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Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation – summary of response

## Draft EOTAS Framework for Action

Improving outcomes for learners accessing education otherwise than at  
school provision

Date of issue: December 2017

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

## Draft EOTAS Framework for Action

<b>Audience</b>	Staff and teachers in charge of pupil referral units; staff working in wider forms of education otherwise than at school (EOTAS) provision; headteachers; private and third-sector EOTAS providers; local authorities.
<b>Overview</b>	This consultation sought views on the proposals contained within the draft <i>Education otherwise than at school (EOTAS) Framework for Action</i> .
<b>Action required</b>	None.
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<b>Additional copies</b>	This document can be accessed from the Welsh Government's website at <a href="http://gov.wales/consultations">gov.wales/consultations</a>
<b>Related documents</b>	<i>Evaluation of education provision for children and young people educated outside the school setting – Final report (2013)</i> <i>Education other than at school: a good practice survey (Estyn, 2015)</i> <i>Education other than at school (Estyn, 2016)</i> <i>The Annual Report of Her Majesty's Chief Inspector of Education and Training in Wales 2013–2014 (Estyn, 2015)</i> <i>The Right to Learn – Supporting children and young people at pupil referral units to reach their potential (The Children's Commissioner for Wales, 2014)</i> <i>Exclusions from schools and pupil referral units (2015)</i> <i>Successful Futures – Independent Review of Curriculum and Assessment Arrangements in Wales (2015)</i> <i>National model for regional working (2015)</i>

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## **Introduction**

The Education Otherwise than at School (EOTAS) Task and Finish Group, chaired by former Estyn Chief Inspector Ann Keane, was tasked with developing a series of practical solutions to the issues regarding EOTAS provision raised in successive reports by the University of Edinburgh, Children's Commissioner for Wales and Estyn.

The EOTAS Task and Finish Group finalised its EOTAS Framework for Action in March 2017, which was submitted for the Cabinet Secretary for Education's consideration. The Cabinet Secretary for Education accepted the EOTAS Framework for Action's 34 proposals subject to consultation. The consultation ran from 5 June – 31 July 2017 and was supported by two consultation events. This document provides a summary of the responses received to the specific questions asked and outlines the proposed way forward.

## Summary of responses

The consultation received 46 responses. A list of respondents is included at annex 1.

### Question 1

**Do you agree with the proposed introduction of local authority EOTAS panels to oversee and monitor placements in EOTAS provision?**

Yes	No	Not sure	No comment	Total
37	1	7	1	46
80.4%	2.2%	15.2%	2.2%	100%

The majority of responses welcomed the proposal to introduce EOTAS panels as it was generally accepted that the robustness of the referral process and the oversight of placements could be improved. In the main, respondents also agreed that Welsh Government guidance on the establishment and operation of panels would help provide clarity of purpose and consistency of approach, particularly where learners move between different provisions and/or across LA borders.

However, questions were raised in some responses regarding accountability and challenge. For example, what authority would EOTAS panels have to refuse or redirect a referral request? Equally, what appeal option would a school have if a request was refused? The Welsh Government was also asked to give further consideration to how proposals can be linked to existing requirements and practices so as to avoid adding unnecessary layers of bureaucracy for both professionals and vulnerable learners.

Many of the consultation responses made suggestions regarding the constitution and remit of EOTAS panels; all of these responses recognised that the panel should be multi-agency and take the full range of a learner's needs and circumstances into consideration when reviewing a referral to determine the most appropriate support that can be offered.

### Welsh Government response

The Welsh Government recognises that further work is needed to develop the finer detail of the policy on establishing referral panels. The EOTAS Delivery Group, chaired by Professor Brett Pugh, has been established to implement the final EOTAS Framework for Action while considering the findings of this consultation. The recommendations regarding the constitution, terms of reference, and remit have been collated alongside the comments received during the two consultative events and will be used to inform policy development during the staged implementation of the Framework for Action.

### Question 2

**Do you agree with the proposals to expand the learning, development and support services to management committee members?**

Yes	No	Not sure	No comment	Total
35	2	8	1	46
76%	4.4%	7.4%	2.2%	100%

The majority of respondents agreed that learning, development and support services should be extended to management committee members. This agreement was based on the expectation that the expansion of learning & development and support services will help ensure robust challenge and support to management committees. Respondents also believed that the expansion of services would help to clarify the roles and responsibilities of management committees and help to raise their status which could encourage a broader membership.

Opinion was divided regarding who should maintain responsibility for providing support to management committee members; local authorities or regional consortia. Some respondents thought that local authorities should be responsible for supporting management committees as they are also responsible for providing support services to school governing bodies and so should already be available with issues arising in the day-to-day governance of education services. Other respondents felt that it would be more appropriate for regional consortia to manage the support services offered to management committees. Those respondents believed that regional consortia working would help enable the development of networks within the EOTAS sector which could encourage collaborative working and the sharing of best practice. Given the comparatively low number of PRU management committees across Wales, regional consortia support could offer economies of scale for support services and learning and development programmes.

Other feedback received during the consultation focussed on what training and development and support materials should be made available to management committees. These suggestions included that management committee members should spend some time shadowing teachers-in-charge and other PRU staff to help develop an understanding of the daily challenges and rewards of working with vulnerable learners.

### Welsh Government response

The Welsh Government agrees that a handbook for management committees would help clarify roles and responsibilities for management committee members, and has commissioned Governors Wales to develop a handbook; similar to that currently available to school governing body members. We anticipate this handbook would be available to management committees in early 2018.

In addition to commissioning a handbook, a sub-group of the EOTAS Delivery Group has been established to consider the learning, development and support that should be made available to management committees. The sub-group will consider the responses of the consultation in view of the implementation of this key action and will continue to work directly with stakeholders in LAs, regional consortia and PRUs to identify the most appropriate delivery of support services and a learning and development programme.

### Question 3

**Do you agree with the proposed establishment of local authority commissioning frameworks to ensure the quality and suitability of EOTAS services being accessed?**

Yes	No	Not sure	No comment	Total
36	2	7	1	46
78.2%	4.4%	15.2%	2.2%	100%

The majority of respondents agreed with the introduction of commissioning frameworks and in general agreed that commissioning frameworks would help provide clarity, consistency and transparency.

Respondents also felt that minimum requirements for private or third-sector services wishing to provide services to a school or local authority should be set out in Welsh Government guidance. The production of Welsh Government guidance on minimum requirements was thought to provide a standardised process and set of expectations for local authorities and schools seeking to commission services. The guidance document would also provide consistency for private and third-sector organisations looking to engage across several local authority areas.

As with the second question posed in this consultation, respondents were divided over who should take responsibility for maintaining the commissioning framework and the associated database of 'approved' providers. Some respondents believed that local authorities should be responsible for the commissioning framework as they are already responsible for the provision of EOTAS under section 19 of the Education Act 1996. Other respondents made a case for regional consortia to manage the commissioning framework. As some local authorities have limited EOTAS services available in their area, and therefore commission cross-border services, some responses recognised that having a regional commissioning framework could provide greater opportunities for delivering enrichment activities and the new curriculum.

### **Welsh Government response**

The Welsh Government accepts that in order to provide a standardised process and consistency in expectations, national guidance setting out minimum requirements should be introduced by the Welsh Government.

As with other questions posed in this consultation, a number of respondents submitted suggestions for requirements that could feature in the commissioning framework, which will be collated and will help inform the development of guidance.

Within the responses a number of comments were made regarding wider considerations, particularly around how changes to EOTAS commissioning could affect the 14-19 Learning Pathways and what the implications are for the funding of placements and distribution of the Pupil Development Grant (PDG). As minimum requirements and processes have yet to be developed, it is difficult to anticipate how the commissioning framework could affect access to 14-19 Learning Pathways or funding arrangements. This will be reviewed as EOTAS processes are developed. However the wider implications will be taken into consideration and stakeholders will be given the opportunity to comment further on the practical implementation of commissioning frameworks.

### **Question 4**

**Do you agree with the proposed standardisation or registration and data collection policies and procedures?**

<b>Yes</b>	<b>No</b>	<b>Not sure</b>	<b>No comment</b>	<b>Total</b>
31	1	11	3	46
67.4%	2.2%	23.9%	6.5%	100%

Although the majority of respondents agreed that a standardised registration and data collection procedure should be introduced; a considerable number of respondents were not sure.

Concerns were raised in a number of responses that it was difficult to judge whether or not standardised registration and data collection procedures should be introduced, while a number of the performance indicators were considered by the sector as inappropriate or not reflective of the work undertaken by EOTAS services.

Those respondents that did agree that a standardised registration and data collection process should be introduced welcomed the clarity that a national policy would bring. Respondents also believed that introducing a national policy regarding the registration of EOTAS learners, irrespective of what the policy would entail in practice, would be welcome as it would go some way to discouraging data manipulation, which was cited as an issue in a number of local authority responses.

Some responses sought clarification of plans to use the data that is collected. Concerns were raised regarding the drawing of comparisons between PRU/EOTAS learners and those being educated in mainstream schools; which respondents felt would be unfair due to the different starting points of these learners. Clarification was also sought with respect to accountability: who would own the data? While some respondents were unclear on the link between accountability for data and learner outcomes, others felt that ensuring mainstream schools retained responsibility for data would encourage a 'vested interest' in the learner and would improve outcomes.

Wider considerations, raised in some consultation responses, for the Welsh Government was asked to consider relate to funding arrangements, the new Estyn Inspection Framework and clarifying the definition of EOTAS.

### **Welsh Government response**

As set out in the draft Framework for Action, the EOTAS Task and Finish Group was unable to consider amendments to the key performance indicators such as level 1 and level 2 inclusive, as the implications of changes were much wider than the EOTAS sector. These changes would need to be considered against the whole of the compulsory education sector to avoid any further isolation of the EOTAS sector. The EOTAS Delivery Group has begun feeding into these wider discussions.

During its early discussions, the EOTAS Task and Finish Group identified the need for an analysis of current LA registration practices to be carried out. This analysis has been completed and will be made available on the Welsh Government's website in early 2018. The results of the analysis will be used with the results of this consultation to develop a national policy for the registration of EOTAS learners.

In determining what the national policy will entail, the EOTAS Delivery Group will consider all intended consequences and strive to identify potential unintended consequences. This will include alignment with the Estyn inspection framework and implications for funding of placements and the division of PDG entitlement.

The narrative included at the beginning of the draft Framework for Action sought to provide clarity regarding the Welsh Government's position in respect of what constitutes 'EOTAS' provision and the confusion brought about by using different terminology such as

‘alternative provision’ or ‘alternative curriculum’ which has no basis in Welsh law. The Welsh Government will endeavour to provide further clarification, so far as is possible, in further guidance.

## Question 5

**Do you agree with the proposed removal of ‘blanket’ curriculum disapplication in EOTAS, including PRU, provision?**

Yes	No	Not sure	No comment	Total
26	7	12	1	46
56.6%	15.2%	26%	2.2%	100%

Although the majority of respondents agreed that the ability to ‘blanket’ dis-apply the curriculum should be removed, this was by far the narrowest margin of agreement. However, for some respondents there appeared to be some confusion regarding what the practical implications of the proposal were likely to be. As such, some of the narrative comments provided by respondents did not support their initial answer.

Nearly all of the affirmative responses cited the need for tailored provision, based on the needs of the individual learner. One response argued that the ‘blanket’ disapplication should remain and the curriculum be reapplied on a learner by learner basis. Many also welcomed the proposal as being reflective of the United Nations Convention on the Rights of the Child by promoting access to suitable education for all learners.

Some respondents agreed that the creativity and differentiated learning approach being built into educational reforms would have the flexibility needed to be delivered via PRU and other EOTAS settings. However, some respondents didn’t feel they knew enough about curriculum reform to be able to give a properly informed response; those respondents suggested that a communication network for curriculum reform, including PRU/EOTAS providers, should be established.

Respondents who disagreed with this proposal did so based on considerations of teacher workload and the implications for delivery. Specific concerns were raised regarding the capacity of PRU and other EOTAS staff and the need for support to be put in place by the Welsh Government to ‘up-skill’ staff. Clarification was also requested on plans for smaller centres to deliver the curriculum, particularly those operating in rural areas.

The responses also contained suggestions for how this proposal could be implemented. Some respondents suggested that the Welsh Government issue guidance advising on the process for dis-applying the curriculum and the criteria that should be considered. A process for monitoring the dis-application was also suggested, as any disapplication should be considered a short term measure, which raised the question of who would oversee the disapplication process. One respondent believed that the regional consortia should have the oversight for these decisions.

### Welsh Government response

For clarification purposes; the Welsh Government has not consulted on removing the ability to dis-apply the curriculum for individual learners. The proposal seeks to remove the ability to place a ‘blanket’ disapplication to an entire setting. The Welsh Government believes that the learner should be at the heart of the decision making process; ‘blanket’ disapplication

does not allow for proper consideration of the learner's needs, choice and ability to be factored into decisions regarding their education.

The Welsh Government does not propose that PRUs and other EOTAS providers should be expected to deliver the reformed curriculum in isolation. The Welsh Government recognises that many providers will be too small to provide the curriculum, which is one of the underlying reasons behind strengthening partnership working and collaborative networks, as set out in the narrative section of the draft framework.

The Welsh Government agrees that strengthening the communications network for PRUs and other EOTAS providers is required and is currently exploring options for supporting the sharing of information and best practice between PRUs and other EOTAS providers, mainstream and special schools. These options include the extension of the Hwb service to EOTAS providers (it is already available to PRUs).

The Welsh Government also agrees that guidance on the disapplication process would provide consistency of approach and clarity of expectations. The removal of the ability to 'blanket' dis-apply the curriculum will require a change in the law and so could not happen immediately; in the interim the Welsh Government will seek to provide additional guidance on expectations for curriculum access in PRUs and other EOTAS provision.

The reform of the curriculum is not happening in a vacuum, work to prepare teachers and school staff to deliver a reformed curriculum is being developed. In implementing the EOTAS Framework for Action, the EOTAS Delivery Group will ensure that PRU and other EOTAS staff are included in these preparations.

## **Question 6**

**We would like to know your views on the effects that the EOTAS Framework for Action would have on the Welsh language, specifically on:**

- **Opportunities for people to use Welsh language; and,**
- **Treating the Welsh language no less favourably than the English language.**

**What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

Many of the respondents reported that they were unable to imagine how the EOTAS Framework for Action would have any impact on the use of the Welsh language. However, some respondents identified individual proposals within the Framework for Action as having indirect consequences for the use of the Welsh language. For example, guidance on the disapplication of the curriculum and commissioning frameworks will help to clarify the Welsh Government's expectations for the provision of Welsh-medium EOTAS services, which may have been perceived as being exempt from requirements.

Concerns were raised regarding the shortage of Welsh language staff being recruited into PRUs and other EOTAS services; one response suggested that the regulations relating to initial teacher training (ITET) should be reviewed to allow for ITET to take place in PRUs.

The Children's Commissioner for Wales' consultation response highlighted comparisons between PRU and other EOTAS provision and special schools in Wales and urged the

EOTAS Delivery Group to consider the findings of the joint Children's Commissioner for Wales and Welsh Language Commissioner's project regarding the availability of Welsh-medium provision for children with ALN.

### **Welsh Government response**

The introduction of EOTAS panels and guidance which clarifies our expectations will help ensure the learner's needs, choices and abilities take priority in the decision making process. This will include consideration of the learner's language preferences.

The Welsh Government recognises the complexity of ensuring specialist provision is available in both Welsh and English-medium; particularly in respect of workforce availability. Strengthening the partnership working and collaborative networks between PRUs and other EOTAS, mainstream schools and special schools will provide greater opportunities for delivering Welsh, as both a first and second language and encourage more teachers with Welsh language abilities to consider working with these vulnerable and complex learners.

In respect of the suggestion regarding the review of ITET regulations, PRUs are currently prohibited from offering placements to those undertaking ITET as they are not currently required to deliver the full curriculum. Until such time as the blanket disapplication of the curriculum is removed, PRUs will remain prohibited from providing ITET placements. However, the Welsh Government will explore options for removing these restrictions.

### **Question 7**

**Please also explain how you believe the EOTAS Framework for Action could be formulated or changed so as to have:**

- **Positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language; and,**
- **No adverse effects on opportunities for people to use the Welsh language no less favourably than the English language.**

A couple of the responses received could not identify any positive impact on opportunities to use the Welsh language; and some of the concerns raised in response to question 6 were reiterated here. Specifically, the availability of Welsh language EOTAS provision and the capacity of EOTAS staff to deliver Welsh-medium education.

The majority of the positive impacts identified under question 7 were also reiterated from question 6.

In particular, the commissioning framework and EOTAS panels were identified as having the potential to positively impact on Welsh language use, through better identification of demand, through EOTAS panels, informing the commissioning of new provision.

### **Welsh Government response**

The EOTAS Framework for Action provides a strategic overview of proposed changes. The detail of these individual changes will be developed by the EOTAS Delivery Group using the results of this consultation and feedback from consultative events. Maximising the impact of

these proposals on opportunities to use the Welsh language will be an issue the EOTAS Delivery Group will consider.

## **Question 8**

**We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please take this opportunity to let us know.**

This section of the consultation gave respondents the opportunity to make any additional comments. The most frequently occurring comments related to the role of regional consortia.

The comments received regarding regional consortia were mixed. Some respondents welcomed any involvement of the regional consortia, particularly in respect of accessing professional development. However, other respondents were less keen for regional consortia to become involved, as local authorities have the legal responsibility for the provision of EOTAS services, and it was argued that, at present, regional consortia do not have the expertise needed to work with EOTAS providers.

Comments were also received regarding the need for the Welsh Government to offer a national approach to certain proposals, such as registration of EOTAS learners, to ensure consistency across Wales. Several respondents also called for further clarification regarding the definition of EOTAS services. Collectively, many of the remaining comments can be classified as a desire for greater parity between EOTAS services and mainstream schools over a range of subjects. These subjects include access to continued professional development, financial implications and the inclusion of PRU/EOTAS staff in preparations for curriculum reform.

Some concerns were raised regarding what considerations the EOTAS Task and Finish Group had given to learners with ALN, learners who are looked after children (LAC), and the role of pupil voice, and why these considerations had not been made explicit in the Framework for Action.

Finally, a few comments were received regarding the registration status of private and third sector providers and whether Welsh Government registration requirements, similar to the independent school registration system, should be established.

## **Welsh Government response**

In respect of the comments regarding the involvement of regional consortia, the local authority remains responsible for the provision of EOTAS services. However, the Welsh Government is exploring options to encourage collaborative networks to help ensure the dissemination of good practice, the delivery of a reformed curriculum and enhance development opportunities, and regional working does form part of these considerations.

The Welsh Government recognises the need to provide greater strategic direction in respect of EOTAS provision and this is reflected throughout the Framework for Action where guidance or national policy has been proposed. There will be occasions where a national policy or process would be inappropriate, i.e. where the demographics and geography of an LA area will have a significant impact on the action being undertaken.

In respect of comments that have collectively been considered as ‘increasing parity’, and those which requested greater clarification of what constitutes an EOTAS service, no comments were made under question 8 that had not been made elsewhere in the consultation and have therefore been responded to throughout this document. The proposals contained within the Framework for Action have not been developed in a vacuum and the EOTAS Delivery Group will be working to ensure that the needs of EOTAS learners and staff are appropriately reflected in wider educational reforms.

Welsh Government statistics currently show that over 80% of learners accessing EOTAS provision have some identified form of special educational need (either as School Action, School Action Plus or as requiring a Statement). The needs of these learners therefore played an intrinsic part of the EOTAS Task and Finish Group’s considerations (the constitution of the Group included a Headteacher of a Special School). Although the narrative of the Framework for Action document does not contain explicit references to learners with ALN, the needs of these vulnerable learners are implicit throughout. The EOTAS Delivery Group will be working closely with the Welsh Government’s ALN Transformation Team to ensure proposals are implemented in a manner complementary to provisions contained in the ALN Bill.

The EOTAS Framework for Action provides the strategic overview of the changes proposed to improve outcomes for learners and the experiences of EOTAS staff. Many of these changes focus on the organisation of EOTAS services and improved accountability. As such, it would not have been appropriate to seek the views of EOTAS learners on what should be considered corporate or administrative changes. However, as the in-depth policy develops, the EOTAS Delivery Group will seek to engage with learners where appropriate, for example, the EOTAS panels and disapplication of the curriculum, to ensure that the voice of the pupil is considered at a national level now and at a local level in the future.

One of the comments received via this question referenced the ‘disproportionate’ number of learners who are LAC accessing EOTAS services. The cohort of learners was not specifically considered during the development of the Framework for Action. There is insufficient evidence available to justify the assertion that this group of learners is disproportionately represented. However, the development of multi-agency EOTAS panels and clear commissioning frameworks will help ensure that the appropriate support for learners in difficult circumstances, including those who are LAC, is available throughout PRU and wider EOTAS provision.

The registration requirements for independent schools are currently set out in the Education Acts 1996 and 2002. It is an offence to operate an unregistered independent school and so any private or third-sector EOTAS provider must be mindful of these criteria, and seek advice from the Welsh Government if they believe they may be met. Local authorities and mainstream schools should work closely with any provider from whom they seek to commission EOTAS services, to ensure that their involvement does not cause the organisation to meet the criteria for registration, or where criteria is met, the necessary registration has taken place.

The Welsh Government does not have any immediate plans to introduce a registration system for private and third sector EOTAS providers over and above the requirements currently set out for independent schools. As well as helping to ensure that learners are accessing safe, secure and appropriate provision, the proposed commissioning frameworks will help identify what provision currently exists in Wales. Once a clearer map of private and

third-sector services is available, the Welsh Government will consider whether a new registration requirement is appropriate.

## **Annex: List of respondents**

1. Afasic Cymru
2. NASUWT
3. Children's Commissioner for Wales
4. ASCL Cymru
5. NAHT
6. Estyn
7. UCAC
8. Swansea PRU
9. Vale of Glamorgan LA
10. Caerphilly LA
11. ATL Cymru
12. WLGA
13. Catholic Education Service
14. EHE parent
15. Governors Wales
16. Bridgend LA
17. Snap Cymru
18. Education Workforce Council
19. Anonymous
20. Anonymous
21. Pennaeth Yr Hafan a Swyddog Addysg Mon
22. Anonymous
23. Anonymous
24. Anonymous
25. Anonymous
26. Anonymous
27. SIS Cymru
28. Rhyl High School
29. Anonymous
30. Anonymous
31. Anonymous
32. New Directions
33. Anonymous
34. Anonymous
35. Anonymous
36. Anonymous
37. Carmarthenshire County Council
38. Anonymous
39. Anonymous
40. Individual, Supply Teacher
41. Independent
42. Anonymous
43. Anonymous
44. Cyngor Gwynedd ac Ynys Mon
45. Anonymous
46. Anonymous