



# Modern Apprenticeship Programme Specification 2019-2020

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## Contents

### Introduction

Part One	
1	Eligibility Criteria for Modern Apprenticeship Funding
2	Programme Entry
2.1	Initial Assessment
2.2	Individual Training Plan
2.3	Eligibility Declaration, Training Agreement (including the Information Exchange and Co-operation Statement), Validation, FIPS and Equality Monitoring Form
2.4	Registration with the Awarding Body/Sector Skills Organisation
2.5	Induction
3	Programme Delivery
3.1	Participant Review
3.2	Participant Progression
4	Completion of the MA Programme
5	Exit/Temporary Interruptions/Transfer
5.1	Exit from/Temporary Interruptions of Training
5.2	Transfer of a Participant
6	Performance and Award
Part Two	
A1	ITT Response
B2	Policies, Procedures and Systems
2.1	Policies, Procedures and Systems
2.2	Equal Opportunities
2.3	Health and Safety
2.4	IT System and FIPS
2.5	Promotion of other SDS Initiatives
2.6	Handling Information
2.7	Application of the Specification
2.8	Workforce Matters
C3	In Training
3.2	Provider Controls and Assurance
3.3	Claims and Payments
3.4	Formal Quality Assessment Process
3.5	Rural Uplift
3.6	Travel and Subsistence Policy for Participants Resident in Specified Areas
3.7	Summary of Evidence Requirements

**Appendices (which are posted individually on the training provider area of the SDS website for Modern Apprenticeships)**

Appendix	Description
1	Frameworks by Occupational Grouping and Age Group
2a	ITP
2b	Guidance for Completion of ITP
3	Summary of Achievement Record (SOAR)
4	Motor Vehicle Record of Progress (ROP)
5	Participant and Provider Declaration
6	Participant Progress Review
6a	Participant Quarterly Progress Review (for milestone claims)
7	Payment Plan Milestone Evidence
8	SDS Information Security and Data Handling Requirements
9	Travel and Subsistence Process and Policy for Participants in specified local authority areas
9a	Travel/Accommodation Form
10	Provider Annual Certificate of Assurance
11	Equality Monitoring Form
12	Training Agreement
13	Eligibility Confirmation for Modern Apprenticeship Enhanced Funding (Disabled/Care Experienced MAs 20-29 years)
14	Leaving Codes
15	ESF – List of Audit Evidence Requirements

## Introduction

The definitions, expressions and rules of interpretation set out in condition 1 of the Conditions shall also apply to this Specification.

You must operate within all the terms and conditions of your contract, including the ITT, Specification and Conditions. **IF YOU BREAK ANY OF YOUR OBLIGATIONS UNDER YOUR CONTRACT, INCLUDING ANY OF THE CONDITIONS, YOU ARE IN BREACH OF (HAVE BROKEN) THE CONTRACTUAL ARRANGEMENTS WITH SDS. SDS WILL BE ENTITLED TO TAKE ACTION AGAINST YOU, WHICH MAY INCLUDE PUTTING A HOLD ON YOUR ABILITY TO MAKE CLAIMS, RECOVERING SUMS PAID TO YOU, WITHHOLDING PAYMENTS CLAIMED BY YOU, WITHDRAWING VOLUMES AWARDED TO YOU, SDS REQUIRING YOU TO COMPLETE AND FULFIL AN ACTION/IMPROVEMENT PLAN AND/OR SUSPENDING OR TERMINATING YOUR MA PROVIDER CONTRACT WITH US.**

If you wish to discuss anything contained within the Specification or the Conditions or any of the other documents:  
during the procurement stage, please send clarifications via Public Contract Scotland  
Following the award of a contract, you should contact your SDS assigned Skills Investment Adviser.

We may update the Specification and/or Conditions from time to time during the period of your contract, and if we do we will advise all providers. We do not expect there to be any significant changes.

Where any existing Participant is registered on CTS, all references to FIPS shall be to CTS, unless and until otherwise advised by SDS.

## Part One

### 1. Eligibility Criteria for Modern Apprenticeship Funding

1.1 To be eligible to participate in an approved MA framework, a Participant must satisfy the criteria set out in paragraphs 1.2 (employment), 1.3 (age) and 1.4 (demonstrable need) (and/or any other additional or alternative criteria as may be advised from time to time under paragraph 1.7), and not be excluded under paragraph 1.6 (exclusions). The Provider shall use all reasonable endeavours to ensure that the Participant meets all the eligibility criteria as set out in this paragraph 1.

#### 1.2 Employment

1.2.1 Each Participant's main employment and normal working premises must at all times during the period of his or her MA be located in Scotland.

1.2.2 Each Participant must at all times during the period of his or her MA, fulfil the requirements of the legal right to work in the UK (details of which can be found at <https://www.gov.uk/government/publications/right-to-work-checklist> ) and be employed by an employer:-

1.2.2.1 for whom he or she is working as an employee to consolidate the skills acquired during his or her MA framework;

1.2.2.2 by whom the Participant is directly managed whilst performing his or her apprenticeship tasks on a daily basis with the apprenticeship tasks being undertaken as part of the Participant's employment during working hours; and

1.2.2.3 under a contract of employment relevant to the MA referred to in the TA.

1.2.3 SDS may, in exceptional circumstances, and entirely at SDS's discretion, authorise completion of any part of a Participant's MA, in the event that the Participant's employment status changes. The Provider may apply to SDS for such authorisation in accordance with the Conditions.

1.2.4 Each Participant following a Modern Apprenticeship framework must be subject to the same policies and procedures as other employees of the organisation with which he or she is employed and the Provider must use all reasonable endeavours to ensure that each Participant is informed by his or her employer of his or her rights as an employee, including those relating to the national minimum wage.

1.2.5 For the avoidance of doubt, a Participant cannot be self-employed.

#### 1.3 Age

At the commencement of his or her MA a Participant must have reached the Scottish statutory minimum school leaving age and be: -

1.3.1 an individual aged 16- 24 who intends to follow an approved MA framework. For the avoidance of doubt an individual aged 15 is eligible if he or she has met the statutory school leaving age that applies in Scotland;

1.3.2 an individual aged 25 or over who intends to follow an approved MA framework in any of the specified sectors listed in the Frameworks by Occupational Grouping and Age Group document contained in Appendix 1;

## 1.4 Demonstrable Need

The proposed Participant must have a demonstrable need to acquire significant new knowledge and skills to fulfil his or her job role and the modern apprenticeship framework selected for the proposed Participant must be the most appropriate learning programme generally available to that individual, providing such knowledge and skills.

## 1.5 Not used

## 1.6 Exclusions

1.6.1 An individual shall not be eligible to commence or continue (as applicable) the MA if the individual is at any time: -

- 1.6.1.1 subject to an employment restriction on their stay in Great Britain;
- 1.6.1.2 subject to any funding restriction which would apply to Modern Apprenticeships;
- 1.6.1.3 in custody as a prisoner or on remand in custody; or
- 1.6.1.4 on any employment, training or enterprise programme funded by any UK and/or Scottish Government department or by SDS (subject to any exceptions published by SDS from time to time). For the avoidance of doubt Community Jobs Scotland is a Scottish Government funded employment programme.

## 1.7 Additional Criteria

In determining eligible persons for recruitment to the MA Programme, the Provider shall apply such additional and/or alternative eligibility criteria (as applicable) as SDS may advise from time to time in accordance with the Conditions.

## 1.8 Individual Training Accounts

SDS Individual Training Accounts (ITAs) (and any replacement programme) cannot be used by Participants to fund training that forms part of the Participant's MA framework or for any elements of the Individual Training Plan (ITP). Further, individuals participating in the MA Programme will be ineligible to apply for SDS ITA funding and any replacement programme.

## 2 Programme Entry

### 2.1 Initial Assessment

2.1.1 The Provider shall ensure that each proposed Participant (including for the avoidance of doubt a re-entrant) undergoes an Initial Assessment ("IA") and completes a meaningful Individual Training Plan ("ITP"). The purpose of the IA is to demonstrate that the proposed Participant has good prospects of success in completing the selected Modern Apprenticeship, with the appropriate training and support from the employer and the Provider. The IA should take account of the proposed Participant's job role and the employer's requirements for skills development. During the IA, the Provider shall utilise relevant evidence (e.g. from aptitude and/or skills test, interview, application form, FIPS (for re-entrants), from the individual, information from their Careers Management Skills Assessment and Career Development Plan and any other information provided by SDS work/careers coach or other agency worker). The Provider shall share the results of the IA with the proposed Participant and the employer and use the outcome results to develop the ITP and the Training Agreement. If any Participant is disabled and/or care experienced (the criteria for which are set out in Appendix 13 to this Specification), and the Participant

agrees to complete and sign the statement set out in Appendix 13 confirming which of the applicable criteria apply, the Provider shall be eligible to receive enhanced funding, as set out in the Appendix 13, to the extent such enhanced funding is available.

- 2.1.2 All re-entrants to the MA Programme must follow the normal process for programme entry. Re-entry and any financial adjustments required in line with current SDS funding policy and budget availability are subject to the prior approval of SDS, which shall, if given, be confirmed in FIPS.
- 2.1.3 During IA, the Provider shall ascertain if the proposed Participant has previously completed all accreditations required for any Milestone claim. Details of all such accreditations must be fully and accurately reflected in the ITP.
- 2.1.4 When a Participant has previously fulfilled a Milestone for which a claim has been submitted and has been paid (or is due to be paid) by SDS, the Provider shall not be entitled to submit a claim in respect of the Milestone. For clarity, the Provider is not entitled to claim in respect of the activity fulfilled previously, or any activity which the Provider may choose to repeat.
- 2.1.5 In addition, the Provider shall not be entitled to submit any claim for payment in respect of any progress review the Provider may have conducted with a Participant, where SDS has already paid the full contribution for the progress review (irrespective of whether it was conducted by another party or not) in accordance with the Payment Plan in FIPS.
- 2.1.6 Should the IA assessment process identify that the proposed Participant requires additional specialist equipment or support to undertake the training then the Provider shall advise the proposed Participant to apply through Job Centre Plus (JCP) for support through the Access to Work funds (or equivalent). The level of funding/support will depend on the size of the employer.

## **2.2 Individual Training Plan (ITP)**

- 2.2.1 The Provider must ensure that an Individual Training Plan (ITP) is drawn up after the Participant started the MA Programme, either in accordance with the SDS Best Practice ITP and guidance, set out in Appendix 2a and 2b, or using the Provider's alternative plan which contains all of the information specified in Appendix 2a and has been confirmed in writing in advance as suitable by their SDS Skills Investment Adviser, in each case, in accordance with paragraph 2.2.4 below. Throughout the duration of the Participant's MA, the Provider must ensure that the ITP is kept up to date and accurate and be satisfied that the Participant has a reasonable prospect of completing the MA in accordance with the ITP.
- 2.2.2 Not used.
- 2.2.3 When establishing the ITP, the Provider shall ensure the following: -
  - 2.2.3.1 the proposed Participant has a reasonable prospect of completing the MA successfully;
  - 2.2.3.2 the proposed Participant's prior learning and assessed needs are adequately reflected;
  - 2.2.3.3 a duration is specified which is reasonable in light of the proposed Participant's assessed needs;
  - 2.2.3.4 the support provided, and the nature and level of any Qualification aimed at are specified; and

2.2.3.5 the content of the ITP corresponds to the findings of the IA.

2.2.4 The ITP must be agreed and signed by the Provider, the proposed Participant and the employer no later than the date on which the Provider submits a claim for the first Milestone payment (following the claim for the Start payment) or if the payment plan does not include milestones (for example outcome based funding only) then no later than 13 weeks from the Start date. The Provider must retain the ITP.

## **2.3 Eligibility Declaration, Training Agreement (including Information Exchange and Co-operation Statement), Validation, FIPS, Equalities Monitoring Form and Audit Requirements for ESF.**

2.3.1 No later than the 'Start' date of each Participant, the Provider shall: -

2.3.1.1 fully and properly explain the eligibility criteria to the proposed Participant;

2.3.1.2 ensure that the Participant completes, signs and dates the Participant declaration contained in Appendix 5; and

2.3.1.3 complete, print and sign the Provider declaration contained in Appendix 5).

The Provider shall retain each signed declaration for audit purposes. Any financial obligation on SDS in respect of the individual in terms of the MA Provider Contract will not arise prior to the individual being properly entered as a 'Start' on FIPS in accordance with this Specification.

2.3.2 The Provider shall prohibit any proposed Participant commencing an MA programme where that proposed Participant has not completed the required declaration referred to in paragraph 2.3.1.2.

2.3.3 For each Participant, the Provider must fully and accurately complete and sign the Training Agreement (TA) (a copy of which is available at Appendix 12 to this Specification). Providers shall not be permitted to use any form of training agreement other than the form of TA made available by SDS. Within four weeks of the proposed Participant's Start date, the TA must be fully completed and agreed between the Participant and Provider, signed and dated by the Participant, the Provider and the employer. As soon as the TA has been completed, agreed, signed and dated by all parties, the Participant details required in FIPS must be completed by the Provider, including without limitation, the mobile/telephone number and email address of the Participant, and the employer email address. The employer details entered on FIPS must be in relation to the Participant's main employment and normal working hours in Scotland.

SDS shall be entitled to contact the Participant (using the mobile telephone number and email address provided), requesting the Participant to validate (i) their registration as an MA participant, and (ii) any other information (provided by the Provider to SDS) that SDS requests.

2.3.4 Without prejudice to SDS' other rights and obligations, failure by the Participant and/or the Participant's employer to validate all required information to SDS within such timeframe as SDS shall specify, shall entitle SDS to suspend the registration of the Participant as a Start until confirmation is received (within such extended timescales as SDS may specify), failing which the registration may be cancelled by SDS. For the avoidance of doubt, SDS shall have no obligations to the Provider in relation to a proposed Participant who is not registered as a Participant in accordance with this paragraph, (or whose registration is suspended or cancelled) notwithstanding that the Provider (i) has provided training to that proposed Participant and/or (ii) the proposed Participant is registered as a Participant

after the date required under this paragraph.

If any of the information contained in the TA requires to be amended the Provider must ensure that each such amended version is signed at the next Review due by the Participant and the Provider. Where any such change relates to qualification, the amended TA must also be signed by such Review date by the employer. Copies of each version of each TA must be retained by the Provider for audit purposes.

- 2.3.5 When an individual agrees to join an MA Programme by signing the TA the proposed Participant, the Provider and the employer agree to the following: - (i) a declaration acknowledging the sharing of relevant information; and (ii) an undertaking to co-operate with SDS and/or SDS' agents following any request for information from SDS and/or its agents concerning the individual's training, all as specified in the TA.

The Provider must advise each proposed Participant of the requirement for the proposed Participant to sign their acknowledgement of the sharing of relevant information and providing the co-operation undertaking described above. The document must also be signed by the Provider and the employer.

- 2.3.6 Before obtaining the signature of the Participant on the TA, the Provider shall make a copy of SDS's then current Privacy Notice (available on the Training Provider area of the SDS website), available to the Participant and ensure the Participant has an appropriate opportunity to consider its contents.

- 2.3.7 Providers must maintain FIPS records in accordance with paragraph 2.4.3.2 of Part 2 of the Specification.

#### 2.3.8 Participants with previous MA experience

2.3.8.1 Participants are treated **as a new Start** from Provider contracted volumes where they are:

- Starting a different MA framework within 3 years of leaving their previous MA assignment
- Progressing from a MA framework to a higher level but in a different MA framework
- Starting the same MA framework at any level with more than 3 years since previous MA assignment

2.3.8.2 Participants are treated **as a re-entrant** and will not be treated as a new Start from Provider contracted volumes where they are:

- Re-entrants to the same MA framework at any level within 3 years of previous MA assignment

2.3.8.3 Participants are treated **as a progression** and will not be treated as a new Start from Provider contracted volumes where they are:

- Progressing to the same MA framework at a higher level

- 2.3.9 A proposed Participant shall not become a 'Participant' until the Provider has properly completed all its obligations in relation to the Participant set out in this paragraph 2.3.

- 2.3.10 The Provider shall not register any proposed Participant as a Start on FIPS unless the Provider (and/or relevant Permitted Sub-contractor) is holding a current accreditation relevant to the proposed Participant's MA, from the relevant Awarding Body.

2.3.11 The Equality Monitoring Form in Appendix 11 must be given to all Participants to complete at the same time as the TA. This should be recorded and disposed of in accordance with the requirements set out in Appendix 11. The Provider must not access any equality monitoring information uploaded by the Provider, SDS, or any third party onto FIPS.

2.3.12 Audit Evidence Requirements for ESF. If the Provider is notified by SDS that any Participant is being supported by ESF they must adhere to the audit evidence requirements set out in Appendix 15 of this Specification and Conditions 25.1, 25.2 and 25.3 of the MA Conditions.

## **2.4 Registration with the Awarding Body/Sector Skills Organisation**

2.4.1 The Provider shall register each Participant with an Awarding Body, and with the appropriate Sector Skills Organisation (SSO), identifying which Qualification the Participant will work towards during the period of their training, before any Milestone claims are made. The Participant must be entered for the group award as well as the relevant units for the Qualification. Unit registration alone is not acceptable. A Scottish Candidate Number (SCN) is also required to be entered onto the Participant TA. For SQA Qualifications the SCN must be entered prior to claiming the first Milestone.

2.4.2 Staged registration with the Awarding Body may be acceptable for the VQ where this is in line with the approved MA framework provided the Participant is registered with the SSO as a Modern Apprentice. For the avoidance of doubt, no claims may be submitted for any stage for which the Participant is not specifically registered.

2.4.3 Formal evidence of registration/entry, from the Awarding Body/SSO, including confirmed date, shall be held by the Provider on file prior to making a claim and retained for audit purposes.

## **2.5 Induction**

The following must be explained as part of the Participants induction

### **2.5.1 Roles and Responsibilities.**

The Provider shall ensure that the Participant, employer and where relevant any third party involved in the delivery of the MA Programme are all aware of the responsibilities of all parties, and the role of SDS including details of financial contribution by SDS for the relevant MA Framework as published in the applicable contribution table.

### **2.5.2 Contact with Individuals**

The Provider shall use its best endeavours to request and encourage full co-operation (and attendance, as applicable) by a Participant (or proposed Participant as applicable) in/at any observation, visit, meeting, online correspondence, survey and/or telephone call with SDS (or its agents) concerning the operation of the MA Programme as may be requested by or on behalf of SDS from time to time.

### **2.5.3 Equal Opportunities.**

The Provider shall make each Participant aware of its equal opportunities policy and what to do if the Participant feels he or she is being bullied or discriminated against.

### **3 Programme Delivery**

#### **3.1 Participant Review**

- 3.1.1 The Provider must at all times comply with the Quality Standards referred to in paragraph 3.4 of Part 2 of this specification below. In order to demonstrate compliance with the Quality Standards, the Provider shall focus on the needs of each Participant and provide the necessary support to achieve the objectives of each Participant's ITP. When planning the programme delivery for each Participant, the Provider must demonstrate how it will work with the Participant and ensure that: -
- 3.1.1.1 the planned support required to address each individual need of the Participant identified in the IA is mapped in the ITP;
  - 3.1.1.2 delivery of all such support is fully reported in each Review (as described below); and
  - 3.1.1.3 the Participant's portfolio properly and accurately reflects the progress of the Participant in accordance with the ITP.
- 3.1.2 The Participant's progress must be regularly reviewed and assessed. The Provider must carry out formal Reviews every 13 weeks as a minimum for the duration of the MA. The expectation is that reviews will be carried out face to face with the Participant. (Any change to this process must be submitted and agreed in writing with SDS). The Provider must ensure that the Review is recorded on the appropriate documentation. There is specific review documentation, either Best Practice or mandatory, dependent on the MA framework being delivered by the Provider. This is outlined in Appendix 7.
- 3.1.3 Each Awarding Body External Verifier's Report must be made available to the appointed SDS Skills Investment Advisor, for quality monitoring and compliance purposes, within 7 days of the Provider's receipt of the report in the event that the report contains any formal actions, and otherwise, immediately on demand by SDS.
- 3.1.4 All Participant Progress Review records referred to in this paragraph 3.1 (including any referenced Appendices) must be signed and dated by the Participant and Provider on completion, and the Provider must obtain the Participant's employer's signature on at least one Review record every 12 months during the period of the Participant's MA.
- 3.1.5 A copy of each completed Participant Progress Review must be provided by the Provider to the Participant and the Participant's employer (for the employer's information) no later than 8 calendar days after each Review. The Provider shall (i) retain a copy of each Review record for the purposes of audit and (ii) use all reasonable endeavours to ensure that the employer shall retain a copy of each Review record for the purposes of audit.

#### **3.2 Participant Progression**

- 3.2.1 The Payment Plans are set against the VQ listed in the MA framework, each using the listed VQ Reference number. The Payment Plan details are contained within FIPS and in this paragraph 3.2, and together, set out the programme requirements to make a Milestone claim.
- 3.2.2 Milestone payments can be claimed when the Provider has fully complied with its obligations in relation to the Participant under the MA Provider Contract, and each part of the Qualification, as broken down in the Payment Plan, is achieved in accordance with all the Awarding Body requirements. Evidence of achievement must be held in advance of the

Provider making a claim, and retained for audit. A claim may only be made by the Provider after the Start date entered on FIPS. Any variation from the Payment Plan shall require the prior agreement of SDS, to be granted entirely at SDS' discretion. Prior agreement shall require to be in the form of (i) an email from the SDS assigned Skills Investment Advisor and/or (ii) confirmation by SDS in the Payment Plan, and/or (iii) confirmation by SDS in FIPS. No deviation from the Payment Plan shall be permitted without such prior agreement.

- 3.2.3 In addition to all other obligations set out in this Specification and the Conditions, prior to submitting a claim for a Milestone payment, the Provider must satisfy the requirements, hold the evidence and meet the 'additional information' requirements set out in the payment plan table in FIPS, and as more fully explained in paragraphs 3.2.4 - 3.2.9. Where the payment plan table in FIPS and/or any of the paragraphs under this paragraph 3.2 reference a Best Practice document, such document contains the minimum information required from the Provider. The Provider must either use this form as evidence for making claims for Milestones, or provide the minimum information in an alternative format acceptable to SDS and confirmed in writing in advance as suitable by their SDS Skills Investment Adviser.
- 3.2.4 The Summary of Achievement Record (SOAR) or, as applicable, the Motor Vehicle Record of Progress (ROP) documents submitted to SDS shall be signed and dated by the Participant and for the Provider by a qualified subject assessor. Progression recorded on the SOAR shall reflect achievements detailed in the Participant portfolio.
- 3.2.5 For motor vehicle claims, the ROP (which is available as Appendix 4) is required as an alternative to Appendix 3 (SOAR).
- 3.2.6 In order to ensure that Awarding Body records of Participants' results are up-to-date and accurate, Provider must enter unit achievement to the appropriate Awarding Body database/system as soon as reasonably practicable after completion by a Participant of each Milestone, and additionally, when a Participant leaves, no later than four weeks after the Participant's leaving date.
- 3.2.7 The Participant Quarterly Progress Review (for Milestone claims) contained in Appendix 6a is a mandatory document and contains the mandatory information required for making Milestone claims based on Quarterly progress reviews for the specifically identified occupational areas set out in the Payment Plan (or otherwise confirmed in writing by SDS in the form of (i) an email from the SDS assigned Skills Investment Advisor and/or (ii) confirmation by SDS in the Payment Plan, and/or (iii) confirmation by SDS in FIPS). There is no alternative to the use of Appendix 6a to support Milestone claims based on Quarterly Progress Reviews.

Progression recorded on the Participant Quarterly Progress Review (Appendix 6a) shall reflect achievements detailed in the Participant portfolio. The Provider must complete this form to claim the relevant Milestone. Quarterly Progress Reviews must be completed during the six week period commencing three weeks before and ending three weeks after the last date of each Quarterly period as defined in the Payment Plan for the duration of the MA Provider Contract, for each Participant. Milestone claims based on Quarterly Progress Reviews should be submitted as soon as possible following the completion of the review. SDS may publish formal guidance in relation to this from time to time.

Where Participants are participating in full-time off the job training, SDS may in exceptional circumstances accept the signature of an independent representative involved in the delivery of the off the job training, e.g. a college on behalf of the employer. SDS may publish formal guidance in relation to this from time to time. Except to the extent otherwise provided in any such guidance, the Provider must obtain the prior written consent of SDS (in the form of an email from the SDS assigned Skills Investment Advisor) in order to rely on such an

exception. This paragraph 3.2.7 applies in addition to the provisions contained in the Participant Review provisions set out in paragraph 3.1.

3.2.8 Not used.

3.2.9 The Participant portfolio must be made available immediately on request by SDS.

3.2.10 SDS shall be entitled to contact the Participant (using the mobile telephone number and email address provided by the Provider on FIPS pursuant to the Specification and Conditions), and the Participant's employer, requesting the Participant/employer (as applicable) to confirm such information relating to the Participant's training as SDS considers appropriate to validate the Provider's relevant performance of the Services. Failure by the Participant/employer (as applicable) to confirm all required information to SDS within such timeframe as SDS shall specify, shall be deemed a breach of the MA Provider Contract. For the avoidance of doubt, in addition to the remedies available to SDS under the Conditions, such breach shall entitle SDS to (i) reject any claim where the validation relates to evidence submitted for a claim that has not yet been paid, or (ii) recover any sums paid in relation to a claim where the validation relates to evidence submitted in respect of that claim.

3.2.11 Each Participant Quarterly Progress Review referred to in this paragraph 3.2 must be recorded on Appendix 6a, signed and dated by the Participant, the Participant's employer (or representative, as applicable) and the Provider prior to submitting any corresponding claim.

3.2.12 A copy of each completed Participant Quarterly Progress Review must be provided by the Provider to the Participant and the Participant's employer (for the employer's information) no later than 8 calendar days after each Review. The Provider shall (i) retain a copy of each Review record for the purposes of audit and (ii) use all reasonable endeavours to ensure that the employer shall retain a copy of each Review record for the purposes of audit.

#### **4 Completion of the MA Programme**

4.1 The Provider must hold evidence of achievement of the full MA from the SSO including evidence of achievement of the full VQ or competency based qualification from the Awarding Body, prior to submission of a claim to SDS for output based funding. This must be formal SSO evidence. Without prejudice to SDS's other rights and remedies, Participants will remain on the relevant MA Programme until all the documentation required to make an application for the final MA Qualification has been collated, and an application made, in line with the framework. For any Quarterly Progress Reviews not due to take place until after the date of issue of the evidence from SSO of achievement of the full MA, the Provider may claim payment for that Review when claiming payment for the said output based funding.

## **5 Exit /Temporary Interruptions /Transfer**

### **5.1 Exit from /Temporary Interruptions of Training**

5.1.1 A Participant is regarded as having left the MA Programme if:

- 5.1.1.1 the aim of the ITP has been achieved and all supporting evidence of the MA outcome has been received by the Provider; or
- 5.1.1.2 all supporting evidence of the MA outcome has been collated and certification applied for; or
- 5.1.1.3 the Participant states he/she has left the MA Programme; or
- 5.1.1.4 the Participant ceases their employment with their employer for any reason, except when, following notification from the employer that the Participant has been made redundant, the Participant is engaged in a period of formal training at college in which case the period may be extended at SDS discretion and subject to the written approval of SDS in the form of either an email from the SDS appointed Skills Investment Advisor and/or as confirmed by SDS on FIPS.

5.1.2 Once a Participant has left the MA Programme the leaving details must be entered immediately to FIPS by the Provider using the leaving codes in Appendix 14.

5.1.3 The Provider must inform SDS immediately in writing (via an email to the SDS assigned Skills Investment Advisor) if a Participant's training is interrupted temporarily for any reason (e.g. extended sick leave, suspension, extended compassionate leave) and update FIPS records immediately. Whilst the training for any Participant on maternity/paternity leave shall be considered by SDS to be temporarily interrupted (and for the avoidance of doubt, the Participant shall not be considered to have left the training), Providers must enter the relevant code contained in Appendix 14 to identify the status of the Participant as on maternity/paternity leave.

### **5.2 Transfer of a Participant**

5.2.1 Subject to paragraph 5.2.3 and without prejudice to SDS's other rights and remedies, if the Provider is materially failing to provide the training in accordance with the Participant's ITP and as a consequence, SDS determines that the Participant shall transfer to another provider, and/or the Employer and SDS agree for any reason that the Participant should transfer to another provider, the Provider shall co-operate fully with SDS. The original Provider must at its own expense, ensure that the organisation to which the Participant transfers is timeously provided with all necessary documentation to support any follow-on activity and ensure a smooth transition. All relevant documentation to support the training delivered up to the transfer date must be retained by the original Provider and provided immediately to SDS (or SDS' nominee) on request.

5.2.2 In addition, where any Participant has been made redundant, the Provider shall use its best endeavours to support the Participant in a search to secure alternative employment with training. This must include working with relevant Sector Skills Organisations to identify alternative opportunities. The Provider must enter the leaving details on FIPS immediately when the Participant is made redundant as this is the trigger for additional SDS support to the Participant.

5.2.3 All transfer arrangements are subject to SDS's prior written agreement to be provided at SDS's entire discretion, on an individual basis in the form of an email from the SDS assigned Skills Investment Advisor.

## 6 Performance and Award

- 6.1 The Provider shall ensure that it meets the minimum Performance Levels set out in paragraph 6.7 of Part One of this Specification when performing the services under the MA Provider Contract. Where the Provider fails to meet any Performance Level, without prejudice to any other rights and remedies available to SDS under the MA Provider Contract (including any reallocation and/or further award under this paragraph 6), the consequences (if any) set out in paragraph 6.7 of Part One shall apply.
- 6.2 The Provider shall provide such reports and rationales as SDS may request from time to time, in order to measure the Provider's compliance with the Performance Levels.
- 6.3 SDS will from time to time during the period of the MA Provider Contract, evaluate the achievements of each Provider by assessing the Achieved Performance Levels that the Provider has delivered against those delivered by other providers. For the avoidance of doubt, assessment of Achieved Performance Levels shall take account of rationales for failed performance, made available to SDS by the Provider.
- 6.4 SDS will from time to time evaluate the number of Participants that have Started under MA Provider Contract against the number of Participants contracted to Start. Where there is a shortfall SDS shall be entitled to reallocate the volumes in accordance with the variation provisions within the Conditions.
- 6.5 In performing its obligations under the MA Provider Contract, the Provider shall: -
- 6.5.1 perform the Services in such a manner as will ensure that the Achieved Performance Level in respect of that performance is equal to or higher than the Performance Levels set out paragraph 6.7 below; and
  - 6.5.2 provide such records of and management reports summarising the Achieved Performance Levels as SDS may specify from time to time, and within such timescales as may be advised by SDS.
- 6.6 In the event that any Achieved Performance Level falls short of the relevant Performance Level, without prejudice to SDS's other rights and remedies, the consequences set out in paragraph 6.7 shall apply.
- 6.7 The Performance Levels set out in this paragraph 6.7 shall apply. For the purposes of this paragraph 6 the following terms shall have the following meanings: -
- 'Month' shall mean each calendar month occurring during the period of the MA Provider Contract, and 'Monthly' shall be construed accordingly.

### 6.7.1 Performance Level 1 – Fulfilment of Contracted Starts

<b>How Performance Level will be measured</b>	Measure as a percentage, the number of new starts entered in FIPS as a percentage against contracted volumes in the MA Provider contract
<b>Performance Level Action/ Measurement Period</b>	<p>Provider shall ensure that at the expiry of each of the following Active Financial Periods, the number of new starts properly entered onto FIPS as at that date, measured as a percentage of the total number of the new Starts awarded for the MA Provider Contract, exceeds the following:</p> <p>Active Financial Period 5 (inclusive of periods 1 to 5) – 28%            Active Financial Period 7 (inclusive of periods 1 to 7) - 60%            Active Financial Period 8 (inclusive of periods 1 to 8) - 69%            Active Financial Period 10 (inclusive of periods 1 to 10) - 86%            Active Financial Period 11 (inclusive of periods 1 to 11) - 95%            Active Financial Period 12 (inclusive of periods 1 to 12) - 100%</p> <p>If the total volumes are amended, the formula in this Paragraph 6.7 will be applied to the volumes, as amended.</p>
<b>Failure by Provider to meet Performance Level – Consequences</b>	If the Provider fails to meet any of the foregoing Performance levels and fails to provide a rationale for such failure which is acceptable to SDS (at SDS' entire discretion), SDS shall be entitled to remove volumes of potential starts awarded under the MA Provider Contract which are not registered as 'Starts' under FIPS.

### 6.7.2 Performance Level 2 – Fulfilment of contracted spend

<b>How Performance Level will be measured</b>	Measure as a percentage, the total payments properly claimed by the Provider under the MA contract as a percentage against contracted value in contract
<b>Performance Level Action/ Measurement Period</b>	<p>Provider shall ensure that at the expiry of each of the following Active Financial Periods, the total value of payments properly claimed as at that date, measured as a percentage of the overall contracted value, exceeds the following:</p> <p>Active Financial Period 5 (inclusive of periods 1 to 5) – 37%            Active Financial Period 7 (inclusive of periods 1 to 7) - 55%            Active Financial Period 8 (inclusive of periods 1 to 8) - 64%            Active Financial Period 10 (inclusive of periods 1 to 10) - 80%            Active Financial Period 11 (inclusive of periods 1 to 11) - 93%            Active Financial Period 12 (inclusive of periods 1 to 12) - 100%</p> <p>If the total value is amended, the formula in this Paragraph 6.7 will be applied to the value, as amended.</p>
<b>Failure by Provider to meet Performance Level - Consequences</b>	If the Provider fails to meet any of the foregoing Performance Levels and fails to provide a rationale for such failure which is acceptable to SDS (at SDS' entire discretion), SDS shall be entitled to reduce the Contract Value set out in the MA Provider Contract.

### 6.7.3 Performance Level 3 - Achievement Rates – Modern Apprenticeships

<b>How Performance Level will be measured</b>	<p>Measure percentage of Provider's actual achievement rate against the minimum achievement rate in the table below:</p> <table border="1" data-bbox="448 331 1275 551"> <thead> <tr> <th>All MA frameworks</th> <th>16-19 age group</th> <th>20-24 age group</th> <th>25+ age group</th> </tr> </thead> <tbody> <tr> <td>MA SCQF Level 5</td> <td>70%</td> <td>72%</td> <td>75%</td> </tr> <tr> <td>MA SCQF Level 6</td> <td>70%</td> <td>72%</td> <td>75%</td> </tr> <tr> <td>MA SCQF Level 7</td> <td>70%</td> <td>72%</td> <td>75%</td> </tr> <tr> <td>MA SCQF Level 8+</td> <td>70%</td> <td>75%</td> <td>77%</td> </tr> </tbody> </table>	All MA frameworks	16-19 age group	20-24 age group	25+ age group	MA SCQF Level 5	70%	72%	75%	MA SCQF Level 6	70%	72%	75%	MA SCQF Level 7	70%	72%	75%	MA SCQF Level 8+	70%	75%	77%
All MA frameworks	16-19 age group	20-24 age group	25+ age group																		
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MA SCQF Level 7	70%	72%	75%																		
MA SCQF Level 8+	70%	75%	77%																		
<b>Performance Level Action/ Measurement Period</b>	<p>Provider must deliver at the minimum achievement rate, as set out in the table above, at all times.</p>																				
<b>Failure by Provider to meet Performance Level - Consequences</b>	<p>If the Provider fails to meet the foregoing Performance Level at any time, and fails to provide a rationale for such failure which is acceptable to SDS (at SDS' entire discretion), SDS shall be entitled to remove volumes of potential starts awarded under the MA Provider Contract</p>																				

### 6.7.4 Performance Level 4 - Claims progress and CTS/FIPS records accuracy.

<b>How Performance Level will be measured</b>	<ul style="list-style-type: none"> <li>(i) Provider must ensure claims are made in line with payment dates set within FIPs and there should be no records where a claim has not been made for more than 9 months – exceptions to this are payment plans that have different funding methodologies previously agreed with SDS</li> <li>(ii) End dates – no record on FIPS/CTS should be beyond expected end date if remaining in training</li> <li>(iii) All leavers, completers or early leavers must be terminated when they are no longer in training</li> </ul>
<b>Performance Level Action/ Measurement Period</b>	<p>The Provider must ensure that monthly:</p> <ul style="list-style-type: none"> <li>(i) all claims are made in line with payment plan dates as set out within FIPS (under exception of those Participants in respect of whom claims were not identified as due within that period in the relevant FIPS assignment), Participants in respect of whom claims were identified as due within that period in the relevant FIPS assignment), and not made does not exceed 10%; and</li> <li>(ii) all records are kept up to-date and no Participant in training is beyond their expected end date, and</li> <li>(iii) that no records are showing as in training when they are no longer in training</li> </ul>
<b>Failure by Provider to meet Performance Level - Consequences</b>	<p>If the Provider fails to any of the foregoing Performance Levels and fails to provide a rationale for such failure which is acceptable to SDS (at SDS's entire discretion), SDS shall be entitled to remove volumes of potential starts awarded under the MA Provider Contract which are not registered as 'Starts' under FIPS.</p>

## **Part Two**

### **A ITT Response**

#### **1. ITT Response**

- 1.1. The Provider is responsible for ensuring that the MA Programme standards and Qualifications conform to the Provider's ITT Response at all times including any variations thereto agreed in accordance with this paragraph 1.
- 1.2. The Provider may propose amendments to the Provider's ITT Response at any time, but no such amendment to the Provider's ITT Response shall be valid for any purpose unless SDS has at its entire discretion, previously agreed to it in writing in the form of an email from the SDS assigned Skills Investment Advisor.
- 1.3. After consultation with the Provider, SDS may at any time specify to the Provider the nature of any amendment to the Provider's ITT Response and the date by which the necessary amendment must be implemented by the Provider.

### **B Before Recruiting Participants**

#### **2. Policies, Procedures and Systems**

- 2.1. There are a number of policies, procedures and systems which the Provider must have in place prior to recruiting eligible proposed Participants to the MA Programme which the Provider is expected to apply at all times. These include: -
  - 2.1.1. Equal Opportunities policy and procedures
  - 2.1.2. Health and Safety policies, procedures and monitoring systems
  - 2.1.3. IT systems and FIPS
  - 2.1.4. Promotion of other SDS initiatives and fair work practices
  - 2.1.5. Handling Information
  - 2.1.6. Application of the Specification
  - 2.1.7. Workforce Matters

#### **2.2. Equal Opportunities**

- 2.2.1. Under the Equality Act 2010, SDS has a Public Sector Equality Duty to promote equality of opportunity in its products and services, including the MA programme. This applies to all protected groups under the legislation, SDS has specific actions to address the under-representation of ethnic minority groups, disabled people, and care experienced people, and to address the gender imbalance within particular frameworks. The Provider must ensure that in delivering the MA programme no acts of discrimination take place (as defined within the Equality Act 2010), and that they take steps to ensure equality of opportunity with respect to the recruitment and achievement of different customer groups.

## 2.2.2. The Provider must: -

- 2.2.2.1. and its sub-contractors must have, and comply with, an equal opportunities policy covering its own staff and its Participants (where there are at least 5 staff members). Providers must be able to demonstrate how the policy is implemented and monitored. Providers must make all Participants aware of the policy prior to commencing the programme, and ensure they understand how to raise any concerns about bullying and/or harassment;
- 2.2.2.2. include equality actions within their quality action plan which outline how they intend to improve the diversity of their MAs, for example through their recruitment process; by providing staff with relevant development in equality topics; by supporting the needs of Participants; or through taking positive action targeting specific customer groups. The Provider should seek to continuously improve their equality outcomes via this action plan. The actions identified should be based on evidence such as:
  - SDS Apprenticeship Equality Action Plan  
[https://www.skillsdevelopmentscotland.co.uk/publications-statistics/publications/?page=1&area\[\]=8&topic\[\]=8-4&order=date-desc](https://www.skillsdevelopmentscotland.co.uk/publications-statistics/publications/?page=1&area[]=8&topic[]=8-4&order=date-desc)
  - Sectoral data regarding characteristics of the workforce (e.g. via Skills Investment Plans  
<https://www.skillsdevelopmentscotland.co.uk/what-we-do/skills-planning/skills-investment-plans/>)
  - Data on local demographics (e.g. Local Authority Equality Summaries  
[https://www.skillsdevelopmentscotland.co.uk/publications-statistics/publications/?page=1&area\[\]=8&topic\[\]=8-4&order=date-desc](https://www.skillsdevelopmentscotland.co.uk/publications-statistics/publications/?page=1&area[]=8&topic[]=8-4&order=date-desc))
  - Provider equality monitoring data (either from SDS or their own equality data)
  - Any other relevant research/evidence
- 2.2.2.3. commit to equality actions within the Provider's quality action plan, which will include actions to demonstrate the Provider's continuous improvement regarding equality outcomes as set out in paragraphs 2.2.2.4, 2.2.2.5 and 2.2.2.6 below to accurately reflect the requirements set out in the ITT;
- 2.2.2.4. ensure that for the duration of the MA Provider Contract, all Provider staff undertake best practice continuing professional development relating to equality and diversity, which is appropriate and proportionate to the Provider's workforce, and which meets all legal requirements that apply in Scotland. The Provider shall provide to SDS promptly on demand, evidence of all activity undertaken by the Provider to meet this undertaking;
- 2.2.2.5. ensure that it at all times takes appropriate positive action in marketing to participants as Starts (and their parents/carers and potential employers), particularly with a view to improving representation where there is clear imbalance in provision, targeting gender, disability, ethnicity and people who have been in care;
- 2.2.2.6. take steps to monitor and evaluate its own performance in relation to efforts made to improve MA programme participation and achievement of people from under-represented groups, particularly in

relation to gender representation, disability, ethnicity and people who have been in care.

## **2.3. Health and Safety**

### **2.3.1. Reporting and Investigation of Incidents**

2.3.1.1. The Provider shall immediately notify all Reportable Incidents to the relevant authority as required by RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations). If a Reportable Incident occurs whilst a Participant is conducting activities identified in their Individual Training Plan or which are relevant to the MA Programme the Provider must ensure that SDS is informed immediately by contacting the SDS assigned Skills Investment Advisor by telephone (leaving a message containing brief details, if unanswered,) and email, and in each case, if re-directed to an alternative contact, by advising such contact.

2.3.1.2. These conditions are without prejudice to any statutory duty of any person to make notification of a death, injury, case of disease or dangerous occurrence.

## **2.4. IT System and FIPS**

2.4.1. In carrying out its obligations in terms of the MA Provider Contract, the Provider shall conform to SDS information technology requirements (including the SDS Information Security Policy for NTP Providers attached at Appendix 8) for the processing of claims and other information specified by SDS from time to time. SDS reserves the right to vary its information technology requirements in line with the development and updating of its systems. SDS shall endeavour to give the Provider reasonable and prior notification on its website, where appropriate. Where the Provider has an obligation to delete, destroy or dispose of any Personal Data relating to a Participant, it shall not access such Personal Data on FIPS (where such access is available) except in so far as the Provider requires to for the purposes of administering the MA Programme, complying with its obligations in the MA Provider Contract or any applicable law.

### **2.4.2. Online Information System**

2.4.2.1. Providers who propose to operate their own Online System to administer the MA Programme shall be required to notify SDS in advance by emailing the SDS assigned Skills Investment Advisor or SDS assigned Compliance Executive. SDS will advise on timescales for testing and awarding body of the system. In such cases, the Provider shall require to meet SDS requirements in relation to the use of an Online System, if used by the Provider. The Provider shall comply with the SDS Information Security Policy for NTP Providers attached at Appendix 8 in relation to the Provider's use of its own Online System.

### 2.4.3. Finance and Information Processing System (FIPS)

- 2.4.3.1. Funding for each MA Programme will be administered through FIPS in accordance with SDS requirements
- 2.4.3.2. Providers must, through duly authorised and appropriately qualified staff, at all times timeously complete and keep up to date, accurate information relating to each Participant required by FIPS, and comply with SDS FIPS guidance (as amended from time to time).
- 2.4.3.3. In order to use FIPS as prescribed in the MA Provider Contract awarded, the Provider shall require to obtain annually for the period of the MA Provider Contract, a User Permission for each user of the FIPS software. All information relating to each User Permission including the applicable terms and conditions, applicable charges and guidance on the process for requesting/granting/amending User Permissions shall be made available by SDS to the Provider or, at SDS' discretion, set out in the Training Provider pages of the SDS website available through <https://www.skillsdevelopmentscotland.co.uk/for-training-providers/fips-funding-information-and-processing-system/> . Further conditions or guidance may also be set out in the Provider letter of award for the MA Provider Contract.

## 2.5. Promotion of other SDS Initiatives

2.5.1. Not used

2.5.2. Not used.

2.5.3. My World of Work and apprenticeships.scot

2.5.3.1. The Provider shall use best endeavours to: -

2.5.3.1.1. encourage each Participant to register on the SDS My World of Work web service at <http://www.myworldofwork.co.uk/> (or such alternative address as SDS may use from time to time) during the Participant's induction to the MA Programme and if unsuccessful at that time, during the Participant's training. From time to time, SDS shall carry out checks to compare the number of each Provider's Participants registered on FIPS against the number registered on My World of Work; and

2.5.3.1.2. promptly post all MA vacancies on [www.apprenticeships.scot](http://www.apprenticeships.scot).

2.5.4. Foundation Apprenticeships and Graduate Apprenticeships

2.5.4.1. The Provider shall use best endeavours to promote to employers SDS' Foundation Apprenticeship and Graduate Apprenticeship programmes where appropriate.

## 2.6. Handling Information

2.6.1. To perform the MA Programme and to demonstrate MA Provider Contract compliance it will be necessary for the Provider to hold personal information on Participants to keep Participant records. It will also be necessary to

complete and retain forms and information. In addition to the Provider's other obligations, the Provider shall use all reasonable endeavours to ensure that all such information and records are readily located and identifiable, and are stored safely and securely (in a watertight environment), and shall promptly make all such information and records available to SDS staff as requested by SDS from time to time.

## 2.6.2. Information Security (See Appendix 8 for full policy) and FIPS Passwords

2.6.2.1. The Provider shall have due regard to data protection and the security of information and will comply with SDS Information Security and Data Handling Requirements as stated in Appendix 8, as amended by SDS from time to time, including the encryption of data being transferred electronically.

2.6.2.2. The Provider shall complete a FIPS Delegated Authority form on an annual basis, and notify SDS of any changes thereto in accordance with the User Permission guidance. The Provider shall at all times adhere to the security guidance issued by SDS and ensure that FIPS passwords are reviewed regularly and updated for changes in staff and/or contacts.

## 2.7. Application of the Specification

2.7.1. The Provider shall provide each Participant recruited with, and only with, a programme of training to which he or she is entitled according to the criteria set out in this Specification and the Conditions, and in accordance with the Provider's ITT Response (subject to any formally agreed variations). No dispensation shall be made unless approved in writing by SDS in the form of an email from the SDS assigned Skills Investment Advisor. Each MA Programme shall be provided in a manner acceptable to SDS.

2.7.2. The Provider shall ensure that every element of the MA Programme services comply with the Specification, the Invitation to Tender, the Conditions and the Provider's ITT Response (subject to any formally agreed variations).

## 2.8. Workforce Matters

2.8.1. The Public Sector in Scotland is committed to the delivery of high quality public services, and recognises that this is critically dependent on a workforce that is well rewarded, well-motivated, well-led, has access to appropriate opportunities for training and skills development, is diverse and is engaged in decision making. These factors are also important for workforce recruitment and retention, and continuity of service. Public Bodies in Scotland are adopting Fair Work Practices, which include: -

2.8.1.1. A fair and equal pay policy that includes a commitment to supporting the living wage, including for example being a Living Wage Accredited Employer;

2.8.1.2. Clear managerial responsibility to nurture talent and help individuals fulfil their potential, including for example, a strong commitment to Modern Apprenticeships, Foundation Apprenticeships and Graduate Apprenticeships and the development of Scotland's young workforce;

2.8.1.3. Promoting equality of opportunity and developing a workforce which

- reflects the diversity of the population of Scotland in terms of age, gender, gender identity, ethnicity, sexual orientation and disability;
- 2.8.1.4. Support for learning and development;
- 2.8.1.5. Stability of employment and hours of work, and avoiding exploitative employment practices, including for example no inappropriate use of zero hours contracts, where use of such contracts is a proportionate and reasonable response to a legitimate business requirement;
- 2.8.1.6. Flexible working (including for example practices such as flexi-time and career breaks) and support for family friendly working and wider work life balance; and
- 2.8.1.7. Supporting progressive workforce engagement, for example Trade Union recognition and representation where possible, otherwise alternative arrangements to give staff an effective voice;
- 2.8.1.8. Gender balance and wider representative workforces; and
- 2.8.1.9. Respect; treating each employee with respect and value diversity within the workforce.

2.8.2. Further information on SDSs' Fair Work Practices is as follows: -

- 2.8.2.1. SDS's Corporate Plan includes SDS's ambition to become an exemplar of Fair Work, in line with the work of the Fair Work Convention. <http://www.fairworkconvention.scot/> This includes our commitment to fair pay and reward as a Scottish Living Wage accredited employer <http://scottishlivingwage.org/> and [https://scottishlivingwage.org/accredited/skills\\_development\\_scotland/](https://scottishlivingwage.org/accredited/skills_development_scotland/);
- 2.8.2.2. SDS aims to be an employer of choice in its employment practices and employee benefits <https://www.skillsdevelopmentscotland.co.uk/work-with-us/> ;
- 2.8.2.3. SDS develops its young workforce through its Young Talent Programme: <https://www.skillsdevelopmentscotland.co.uk/work-with-us/young-talent-programme/> ;
- 2.8.2.4. SDS's equality outcomes are highlighted in SDS's Equality Mainstreaming Report: [https://www.skillsdevelopmentscotland.co.uk/media/43248/0597\\_update-to\\_0357-equality-mainstreaming-report.pdf](https://www.skillsdevelopmentscotland.co.uk/media/43248/0597_update-to_0357-equality-mainstreaming-report.pdf) -

In order to ensure the highest standards of service quality in the MA Provider Contract, the Provider shall take a similarly positive approach to fair work practices when performing its Services, as part of a fair and equitable employment and reward package and shall comply with all undertakings provided in the Provider's ITT response in relation to fair work practices (subject to any amendments agreed by the parties and reflected in the award letter and/or any formal variation).

2.8.3 Promotion of Fair Work Practices

The Provider shall take appropriate action when marketing its Modern Apprenticeship services to both employers and Participants, to promote the benefits of employers operating fair work practices. Best practice guidance is available at:

<http://www.gov.scot/Publications/2015/10/2086/0> (or such alternative website as SDS may advise from time to time). Providers are expected to include within this promotional activity, reference to any wage rates agreed by any relevant industry bodies (e.g. the arrangements referred to in

<http://www.sbatc.co.uk/documents.php>  
and <http://www.snijib.org/members/documents/SNIJIB2016.13Gradedrates> or  
such additional or alternative examples as we may advise from time to time).

## **C In Training**

### **3. In Training**

3.1. The Provider shall ensure that it at all times addresses the policies and actions required under this MA Provider Contract in relation to the following: -

- 3.1.1. Provider Controls and Assurance
- 3.1.2. Claims and Payments
- 3.1.3. Formal Quality Assessment Process

### **3.2. Provider Controls and Assurance**

3.2.1. The Provider shall at all times have in place controls to ensure that (a) the quality of services meets the needs of the Participants' employers and is developed in a way that provides each Participant with the support he/she needs to achieve their MA qualification, and (b) only valid claims against the contract are made. The Provider shall at all times maintain an accurate record of its controls in a format determined by SDS, and ensure that the Record of Provider Controls reflects at all times, any dispensations agreed by SDS in accordance with the Conditions. This 'Record of Provider Controls' document will record all controls operated by the Provider to ensure that quality processes and data security measures are effective, and only valid claims are made by the Provider under the MA Provider Contract. The Provider shall submit a copy of its completed Record of Provider Controls to SDS promptly on request. SDS shall be entitled at all times to assess the Provider's controls (during and after the period of the MA Provider Contract), (accessing the Provider's and any sub-contractor premises as deemed appropriate by SDS) and take such action as SDS deems appropriate to establish the extent to which the controls are (or were, as appropriate) operating satisfactorily. The Provider shall co-operate fully with SDS in each such assessment and/or action. Without prejudice to SDS' other rights and remedies, if required by SDS, the Provider shall prepare and implement an action/improvement plan(s) and/or Quality Action Plan to address areas for improvement recommended by SDS. SDS shall be entitled to require (without limitation) any such plan(s) to include actions to address any improvement SDS deems appropriate following any review by SDS of the Provider's controls.

3.2.2. The Provider shall within the Record of Provider Controls promptly (i) update any changes to quality processes, systems, organisation and staffing structure reasonably required to ensure that at all times only valid claims are made which comply with all the terms of the MA Provider Contract, and (ii) notify SDS of each such change in accordance with such instructions as SDS provides with the Record of Provider Controls.

3.2.3. The Provider shall complete a 'Provider Annual Certificate of Assurance'. This is a mandatory document (except as provided in paragraph 3.2.3A) and is attached as Appendix 10. This must be completed and signed by the Chief Executive/Contract Signatory or equivalent and be submitted to SDS by such date as SDS shall specify, to confirm that the Provider has fully complied since the commencement of the

MA Provider Contract with, and shall, for the duration of the MA Provider Contract (which shall include, for the avoidance of doubt, any applicable record retention period) fully comply with, (i) the Specification, the Conditions and the Provider's ITT Response (subject to any formally agreed variations) and (ii) the Record of Provider Controls in respect of that period (as may be amended in accordance with this paragraph 3.2). SDS shall not be required to recognise or pay claims in relation to any services that the Provider has performed under the MA Provider Contract, before the date when SDS receives the duly completed and executed certificate.

3.2.3A In the event that the Provider is no longer providing training or assessment services to Participants, and has no outstanding claims for payment under the terms of the MA Provider Contract, the Provider shall for the duration of the remaining retention period set out in the Records, Audit Access and General Assistance condition contained in the Conditions, require to complete such alternative Record of Provider Controls as determined by SDS.

3.2.4. In the event that: -

3.2.4.1. the Provider had an agreement with SDS to deliver MA Programme services (or equivalent) at any time during the period between 1 April 2018 and 31 March 2019 ("2018/19 Agreement"); and

3.2.4.2. SDS issued the Provider with an action/improvement plan in relation to the services to be performed by the Provider under the 2018/19 Agreement (which would include any action/improvement plan that may have been issued to the Provider by SDS before the 2018/19 Agreement, where such plan had not been updated or replaced under the 2018/19 Agreement) unless SDS advises the Provider otherwise in writing in the form of an email from the SDS assigned Skills Investment Advisor, each such action/improvement plan shall continue to apply to the Services to be provided by the Provider under the MA Provider Contract, subject to any amendments thereto as SDS may require.

### **3.3. Claims and Payments**

3.3.1. A Provider shall require to be a financially viable organisation and have robust financial systems in place throughout the duration of the MA Provider Contract. SDS reserves the right, at any time and as it may deem necessary to: -

3.3.1.1. require the Provider to provide such financial and/or other information, including the latest set of the Provider's audited accounts, to enable SDS to assess the Provider's continuing financial viability and its ability to continue to perform its obligations under the MA Provider Contract;

3.3.1.2. require any financial and/or other information provided by the Provider under the MA Provider Contract to be certified by an independent accountant;

3.3.1.3. obtain any industry recognised credit reports relating to the Provider to enable SDS to assess the Provider's continuing financial viability and its ability to continue to perform its obligations under the MA Provider Contract and/or

3.3.1.4. call for a report, by an independent accountant, on the financial systems and controls operated by the Provider in respect of monies received for the purposes of the MA Programme.

- 3.3.2. Provided always that the Provider has and continues to meet its obligations under the MA Provider Contract, and that the relevant Participant confirmation/validation referred to in paragraphs 2.3.3 and 3.2.10 (as applicable) of Part One of the Specification has been received by SDS, SDS will pay to the Provider, as and when required by, and in accordance with the terms of, the MA Provider Contract, such sums as are then due to the Provider according under the MA Provider Contract. All payments made under the MA Provider Contract are inclusive of any applicable VAT.
- 3.3.3. Without prejudice to SDS' other rights and remedies, where SDS finds overpayment has been made to the Provider under the MA Provider Contract or any other agreement between the Provider and SDS (whether expired or otherwise), SDS shall be entitled to deduct the amount of overpayment from the next payment claim, or if there are no further claims to be made, (or if otherwise requested by SDS), the Provider will make immediate repayment to SDS on demand.
- 3.3.4. Without prejudice to SDS' other rights and remedies, where the Provider has been requested to provide documentation in support of a claim for payment and has failed to provide it, SDS shall be entitled to permanently withhold payment of the claim (or such proportion not supported by satisfactory documentation) or where the claim has been paid by SDS, to demand immediate repayment of the claim (or such proportion not supported by satisfactory documentation) where upon the Provider shall immediately repay the amount demanded.
- 3.3.5. The Provider shall not be entitled to submit any Milestone claim until it has properly fulfilled all applicable Services relating to the Milestone and it is in possession of all the evidence specified in the Specification. All claims for payments must be submitted by the Provider through FIPS.
- 3.3.6. Providers are not permitted to make any charge of any nature to any Participant or proposed Participant, or former Participant, whether before, during or after participation in the MA programme, in respect of the MA programme. (For the avoidance of doubt, Providers shall not therefore charge any Participant any charge for, or costs or losses incurred as a result of, a Participant's early departure from their MA programme).
- 3.3.7. In the event that any Participant, who is a first time entrant, is disabled and/or care experienced (the criteria for which are set out in Appendix 13 to this Specification), and the Participant agrees to complete and sign the statement set out in Appendix 13 confirming which of the applicable criteria apply, the Provider shall be eligible to receive enhanced funding, as set out in the Appendix 13, to the extent such enhanced funding is available. To claim such enhanced funding for any Participant, the Provider shall require to obtain the duly completed and signed statement, in the form of Appendix 13, from the Participant prior to registering as a Start on FIPS. The Provider must upload the completed Appendix 13 to FIPS at the time of registering the Participant as a Start on FIPS. The completed and signed statement must be held by the Provider on file and retained for audit purposes. Completion of and signature to any such statement must be voluntary. The Provider shall not coerce or bribe any Participant into completing and/or signing any such statement. The funding is available across all MA frameworks. SDS reserves the right at any time during the period of the MA Provider Contract to withdraw the enhanced funding with effect from such date as SDS determines ('effective date'). Where the enhanced funding

rate is withdrawn:-

- 3.3.7.1. SDS shall email each Provider to advise of the withdrawal, and the effective date;
- 3.3.7.2. the rates of funding for all Starts registered on or after the effective date shall be the standard rates set out in the MA Contribution Table 2019-20 as published by SDS; and
- 3.3.7.3. for the avoidance of doubt, and subject to the Provider having complied fully with the provisions of this paragraph 3.3.7, the enhanced funding rate set out in Appendix 13 shall continue to apply for eligible Starts registered on FIPS prior to the effective date.

### 3.3.8. Signatures on Documentation

The Provider shall ensure that all systems and processes are robust with key controls in place to ensure that all signatures on documentation are genuine. Any irregularity in required signatures may be deemed a breach of the MA Provider Contract.

## 3.4 Formal Quality Assessment Process

- 3.4.1 The Quality Assurance and Improvement Framework sets out standards which are designed to help assess the extent to which Providers deliver quality services which are focused on the needs of the Participants and employers. The Provider is required to meet minimum standards and take action to achieve year on year improvements. A copy of the current SDS Quality Assurance and Improvement Framework is available on the SDS website <https://www.skillsdevelopmentscotland.co.uk/for-training-providers/quality-assurance-framework/> . The Quality Assurance and Improvement Framework may be amended from time to time by SDS. Any amended version shall be available on the SDS website.
- 3.4.2 The Provider shall submit to SDS no later than 30<sup>th</sup> April 2019, (or 30<sup>th</sup> June 2019 for Providers who have not contracted with SDS previously) a Self Assessment and Quality Action Plan for review and acceptance by SDS, the format of which shall be determined and made available by SDS, to evidence Provider achievement and planned improvement actions against the Quality Standards referred to within the Quality Assurance and Improvement Framework. Subject to any alternative arrangements which SDS may advise in writing, SDS staff shall periodically visit the Provider to review supporting evidence held by the Provider.
- 3.4.3 Except where otherwise confirmed by SDS under paragraph 3.4.2, SDS will use each of the Provider's Self Assessment(s) submitted by the Provider and additional appropriate evidence, to assess the Provider against each of the Quality Standards. SDS may examine a range of evidence as indicated within the SDS Quality Assurance and Improvement Framework. SDS will routinely monitor Providers on an ongoing basis in relation to the Quality Standards. SDS will also undertake formal reviews of Providers using a risk based approach. SDS may not formally review all Providers during the period of this MA Provider Contract. SDS will publish its findings on each such review, including its applicable grade for the review, on the SDS website. Where any Provider is subject to any alternative quality standard assessment process, for example, Education Scotland thematic reviews, the Provider shall be required to meet the requirements of that process.

- 3.4.3.1 Education Scotland publish a national report for each thematic review. Each Provider involved in the sample for the review receives a report for their centre to inform their own continuous improvement. SDS and Education Scotland have agreed that for future thematic reviews each Provider's report may be published in addition to the national report. All reports will be published on Education Scotland's website and SDS will also publish links to the reports on SDS website and apprenticeships.scot
- 3.4.4 Except where otherwise confirmed by SDS under paragraph 3.4.2, the Provider shall ensure that it keeps each Self Assessment and Quality Action Plan up to date at all times, and shall liaise with the SDS assigned Skills Investment Adviser on the progress of each Quality Action Plan. Any material changes to any Self Assessment or Quality Action Plan must be resubmitted immediately to SDS through the SDS Quality Management mailbox, details of which can be provided by SDS on request.
- 3.4.5 In the event that the Provider fails to meet the Quality Standards at any time (whether established through SDS's own examination, or through such alternative quality standard assessment), this shall be deemed a breach of the MA Provider Contract. This includes failure to submit a Self Assessment and quality action plan which is acceptable to SDS, or an Education Scotland Thematic review which has one or more grades at weak or unsatisfactory. In addition to SDS' other rights and remedies, Providers should be aware that performance against the Quality Standards pursuant to the MA Provider Contract may be included as a minimum requirement and/or evaluation criteria in future MA provider contracts.

### 3.5 Rural Uplift

- 3.5.1 The policy for additional, rural funding for 2019/20 will be applied to Participants where their main employment and normal working hours are based in the following areas: Argyll and Bute; the Isle of Arran, and the Orkney, Shetland, and Western Isles
- 3.5.2 For all other areas in Scotland, if the employer's postcode is classed as "Remote Rural" or "Remote Small Towns" in the Scottish Government's classification outlined above. Eligible postcodes: a postcode lookup can be found here - [https://sds.qualtrics.com/CP/File.php?F=F\\_eRIxdM6EZfgq4F7](https://sds.qualtrics.com/CP/File.php?F=F_eRIxdM6EZfgq4F7)
- 3.5.3 How will funding work for 2019/20

The funding model can only be claimed whilst the Participants are in training or when the apprenticeship certificate has been achieved. The funding is as follows:

- i. longer MA frameworks with between 12 and 16 milestones e.g. engineering and construction (including electrical and oil and gas frameworks) will attract a supplement of £1,000 paid as follows:
  - at the end, the Participant first year - £500
  - when claiming output based funding for the MA - £500
- ii. medium length frameworks with 6 to 11 milestones will attract £500 uplift paid as follows:
  - when claiming output based funding for the MA - £500
- iii. shorter length frameworks with 2 to 5 milestones will attract £250 uplift paid
  - when claiming output based funding for the MA - £250

The supplement will be additional to the contribution rate and will be claimed through FIPS.

### 3.5.4 Examples of Rural Uplift and When Claims will be Eligible to be made

Total No. of Milestones per Framework	Start Date of Apprentice	When Claim can be made	When claim can be made
16 milestones	During 2019/20	1 year from start date and only if Participant is still in training	when MA has been achieved
2-6 milestones	During 2019/20	n/a	when MA has been achieved

### 3.6 Travel and Subsistence Policy for Participants Resident in Specified Areas

3.6.1 For all Starts registered on FIPS from or after 1 April 2019, where a Participant, resident in the following areas: -

- 3.6.1.1 Isle of Arran;
- 3.6.1.2 The local authority area of Argyll and Bute;
- 3.6.1.3 The local authority area of Highland;
- 3.6.1.4 The local authority area of Moray;
- 3.6.1.5 The local authority area of Orkney;
- 3.6.1.6 The local authority area of Shetland; or
- 3.6.1.7 The local authority area of Western Isles (Eilean Siar);
- 3.6.1.8 Isle of Great Cumbrae
- 3.6.1.9 Isle of Little Cumbrae

is required as part of their MA Programme to attend structured and formal off the job training (which is not conducted by or on behalf of the Participant's employer or any Group Company of the employer) necessitating travel and/or overnight accommodation, then support is available in accordance with the process and policy set out in Appendix 9 to this Specification.

3.6.2 For all Participants registered previously as a Start on FIPS (i.e. prior to 1 April 2019), where such Participant is resident in specified local authority areas of SDS North Region (i.e. Argyll & Bute; Western Isles (Eilean Siar); Highland; Moray; Orkney and Shetland) and Isle of Arran and is required as part of their MA Programme to attend structured and formal off the job training (which is not conducted by or on behalf of the Participant's employer or any Group Company of the employer) necessitating travel and/or overnight accommodation, then support is available in accordance with the process and policy set out in Appendix 9 and 9a to this Specification.

### 3.7 Summary of Evidence Requirements

A summary of evidence requirements set out in this Specification is set out below.

Evidence requirements may include but are not limited to the following:

- each MA participant exists.
- the MA participant is eligible for the programme.
- the training being delivered is within the scope of the MA frameworks that have been awarded to you under your contract.
- the training is taking place, or has taken place.
- the outcomes achieved are correctly certificated by the relevant body.
- each of the Quality Standards has been and continues to be met.
- you have made appropriate progress in accordance with any action/improvement plan to address areas for improvement;
- If the Training Provider is notified by SDS (ESF Team) that any MA is being supported by ESF, the Training Provider will be required to provide additional documentary evidence of Proof of Address, Proof of Date of Birth, and proof of education level at entry to the MA programme. A full list of additional evidence can be found in the ESF List of Audit Evidence Requirements in Appendix 15 of this Specification.

Evidence may include but is not limited to the following:

- Participant declarations
- Initial Assessment
- Training agreement
- Individual Training Plan
- SMS and email validation
- Quarterly Progress Reviews
- Summary of Achievement Records
- Interview findings
- Participant portfolios
- Awarding Body certification
- External Verifier reports
- Evidence identified as part of the quality Self Assessment
- Evidence that underpins Provider Self Assessments and action plans

Providers must hold and make available for inspection at any time to SDS, (and/or SDS agents and auditors), the evidence set out in this Specification to demonstrate that all the requirements set out in the MA contract are met.

The purpose of the evidence is to provide the necessary assurance that Providers have delivered Services in accordance with all the terms of the MA Provider Contract,

SDS may also undertake independent investigations to verify the accuracy of evidence made available by the Provider, including contacting Participants and other third parties, and SDS may also ask the Provider for additional evidence to demonstrate that the Provider has fulfilled its obligations under the MA Provider Contract, where SDS considers this is appropriate.