

Employer Guidance and FAQs

The following Guidance and FAQs are based on the latest government guidance for Apprenticeships to be found at the gov.uk website as well as queries raised from employers directly.

We will continue to update these as appropriate during the coming days and weeks. If you have questions which are not covered by the below, please contact us on apprenticeships@ccn.ac.uk and we will come back to you.

Breaks in Learning

As a result of the current situation it is likely that the need for a Break in Learning will become more commonplace.

There are two types of Break in Learning:

- less than 4 weeks – in these circumstances neither you as the employer nor CCN as provider needs to report the interruption, the end-date for the apprenticeship remains the same and there is no change to the payment of funding
- more than 4 weeks – in these circumstances, you as the employer and/or CCN as the training provider must report a formal break in learning. Where a break in learning is reported, the payment of funding to the training provider will be suspended for the duration of the break in learning.

Funding rules currently state that a break in learning must be initiated by the apprentice. **Employers and training providers can now, temporarily, also report and initiate a break in learning where the interruption to learning is greater than 4 weeks.**

For the avoidance of doubt, during breaks in learning it is not necessary for apprentices to comply with the minimum of 20% off-the-job training requirement. When the break in learning ends and training resumes, the 20% off-the-job training requirement will apply over the remaining amended duration of the apprenticeship.

Furlough Arrangements

Employers may wish to furlough apprentices during the period covered by the Coronavirus crisis. This involves reducing apprentice hours but not laying them off, thereby supporting the eventual completion of the apprenticeship.

Through the Coronavirus Job Retention Scheme (otherwise known as the Furlough Scheme) all UK employers will be able to access support to continue paying part of their employees' salary for those employees that would otherwise have been laid off during this crisis. HMRC will reimburse 80% of furloughed workers wage costs, up to a cap of £2,500 per month.

<https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme>

Key points from the above document are summarised below:

- The Scheme is open to all UK employers that had a PAYE scheme in place on 28th February 2020.
- Any organisation with employees can apply, including charities, recruitment agencies and public authorities; however, the Government does not expect public sector employers to use it as long

as Central Government continues to fund wage costs in the normal way. With agency workers, the Scheme is only available for agency employees who are not working.

- Employers can reclaim up to 80% of wage costs up to a cap of £2,500 per month, plus (not including) the associated employer NICs and minimum auto-enrolment pension contributions on that wage. Fees, commissions and bonuses are not included.
- An employer can choose to top up to 100%, but does not have to (subject to employment law and renegotiating any contractual entitlements).
- For employees whose pay varies, the employer can claim for the higher of (1) the same month's earnings from the previous year (e.g. earnings from March 2019); or (2) average monthly earnings in the 2019-20 tax year.
- Individuals are only entitled to the minimum wage for the hours they work or are in training. So, if they are furloughed and do not work, and 80% of their normal earnings would take them below the minimum wage based on their normal working hours, they still only receive 80% as they are not working. However, they are entitled to be paid national minimum wage for any time spent training on their apprenticeship.

Important note: In most cases, the furlough payment of 80% of an employee's regular wage, up to the value of £2,500, will provide sufficient monies to cover these training hours. However, where the overall time spent training, during the furlough period, attracts a minimum wage entitlement in excess of the furlough payment, employers will need to pay the additional wages.

Here are two helpful worked examples:

Example 1:

18 year old first year apprentice is on a 37 hours per week contract and has been furloughed. They are continuing to training for 1 day per week (7.5 hours per week).

In terms of the National Minimum Wage Regulations they are entitled to £4.15 for every hour they train. (Note that the NMW legislation does not apply to time not in work or training).

Over the 3 week furlough period (the pay reference period) this amounts to a NMW entitlement of £93.38 (£4.15 x 7.5 hours x 3 weeks).

The 80% furlough payment that they have received from their employer is £368. This furlough payment provides sufficient money to cover these training hours.

Example 2:

22 year old second year apprentice is on a 37 hours per week contract and has been furloughed. They have agreed, with their employer and provider, to train for 4 days per week (7.5 hours per day) (to cover as much off-the-job training as possible during this period).

In terms of the National Minimum Wage Regulations they are entitled to £8.20 for every hour they train. (Note that the NMW legislation does not apply to time not in work or training).

Over the 3 week furlough period (the pay reference period) this amounts to a NMW entitlement of £738 (£8.20 x 7.5 hours x 4 days x 3 weeks).

The 80% furlough payment that they have received from their employer is £728.16. This furlough payment does not provide sufficient money to cover these training hours and the employer would need to top up the difference (£9.84).

***Note is both cases above the apprentice, prior to furlough, was paid at/close to the National Minimum Wage.**

- To be eligible, the employee must have been on the payroll on 28th February 2020. If they were hired later, they are not eligible. Anybody who was on the payroll on 28th February 2020 and has been made redundant can be rehired and put on the Scheme.
- Furlough leave must be taken in minimum blocks of three weeks to be eligible for funding.
- There is nothing in the guidance which prohibits rotating furlough leave amongst employees, provided each employee is off for a period of at least three weeks.
- The employee must not be working at all. If they work for even an hour (presumably during their entire three-week furlough period), they are not eligible. However, they are able to undertake training and do volunteer work, provided they do not provide services to or make any money for their employer.
- When agreeing changes in hours (and acceptance of 80% pay), assuming the contract does not already allow for that, normal employment law applies. The employer must be careful not to discriminate in deciding who to offer furlough to. There is however an argument that prioritising vulnerable workers is unlikely to be discrimination, as prioritising the over 70s is almost certainly justifiable, and those who do not suffer from serious health conditions are not a protected class.
- Employees on sick pay or self-isolating cannot be furloughed, but can be furloughed afterwards. Employees who are shielding can be placed on furlough.
- Employees on maternity (or similar) leave can continue to draw SMP (or similar) payments. The guidance does not prohibit women on maternity leave agreeing to return to work early and then being furloughed, or electing to change to shared parental leave and then being furloughed.
- Employers can only claim once every three weeks, i.e. they cannot get weekly reimbursement. Claims can be backdated to 1st March 2020 if the employee was not working during this period of time.

The government will issue further guidance on the mechanics of claiming the payment and HMRC expect that the scheme will be up and running by the end of April 2020.

<https://www.acas.org.uk/furlough-letter-template>

This may also be a useful template to record the furlough agreement between yourselves and your apprentice.

Levy Payers - Arrangements for disrupted training delivery in March

During March, levy-paying employers should not use the apprenticeship service to 'pause' or 'stop' payments to the training provider, where some training has been delivered in March. Doing so will result in the training provider not receiving any payment for these apprentices.

Levy Payers - Arrangements for April and beyond

For a break in learning greater than 4 weeks that begins on or after 1st April:

- the apprenticeship should be 'paused' by the employer through the apprenticeship service at the point the break in learning begins. The employer should not 'stop' the apprenticeship through the apprenticeship service as this will prevent it resuming subsequently.

FAQs

1. What is the current situation regarding Covid-19 and the college?

The college continues to follow all government guidance. The college will not be hosting face to face college sessions with apprentices either on-site or at employer premises. However, learning can continue for apprentices through a range of online methods. Individual tutor/assessors and lecturers will be in touch with employers and apprentices to outline how this will work in your circumstances.

2. My business is suffering already from the situation and we are worried we will no longer be able to afford to pay an apprentice.

We understand that this is a challenging time for many businesses we work with. Please contact our Apprenticeships team by emailing apprenticeships@ccn.ac.uk if you are concerned about being able to continue to support an apprentice. There are potential solutions which we can explore to ensure that apprentices and employers are not disadvantaged.

3. In order to maintain some level of productivity and ensure a restricted working environment, we have organised split shift working for all our employees. Are there any restrictions to the working hours that apprentices can do? For example, we are running a 05:30 to 13:00 shift.

By law, apprentices aged 16-17 can only work between the hours of 07.00 and 22.00 unless they are in a specific industry. See [here](#) for further guidance.

4. Can apprentices work from home on their own?

Apprentices in some roles may be able to work from home if structures are put in place to support them and ensure that they are able to continue learning.

5. My Apprentice currently works 30 hours including the college day. If I do not have enough work to support us both can I decrease the hours?

It is possible to reduce hours for an apprentice. Contact us at apprenticeships@ccn.ac.uk for individual guidance on how this would operate.

6. Due to business continuity measures, all staff are required to be available at their usual place of work. How can my apprentices continue their learning?

If your apprentices are unable to attend their scheduled learning events, there are several options available to you:

- apprentices could engage in digital or distance learning at a convenient time within their agreed working hours
- they could be offered additional on-site tutor/assessor support
- they could take a short pause in their learning of less than four weeks while still completing by their planned end date

- they could take a formal break in learning of 4 weeks or more and re-calculate the planned end-date upon their return to learning.

7. I am having to move staff into different and/or business critical roles that aren't related to their apprenticeship. What happens to their apprenticeship?

It is our goal that apprentices can promptly resume their apprenticeship and continue to successful completion of end-point assessment. Funding rules currently state that a break in learning must be initiated by the apprentice. However, during this period, you as an employer or CCN as a training provider, can now temporarily report and initiate this break in learning where the interruption to learning is greater than 4 weeks.

The guidance document sets out what employers and training providers need to do when breaks in learning are more or less than 4 weeks, and if that break commences during or after March.

If that move becomes permanent, please contact us at apprenticeships@ccn.ac.uk for further support and guidance.

8. What do I do if I think an apprentice is not well enough to work (especially in a health setting)?

Employers should follow the [government's guidance for employers and businesses on coronavirus \(COVID-19\)](#).

9. I am a non-levy paying employer recruiting for/having apprentices due to start. Can I still go ahead and reserve funds on the system?

Employers who do not pay the apprenticeship levy are able to reserve apprenticeship funding through the apprenticeship service in line with the published guidance.

10. What happens to my funding reservation as a non-levy employer, if my apprentice can't start?

Reservations will expire if they are not turned into a commitment within 3 months of the apprenticeship start date, detailed in the reservation. Where a commitment is needed, and a previous reservation has expired, a new reservation must first be made. We will support you through this process.

11. Should employers use the 'Stop' or 'Pause' apprentice facility in the apprenticeship service?

In circumstances related to COVID-19, employers should use the 'Pause' function in the service only where the apprentice is formally taking a break from learning. Employers must only use the 'Stop' function when they are certain that training will not resume at any point. Using 'Pause' will stop payments temporarily and allow the employer and apprentice to resume the apprenticeship later.

12. What local support and guidance is available to employers to keep us up to date?

The New Anglia Growth Hub have a very useful COVID-19 BUSINESS TOOLKIT which can be found on their website:

<https://www.newangliagrowthhub.co.uk/covid-19-business-toolkit/>

The Growth Hub team continue to offer free advice and guidance to businesses in Norfolk and Suffolk. Information around Covid-19 is changing rapidly, it is important businesses stay up to date with the latest guidance and support offered which is why we've created this useful toolbox.