



Flexi-job apprenticeships – more flexibility for employers

28 April 2021

Employment & Immigration, United Kingdom

- 🕒 **Introduction**
- 🕒 **What is proposed?**
- 🕒 **Will it make things easier?**

Introduction

Apprenticeships allow businesses to develop a motivated, skilled and qualified workforce. However, under the existing statutory apprenticeship regime, an apprenticeship must last for at least 12 months. This poses particular challenges in industries where short-term, project-based working arrangements are the norm, such as in the creative and construction sectors. The government's Skills for Jobs white paper (published in January 2021) recognised that the varied and flexible employment patterns in these industries has meant that apprentices and employers cannot commit to the minimum 12-month apprenticeship duration.

One solution is the use of apprenticeship training agencies,**(1)** which are responsible for employing and paying apprentices and providing them to multiple end-user businesses in exchange for a fee. Businesses can club together to pay that fee and share responsibility for an apprentice's on-site training during their apprenticeship, making up the full 12 months.

The government's latest flexi-job apprenticeship proposal builds on the agency model, will help businesses to share apprentices and brings the promise of greater flexibility.

What is proposed?

The government wants apprenticeships to become "portable" so that "they can be taken from company to company". In the Spring 2021 Budget, Chancellor of the Exchequer Rishi Sunak announced a £7 million fund to operate a new flexi-job apprenticeship programme. From July 2021, organisations will be able to bid for money from the fund to create new agencies, which will employ apprentices and allocate them to multiple employers. The first flexi-job apprenticeships are expected to commence in January 2022.

Will it make things easier?

The flexi-job apprenticeship model is not dissimilar from the apprenticeship training agency model, but there is a renewed vigour backed up by funding to encourage organisations to establish themselves as agencies. This should promote flexibility for apprentices to move between work placements and complete their training and it may be the missing piece for some industries, which to date have struggled to take full advantage of apprenticeships.

However, organisations applying to become agencies will take on a sizeable responsibility and should consider carefully whether they are the right candidate for that new function. New agencies will need strong relationships and contacts within the industry so that they can arrange multiple placements. They will need to understand the needs of their industry, and how long projects tend to last, to determine the number of end-user businesses that should be involved to meet the 12-month minimum requirement for an apprenticeship.

Agencies will be acting as 'employment businesses' and will therefore need to comply with the Conduct of Employment Agencies and Employment Business Regulations 2003 and the Agency Workers Regulations 2010. These are fairly onerous sets of rules for employment businesses.

Employment businesses' key obligations under the Conduct of Employment Agencies and Employment Business Regulations include:

- giving the individual a key information document (about payment and deductions) and key terms and conditions, including salary and holiday entitlement;
- obtaining confirmation that the individual has the necessary abilities for the role offered by the end-user business (presumably a low threshold for an apprentice); and
- not charging the individual for their placement with a business (rather, charging the business).

Under the Agency Workers Regulations, individuals become entitled to the same rights after 12 weeks of a placement as a comparable directly hired employee of the end-user business, including pay and other basic working conditions (eg, annual leave and rest breaks). Employment businesses need information from the end-user business to discharge that obligation. End-user businesses must also ensure that individuals have the same access to collective facilities as other directly hired employees from day one.

Organisations taking on the agency role through the new government funding will want a set of terms to give end-user businesses. Negotiating these terms can take time and may slow down the process, which would be particularly unattractive where multiple end-user businesses are involved. In time, an industry-standard set of terms may be preferable.

There will always be some red tape, but flexi-job apprenticeships, if they live up to their name, will make taking on apprentices easier and cheaper for many businesses. A government consultation on the proposals is expected with the hope of future guidance.

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Endnotes

(1) A list of approved apprenticeship training agency providers is available here.

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