

Employing an apprentice in England?

Please don't use your normal employment contract!

Failure to get your employment documentation correct can cause unnecessary complications if the relationship with your apprentice turns sour. It is imperative that you have the correct paperwork in place from the outset.

APPROVED APPRENTICESHIP AGREEMENTS

All employees have a day 1 right to a document setting out their basic terms of employment. An apprentice is considered to be an employee and, therefore, an employer is obliged to provide this information to them.

In addition, an employer of an apprentice under an approved English apprenticeship must also document specific details relating to the apprenticeship.

An [Approved Apprenticeship Agreement](#) should therefore cover **all** these details.

Assuming the correct contractual documentation is in place, then the usual employment laws and processes will apply when misconduct or performance issues arise.

WHAT ARE THE RISKS?

If an employer does not have the right contractual documentation in place (or the apprenticeship otherwise does not meet the relevant requirements), the apprentice will be deemed to be a 'common-law' apprentice. A common-law apprenticeship does not have the structure of an approved apprenticeship and provides enhanced protection for the apprentice.

In summary, **it is very difficult to terminate the contract of a common-law apprentice.**

In particular:

- A common-law apprentice's contract can only be terminated for misconduct where they have done something so bad they are deemed 'unteachable'. That's a tough thing to prove;
- Ordinary grounds for redundancy do not apply, and a common-law apprentice can only be made redundant where there is a complete closure of the site they work at, or the business itself;
- The losses a common-law apprentice can recover are substantial and can include loss of earnings for the remainder of the term of the full contract, as well as for loss of career prospects.

PORTER DODSON

In our experience, most employers are not aware of the special protection afforded to the common-law apprentice so, if this is you, you aren't alone. Employers usually come to us at the point they want to dismiss an apprentice and, in almost every case, we find that the employer did not provide the correct contractual documentation at the outset of the relationship, and are therefore placing themselves at risk.

For a fixed fee of £250+VAT, we will:

- Have a chat with you (up to 30 minutes) regarding your employment of apprentices.
- Provide you with a template Approved Apprenticeship Agreement.

Have you already got apprentices working for you and are now concerned that you don't have the right paperwork in place? **We can help with that too.**

CONTACT US TODAY TO ENSURE THAT YOU ARE PROTECTED



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