

#78 HR Newsletter

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Apprenticeships

Apprenticeships – an idiots guide to the various types.

The basic premise of apprenticeships started in the 13th century where a servant is apprenticed to a master craftsman to learn a trade skill and is paid a lower wage than normal because they are in training and not producing work to the same quality /output of a fully-fledged employee, however the apprentice benefits because they learn a trade skill from a master (a mutual two-way benefit).

As a result, the technicalities of apprenticeships are based in **common law** rather than employment law and this can lead to complex difficulties.

The Government has recently upgraded apprenticeships to make an equivalent version in employment law (The Apprentice Skills Children and Learning Act 2009 (ASCLA)) and below we explain the key differences and features of each way of providing them.

1. Old apprenticeship contract (common-law).

- Is primarily for the purpose of obtaining a qualification or skill
- Training governance is overseen by a training provider
- Is for a fixed period (usually 1- 2 years) then terminates with no obligations for further employment
- If it is terminated early, the apprentice has the right for the balance of the contract to be paid up and also an amount of money representing future losses for future earnings that they would have received once they were qualified – can be a lot of compensation.
- Is contracted under a “Contract of Apprenticeship” and they are **not** classed as “employees”
- Rate of pay is lower than NMW - rate is currently £3.30 per hour
- Agreement cannot be terminated early – even for incompetence – only in cases of extreme and gross misconduct can the contract be terminated

2. Statutory Apprenticeships (New employee-based form) [from 2014].

- Is primarily for the purpose of obtaining a qualification, but must be for a qualification from a defined framework list of approved courses
- Training governance is overseen by a training provider
- Is for a fixed period (usually 1- 2 years) then terminates with no obligations for further employment
- Can be terminated early in the same way as an employee might be terminated in their probation.
- Will attract Government funding ~ £1,500 per apprentice.
- Is contracted under a “Contract of Service” (Contract of employment) and they are classed as “employees”
- Rate of pay is the NMW £6-70 per hour or (> 25s £7.20 per hour from April 16)

3. In-House apprenticeship (common-law) [now quite rare].

- These are similar to the first type and are governed by the same common law aspects.
- They do not link to an external training provider and all training and certification is carried out by the employer
- They are now no longer allowed to be called “Apprenticeships”

Most organisations choose option 1 or 2. Option 1 is cheaper (lower rate of pay) but option 2 is more flexible (early termination is allowed).