

PROCEDURE FOR SUSPENDING AN APPRENTICE / TRAINEE



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INTRODUCTION

The **Procedures for Suspending an Apprentice** document outlines the framework for managing apprentice or trainee suspensions in accordance with the **Fair Work Act 2009**, state-based training requirements, and the **National Standards for Group Training Organisations**. It aims to provide a structured, transparent, and fair process to address situations where suspension is warranted due to lack of work, serious allegations, or other circumstances affecting the continuity of employment or training.

This document ensures that apprentices/trainees, Host Businesses, and Apprenticeships Are Us Ltd (ARU) understand their roles, rights, and obligations throughout the suspension process. The procedures emphasize the importance of maintaining procedural fairness, safeguarding apprentice/trainee rights, and minimizing disruptions to training wherever possible.

By adhering to these procedures, ARU commits to fostering a supportive and compliant environment that upholds the integrity of apprenticeship and traineeship programs while addressing operational challenges professionally and equitably.

LEGAL AND REGULATORY COMPLIANCE

This document adheres to the following legal and regulatory frameworks:

- **Fair Work Act 2009.** Governing employment relationships and providing procedural fairness in disciplinary and suspension processes.
- **National Standards for Group Training Organisations (GTOs).** Ensuring compliance with standards relating to apprentice/trainee engagement, training, and Host Business relationships.
- **State and Territory Training Legislation.** Providing jurisdiction-specific guidelines for managing training contracts.

All suspension decisions and actions will be taken in accordance with these frameworks to ensure fairness and legal compliance.

DEFINITIONS

This section provides clarity on key terms used in this document:

- **Suspension.** A temporary halt to the apprentice/trainee's work or training contract under defined conditions.
- **Host Business.** The organisation responsible for providing on-the-job training to the apprentice/trainee.
- **Apprentice/Trainee.** An individual undertaking training under a formal training contract.
- **Training Services.** The relevant state authority overseeing apprenticeships and traineeships.

PROCEDURE

Apprenticeships Are Us Ltd reserves the right to suspend an apprentice/trainee where circumstances warrant such action, provided the decision aligns with the **Fair Work Act 2009** and the **National Standards for Group Training Organisations**. This includes ensuring procedural fairness and protecting the apprentice/trainee's rights throughout the suspension process.

Internal apprentice/trainee suspension is generally for a period of four weeks but may be extended or reduced. If suspension period goes beyond four weeks period, then formal suspension application form must be completed by Apprentice Employment Manager. A suspension application form could be found in the relevant states and/or territories of the Commonwealth of Australia websites. Signed copies must also be kept by the parties.

Similarly, the apprentice/trainee cannot simply cease work without the consent of their employer.

A cooling-off period of seven days applies, as outlined by the **Fair Work Act 2009**, during which either party may withdraw consent to the suspension of the training contract. During this time, the apprentice/trainee must be provided with written notice of their rights and responsibilities, ensuring their understanding of the process. Any withdrawal must be communicated in writing and acknowledged by all parties involved. The cooling-off period commences on the day on which the application for suspension is lodged with State Training Services. If either party does not agree to the proposed suspension, or if consent is withdrawn within the cooling-off period, State Training Services must be contacted immediately.

Any request to suspend a training contract should be undertaken in conjunction with ARU's nominated Australian Apprenticeships Centre (AAC), as changes may impact on eligibility for incentives from the Australian Government. The request needs to be made in writing and signed by all parties. The AAC will then forward the request to State Training Services.

LACK OF WORK

When a suspension is necessary due to a lack of work, the following conditions will apply to ensure fairness and compliance with applicable regulations:

1. Efforts to Identify an Alternative Host Business

Both Apprenticeships Are Us Ltd and the apprentice/trainee will actively seek an alternative Host Business willing to take on the apprentice/trainee for the duration of their training contract.

2. Contractual Transition

If an alternative Host Business is identified but requires the existing training contract to be cancelled before taking on the apprentice/trainee, all parties must mutually agree to the cancellation in writing. This ensures a clear and professional transition process.

3. Continued Training Opportunities

During the suspension period, Apprenticeships Are Us Ltd will facilitate the continuation of the apprentice/trainee's formal training with the Registered Training Organisation (RTO), where feasible, to minimize disruption to their apprenticeship or traineeship progression.

4. Resumption of Work with Original Employer

If work becomes available with the original Host Business, they must notify the apprentice/trainee immediately and invite them to resume work. The employer is also required to inform Training Services NSW of the revised return-to-work date without delay.

5. Suspension Conditions

In situations where suspension is deemed necessary pending the resolution of an incident, it must be substantiated by the seriousness or nature of the matter. During such suspension:

- The apprentice/trainee may continue to receive pay unless delays occur due to their refusal to engage in the disciplinary process.
- Any suspension period must be documented and communicated clearly to all parties.
- Suspension without pay can only be considered in exceptional circumstances and must comply with the **Fair Work Act 2009** and any applicable state-specific legislation. Circumstances where suspension without pay may apply include:
 - Removal from an environment where misconduct is alleged to have occurred, provided safety

concerns are present.

- Facilitation of a thorough investigation of serious allegations that cannot be conducted while the apprentice/trainee remains active in the workplace.
- Temporary cessation of duties due to safety breaches, pending resolution.

In all instances, the suspension period must be reasonable, justified, and documented, and the apprentice/trainee must be given the opportunity to respond prior to implementation.

SUPPORT FOR APPRENTICES/TRAINEES

During a suspension, Apprenticeships Are Us Ltd will provide the following support to apprentices/trainees:

- **Counselling Services.** Access to mental health and career counselling.
- **Training Continuity.** Coordination with the RTO to continue formal training during the suspension period.
- **Employment Assistance.** Support in finding alternative Host Business when necessary.

These measures aim to minimize disruption to the apprentice/trainee's career progression and well-being.

SUSPENSION REVIEW PROCESS

All suspensions will be subject to regular review to ensure they remain justified and proportional:

1. **Initial Review.** Conducted within two weeks of the suspension start date.
2. **Ongoing Reviews.** Conducted at monthly intervals for extended suspensions.
3. **Criteria:**
 - New work availability with the current or alternative Host Business.
 - Completion of investigations related to the suspension.
 - Feedback from the apprentice/trainee.

RECORD-KEEPING AND DOCUMENTATION

Accurate records of suspension decisions must be maintained, including:

- The reasons for suspension.
- Correspondence with all relevant parties.
- Dates of review meetings and outcomes.
- Final resolutions.

All records must comply with ARU's confidentiality and privacy policies.

SUSPENSION STEPS

When considering the suspension of an apprentice/trainee, Apprenticeships Are Us Ltd.'s representative must

ensure the following procedural steps are followed, in compliance with the **National Standards for Registered GTOs**:

1. **Notification.** Provide the apprentice/trainee with written notice outlining the reasons for the suspension, including specific allegations if applicable.
2. **Opportunity to Respond.** Allow the apprentice/trainee to provide a formal response, either in writing or in a meeting, before a decision is made.
3. **Documentation.** Maintain a comprehensive record of all communications, including who was present, what was discussed, and any correspondence.
4. **Support.** Inform the apprentice/trainee of their right to seek advice or representation, including from a union or support service.
5. **Outcome.** Communicate the final decision in writing, ensuring clarity on the suspension's duration, conditions, and any next steps, such as alternative training or reassignment.

COMMUNICATION GUIDELINES

Clear communication is critical in managing apprentice/trainee suspensions. The following guidelines must be followed:

1. **Notification:**
 - All suspension decisions must be communicated in writing.
 - Notices should include the reasons for suspension, duration, and any next steps.
2. **Parties to Notify:**
 - The apprentice/trainee
 - Host Business
 - Relevant state training authorities.

PROCEDURE FOLLOWING A SUSPENSION DECISION

If, after considering the apprentice/trainee's explanation or comments, the decision is made to suspend them, Apprenticeships Are Us Ltd.'s representative will take the following steps:

1. WRITTEN NOTIFICATION

Provide the apprentice/trainee with a formal written notice outlining the allegations, the reasons for the suspension, and the proposed suspension period.

2. REPORTING DURING SUSPENSION

Clearly state that the apprentice/trainee should not report to their current Host Business until requested to do so but must remain available for communication or further instructions.

3. REPRESENTATION AND SUPPORT

Notify the apprentice/trainee's representative (where relevant) about the suspension and ensure they are available

to provide advice or support during the process.

4. RECORD-KEEPING

Maintain detailed records of all related communications and actions. This includes documenting:

- Individuals present during discussions.
- Key points raised and decisions made.
- Dates, times, and locations of meetings.
- Copies of correspondence or other relevant materials.

5. ALTERNATIVE SOLUTIONS

Before initiating a suspension, ARU will explore alternative solutions, including:

- **Reassignment.** Transferring the apprentice/trainee to a new Host Business.
- **Temporary Adjustment.** Modifying duties to accommodate business conditions.
- **Unpaid Leave.** Offering voluntary unpaid leave (with consent).

GRIEVANCE AND DISPUTE RESOLUTION

If an apprentice/trainee disputes a suspension decision, they may:

1. Submit a grievance through ARU's internal complaint process.
2. Request mediation with the assistance of an external authority, such as the Fair Work Commission.
3. Appeal the decision if procedural fairness is found to be lacking.

ARU is committed to resolving disputes fairly and promptly.

OFFICIAL NOTIFICATION FOR EXTENDED SUSPENSIONS

If the suspension exceeds two weeks, Apprenticeships Are Us Ltd will process an official suspension notification with the relevant state department.

TERMINATION OF APPRENTICESHIP

If the suspension exceeds a specified duration (*e.g., X months*), and the following conditions apply, Apprenticeships Are Us Ltd may consider terminating the apprenticeship:

- Reasonable efforts to contact the apprentice/trainee over 14 days have been unsuccessful.
- A suitable placement with another Host Business cannot be secured.
- The apprentice/trainee opts not to continue due to medical conditions or personal circumstances.

RESIGNATION RESTRICTIONS

Apprentices/trainees are reminded that they cannot unilaterally resign or leave their apprenticeship/traineeship without the employer's consent, as per their training contract obligations.

COMPLIANCE WITH FAIR WORK ACT

All decisions and actions under this policy must adhere to the principles of procedural fairness, as mandated by the Fair Work Act 2009. This includes:

- Ensuring decisions are made free from bias.
- Providing the apprentice/trainee with a clear understanding of the reasons for suspension.
- Allowing sufficient time for the apprentice/trainee to respond to allegations or concerns.
- Applying suspension measures proportionally and for a reasonable duration.
- Non-compliance with these principles may result in disputes under the Fair Work Commission.

FREQUENTLY ASKED QUESTIONS (FAQS)

- **Q.** Can I appeal a suspension decision?
A. Yes, through ARU's grievance and dispute resolution process.
- **Q.** What happens to my training during suspension?
A. ARU will work with the RTO to ensure your training continues wherever possible.
- **Q.** Will I receive pay during suspension?
A. Pay conditions will depend on the circumstances of the suspension and compliance with relevant laws.

AUTHORISATION

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Apprenticeships Are Us Limited

DOCUMENT CONTROL

Version	Authorised by	Authorisation Date	Sections	Amendment
1.1			All	N/A
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1.3	M. Wentworth	10/12/2024	All	Cover page, information update