



Review of Local Authority Commissioning Arrangements for Education Otherwise than at School Provision

Executive Summary

Introduction

OB3 Research was appointed by the Welsh Government to undertake a review of approaches used by local authorities (LAs) and schools when commissioning education otherwise than at school (EOTAS) and school commissioned education provision. The specific objectives were to:

- identify and analyse existing models and processes adopted across all LAs when commissioning EOTAS provision
- analyse quality assurance processes used by organisations when commissioning such provision
- analyse quality assurance processes used by schools when commissioning external education provision
- identify the perceived strengths and weaknesses of the commissioning practices and processes adopted
- identify the merits and drawbacks of current processes in place across Wales
- make recommendations for future commissioning guidance.

EOTAS is education provided by the LA to meet the needs of pupils who, for whatever reason, cannot attend a maintained school. It plays a crucial role in affording some of the most vulnerable young people access to learning in a range of settings including, but not limited to, pupil referral units (PRUs), further education institutions (FEIs), independent schools and third sector organisations. These options can also be combined with part-time education at a mainstream school 'as part of a package of measures designed to provide

suitable education'¹. It is notable, however, that a 2018 analysis of pupil registration practices found that the 'current definition of EOTAS was open to subjective interpretation'².

Successive studies have shown there are variations in terms of the availability, nature and quality of EOTAS provision from one LA area to another³ which indicate a need for national government to 'take a stronger role by establishing national policies and procedures'⁴. Whilst the Welsh Government considers 'the organisation of EOTAS to be a local matter'⁵, it intends to develop guidance to help LAs and schools strengthen arrangements for commissioning external EOTAS to ensure due diligence is undertaken regarding safeguarding and to assure the appropriateness and quality of the setting and education.

Method

The review was undertaken between March and July 2019 and involved:

- an inception stage, which included an inception meeting with Welsh Government officials and preparing a refined methodological approach and project plan
- desk based research, which involved an analysis of relevant policy and regulatory documents relating to EOTAS, including Welsh Government publications; an analysis of published data relevant to EOTAS; and a brief review of commissioning and monitoring guidance relating to school commissioned provision in England
- preparing five qualitative discussion guides to interview key stakeholders and representatives from LAs, PRUs, schools and external EOTAS providers
- undertaking interviews with three key stakeholder organisations⁶
- undertaking interviews with representatives responsible for EOTAS provision across all 22 LAs⁷
- undertaking interviews with representatives responsible for PRU provision within 13 LAs, typically the teacher in charge

¹ [Section 4 \(2\) Education Act 1996](#)

² Welsh Government (2018) [An Analysis of Local Authority Referral Panels and/or Practices for Learners. Accessing EOTAS Provision](#), p.16.

³ Welsh Government (2013) [Evaluation of Education Provision for Children and Young People Educated Outside the School Setting](#).

⁴ Welsh Government (2019) [Education otherwise than at school \(EOTAS\) Framework for Action](#), p.5.

⁵ Ibid, p.5.

⁶ Estyn, Children's Commissioner for Wales and the Welsh Independent Schools Council.

⁷ One interview was undertaken with a representative responsible for EOTAS in both Gwynedd and Anglesey.

- gathering information from stakeholders, LAs and PRUs on schools involved in commissioning or using provision, as well as EOTAS providers who could be approached to contribute to the review. In all, details were supplied for 48 schools and 35 EOTAS providers
- undertaking interviews with representatives from 17 EOTAS providers and 12 schools who are involved in commissioning or using provision
- synthesising the findings of the fieldwork and preparing a report to provide an assessment of the effectiveness of existing commissioning practices and highlight commonalities and divergences in approaches.

Key Findings

In terms of the legal and regulatory context, the review found that:

- LAs are required to ‘make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them’⁸. LAs also have the power (but not the duty) to provide suitable EOTAS for ‘young persons who...may not receive suitable education unless such arrangements are made’⁹
- beyond what is set out in legislation, there is no clear, commonly understood definition of EOTAS. It can, however, be provided in a range of settings including PRUs, FEIs, independent schools and other settings such as third or private sector providers
- there is no consistent interpretation of what is meant by ‘EOTAS’ or ‘alternative provision’, despite these terms being defined within legislation and Welsh Government guidance. There is a need to improve awareness and understanding of current legislation and guidance relating to this area of work as a priority
- there is very limited robust literature on recognised and effective external education provision commissioning practice in order to inform the development of guidance in Wales. The findings of the review of England-based school commissioned provision by Ofsted,¹⁰ which offers an insight into the strengths and weaknesses of current practice, have been considered in developing our recommendations for future commissioning guidance in Wales.

⁸ Education Act 1996 19 (1).

⁹ Education Act 1996 19 (4).

¹⁰ Ofsted (2016) [Alternative provision: The findings from Ofsted's three-year survey of schools' use of off-site alternative provision](#).

In terms of the number of pupils in Wales who are educated other than at school, the review found that:

- the EOTAS census conducted annually every January reported there were 2,286 pupils in January 2019¹¹ in Wales who received education outside of school funded by Welsh LAs. Of these, 1,784 received their main education other than at school whilst the remaining 502 pupils received their main education in a maintained school¹²
- there has been a notable decline in the proportion of EOTAS pupils not on a school roll and a growth in those with subsidiary enrolment between January 2012 and 2019
- PRUs account for the largest proportion of EOTAS pupils, at 43.5 per cent with independent schools the second most used provision, at 14.3 per cent in January 2019
- the average number of hours of education provided to pupils whose main education is outside of school is 21 hours, although this varies by the type of educational setting used.

In terms of LA commissioning arrangements, the review found that:

- arrangements vary from one LA to another. In all, 13 LAs commission EOTAS provision from external providers. Vocational provision accounts for most of this. In all but two LA areas, PRU provision is provided
- seven LAs operate a framework of approved EOTAS providers secured via an open competitive commissioning process. A further two operate either a framework or list of providers via a non-competitive route, whereby quality assurance checks are undertaken by the LA. Arrangements in the remaining LAs where provision is commissioned from external providers are less transparent
- LAs which use a competitively procured framework of providers appear to have rigorous processes in place to assess the suitability of commissioned providers by taking into account organisational policies and practices. Approaches could be improved by placing a greater emphasis on the quality of teaching, pupil progress and ability to accommodate learners whose preference is to learn in Welsh in the future
- EOTAS funding approaches vary from one LA to the other, particularly in terms of financial claw-back arrangements from schools, with funding drawn from various sources, including from PRU and school budgets.

¹¹ [Based on information gathered during a census week between 14th and 18th January 2018.](#)

¹² Welsh Government Statistical First Release [Pupils education other than at school, 2018/19.](#)

In terms of PRU and school commissioned provision, the review found that:

- PRUs and schools regularly commission external education provision. Arrangements for doing so were found to be fairly informal at the school level with a high degree of reliance upon word of mouth and using providers previously used by schools
- 16 LAs reported that schools commission external education provision. In two areas, the LA was not aware that schools commission provision, despite this review identifying such instances
- in all, 9 of the 12 schools interviewed commission external education provision directly. The nature of provision varies as does the number of pupils attending each setting.

In terms of placing pupils within EOTAS, the review found that:

- schools play a significant role in informing LAs of pupils who may require EOTAS. There is widespread use of referral panels and referral forms to aid this process and there is scope to increase the consistency of the information requested within the referral process. LAs would welcome guidance around an appropriate pupil referral 'threshold' which could be shared with schools
- the review found that the needs of, and educational outcomes for pupils, are usually identified at the point of making an EOTAS referral. Processes could be improved by ensuring that education outcomes are agreed in writing at the referral stage
- there is a growing trend to explore LA direct delivery solutions for pupils for whom a PRU would not be suitable. The fieldwork also found instances of schools taking positive, preventative action to better meet the needs of pupils who possibly would otherwise have been referred to EOTAS provision.

In terms of monitoring and managing commissioned provision the review found that:

- most LAs have either contracts or service level agreements (SLA) in place with external providers. Several LAs thought they could be more proactively involved in monitoring provision, particularly in terms of monitoring the quality of provision and the extent to which provision is meeting learner needs
- there are significant differences in the approaches and effort deployed to monitor and manage LA commissioned provision and this is an area which future guidance should prioritise
- schools make limited use of contracts or SLAs when commissioning education provision and their monitoring arrangements are mostly informal. PRUs on the

other hand were found to take a bespoke approach to putting external provision in place for pupils and adopt a very hands-on role to monitor it. It would be beneficial for schools to replicate these effective practices.

The review concludes that there is a need for the Welsh Government to develop detailed guidance which covers the commissioning and management of all forms of externally delivered provision including that which is commissioned in line with Section 19 of the Education Act and the provisions within the Education Act 2002. The review also concludes that the Welsh Government should consider that:

- the practice of school's adopting a more inclusive approach to meet the needs of pupils who would otherwise be referred to EOTAS is not encouraged in any way via the current Welsh Government's performance monitoring of schools in terms of KS4 achievements
- there is a need to offer greater standardisation and guidance around the registration status of EOTAS pupils and pupils who attend education provision outside of mainstream school organised and/or delivered by schools
- the guidance should set out expectations in relation to the reintegration of pupils into mainstream education
- the guidance should set out the minimum data and reporting which external providers could be expected to share with LAs, PRUs and schools.

Recommendations

The review offers nine recommendations for the Welsh Government to adopt within its commissioning guidance:

General approach	
1.	We recommend that the guidance clearly sets out to reinforce current legislation and guidance in relation to what is LA commissioned EOTAS and alternative provision as well as school commissioned education provision, in order to improve understanding amongst practitioners.
2.	We recommend that the guidance be applicable to the commissioning and management of all external education provision undertaken by LAs, schools or PRUs across Wales.

Setting out the rights of the pupil

3. The guidance should set out the rights of the pupil and what they can expect to experience during the referral process and what to expect when accessing EOTAS or external education provision. This could be set out in a user-friendly guide for young people.

Planning and referring into external education provision

4. We recommend that the guidance sets out:
 - an approach and suggested timeframe that LAs, in collaboration with schools, PRUs and providers, should adopt to review and identify EOTAS supply and demand within their area on a regular basis
 - the information which would be expected to be included within referral forms used by schools when referring pupils for EOTAS provision. Referral forms should, at the minimum, set out the expected graduated response that schools would be expected to make prior to referring a pupil to EOTAS and suggest a suitable threshold at which schools should be referring pupils for EOTAS provision
 - the need for LAs to use referral panels in relation to EOTAS. Guidance could helpfully set out the terms of reference and expected membership for referral panels. The guidance could also outline how referral panels could support the objective of pupil reintegration back into mainstream education, where appropriate. Schools should be included as members of referral panels.

Commissioning external education provision

5. We recommend that the guidance sets out a detailed quality assurance checklist for those who commission EOTAS or external education provision to assess the suitability of external providers, which includes:
 - checking the registration status of providers and ensuring that any education provision which contravenes the regulations about registration should not be used
 - an appropriate list of organisational policies and practices which providers would be expected to have in place. We suggest that these include pupil behaviour policies, curriculum plans, pupil safeguarding arrangements, anti-bullying policy, health and safety policy, quality of accommodation and qualifications and experiences of staff
 - an appropriate assessment on the quality of teaching offered by the provider
 - written information about social networking and the use of social media

- written information about the commissioner’s expectations for child protection which should be followed if providers have concerns about a pupil
- written information about how the commissioner should be informed of pupil attendance and procedures for addressing any absence.

Monitoring and quality assuring provision

6. We recommend that the guidance sets out what is required of commissioning bodies in terms of actions to monitor and quality assure any external education provision. In particular, we recommend that:
- the guidance could helpfully set out a checklist which LAs, schools or PRUs could use to monitor any externally commissioned provision. We would recommend that the checklist considers pupil progress and achievements, the quality of provision, the leadership and management arrangements put in place by providers, as well as provider staff development and training
 - those commissioning education provision should be encouraged to systematically evaluate the quality of teaching and learning provided to pupils
 - those commissioning education provision should assess the impact of teaching and learning upon pupils’ progress towards the qualifications they are studying.

Expectations of commissioning bodies

7. We recommend that the guidance sets out the responsibilities expected of LAs, schools and PRUs when commissioning education provision. We expect that these should cover:
- the steps which they are expected to take to ensure that pupil welfare in terms of safeguarding as well as health and safety is in place
 - pupil level information which the school or PRU should share with the provider prior to the placement commencing
 - the nature of communication which the LA, school or PRU should convey to the pupil and parent/carer during the process of referral and the placement itself
 - written information required in relation to placement objectives, educational outcomes and (where appropriate) formal qualification targets for the pupil
 - what is required in terms of monitoring pupil progress against the objectives agreed
 - what is expected of the commissioning body in terms of monitoring visits, including how regular it should visit the provider to review the placement

- plans for monitoring attendance and arrangements for addressing any period of absence
- transport arrangements for the pupil to attend the placement
- plans for ensuring the pupil remains a member of the school community
- plans for reintegrating a pupil back into school, should it be appropriate to do so
- the steps expected of the school and PRU to review the outcomes being achieved by the pupil and the quality of external provision accessed
- the requirement for schools and PRUs to accurately report upon those pupils who access external education provision.

Expectations of external providers

8. We recommend that the guidance sets out the responsibilities expected of external providers. We would expect these to cover:
- how they comply with legislation and whether they are defined and registered as an independent school
 - what policies and procedures they would be expected to have in place to ensure that pupil welfare, education and safety is maintained
 - what is expected of them in terms of their contact and communication with both the commissioning body and the parent/carer of the pupil
 - by when they would be expected to conduct an initial assessment of the education needs of the pupil and what this assessment should involve
 - what is expected of them in terms of notifying the commissioning body about pupil attendance and absence: a review of other guidance suggests that this would be twice daily
 - what reporting of pupil progress to the commissioning body would be expected of them and the regularity of this: we would expect this to cover pupil engagement, attendance, behaviour and educational progress and achievement.

Expectations of LAs

9. We recommend that the guidance sets out what is expected of the LA in terms of supporting school commissioned provision. We recommend that LAs should:
- develop and share a quality assured directory or framework of providers from which schools can commission provision
 - have a written policy to support schools commissioning external education provision

- undertake an annual audit to monitor whether schools commission external education provision or not and report to the Welsh Government the number of schools commissioning provision, the pupils accessing such provision and the nature of the provision being accessed.

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Views expressed in this report are those of the researchers and not necessarily those of the Welsh Government

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