

# Adopt an Apprentice Programme – Rules

## 1. Background

The Scottish Ministers have increased support for modern apprenticeships and graduate apprenticeships by offering a grant of £5000 to employers who employ modern apprentices and graduate apprentices who have been made redundant. The grant is available to the replacement employer to support the redundant apprentice to continue their apprenticeship and work towards their qualification. The conditions of grant, including eligibility for the grant, are set out in these rules and the corresponding Adopt an Apprentice Funding Assistance Agreement.

Where a replacement employer is eligible and wishes to receive the grant, the replacement employer and its elected training provider shall require to enter into an Adopt an Apprentice Funding Assistance Agreement.

Skills Development Scotland manages the Adopt an Apprentice Programme on behalf of the Scottish Ministers. SDS may amend these rules and the funding agreement at any time. When SDS makes any amendments, the amended version will be made available on the relevant pages of the SDS website.

The Adopt an Apprentice Programme is intended to be open for applications to be received by SDS by 5pm on 31 January 2021, however Scottish Ministers reserve the right to withdraw, amend or extend the Adopt an Apprentice Programme, including amending the funding levels, at any time.

## 2. Definitions

2.1. In these rules, we use the following terms:-

Term	Meaning
<b>Apprentice</b>	means the modern apprentice, or as applicable, the graduate apprentice, who is transferring from an Outgoing Employer to a Replacement Employer by reason only of redundancy;
<b>FAA</b>	means the Adopt an Apprentice Funding Assistance Agreement. This is the agreement SDS shall offer where SDS is

	satisfied that the Replacement Employer is eligible to receive the grant that has been applied for. The FAA incorporates the completed Programme funding application and all supporting evidence, and requires to be signed by the Training Provider, the Replacement Employer and SDS, with an additional confirmation signed by the Apprentice;
<b>FIPS</b>	means SDS's corporate training system or portal through which information relating to the Modern Apprentice and Graduate Apprenticeship Programmes is recorded and made available to Training Providers;
<b>Outgoing Employer</b>	means the employer registered on FIPS as the employer of the relevant Apprentice, and who is making or has made the Apprentice redundant;
<b>Programme</b>	means the Adopt an Apprentice programme operated by SDS, to which these rules relate;
<b>Replacement Employer</b>	means the employer that employs the Apprentice after the Outgoing Apprentice makes the Apprentice redundant, that is or shall be registered on FIPS as the replacement employer of the Apprentice when the Apprentice is completing their apprenticeship;
<b>SDS, we, us or our</b>	means The Skills Development Scotland Co. Limited;
<b>Training Provider</b>	means the training/learning provider that applies for the Programme funding and includes such training provider to whom the FAA may be assigned/novated under the terms of the FAA.

### **3. Apprentice Assistance**

3.1. Training providers are reminded that, under the terms of the SDS Modern Apprenticeship Specification and the Graduate Apprenticeship Specification applicable at the time of the redundancy, once a training provider has been advised in writing (which includes email) (either from the apprentice or the Outgoing Employer) that the apprentice is being, or has been, made redundant the training provider should take all steps to secure alternative employment for the apprentice, either through the training provider's own contacts or by working with the relevant Sector Skills Council (SSC).

#### **4. Eligibility (including State Aid)**

4.1. To be eligible to receive the grant funding:-

- 4.1.1. the Apprentice must, at the time of their redundancy be registered as a modern apprentice (or as applicable, graduate apprentice) on SDS's systems, in accordance with all applicable SDS conditions;
- 4.1.2. the apprenticeship being undertaken by the Apprentice with the Replacement Employer must be a continuation of the apprenticeship being undertaken with the Outgoing Employer;
- 4.1.3. the Apprentice must have been made redundant by the Outgoing Employer on or after 1 April 2019;
- 4.1.4. the Apprentice's apprenticeship activity once employed by the Replacement Employer must commence no earlier than 13 October 2020;
- 4.1.5. the Apprentice must genuinely have been made redundant and not have left their employment for another reason. By way of example, an apprentice who is dismissed or leaves their job voluntarily will not meet the requirement;
- 4.1.6. no apprentice adoption (or similar) grant must ever been paid to a 'linked employer'. A 'linked employer' means the same Replacement Employer or a company, sole trader, partnership or other business entity that is substantially controlled by: -
  - 4.1.6.1. the same organisation or person(s) (including the Replacement Employer) who control the Replacement Employer; or
  - 4.1.6.2. any organisation(s) or person(s) substantially connected (whether commercially or otherwise) with the organisation(s) or person(s) who control the Replacement Employer.
- 4.1.7. the Replacement Employer must not have been at any time in receipt of, and must undertake never to claim, or procure the receipt of any recruitment incentive payment from any other public source, in respect of the Apprentice.

4.2. Where all of the criteria set out in paragraph 4.1 and 7 are met a grant of FIVE THOUSAND POUNDS STERLING (£5,000) is available for the benefit of the Replacement Employer to ensure sustainment and help with, among other things, wage costs, support, skill development and/or mentoring.

4.3. It is a condition of grant that the Apprentice continues with their employment and their designated apprenticeship under the Replacement Employer for a minimum period of 12 consecutive months or until the Apprentice successfully completes their designated apprenticeship (whichever period is shorter). The 12 month period starts on the date the Apprentice is correctly identified on FIPS as having started their apprenticeship with the Replacement Employer. Training Providers are reminded that all training providers are required to keep the Apprentice's employment details up to date on FIPS. Where the Apprentice has not successfully completed their designated apprenticeship, and within the 12 month period, the Apprentice leaves their employment with the Replacement Employer for any reason, or the Apprentice ceases to continue with their

designated apprenticeship, SDS shall be entitled to recover the grant paid, in accordance with paragraph 6.

4.4. SDS shall be entitled, at its entire discretion, to determine whether the criteria set out in this paragraph 4 are met.

4.5. Unless SDS confirms otherwise in writing, the grant constitutes State Aid and will be paid under the de minimis block exemption of European Commission Regulation (EU) No 1407/2013 and paragraphs 4.6 - 4.7 below shall apply. In the event that SDS confirms in writing that any payment shall not be paid under the de minimis block exemption, paragraphs 4.6 - 4.7 shall not apply.

4.6. There is a ceiling of €200,000 for all de minimis aid provided to any one organisation over a three-year period. Any de minimis aid awarded to the Replacement Employer under the FAA will be relevant if the Replacement Employer wishes to apply, or has applied, for any other de minimis aid. For the purposes of the de minimis regulation, the Training Provider must, prior to submitting any application for the Programme funding:-

4.6.1. make a copy of these rules and the standard terms of the FAA available to the Replacement Employer;

4.6.2. obtain written confirmation from the Replacement Employer (which shall include email) that payment of any grant for the Apprentice in relation to the FAA will not exceed the permitted aid; and

4.6.3. draw to the attention of the Replacement Employer that:-

4.6.3.1. the Replacement Employer must retain their copy of any state aid letter provided by SDS for three years from (i) the date the payment is made to the Replacement Employer, or (ii) the date of the letter (whichever is the later) and produce them on any request by the UK public authorities or the European Commission, and

4.6.3.2. payments may be recoverable as set out in these rules and the FAA.

4.7. SDS may withhold payment of the grant and/or reclaim the grant from the Replacement Employer either (a) to the extent necessary to ensure that any assistance given to the Replacement Employer pursuant to the FAA, taken together with any other assistance which has been or is likely to be received by the Replacement Employer towards the same project, is within the rules on State Aid assistance laid down by the European Commission, or (b) if required to so do by the European Commission. Any amount reclaimed as aforesaid shall be payable by the Replacement Employer within two months of notification to the Replacement Employer of any such decision of the European Commission.

4.8. SDS reserves the right, if required so to do, to provide the European Commission with information about the subject matter of any claims and payment made pursuant to the FAA. In respect that the European Commission is empowered in certain circumstances to require SDS to supply it with any information it deems necessary to enable it to determine that the funding arrangement complies with the terms of certain European directives, the Training Provider shall, so far as lawfully obliged to and within its power supply

SDS with such information related to the claim and all payments as may be required by the European Commission in the course of such enquiries, as intimated by SDS. The Training Provider shall also procure that the Replacement Employer shall, so far as lawfully obliged to and within its power supply SDS with such information related to the claim and all payments as may be required by the European Commission in the course of such enquiries, as intimated by SDS.

4.9. SDS has full discretion in determining whether the eligibility criteria have been met. All correspondence on the matter should be directed to the Training Provider's designated Skills Investment Advisor, however, Training Providers and Replacement Employers should note that there is no appeal process. Training Providers and Replacement Employers shall be entitled to raise a complaint through SDS's complaints procedure, details of which are available on SDS's website.

4.10. Only one grant payment is payable in respect of the Apprentice's redundancy.

## **5. Duration of the Programme**

5.1. The Programme shall commence on such date as SDS shall publish, and is intended to be available for receipt of applications by SDS until 5pm on 31 January 2021. The Scottish Ministers do however reserve the right to suspend, extend, terminate or amend the Programme at any time. SDS will post any related statements and information on its website in such an event. If the Programme is suspended or terminated, SDS will also alert its currently contracted modern/graduate apprenticeship training providers, either directly via email, and/or (at SDS's discretion) using the SDS website. All applications received on or after the date of suspension/termination will automatically be rejected.

## **6. Recovery of Grant**

6.1. In addition to any right of recovery of any overpaid state aid payment (details of which are set out above), in the event that the grant is paid and:-

6.1.1. SDS becomes aware at any time that the payment (or any part of the payment) was not claimed in compliance with the FAA or these rules, or was otherwise paid in error; or

6.1.2. within the 12-month period referred to in paragraph 4.3:-

6.1.2.1. the Apprentice leaves their job with the Replacement Employer for any reason (including without limitation due to redundancy, dismissal or any other reason), where the Apprentice has not successfully completed their designated apprenticeship; or

6.1.2.2. the Apprentice discontinues their designated apprenticeship for any reason;

the Training Provider will, require to repay to SDS within 14 days of demand,

the whole amount of the grant received, (or, at SDS's entire discretion, such reduced sum as SDS may specify). This paragraph is without prejudice to any other rights and remedies SDS or The Scottish Ministers may have. Training Providers should note that, other than in relation to State Aid, SDS will not seek recovery of any sums from the Replacement Employer, and that any recovery between the Training Provider and the Replacement Employer for repayments made to SDS by the Training Provider is a private matter between the Training Provider and the Replacement Employer, and that SDS has no jurisdiction over any such matter.

6.2. Where the Training Provider is replaced by another training provider for any reason prior to the expiry of the 12 month period referred to in paragraph 4.3 (or satisfactory completion of the Apprenticeship, if earlier), the Training Provider shall no later than the date it is replaced:-

6.2.1. where the replacement provider is a training provider contracted to SDS to provide the Apprentice's training /assessment services, complete and deliver to SDS a fully signed novation of the FAA (which shall for the avoidance of doubt, include the application for the funding) to the replacement training provider on such terms as SDS shall specify,

6.2.2. where paragraph 6.2.1 is not fulfilled for any reason, and in all other circumstances, require to repay to SDS immediately on demand, the full Programme sums paid to the Training Provider in respect of the Apprentice (notwithstanding that the Training Provider may have paid some or all of those sums to the Replacement Employer).

6.3. SDS shall make available the required terms of novation within a reasonable period, following any timeous request.

## **7. Application process**

7.1. Only the Training Provider appointed by either the Outgoing Employer or the Replacement Employer to provide the training and/or assessment services to the Apprentice being made redundant, shall be entitled to apply for the Programme grant.

7.2. In addition to the other obligations set out in these rules, prior to submitting the application for Programme grant on FIPS, the Training Provider must:

7.2.1. be satisfied the Apprentice has genuinely been made redundant and this must be recorded on the application.

7.2.2. ensure that it has obtained proof of the Apprentice's redundancy in the form of a person-specific notification of redundancy from the Outgoing Employer, for example: an official letter from the Outgoing Employer or any administrator or liquidator or other formally appointed successor to the Outgoing Employer. Where this is not available, advice should be sought from the SDS Programme team, (contact details for which are set out on the relevant pages of the SDS website) and eligibility fulfilment in such a case will be entirely at SDS's discretion.

7.2.4. ensure that it takes all reasonable steps to verify details of the reason for redundancy with the Outgoing Employer;

- 7.2.5. record the verified details of the reason for redundancy in the Programme application;
  - 7.2.6. take all reasonable steps to obtain details of any redundancies the Replacement Employer has made in the three years prior to the application, in the same or similar occupation the Apprentice is being recruited into. If there have been any such redundancies, the Training Provider must obtain from the Replacement Employer details to indicate why there has been a change since then to make the business and jobs more sustainable. The Training Provider must record this information on the application. If having taken all reasonable steps, the Training Provider is unable to obtain confirmation that there have been no such redundancies within the specified period, advice should be sought from the SDS Programme team, (contact details for which are set out on the relevant pages of the SDS website) and acceptance of the application in such a case will be at SDS's entire discretion;
  - 7.2.7. take all reasonable steps to satisfy itself that the funding shall not be used to displace an existing apprentice. Where another apprentice may be displaced by the Apprentice, an application for the funding should not be submitted;
  - 7.2.8. obtain written confirmation from the Replacement Employer that a grant for adopting the Apprentice has never been made nor claimed by a 'linked employer' as described in paragraph 4.1.6; and
  - 7.2.9. (except where SDS has confirmed under paragraph 4.5 that the payment is not subject to de minimis state aid,) obtain written confirmation from the Replacement Employer that the Replacement Employer shall not have received €200,000 state aid in the three year period comprising the two fiscal years prior to the date the payment of the Adopt an Apprentice grant would fall due and the current fiscal year, when completing the application form.
- 7.3. Once a Training Provider is satisfied that all the criteria and obligations set out in these rules have been met, in order to submit an application for payment, the Training Provider must create a new assignment and complete the Programme application form on FIPS (together with all the required evidence referred to in FIPS).
- 7.4. SDS's Programme team will aim to review the application within 10 working days of submission on FIPS.
- 7.5. If the application is approved, the FAA will be sent, via FIPS, to the Training Provider. The FAA shall only be binding once the Training Provider has obtained the signatures of the Training Provider, Replacement Employer and Apprentice on the FAA. (This shall include any arrangements which SDS may advise in writing for electronic signatures to be used as an alternative to 'wet' signatures). The agreement shall contain a provision that the Apprentice shall require to be employed by the Replacement Employer and either successfully complete, or otherwise continue with, their designated Apprenticeship for at least the 12 consecutive months referred to in paragraph 4.3 above. The Training Provider has 15 working days from the date the FAA is made available to the Training Provider on FIPS to upload the completed, signed FAA. If the Training Provider

fails to submit the completed, signed FAA within the 15 working day period, the Training Provider shall receive an alert informing them they have a further five working days to upload it. If the Training Provider fails to upload it within that period the application will be deemed suspended.

- 7.6. Without prejudice to any requirements set out in the applicable apprenticeship training and assessment services contract between SDS and the Training Provider, a training needs analysis should be completed by the Training Provider, to determine the skills and competencies the Apprentice has already achieved, and which skills and competencies are required in order to fulfil the requirements of the apprenticeship. This will ensure the Replacement Employer is aware of the skill level of the Apprentice and understands the level of support the Apprentice will require in employment.
- 7.7. The payment will only be due to be paid by SDS to the Training Provider following SDS's receipt of the FAA (including the Apprentice Statement) duly signed by the required parties, commencement by the Apprentice of the apprenticeship activity under the Replacement Employer, and full required details being properly entered onto FIPS by the Training Provider. The Training Provider must pay the full amount received from SDS to the Replacement Employer within 10 days of the payment being made to the Training Provider.
- 7.8. The Training Provider must enter on FIPS, the date they paid the full Programme grant to the Replacement Employer. If the Training Provider has not entered this date within 11 working days after the payment is made by SDS to the Training Provider, a further alert shall be sent to the Training Provider requiring them to make the payment to the Replacement Employer within the next 5 working days. Failure to comply with this shall constitute a serious breach.
- 7.9. Once the Training Provider inputs into FIPS, the date it has paid the Replacement Employer, SDS will issue a state aid de minimis letter to the Replacement Employer. The Training Provider shall require to ensure that the Replacement Employer retains this letter for three years from (i) the date the payment is made to the Replacement Employer, or (ii) the date of the letter (whichever is the later).
- 7.10. Once an application has been suspended if the Training Provider fails to upload the evidence and signed FAA to FIPS within 6 weeks of the suspension, the application will be automatically deleted and the FAA withdrawn. Provided the Programme remains open at the date of re-application, the Training Provider may apply again in such event, by submitting a fresh application and evidence.

## **8. Retention of Supporting Evidence**

- 8.1. The Training Provider must retain all supporting evidence required for the application until the third anniversary of the date full payment of the programme funds are paid in respect of the Apprentice by the Training Provider to the Replacement Employer, and make the evidence (or such part(s) requested) available to SDS or its representatives immediately on demand.

## 9. SDS support for redundant apprentices

9.1. Where a Training Provider has not been able to secure employment for a redundant apprentice allowing the completion of the apprenticeship or to move into a different apprenticeship framework, the apprentice will be contacted by SDS careers adviser to offer support. They can help the redundant apprentice with future career plans by discussing possible career options at their local SDS Centre. Apprentices facing redundancy can get information on what advice and support is available by contacting the PACE redundancy helpline on 0800 917 8000 or from:

<https://www.myworldofwork.co.uk/my-career-options/redundancy-help-scotland>

## Adopt an Apprentice Q&A

### Which Apprentices trigger the fund?

1. Training Providers will be able to claim payments for employers taking on a Modern or Graduate Apprentice who has been made redundant and meets the requirements set out in these rules.
2. The Training Provider must be satisfied that the Apprentice has been made redundant, and this must be recorded on the funding application form. Proof of redundancy should be a person-specific notification of redundancy from the previous employer for example, an official letter from the Outgoing Employer, notifying the Apprentice of their redundancy. Where this is not available, advice should be sought from the SDS Programme team (contact details for which are set out on the relevant pages of the SDS website).
3. The Training Provider must ensure that details of the reason for redundancy are checked with the Outgoing Employer and record these details in the Funding Application Form.

### Are all employers eligible?

1. All eligibility criteria must be met.
2. Any Replacement Employer in the public or private sector is eligible.

The £5,000 grant is available in relation to apprentices made redundant on or after the 1<sup>st</sup> April 2019 and employed from the 13<sup>th</sup> October 2020.

3. Training Providers who wish to employ redundant apprentices are NOT eligible for the grant.
5. Replacement Employers adopting an Apprentice will be eligible if they will have received less than €200,000 state aid (in cash and in-kind) for the same eligible costs from any public source in the three year period comprising the two fiscal years prior to the date the payment of the Adopt an Apprentice grant would fall due and the current fiscal year, when completing the application form; this is because the Adopt an Apprentice grant is being paid under the de minimis block exemption of European Commission Regulation (EU) No 1407/2013.
6. The fund will not be payable for an Apprentice in respect of whom a grant incentive payment (such as but not limited to a grant under this programme) has been paid to a linked employer. "Linked employer" means the Replacement Employer or a company, sole trader, partnership or other business entity substantially controlled by: -
  - (i) the same person(s) (including the Replacement Employer) who control the Replacement Employer;

or

AAA Rules updated 11 Nov. 2020

- (ii) person(s) substantially connected (whether commercially or otherwise) with the person(s) who control the Replacement Employer.

**Q -What happens if a Replacement Employer makes an adopted Apprentice redundant?**

Training Providers should inform SDS by emailing [AAA@sds.co.uk](mailto:AAA@sds.co.uk) with details of the redundancy, as soon as they are aware of an Apprentice's redundancy. SDS will apply reasonable consideration to the circumstances of the redundancy, including the challenges arising from COVID:19, before any decision is taken on any clawback of fund required. Training Providers should only apply for the AAA grant where they have a genuine, reasonable expectation that the Apprentice will complete their apprenticeship with the replacement employer.

(ii) The Replacement Employer must notify the Training Provider within 10 working days if they subsequently make an Apprentice redundant within the specified 12-month period. The Training Provider must update FIPS with the required redundancy details as early as possible.

(iii) In circumstances where an Apprentice has been made redundant more than once within the 12 month period, in addition to updating FIPS please also e-mail the Programme Team at [aaa@sds.co.uk](mailto:aaa@sds.co.uk) with specific details and circumstances for review.

**Q - The replacement employer has gone into liquidation. Will SDS still look to clawback the AAA? –**

A - Training providers must immediately inform SDS of the employer and number of apprentices involved. SDS will apply reasonable consideration to the circumstances of the insolvency, including the challenges arising from COVID:19, before any decision is taken on any clawback of fund required. Training Providers should only apply for the AAA grant where they have a genuine, reasonable expectation that the Apprentice will be able to complete their apprenticeship with the replacement employer.

**Q - The adopted apprentice decides that they wish to leave to programme/employer –**

A- Training Providers should inform SDS as soon as it is known the apprentice has left the programme or employer and provide all details known. SDS will consider all details and will apply reasonable consideration as to whether any clawback of funds is required.

**Q – I have an apprentice who has started on Apprentice Transition Plan are they eligible for AAA grant?**

A- Yes, if they meet all other eligibility criteria.

AAA Rules updated 11 Nov. 2020

**Q – Are apprentices who started before 13<sup>th</sup> October eligible for £5,000?**

A – No, however could claim the previous £2,000 grant ensuring eligibility as per current rules.

**Q - How many times can a redundant apprentice utilise AAA Funding?**

A - There is no set limit of how many times a redundant apprentice can utilise AAA funding to allow them to complete their apprenticeship. (We would however, remind providers of the recovering arrangements for Apprentices made redundant within 12 months of adoption – see previous question). Please also see paragraph 7.6 in relation to training needs analysis.