Learning & Skills Policy Update

October 2015

Introduction

This newsletter is intended to keep unions and other stakeholders abreast of policy developments in learning and skills, including providing updates on what the TUC and unionlearn are saying on specific policy issues.

If you have any suggestions about either the content or the design of the newsletter, please contact Iain Murray: imurray@tuc.org.uk. This newsletter and policy briefings providing more information on specific issues are available on the unionlearn and TUC websites.

Please note that the following acronyms are used in this newsletter for the main government organisations/agencies covering learning and skills: BIS (Department for Business, Innovation and Skills): DfE (Department for Education); UKCES (UK Commission for Employment and Skills); SSCs (Sector Skills Councils); and LEPs (Local Enterprise Partnerships).

Apprenticeship Levy

In the summer Budget the government made a major announcement about the funding of apprenticeships by saying it would be introducing a compulsory levy on large employers. The announcement said that the target of 3 million apprenticeship starts this Parliament "will require funding from employers [and] in recognition of this the government will introduce a levy on large UK employers to fund the new apprenticeships." The compulsory levy will apply to large employers in both the private and public sectors. The Budget indicated that a lot more detail on the operation of the new levy will be announced in the government's forthcoming Comprehensive Spending Review which will be published on 25 November.

The analysis in the Budget also highlighted that the levy would "reverse the long-term trend of employer underinvestment in training" during the past 20 years. For example, BIS calculates that there has been a steep decline in off-the-job training during this period, with the number of employees attending training courses away from the workplace declining from 141,000 in 1995 to 18,000 in 2014. This analysis is corroborated by a recent authoritative academic study estimating that the total volume of training provided by UK employers fell by around a half (-48%) between 1997 and 2012.

Both the TUC and unionlearn welcomed the apprenticeship levy announcement. The TUC General Secretary said: "The TUC has argued for decades for training levies and has consistently called on ministers to use levies to increase the number of apprenticeships in the UK. The government's target of creating three million apprenticeships is also a welcome move. But it will be important that investment in these new places does not come at the expense of wider further education services and that quality is given as much focus as quantity."

Writing in a blog, the Director of unionlearn reiterated the overriding concern about the quality issue, saying: "The big worry is quality. We need to ensure that the new hypothecated pot of apprenticeship money does not become a magnet for those aiming to make money by hitting the 3 million target for apprenticeships as quickly and cheaply as possible." He highlighted that another major priority is securing a major role for unions in the design and oversight of the levy system. In addition to articulating the voice of the workforce in delivery of the levy, unions will play a vital role in monitoring that the levy system provides many more high quality apprenticeships and that equality and diversity issues are given proper consideration.

BIS recently held a consultation on various features of the new levy system and the TUC submitted a response to this. However, it should be noted that this consultation did not address some key issues, including the technical definition of a "large employer" and the amount of the levy (i.e. the percentage of payroll that will be levied). A number of commentators have suggested that large employers are likely to be defined as those with more than 250 employees and that 0.5% of payroll is a typical levy charge used in many other countries. However, the government has not given any indication about its intentions on this front and is likely to announce its decision on these matters in the Spending Review.

In its submission the TUC did make the case for extending the scope of the levy to as many employers as possible on the grounds that this would lead to much greater uniformity across the new apprenticeship funding system. Furthermore, this would significantly increase the number of employers that would be given a strong financial incentive to recruit apprenticeships for the first time ever or to increase the number of apprentices that they currently recruit. Employers that are levied will only be able to make a return on their payment by accessing government subsidies for taking on apprentices. Whilst governance of the levy was also not covered in the consultation, the TUC highlighted the importance of giving unions a major role in governance at a national level and also through sectoral arrangements.

A major discussion point has been around the question in the consultation about whether a proportion of the funding raised through the apprenticeship levy should be used to support apprenticeship training by smaller employers that have not paid the levy. The TUC's view is that only employers who pay the levy should receive funding from the levy Apprenticeship fund. However, we also recognise that the levy arrangements should allow for larger employers to employ and train more apprentices than their business needs, especially to support smaller employers in their supply chain.

Under this system these apprentices could be seconded throughout the large employer's supply chain, picking up the skills which would ultimately benefit the host employer as well as benefitting the wider skills base of that industry/sector. However, under these arrangements the levy paying employer would remain the direct employer, including having responsibility for recruiting the apprentices, arranging their training and providing them with the same employee benefits as apprentices that are based with the large employer.

The TUC submission also highlighted a number of other key priorities, including the importance of robust quality assurance processes involving a key role for trade unions. The TUC submission emphasises that it is imperative that levy funding should only be used to deliver high quality Apprenticeships. Establishing a quality end to end model for apprenticeship delivery which gives young people fair pay, security and transferable skills will be a priority for the TUC going forward.

There will be a need to give serious consideration to a number of safeguards when introducing the levy system, For example, whilst the TUC strongly supports the introduction of an employer funded levy system, there is a risk that existing wider workplace training budgets could be reduced as employers seek to control their training expenditure.

There is also a concern that the apprenticeship framework tariffs/costs could be set lower than the current amount that some employers spend on apprenticeships. This would be done to encourage employers to take on a greater number of apprentices to get value for their money. For example, an employer who already delivers high value, high quality apprenticeship programmes may be paying up to £50, 000 on the cost of training for one apprentice. If the levy system caps expenditure for that particular type of apprenticeship at £25,000 this would encourage these employers to offer more, lower quality apprenticeships.

There must be mechanisms and safeguards monitored at a sectoral level to ensure that industries and apprentices can continue to receive high quality apprenticeships. The emphasis must be on quality over quantity.

After discussions with public sector unions, unionlearn is also concerned about the detrimental impact that the levy could have on public services budgets. For example, the FE sector has already been subjected to major cuts in recent years. Many providers might fall within the scope of the levy and taking on further apprentices may affect their ability to deliver learning and skills opportunities to wider communities.

Unionlearn will be working with affiliates to develop alternative proposals which would not further reduce budgets for public services such as education and health, but would continue to open up Apprenticeship opportunities in the public sector.

Preventing misuse of "Apprenticeship" term

The TUC also submitted a response to another government consultation on apprenticeships that was issued in July. This consultation took forward the plan to use the forthcoming Enterprise Bill to legally protect the term "apprenticeship" and to give the government the "power to take action when the term is misused to promote low quality courses." The government has acknowledged that their 3 million apprenticeships target may increase the risk that a small number of training providers could use the term 'apprenticeship' to refer to a course of learning which does not meet specified quality measures. As a result employers, parents and prospective apprentices could therefore be misled into thinking they were being offered a high quality government funded apprenticeship when this is not the case.

At present there is nothing to stop misuse from occurring as the terms "apprenticeship" and "apprentice" have not been protected in legislation. The proposals in the consultation document recommended action to change this by making it illegal to use these terms for courses that do not meet the criteria of a government funded apprenticeship. As a result any training provider misusing these terms could face the possibility of a fine and prosecution in a Magistrates Court. However, the consultation proposed that this new measure would not be imposed on employers who are fully funding their own apprenticeships and therefore not drawing down any government subsidy via the Skills Funding Agency (or through levy arrangements in the future).

The TUC response welcomed the proposal to make it a criminal offence to deliver poor quality training under the Apprenticeship brand. This should go some way to deterring unscrupulous providers from setting up poor quality training programmes, which in turn will eliminate some of the poor quality Apprenticeship provision. However, the submission emphasised that this should be part of a much wider programme of initiatives and enforcement aimed at improving the quality of Apprenticeships. The TUC disagreed that employers who fully fund their own apprenticeships should be outside the scope of the offence on the grounds that poor quality training badged as an "Apprenticeship" risks tarnishing the wider brand of Apprenticeships, regardless of who is responsible for funding the provision. The government response to the consultation has confirmed that it will proceed with its plan as set out in the original consultation document.

Recruitment of apprenticeships in the public sector

Another key element of the government's approach to reaching its 3 million apprenticeships target involves public sector bodies being given targets for their contribution to this. This was initially set out in a BIS press release published in June which including a statement from the Skills Minister, as follows: "We want far more employers to get involved in apprenticeships. This means making sure that we practise what we preach in government, so we're going to require all public sector bodies – schools, hospitals, prisons and police forces – to employ apprentices."

There then followed the government announcement in the July Budget about the Apprenticeship levy which confirmed that the new levy will also apply to large employers in the public sector. This will necessitate many large employers (e.g. NHS Trusts, local authorities etc.) having to look at recruiting many more apprentices in order to make a return on the financial investment that they will be obliged to make through their levy payments.

The third element of the government's policy approach on widening recruitment of apprentices in the public sector involves new public procurement regulations for private sector companies that win major government contracts. A recent BIS press release confirmed that since 1 September 2015 it has now been a requirement to take a company's apprenticeship offer into account when awarding large government contracts. These new regulations apply to central government departments, their Executive Agencies and any Non Departmental Public Bodies awarding contracts in excess of £10 million.

The press release said the following: "From 1 September 2015, all bids for government contracts worth more than £10 million must demonstrate a clear commitment to apprenticeships. In particular, employers' bids will be reviewed in line with best practice for the number of apprentices that they expect to support. The move is aimed at widening the scope of businesses offering apprenticeships, and with more than £50 billion a year spent on government procurement contracts, will provide a significant boost in apprenticeship numbers."

The BIS press release also highlighted that the Crown Commercial Service would be publishing more detail on these changes to government procurement practices. The guidance from the Crown Commercial Service is now available in a briefing note. This says that as "as an example of good practice, and depending on the size of the contract and the market, we would expect contractors to aim for 3-5% of the workforce to be apprentices, sponsored students and/or on graduate programmes, with a focus on apprentices. 5% would represent a gold standard (which is equivalent to the industry-led "5% Club")." The 5% Club is a business-led network of employers who commit to getting at least 5% of their workforce on apprenticeship and training schemes within 5 years.

At the same time as the government announced these significant changes to procurement policy, it also highlighted a new ambition to create 30,000 apprenticeships in the road and rail industry during this Parliament. A BIS press release said that the Secretary of State for Transport had appointed Terry Morgan, Chairman of Crossrail and the forthcoming National College for High Speed Rail, to "develop a transport and infrastructure skills strategy to help the transport industry ensure a continuous pipeline of skilled workers." This strategy will set out how government and industry will:

- deliver on its ambition for 30,000 apprenticeships in roads and rail over the 5 years to 2020, working together with supply chain partners
- ensure the right mix of apprenticeships are on offer, including many at higher levels with training in new technologies
- explore upskilling the existing workforce to meet new challenges
- encourage greater diversity in the workforce, including attracting more women into engineering
- develop a co-ordinated national network of transport infrastructure skills colleges to train the transport workers of the future

The press release also highlighted that this skill strategy for transport will sit alongside the government's National Infrastructure Plan for Skills.

Local Area Reviews

In July the government published a policy statement – "Reviewing Post-16 Education and Training Institutions" – setting out its approach to facilitating a restructuring of the further education sector through a series of area based reviews of provision. These reviews were a policy commitment in the government's Productivity Plan ("Fixing the Foundations") which stated that "the government wants strong local areas and employers to take a leading role in establishing a post-16 skills system that is responsive to local economic priorities."

The first three area reviews - Birmingham and Solihull, Greater Manchester and Sheffield City Region - took place in September. Another three have since been announced: Tees Valley, Sussex Coast and Solent. Further area reviews are due to be announced shortly. More detail on implementation of the reviews can be found on the gov.uk website.

According to government guidance, each review will start by assessing the economic and educational needs of the area, and the implications for post-16 education and training provision, including school sixth forms, sixth form colleges, further education colleges and independent providers. The reviews will then focus on the current structure of further education and sixth form colleges, although there will be opportunities for other institutions (including schools and independent providers) to opt in to this stage of the analysis. Regional School Commissioners will consider the implications of the first stage of the analysis for school sixth form provision.

The reviews are to be led by steering groups consisting of chairs of governors, Local Enterprise Partnerships (LEPs) and local authorities, FE and Sixth Form College Commissioners and Regional Schools Commissioners. The government says that the approach is "designed achieve a transition towards fewer, larger, more resilient and efficient providers, and more effective collaboration across institution types". It also says that a critical aspect will be to "create greater specialisation, with the establishment of institutions that are genuine centres of expertise, able to support sustained progression in professional and technical disciplines, alongside excellence in other fundamental areas – such as English and maths." According to the government this "will ensure that we have the right capacity to provide good education and training for our young people across England, and will include the creation of a new network of prestigious Institutes of Technology, and National Colleges to deliver high standard provision at levels 3, 4 and 5."