

## Regulatory Triage Assessment

<b>Title of measure</b>	Apprenticeship Regulations 2017
<b>Lead Department/Agency</b>	Department for Education
<b>Expected date of implementation</b>	21 December 2017
<b>Origin</b>	Domestic
<b>Date</b>	18/12/17
<b>Lead Departmental Contact</b>	Philip Edmeades 07775 407581
<b>Departmental Triage Assessment</b>	Deregulation (fast track)

### Rationale for intervention and intended effects

The rationale for this measure is to raise the quality of apprenticeships through establishing in regulation the requirement for employers to provide off-the-job training and the requirement that all apprenticeships last a minimum of 12 months. The regulation will require employers to set out details of the duration of the apprenticeship and the apprentices' off-the-job training in their apprenticeship agreements.

The intended effects are to increase clarity for business and for their apprentices. The measure is also intended to put off-the-job training on a statutory footing, so that it applies to English apprenticeships not funded by the Secretary-of-State.

### Viable policy options (including alternatives to regulation)

We have already pursued this policy through the Education and Skills Funding Agency's (ESFA) funding rules for apprenticeship employers and providers, which sets out a requirement for off-the-job training and for 12-month minimum duration. The rules are reviewed annually. DfE also works with Ofsted to ensure that their inspection considers reviewing the quality and content of off-the-job training. The Department has also published guidance for employers and providers on what constitutes off-the-job training (June 2017) <https://www.gov.uk/government/publications/apprenticeships-off-the-job-training>. However, the purpose of regulation is to provide a stronger message to employers on the importance of off-the-job training and to protect apprentices who may be funded privately by employers

### Initial assessment of impact on business

#### Costs

#### (a) Regulation for apprenticeships to last at least 12 months

This regulation requires apprenticeships to last at least 12 months. Although this is a new regulation, this is already a requirement through ESFA's funding rules and is already enforced. The Regulation requires that the agreement sets out the expected period for when the apprentice is to work and receive training. However, there will be familiarisation costs for businesses as they will have to read the new guidance/regulations. We monetise these costs in section 4.

#### (b) Regulation for apprenticeship agreements to include the details of off-the-job training

This regulation will only apply to businesses that engage apprentices. The regulation will require that the apprenticeship agreement must specify the off-the-job training which the apprentice is to receive during their apprenticeship. In effect, both these requirements would be addressed together in meeting the new requirements for the apprenticeship agreement.

Overall, to the best of our knowledge, we do not expect the new regulations to impact on any businesses **not** currently subject to the ESFA funding rules. If this did, it would most likely be a new area covered by the regulations, that is, employers who privately fund apprentices. We believe that numbers are very small and most of these are likely to be apprentices based outside England – and therefore not covered by these regulations. And overall, we believe that most employers who fund apprentices privately are likely to have state-funded apprentices too and are likely to follow the same administrative procedures in relation to those apprentices. Therefore, we would expect the additional cost burden to them to be

small. The Department does not collect data on privately-funded apprentices; however, we are proposing to look at cost effective options for getting more information on numbers of privately-funded apprentices.

Overall, we expect the additional cost of including the new details to be minimal, as this information is largely prepared by the training provider, and already compiled through the agreement between the training provider and the employer ("The commitment statement"). It is also a current requirement through ESFA funding rules that the training provider ensures that an apprenticeship agreement exists and a copy is retained in their evidence pack, which is subject to audit. We estimate the cost to be £2.33 million, to reflect the time that employers will take to establish procedures in year 1 to include this information in the agreement. For the purposes of the apprenticeship agreement, the details are likely to be simply "cut and pasted" into the agreement, with minimal administrative inputting. Once established, we would expect such costs to fall in subsequent years, as the information collected can simply be transferred into the agreement. Consequently, there are familiarisation costs and administrative costs which have been monetised in section 4, below.

Guidance for employers will be provided via [www.gov.uk](http://www.gov.uk) alongside the annually published ESFA funding rules for employers and training providers.

#### Benefits

The benefits will be generated by greater clarity for employers about the training they expect to provide, which should contribute to the delivery of higher quality training for apprentices; and the greater transparency for apprentices about the training they expect to receive as part of their apprenticeship. It will also protect those apprentices who may be funded privately by the employer and ensure they receive the same quality of training as those funded by the Secretary of State (although we expect the number of employers engaging apprentices privately in England to be very small, as set out above).

Given the size of the costs involved with this regulation, on grounds of proportionality, we have not attempted to monetise these benefits.

#### **BIT status/score**

This is a non-qualifying regulatory provision, as it is below the +/- £5 million estimated annual net direct cost to business (EANDCB) threshold.

#### **Rationale for Triage rating**

The impact of the policy on employers will be below the +/- £5 million (EANDCB) threshold.

#### **Departmental signoff (SCS): Allan Little (for Chief Economist)**

Date: 19/12/2017

**Economist signoff (*senior analyst*):** Simon McKee  
19/12/2017

Date:

**Better Regulation Unit signoff:** Viv Clowes  
19/12/2017

Date:

## **Supporting evidence**

### **1. The policy issue and rationale for Government intervention**

We are seeking to establish in regulation the requirement for employers to provide off-the-job training for apprentices and to establish the requirement for a minimum duration of 12 months. This is part of the Government's overall strategy to raise the quality of the apprenticeship programme, to deliver better outcomes and raise productivity through a better skilled workforce.

### **2. Policy objectives and intended effects**

The intended objectives are:

- Strengthen the requirements on business to provide off-the-job training to their apprentices and confirm the minimum duration (12 months);
- Provide a statutory footing for apprenticeships delivered outside England (for example in the Devolved Administrations) and not funded by the Secretary of State
- Provide greater transparency for apprentices about their entitlement to training

The intended effects are to:

- Ensure clarity and transparency for apprentice and employer ;
- Send a strong message to businesses of the importance and value of training

### **3. Policy options considered, including alternatives to regulation**

We have established requirements in relation to off-the-job training and 12-month duration through the Education and Skills Funding Agency's funding rules for training providers and for employers, and issuing guidance to employers about how to meet the off-the-job requirements. However, we are proposing regulations, because

- There is a risk that employers try to minimise off-the-job training in order to minimise costs. We wish to send a strong message to employers about the importance of off-the-job training;
- We wish to ensure that any requirement for off-the-job training applies to privately-funded English apprentices as well as publicly funded programmes, (which may include standards delivered outside England) although we expect the number of employers affected by this to be very small – and the majority of privately funded apprentices to be based outside England (and therefore not covered by the Regulation).

### **4. Expected level of business impact**

The Regulation will require the employer to set out details of the duration of the apprenticeship ("practical period"), which must be for a minimum of 12 months; and details of the planned off-the-job training for the apprentice in the Apprenticeship Agreement (in effect a contract between the employer and the apprentice).

Two of the new regulations, specifically the requirement for off-the-job training and the 12-month minimum duration for apprenticeships, are already requirements under EFSA's funding rules. Therefore, for businesses employing apprentices, there is no change to the conditions that they must operate under. However, moving the funding rules to regulation may stimulate a behavioural change from employers. If businesses, in response to the regulation, improve the quantity or quality of their training programme, there may be additional costs to business. Given that there is no change to the rules governing apprentices, we can assume that for any behavioural change of this nature, the business must perceive the costs of improving its training offer to be outweighed by the benefits. Therefore, any behavioural change is likely to be of net benefit to the business.

For those privately funded apprentices, we would expect numbers to be very small and for the majority to be based outside England; for example, where employers choose to put all their UK staff through a single apprenticeship programme, based on the English standard. As indicated above, these apprentices would not fall in scope to the Regulation.

For the very small numbers of privately-funded apprentices who are likely to be based in England, we would expect employers to already be engaging apprentices through ESFA- funded programmes and for them to manage the administration of those apprentices on the same footing as those funded by ESFA.

As indicated in the RTA (above), the Department is proposing to look at cost effective options for getting more information on numbers of privately-funded apprentices.

### Scale

It is difficult to provide firm data, given the current significant changes in apprenticeship funding and content. There are around 20,000 levy-paying employers, but on the basis of starts in 2016/17 and registration with the Apprenticeship Service, we could expect upwards of 12,000 levy-paying employers, [published data on levy payers August 2017](#) to engage with the programme plus a significant number of smaller businesses. It is much more difficult to estimate the numbers of non-levy paying employers who we expect to employ apprentices. Published data on "The Incidence of Apprenticeships in England (March 2017) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/642472/LE\\_report\\_revised.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/642472/LE_report_revised.pdf) suggested that in total there were around 100,000 employers with apprenticeship starts in 2014/15.

The Apprenticeship Evaluation (2017) [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/659710/Apprenticeships\\_evaluation\\_2017\\_employers.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/659710/Apprenticeships_evaluation_2017_employers.pdf) suggests that apprentices make up a much higher proportion of the total workforce among mid-sized sites (with 10-99 employees) than among sites with 100 or more

staff. Our assumptions are that there will be a shift towards a greater demand from levy-payers and a corresponding fall from non-levy payers (who will be expected to provide co-investment for apprentices), so overall our assumption is that around 100,000 employers is a reasonable projection.

Overall, around 500,000 apprentices will start annually; and employers will have to prepare apprenticeship agreements with them.

Given the Government's target to increase the number of apprenticeships, we would expect more apprenticeships and more businesses to begin to employ apprentices in future. We do not believe that this will have an additional impact on costs for businesses in the future, because:

- There will be no future familiarisation costs, as the regulations are not forecast to change;
- For businesses already employing apprentices, there will be no future administration costs for new apprentice starts. Unlike for current apprenticeship agreements which will need to be edited to include the details of off-the-job training, in future, including these details in the apprenticeship agreement will become common practice and a normal component of writing an apprenticeship agreement. Equally, it is highly likely that apprenticeship agreements will be re-used for future apprentices;
- Equally, for new businesses beginning to employ apprentices in future, there will be no additional administration cost to including the details of off-the-job training in the apprenticeship agreement as this will become common practice when drafting an agreement. Unlike current businesses who will need to edit existing apprenticeship agreements, new businesses will need to create completely new agreements anyway, so complying to the new regulations will not be an additional cost.

### Calculation of cost

We would expect the cost to business to be minimal. Each employer employing an apprentice is currently obliged to complete an apprenticeship agreement with the apprentice. HR managers currently negotiate and contract with the training provider to agree the off-the-job training with the provider. The regulations will require the employer to include this information in the apprenticeship agreement. The process will in effect be a transfer of data into the agreement and we would expect this to be an administrative process, with the employer carrying out the familiarisation research on both the requirements at the same time.

Assumptions:

- A. HR manager spends 20 minutes reading 10 relevant pages of guidance on apprenticeship agreement;
- B. Administrative inputting of information into agreement 10 -12 minutes per apprentice:

Summary of estimated costs: see **Table 1** below. Sources see \* notes below

### *Best-estimate*

A “best-estimate” scenario is that we would expect the proposed changes to require the HR manager of an employer employing apprentices to familiarise themselves with the documentation; and for some additional time for data entry of information into the apprenticeship agreement. **Cost = £2.33m**

### *Lower-bound estimate*

A “lower bound” estimate takes account of the fact that many apprenticeship agreements are duplicates and it is therefore unlikely that each individual agreement would need to be updated. The lower cost scenario assumes that the cost of updating agreements accrue per-business, not per-apprentice (and would therefore mean 100,000 rather than 500,000 transactions - see table)

### *Worst case scenario*

Even on a more conservative estimate, where an HR manager required up to 1 hour to familiarise themselves with the process (cost of £3.19 million on the gross costs above); the total, with administrative input, would be £4.56 million. We consider this to be the absolute upper bound on cost – even in the most extreme scenario, where the HR manager requires 1 hour to familiarise herself with the new regulations, and all 500,000 apprenticeship contracts need individually updating, our estimate of cost falls below the £5m threshold

**TABLE 1: Estimated costs to business to implement proposed Regulation**

<b>Lower bound</b>	<b>Hourly wage</b>	<b>Hours</b>	<b>On costs</b>	<b>Units</b>	<b>Cost</b>
HR manager	£26.58	0.3	1.203	100,000	£959,272
Admin assistant	£11.37	0.2	1.203	100,000	£273,562
<b>Total:</b>					<b>£1,232,834</b>

  

<b>Best estimate</b>	<b>Hourly wage</b>	<b>Hours</b>	<b>On costs</b>	<b>Units</b>	<b>Cost</b>
HR manager	£26.58	0.3	1.203	100,000	£959,272
Admin assistant	£11.37	0.2	1.203	500,000	£1,367,811
<b>Total:</b>					<b>£2,327,083</b>

  

<b>Worst case scenario</b>	<b>Hourly wage</b>	<b>Hours</b>	<b>On costs</b>	<b>Units</b>	<b>Cost</b>
HR manager	£26.58	1	1.203	100,000	£3,197,574
Admin assistant	£11.37	0.2	1.203	500,000	£1,367,811
<b>Total:</b>					<b>£4,565,385</b>

\*Sources:

1. \*ONS' annual survey of hours and earnings (ASHE) (statistics on wages by occupation type [here](#)).
2. Evidence on familiarisation time – analysis has assumed that it takes 2 minutes to read a page of A4 (reference) <http://iovs.arvojournals.org/article.aspx?articleid=2166061>)
3. The uplift for on-costs for the whole economy is assumed at 20.3%, (Eurostat, 2016) <http://ec.europa.eu/eurostat/web/labour-market/labour-costs/database>).

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