of this legislation is to address the behaviour of a small number of providers at the margins who detract from the overall positive picture, and have been highlighted in some of the responses to this consultation.
22. We will work with employers who are offering their own, non-statutory apprenticeships as part of our growth strategy to encourage them to join the approved English apprenticeship programme² Employers that run their own schemes will still be able to access skills training from a provider, but the provider would not be able to advertise it as relating to an 'apprenticeship' if it does not relate to statutory apprenticeship training.

Conclusion

23. As a result of these responses we feel that there are now even clearer arguments for introducing the legislation. Many of those that responded agreed that it is important

² www.gov.uk/government/uploads/system/uploads/attachment_data/file/447413/BIS-15-355-guidance-for-trailblazers-standards-to-starts-July-2015.pdf

to protect and enhance the reputation of “apprenticeships” to ensure that they continue to be valued by employers, providers, parents and future apprentices.

24. They recognised that it will be important to prevent future misuse of the term as the apprenticeship brand grows following the Government’s commitment to 3 million more apprenticeships this Parliament.

Are there any unintended consequences that may arise as a result of this proposal?

25. 40% of those that responded to this question (82 in total responded) did not believe that there would be unintended legal consequences from the proposal. Of those that responded that there could be unintended consequences, some used their response to raise wider views about apprenticeship policy rather than the unintended legal consequences of this particular measure.
26. A few respondents felt that legislating is the wrong approach and that Government should instead focus on driving up the quality of apprenticeships through other non-legislative measures. The Government feels that using both legislative and non-legislative options is the best approach to increasing quality. In addition to the range of measures we have put in place to do this, such as minimum durations, we want to be able to take firm action to stop misuse of the term ‘apprenticeship’ where it occurs. Legislating will enable the Government to act in these circumstances creating a stronger deterrent for anyone who seeks to misuse the ‘apprenticeship’ brand.
27. One respondent was concerned that those employers that run their own non-government funded apprenticeships would be affected and would have to change the format and content of their existing training programmes. The Government recognises that many of these in-house schemes are of a high quality and does not wish to prohibit employers from this practice which is why we are proposing to only include training providers in the scope of this legislation.
28. A couple of respondents raised the issue of how the proposed legislation would work alongside the new apprenticeship levy. The Government launched a consultation about the levy on 21 August 2015 which closes on 2 October and will consider this issue further as the levy proposals are developed following the consultation.
29. A few respondents were concerned that some organisations would be penalised because they were confused about the definition of an apprenticeship and others suggested that there was no consistent and agreed definition of an apprenticeship across different sectors and industries. This concern was also raised by disability groups.
30. The Government has defined the key characteristics of an approved English apprenticeship to ensure that these deliver a high quality outcome for young people – this includes real employment, with high quality on and off the job training, lasting over 12 months. As part of these proposals we will ensure that the definition of an apprenticeship and any legal changes are clearly communicated to ensure proper understanding.

31. A small number of respondents had concerns about longstanding 'guild style' apprenticeships, which have been operating for many years. There were also a small number of organisations that referred to other apprenticeship 'schemes' that would not fit the new criteria. The proposals will not affect those organisations where they are acting as employers. In the cases where they are providers of apprenticeship training the Government feels it would be unfair to treat them differently to other providers. The Government would be happy to work with these organisations to help them transition their apprenticeships to the approved English apprenticeship.
32. One organisation raised a concern that this measure could affect providers who use labels such as 'pre-apprenticeship' to describe non-apprenticeship training to attract young people. In these instances the provider will be able to state that the training could lead to an apprenticeship provided that it is clear that what is on offer at that stage is not an apprenticeship itself.
33. A disability group raised a concern that the measure could create an unfair two-tier system in which people with disabilities are excluded from accessing high quality training opportunities. The Government does not set entry requirements for apprenticeships and there are no plans to change this.

Conclusion

34. The responses to this question indicate that whilst some respondents had questions about some of the detail of the proposals many agree to the principles outlined. We will continue to work with stakeholders as the Bill progresses through Parliament to try to ensure that there are no unintended legal consequences.
35. We are committed to increasing the quality of apprenticeships and will continue to do this through the growth and reform of apprenticeships alongside these legislative measures.

Other comments

36. There were a range of other comments included here, many of which have been addressed in the earlier sections. A summary of some of the additional points is included below.

Criminal Offence

37. Some respondents were confused about how we could have 'light touch' enforcement alongside a maximum penalty of a fine and prosecution in the Magistrates Court.
38. The primary aim of the legislation is to act as a deterrent to stop those misusing the term 'apprenticeship'. Decisions on prosecution will be made in individual cases and other avenues of redress (such as negotiating compliance with employers) will be considered, where appropriate.
39. The Government wants parity with degree legislation (section 214 of the 1988 Act) as far as possible and it is a criminal offence to misuse the term degree.

40. One respondent was keen to know what resources will be committed to ensure that action is taken promptly and effectively when it is required and who will be responsible for initiating and taking ongoing responsibility for any such legal action. It is our current intention that the local weights and measures authorities will enforce the offence. The Secretary of State, or others with the consent of the Director of Public Prosecutions, may also take enforcement action.

Cost analysis

41. Some respondents wanted to know about the cost to business. We are publishing the Impact Assessment for these proposals alongside the Government Response to the consultation. We expect the overall impact on business to be negligible.

4. Next steps

42. Following the Government's commitment on 14 June to protect the term 'apprenticeship' from misuse and in light of the consultation responses received, the Government will include a clause in the Enterprise Bill to achieve this aim.
43. The measure will create an offence for a person, in the course of business, to provide or offer a course or training as an apprenticeship if it is not a statutory apprenticeship. Employers cannot commit the offence in relation to their employees. We are proposing that the offence is summary only and the maximum penalty is a fine.
44. Further details about the Enterprise Bill are available at:
www.gov.uk/government/collections/enterprise-bill

Annex A - List of respondents

A few of the respondents did not provide their organisation name.

AAT
AELP
Alliance for Inclusive Education
Alstom
AOC
Association of School and College Leaders
Balfour Beatty
Birmingham Law Society
Bournville college of FE
British Chamber of Commerce
British Gas
Bromley College
BT
Capita Education Careers Advisory Service
Carillion PLC
Carrenza
CBI
Centre for Economic Performance London School of Economics and Political Science
Chartered Institute of Credit Management (CICM)
CITB
City and Guilds
City of London Corporation
CLASS UK Ltd
Considering Disability
Digital Youth Academy
Disability rights UK
Education and employers Taskforce
EMH Group
Engineering the future
Essex County Council
Federation for Industry Sector Skills and Standards
Federation of awarding organisations
Green Inc. (EU) Limited
G's
Informal group of Apprentice Managers from UK Large Engineering Employers - Rolls-Royce, BAE Systems, Airbus UK, Siemens, Jaguar Landrover, Bentley Motors, British Gas & Network Rail & JCB
JTL Training
Leeds City College
Leeds city region enterprise partnership
Livery Companies Skills Council Maritime alliance
PH. CreativeMencap
Milton Keynes College
National Association of Shopfitters

National Electrotechnical Training (NET) National Hairdressers Federation
National Society of Apprentices
NCFE
New College Durham
New economy Manchester
Newbury College in conjunction with TVB LEP and TVRN
North East Chamber of Commerce
NSoA
Payroll Alliance
Pearson
PiXL
Proskills UK Group
QAA
RMI
SABIC Petrochemicals
SEMTA
Sheffield University Siemens plc
SJD Electrical
Solicitors Regulation Authority
SummitSkills
Surrey County Council – Elaine Thomas
Surrey County Council – Gemma Rolph
Technician Apprenticeship Consortium
The Builders Merchants' Federation Ltd
The Chartered Institute of Legal Executives
The Chartered Institute of Plumbing and Heating Engineering
The Goldsmiths' Company
The Pennine Acute Hospitals NHS Trust
The Science Council
TQ Training
TUC
Unite
University and college union
Watermen's hall
Whitbread
Whitby & District Fishing Industry Training School Limited



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