

## Scope of the Inquiry

The Children, young people and education committee will consider:

- Reasons for and support available for children and young people at risk of EOTAS, including through their exclusion from mainstream provision
- How effectively parents are engaged and supported throughout the EOTAS process
- The variation in rates of EOTAS for children and young people with characteristics (such as learners with special educational needs or who are eligible for free school meals) and the consequences of this
- The levels of financial support available to support EOTAS and children and young people at risk of becoming EOTAS and whether this represents value for money
- Responsibility and accountability for the education of pupils who become EOTAS
- Attainment of children and young people EOTAS
- Outcomes and wellbeing of children and young people EOTAS
- The quality of support provided to children and young people in the range of EOTAS provision
- Professional development support for Pupil Referral Unit staff, including those who provide home tuition.
- The potential risks for children and young people EOTAS such as increased barriers to accessing mental health support, increased risk of involvement with crime and the criminal justice system such as 'county lines'.

- Other issues closely linked to EOTAS, for example managed moves, and the ‘off-rolling’ of pupils

The Committee’s inquiry will include individual home tuition but will not focus on the separate issue of elective home education.

## **Introduction**

1. The YJB welcomes the opportunity to provide comment and respond to the Children, Young People and Education Committees’ Inquiry into Education Otherwise Than at School (EOTAS) provision including Pupil Referral Units. This response does not seek to give an opinion on each of the questions posed, but rather to address those areas which the expertise of the YJB can contribute to and are pertinent to children in, or at risk of entering, the youth justice system specifically.

## **Youth Justice Board (YJB) Vision**

2. A youth justice system that sees children as children, treats them fairly and helps them to build on their strengths so they can make a constructive contribution to society. This will prevent offending and create safer communities with fewer victims.

## **Who we are**

3. The YJB is an independent public body with responsibility for monitoring the youth justice system in England and Wales. Our statutory responsibilities along with the expertise of our Board enable us to set standards for, and monitor the operation of, the youth justice system. Our work with the youth justice sector gives us an operational focus, which allows us to inform national policy and maintain a focus on the continuous performance improvement of youth justice services. We gather information and assess the effectiveness of the system and form an expert view of how the system can prevent offending and deliver the best outcomes for children who offend and for victims of crime. We advise ministers at the UK Parliament and Welsh Government and those working in youth justice services about how well the system is operating, and how improvements can be made. We share best practice; support information sharing and listen to what children say about the youth justice system and related services.

4. The YJB is the only official body to have oversight of the whole youth justice system and so is uniquely placed to guide and advise on the provision of youth justice services. The YJB team in Wales (YJB Cymru) has oversight of the system in Wales where youth justice is delivered through collaboration between devolved and non-devolved services. There are 17 Youth Offending Teams in Wales, they are multi-agency partnerships made up of police, probation, education, health, housing and social services.
5. Our Board have established the Youth Justice System Aims which are not only for the YJB to work towards but for the youth justice community. They are:
  - Reduce the number of children in the youth justice system
  - Reduce reoffending by children in the youth justice system
  - Improve the safety and well-being of children in the youth justice system
  - Improve outcomes for children in the youth justice system

### **Our Child First Principle and Children' Rights**

6. The "child first" principle is at the centre of all YJB's work.
7. In Wales, YJB Cymru recognises all our work relates to children's rights in some way and we place a strong focus on children's rights in alignment with the Rights of Children and Young Persons (Wales) Measure 2011. Article 28 - children have a right to education. Article 29 - education must promote a child's rights and help them to develop their skills and talents to the full.
8. The YJB believes, in line with Article 12 of the UNCRC, that all children in the youth justice system should have the opportunity to get involved in decisions about their care and supervision; access to the services they need; and a say in how those services work.
9. Approaches to preventing crime and addressing the needs and concerns of victims are more likely to be effective if they are informed by and co-designed with children. Engaging with and listening to children is essential in achieving these aims and should be at the heart of service design and delivery.
10. To achieve this in Wales, YJB Cymru has worked closely with officials from Welsh Government, the Children's Commissioner for Wales and all other relevant services to consult with children on matters that affect them.

## YJB Cymru Response

11. Justice services in Wales comprise a range of local, regional and national agencies working together. While the UK Government retains responsibility for justice and policing, most services related to the wellbeing and resilience of children and women in Wales have been devolved to the Welsh Government. This has implications for practice in the community but also service delivery in both the adult and youth secure estate.
12. Children in the youth justice system are often disengaged or excluded from mainstream services including education and are among the most vulnerable in our society. They may be regarded as at high-risk to themselves or others and they often face significant barriers to fulfilling their potential which stem from childhood adversity and the nature of their offending behaviour. Children in contact with the youth justice system are more likely to have mental health conditions, cognitive disabilities, problematic drug or alcohol use and a background of emotional trauma and Adverse Childhood Experiences (ACEs). It is vital health, education, social care and other services work together to ensure children's needs are met and they are given the right help and support to stop offending.
13. Public Health Wales research has highlighted the increased likelihood of future health harming behaviours and victimisation resulting from experiences of adversity in childhood. Through understanding the impact of ACEs, it is known there is an increased likelihood of becoming a victim, becoming violent, becoming involved in hard drugs and excess alcohol and ending up in prison. The prevalence of ACEs is "significantly higher in children who are at risk of entering, or in, the youth justice system".
14. Understanding the contributing factors to a child's readiness to engage in learning is vital. The behaviour displayed is often a reflection of having under developed or maladaptive coping mechanisms and not being able to articulate what is going on for them. This can be misinterpreted as bad behaviour and can result in exclusion. Children who display disruptive and challenging behaviour will have a range of needs, including emotional and mental health, that require help and support. Most children do not require specialist intervention from CAMHS but when they do they should be able to access it in a timely and responsive way. Schools should be better equipped to promote emotional and mental wellness and be able to identify and support children in times of distress.

15. There is a significant risk of compounding the vulnerability of children if they are excluded from the mainstream school system. Being educated other than at school (EOTAS) or excluded from school increases the chances of children becoming involved with the youth justice system. They are at increased risk of exploitation through their vulnerable status e.g. from county lines (which involves drug trafficking) child criminal exploitation, child sexual exploitation and modern human slavery.
16. The YJB is therefore very concerned with the dramatic increase in the level of permanent school exclusions in recent years, moving from a rate of 0.2 per 1,000 pupils in 2014/15 to 0.4 per 1,000 pupils in 2017/18. While the rate per 1,000 pupils may seem small, it represents a 100% increase in a single year. Given the potential adverse impact exclusion can have on the life of the child, this is unacceptable. During the same period, exclusions of 5 days or less have also increased by 17%. Fixed term exclusions of more than 5 days have reduced by 10% since 2016/17 but they remain at the same level as 2014/15. It is worth noting the rate of permanent exclusions in England is much lower than in Wales 0.2 per 1,000 compared to 0.4 per 1,000.
17. The YJB is also concerned about the issue of off-rolling. Pupil Live Annual School Census (PLASC) data indicates a growing trend of children starting but not finishing secondary school. The latest PLASC data shows there were 30,535 pupils age 15 (year 11) on census day in 2019. PLASC data for 2016 shows there were 31,628 pupils age 12 (year 8) on census day in 2016. More than 1,000 children have fallen off the school roll as they moved from year 8 to 11.
18. The latest Welsh Government annual report on pupils who are EOTAS indicates the rate of pupils receiving their main EOTAS increased in 2017/18 over the year to, 3.4 per 1,000 pupils; the highest rate since 2009/10. It states, nearly 6 out of every 1,000 children in Wales is effectively home schooled.
19. The YJB has read the Samaritans Cymru report “Exclusion from School in Wales - The Hidden Cost”. The data in the report on children who have experienced custody states:

**“Based on surveys during six inspections by the HM Chief Inspector of Prisons for England and Wales in 2017/18, 89% of children reported exclusion from school before they came into detention,**

**74% reported previous truancy, and 41% said they were 14 or younger when they last attended school”.**

20. In 2012, YJB examined cases in Wales from the cohort of children with the highest reoffending rates. It painted a picture of a group of children who faced significant barriers due to childhood adversity. The majority had been disengaged from education from an early age and 81% did not have any form of qualification at the age of 18.
21. The YJB believes all children have a right to engage in learning in a way that takes account of their development and individual needs. They deserve excellent quality education whatever part of the education system they are in there is a clear need for schools in Wales to do more to reduce the rate of exclusion and the detrimental impact on the child. Children are often failed by a system which is not creative in its methods to engage them, promotes their best interests and does not consider the risks to a child's safety by removing them from main stream school.
22. Children who are excluded from mainstream education are often thought of as unmanageable and challenging. The YJB recognises the difficulties for staff in having to respond to these behaviours without having received effective training or guidance in ACE's and trauma. We recommend all staff in schools receive appropriate training in identifying childhood adversity and trauma to increase the capability for providing holistic support to these children.
23. The YJB recommends those with responsibility in schools who have children disengaged and or disappearing from school ask questions about what is happening rather than excluding or expelling them. School inspections have a role to play in this. The new Youth Work Strategy for Wales 2019 sets out a vision for youth work delivery in Wales that is rights based. Youth work is part of the education family in Wales and works directly in school settings as well as in the community. For many children the trusted relationship they have with their youth worker is important as they undergo challenges in their lives. Youth work can often be overlooked and schools and other settings should recognise youth work as a delivery partner.
24. The YJB believes schools should be asked to provide detailed data on the reason for and the contributing factors to school exclusions for all children including those who have additional learning needs and care experienced children. Having to provide published data would incentivise main stream

schools to provided adequate provision to support these children within their establishments.

25. Schools are driven by league tables, inspections and exam results and children who are challenging can affect these factors. This in turn influences the decisions made by headteachers to exclude pupils, making them more vulnerable to those who want to use and exploit them for criminal gain. Mainstream schools should not be hasty in their decision making to remove a child from school and should ensure inclusivity and appropriate support for pupils, parents and carers and staff at all stages before excluding.
26. Information and advice should be easily and readily available to children and their parents and carers if there are difficulties in maintaining mainstream education. Children in these circumstances could be facing isolation, be threatened with exclusion either informally or formally which can lead to related vulnerability issues.
27. EOTAS is not given the same public profile as mainstream education and is thought of as provision for children seen to be unmanageable and challenging. The YJB recognises, not all children EOTAS display challenging behaviours that result in exclusion. Alternative provision is also provided to meet the needs of children presenting with complex needs and vulnerabilities. We recognise some children can benefit from EOTAS but we have concerns they are negatively “labelled”. The narrative surrounding pupils who are EOTAS should be changed to one that promotes a “child first” approach and highlights the barriers the children who are EOTAS face in fulfilling their potential which stem from childhood adversity.
28. When recruiting staff to work in EOTAS, quality of staff is essential to ensure children are not disadvantaged and they are supported appropriately to develop their skills. There should be parity in the level of investment and focus on enhancing the training and development of staff so they are better equipped and have the confidence to help children overcome adversity and reach their potential. Staff should have continued professional development to make sure children EOTAS are entitled to the same experiences and quality of provision as children attending mainstream school.
29. Education, training and employment are vital elements in rehabilitation and resettlement. Estyn recently published its thematic report on the quality of education and training for children engaged with youth offending teams

(YOTs) in Wales. The report evaluated how effectively YOTs plan the education and training provision for children at a strategic and operational level. It also considered how well the work of the YOT supports children's progression. The report was largely positive but noted there is more to be done: children in the youth justice system improve their engagement with education but are not achieving the recommended hours of education. The report noted issues with exclusion from schools and, in some areas, the lack of links between the YOT and local 'opportunity providers'. The report stated they would welcome further engagement between officials to consider how mainstream services can better link with YOTs to deliver improved outcomes in this area.

30. The YJB recognises and supports Welsh Government's policy on inclusive education. Supporting children who are experiencing difficulties to remain in mainstream school through the Additional Learning Needs and Education Tribunal Act (Wales) 2018 and the work to refresh the Youth Engagement and Progression Framework, to learn lessons and build on good practice.
31. YJB Cymru supports the recommendations of the Children, Young People and Education Assembly Committee's report, Mind over Matter which highlighted the need to adopt a whole-school approach to mental health and wellbeing which encourages schools to view mental health and wellbeing as fundamental to its values, mission and culture.
32. It is encouraging that the Welsh Government has pledged £7m funding to improve mental health in Wales and the £1.4m funding to improve mental health in-reach services to schools. This funding is used in a strategic and sustainable manner and it is vital that service improvements resulting from the additional funding ensure children who are disengaged from mainstream services or excluded from schools are not overlooked. Failure to provide equal opportunity to achieve positive outcomes through access to these services would impinge on their rights under the UNCRC and perpetuate the cycle of harm and vulnerability. To this end, officials from YJB team in Wales are engaging with the policy leads for this work.

## Conclusion

33. The YJB is concerned about the significant rise in school exclusions and pupils being educated in alternative provision. We recommend schools are more equipped to recognise and support children who experience adversity in childhood.
34. All staff involved in the education of a child (whether in mainstream or alternative provision) should receive appropriate training to recognise at an early stage where there are issues and be able to address them in a manner that is preventative to mitigate escalation. Early Intervention, information, advice and support for children and their parents and carers is key to ensuring children can stay in main stream school if it is safe and appropriate to do so.
35. Emphasis should be placed on the root causes of the increase in exclusions and referrals to alternative provisions to address them. The increase in mental health and emotional and well- being needs of children is a “crisis” in society that must not be ignored. The recommendations in the report “mind over matter” should be acted on by Welsh Government.
36. Schools should have behaviour policies that effectively meet the needs of children and staff, enabling children to stay on the school roll. High quality in-school alternatives should be available to ensure children are not isolated or disadvantaged in any way. Further; school leaders should ensure continued support and put emphasis on an ethos of inclusivity.
37. Appropriate levels of challenge should be in place to ensure exclusion is a last resort and appropriate measures and transparent reporting is required to ensure decisions are made in the best interest of children. Inspectorates should consider how inspections can help monitor the performance of schools in managing the wellbeing of children who are at risk of exclusion.
38. We recommend that the narrative surrounding children is reframed to avoid negatively “labelling” children. When referring to pupils who are EOTAS the language used should be changed to one that promotes a “child first” approach and highlights the barriers stemming from childhood adversity.
39. We recommend that Welsh Government commission research into the prevalence and impact of off-rolling.