

Curriculum and Assessment (Wales) Bill: Bill Summary

August 2020



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1. Background and policy context

Subject to its successful passage through the Senedd, the **Curriculum and Assessment (Wales) Bill** [hereon 'the Bill'] will provide the **statutory foundation for the Welsh Government's reform of the curriculum** for 3 to 16 year olds. It will replace the existing national curriculum in Wales, which was established in 1988 on an England and Wales basis, with a new Curriculum for Wales. Whilst devolution has enabled the curriculum to be adapted in Wales, most notably in 2010 with the introduction of the Foundation Phase in place of Key Stage 1, this marks the first construction of a distinct Welsh curriculum.

The actual date of the new curriculum taking effect will be subject to an Order made under the Bill. However, the Welsh Government **plans to roll out the new curriculum from September 2022**, initially in primary school and Year 7 (usually the first year of secondary school), before it extends into subsequent year groups as these pupils progress through school, until they reach Year 11 in 2026/27. The Minister for Education, Kirsty Williams AS, has said that this timetable is unchanged despite the COVID-19 pandemic.

Sections 1.1 and 1.2 of this briefing explain some context to the Bill in terms of planned curriculum reform.

1.1. Replacing curriculum and assessment arrangements that 'no longer meet the needs of children and young people'

The Welsh Government has been working with the education sector to design and develop a new curriculum since the review it commissioned from Professor Graham Donaldson, '**Successful Futures' (2015) found that:**

Together the current national curriculum and assessment arrangements **no longer meet the needs of the children and young people of Wales. The case for fundamental change is powerful.** [my emphasis]

The then Minister, Huw Lewis, accepted the report and recommendations in full, **stating in March 2015:**

... this is **not some kind of tinkering exercise (...).** [It] marks the **doing away with the national curriculum of 1988 and the rewriting from the ground floor up of an entirely new curriculum with a different philosophy behind it.** [my emphasis]

Introducing a 'transformational curriculum' is a key part of the Welsh Government's action plan, **Education in Wales: Our National Mission, which sets out its**

education reforms up to 2021. The Explanatory Memorandum (para 3.9) says that 'curriculum reform should be at the heart of teacher, school and national efforts to raise standards for all, tackle the attainment gap and ensure an education system that is a source of national pride and enjoys confidence'.

Curriculum reform is therefore **seen by the Welsh Government as a vehicle for raising educational standards, including improving Wales' PISA results.**

1.2. Development of the new Curriculum for Wales

The new Curriculum for Wales will encompass a different approach that is **driven by purposes rather than content**, with greater flexibility for schools to deliver a local curriculum according to the needs of their pupils. There will still be a national framework but the **onus/freedom will be with schools to design and adopt a local curriculum, according to the needs of their pupils.**

There will be relatively less prescription of what schools must teach, with no programmes of study, and curriculum planning will be based around 'Areas of Learning and Experience' (AoLEs), rather than subjects. The Welsh Government aims for the new curriculum, as firmly advocated by Professor Donaldson's review, to deliver more effectively what young people need from their schooling using a **three-pronged approach of knowledge, skills and experience.** The organising principles for the new curriculum, set out under the Bill, are explained later in this briefing at section 4.

The new Curriculum for Wales was published in January 2020 as provisional statutory guidance. Subject to the successful passage of the Bill, this will be reissued in the form of a code setting out 'What Matters' within each AoLE (under section 6 of the Bill) and other statutory guidance (section 66).

The Senedd Research blog articles of **January 2020, May 2019, May 2016** and **March 2015** give more background to the development of the Curriculum for Wales.

2. Purpose of the Bill

In the Explanatory Memorandum (para 1.2), the Welsh Government sets out the following key purposes of the Bill:

- The **design, adoption and implementation of a new curriculum for 3 – 16**

year olds in maintained schools¹, maintained nursery schools and in funded non-maintained nursery settings², and curriculum provision in Pupil Referral Units and in other settings secured by a local authority in Wales providing education otherwise than at school (EOTAS).

- **General requirements a curriculum must satisfy**, including cross curricular skills (literacy, numeracy and digital competence), areas of learning and experience and the mandatory elements (Welsh, English, Religion, Values and Ethics, and Relationships and Sexuality Education).
- The publication by the Welsh Ministers of a **What Matters Code** setting out the key concepts in each area of learning and experience describing the breadth of learning which must be covered.
- The publication by the Welsh Ministers of a **statutory code providing a framework for progression** in the new curriculum.
- The publication by the Welsh Ministers of a **code** setting out core learning in **Relationships and Sexuality Education**.
- The implementation of **assessment arrangements** to support every learner to make **progress**.
- Establishing a **3 – 16 continuum of learning** and the removal of the terms key stages 2, 3 and 4, and foundation phase in legislation.
- The **disapplication of the requirement to teach English up to age 7 to help support and maintain Welsh language fluency** [the Bill makes both English and Welsh mandatory in schools and funded non-maintained nursery settings from age 3, with head teachers and governing bodies able to opt out of the requirement to teach English up to age 7 (the end of Year 2) in order to fully immerse learners in the Welsh language].
- Powers for the **Welsh Ministers to issue guidance** to head teachers, governing bodies and local authorities in respect of their functions.

The Bill also stipulates **exceptions from curriculum requirements** in respect of certain pupils and makes some limited provision for **post-compulsory education in maintained schools**.

Chapter 3 of the Explanatory Memorandum sets out the Welsh Government's purpose and intended effect of the legislation.

1 Maintained schools are schools which are funded by, and the overall responsibility of, the local authority.

2 These are private settings, which receive public funding to provide early years education to children aged between 3 and 5.

3. Structure of the Bill

There are 7 Parts to the Bill, which consists of 80 sections and 2 Schedules.

- **Part 1** (sections 1-8) sets out **basic concepts and key documents** of the new Curriculum for Wales.
- **Part 2** consists of 4 Chapters and is the substantial core part of the Bill.
 - **Chapter 1** (sections 9-18) sets out provisions for **schools to design and adopt their own curriculum**, subject to the concepts of Part 1 and requirements of Chapter 2. Funded non-maintained nursery settings will either be able to adopt the curriculum issued by the Welsh Government for this age group, or design and adopt their own, subject to the concepts of Part 1 and requirements of Chapter 2.
 - **Chapter 2** (sections 19-27) stipulates the **requirements of the curriculum** designed and adopted by schools and funded non-maintained nursery settings, and includes the discretion to disapply the mandatory status of English up to age 7. It also provides for an element of choice at ages 14 to 16, with the Welsh Ministers given powers to make Regulations specifying further requirements for learners in Years 10 and 11.
 - **Chapter 3** (sections 28-38) refers to **curriculum implementation**, ensuring schools and funded non-maintained nursery settings adhere to the curriculum requirements of Chapter 2. This includes powers for head teachers to disapply the duty to implement pupils' choices in Years 10 and 11, for example if the provision is not suitable, reasonably practicable or would incur disproportionate expenditure.
 - **Chapter 4** (sections 39-50) provides for **exceptions** to be made to curriculum implementation duties. These include certain cases, for example in order for development work and experiments to be carried out, and certain pupils, such as those with Additional Learning Needs (ALN). There are powers for the Welsh Ministers to make Regulations about temporary exceptions for certain learners.
- **Part 3** (sections 51-57) sets out the curriculum requirements in Pupil Referral Units (PRUs) and other Education Otherwise Than At School (**EOTAS**) provision.
- **Part 4** (sections 58-59) makes provision about **assessment** arrangements and

learners' **progression**.

- **Part 5** (sections 60-63) makes some limited provision about curriculum requirements in **school sixth forms**.
- **Part 6** (sections 64-67) makes **supplementary provision** regarding the Welsh Ministers and local authorities' general duties to facilitate the performance of functions by those delivering the curriculum. It also gives the Welsh Ministers powers to issue guidance on the exercise of functions under the legislation.
- **Part 7** (sections 68-80) makes **general provision**, including powers for the Welsh Ministers to make consequential and transitional provision, procedures for making subordinate legislation, an index of defined terms and arrangements for the legislation coming into force.
- **Schedule 1** makes provision about **Religion, Values and Ethics (RVE)**.
- **Schedule 2** lists **minor consequential amendments and repeals** made by the Bill.

Annex A of this briefing summarises the key statutory documents which must or may be issued under the Bill.

4. Organisation of the Curriculum for Wales

The Bill provides for the new curriculum to be **organised along the lines recommended by 'Successful Futures' (the Donaldson review)**; i.e. that the curriculum is purpose led, organised around broad areas rather than narrow subjects, teaches 'what matters', and gives digital competence an equal importance to the already established priorities of literacy and numeracy.

Section 2 of the Bill sets **four purposes** for the curriculum, which are to enable pupils to develop as:

- Ambitious, capable learners, ready to learn throughout their lives;
- Enterprising, creative contributors, ready to play a full part in life and work;
- Ethical, informed citizens of Wales and the world;
- Healthy, confident individuals, ready to lead fulfilling lives as valued members of society.

Section 3 establishes **six Areas of Learning and Experience (AoLEs)**:

- Expressive Arts;

- Health and Well-being;
- Humanities;
- Languages, Literacy and Communication;
- Mathematics and Numeracy;
- Science and Technology.

Section 4 sets **three mandatory cross-curricular skills**:

- Digital Competence;
- Literacy;
- Numeracy.

The Welsh Ministers will be able to amend the AoLEs and mandatory cross-curricular skills through Regulations. There is no such power to amend the purposes through subordinate legislation, meaning this would require primary legislation. The Welsh Government's rationale for this is that the purposes are so fundamental to the ethos of the curriculum that any changes to them should only be possible through primary legislation.

There is no further detail on the face of the Bill regarding what will be taught within each AoLE. This will be set out in statutory guidance issued under the legislation and a **What Matters Code**, which will set out key concepts for each AoLE. The Welsh Government has previously described these as 'statements of what matters' and included them in the **curriculum documents published in January 2020**. A list of the statements of what matters is provided at Annex B (there are 27 in total - between three and six for each AoLE).

Section 6 of the Bill requires that the curriculum taught must encompass the concepts set out in the What Matters Code. Statutory guidance will amplify these What Matters concepts and what can/should be covered within each AoLE.

The curriculum documentation published in January 2020 referred to **four 'integral skills'**, which should be developed within a wide range of teaching and learning, in order to underpin the four purposes: The integral skills, which are not referred to in the Bill, are:

- Creativity and innovation;
- Critical thinking and problem solving;
- Personal effectiveness;
- Planning and organising.

5. The mandatory elements

Section 3 requires **four mandatory elements** to be taught within the AoLEs:

- **English** (head teachers may decide to disapply this mandatory element, prior to Year 3/age 7 (current Foundation Phase) where it is to develop or maintain children's levels of fluency in Welsh);
- **Welsh** (under a single learning continuum, unlike the current distinction between Welsh first and second language);
- **Relationships and Sexuality Education (RSE)**;
- **Religion, Values and Ethics (RVE)**.

It is important to note that the English and Welsh elements referred to in the Bill relate to the teaching of English and Welsh in terms of what are currently known as subjects, rather than the language medium of teaching.

5.1. English and Welsh

The Welsh Government's ***Cymraeg 2050*** vision is that one million people will speak Welsh by 2050. Increasing the number of Welsh speakers through the education system is a fundamental part of the strategy. As the Explanatory Memorandum (para 3.137) states, the Welsh Government's vision is to:

Transform how we teach Welsh to all learners in order that at least 70 per cent of those learners report by 2050 that they can speak Welsh by the time they leave school.

The Explanatory Memorandum (para 3.138) also states:

For this to happen, the teaching and learning of Welsh needs to be recognised and valued as an integral component of the curriculum for Wales.

The Bill establishes a **single learning continuum of learning Welsh in all schools**, replacing the current distinction between Welsh first language (predominantly taught in Welsh-medium schools) and Welsh second language (predominantly taught in English-medium schools). The **requirements on all schools to teach Welsh are the same**, whatever their medium of teaching. That notwithstanding, learners will be at differing points on the same continuum, a contrast which is likely to reflect the medium of school they attend.

The Bill **treats English and Welsh differently**. Whilst, like Welsh, English will be mandatory from the start of the curriculum at age 3, **schools will be able to**

disapply this requirement up to age 7 (the end of Year 2) in order to develop pupils' skills in Welsh through immersion in the language. This is because, while the Bill's provisions do not relate to the medium of teaching, the teaching of English as an element will inevitably involve the medium of English, which the Welsh immersion model seeks to avoid.

As the Welsh Government's *Cymraeg 2050* strategy states:

Welsh-medium immersion education is our principal method for ensuring that children can develop their Welsh language skills, and for creating new speakers.

Responding to views that the mandatory status of English is unnecessary and that the playing field between development of Wales' two official languages is not a level one, the Minister for Education, Kirsty Williams AS, said in **Plenary on 1 July** (para 614):

The Bill will enable Welsh immersion to continue, giving it a secure legal footing and strengthening its position as a key component of us reaching our aspirations, as a tried and tested pedagogical approach.

However, the Minister said the Welsh Government supported Welsh immersion education and that she will 'look to continue to discuss and to engage on these issues' during the Senedd's scrutiny of the Bill.

5.2. Relationships and sexuality education (RSE)

Relationships and Sexuality Education (RSE) is an area of the new curriculum which the Welsh Government made decisions about some time ago.

At present, sex education is a compulsory part of the basic curriculum in secondary schools, while primary schools have the opportunity to teach it but are not obliged to. The Welsh Government issues **non-binding guidance** on how 'sex and relationships' education should be taught.

Following the review of the **Expert Panel, chaired by Professor Emma Renold**, the **Minister announced in 2018** that the **current requirement to teach sex education in secondary schools would be extended to primary schools** but that this be 'age-appropriate' and under the revised focus on 'Relationships and Sexuality Education'. The Welsh Government **consulted in February 2019** on draft guidance for schools on provision of RSE.

Through RSE, learners will learn about more than sex in a biological sense but a broader concept of sexuality and what constitutes a healthy (and an unhealthy)

relationship. Section 24 of the Bill requires that RSE must be taught in a way that is **‘developmentally appropriate’** for pupils and children.

RSE will be taught across the whole curriculum and is described by the Welsh Government as ‘an important element in creating a whole school approach to supporting overall physical, mental and emotional health and well-being’ (para 3.49, Explanatory Memorandum).

Provision of RSE will be guided by a **statutory code** which the Welsh Ministers must issue under section 8 of the Bill. A school’s curriculum will not be deemed to encompass the mandatory element of RSE unless it accords with the statutory RSE Code. The code will be subject to scrutiny by the Senedd (Section 72).

At present, parents have the right to withdraw their child from sex education that is not part of a national curriculum subject. There is no equivalent **parental right of withdrawal** in the Bill. The Welsh Government **consulted in autumn 2019** on the implications of not including a parental right of withdrawal under an approach to ‘ensure full access to the curriculum’.

5.3. Religion, values and ethics (RVE)

5.3.a Current arrangements

At present, religious education (RE) is a compulsory part of the basic curriculum. This does not mean that every pupil has to study for a RE qualification, for example GCSE RE, but they must have opportunities to be taught RE. Parents currently have the right to withdraw their children from RE.

Each local authority is required to convene an Agreed Syllabus Conference (ASC) if any representative group on its Standing Advisory Council on Religious Education (SACRE) requests it to do so. The ASC then determines the content of the agreed syllabus for RE to be taught in schools maintained by that local authority.

Maintained **schools without a religious character are required to teach RE in accordance with the agreed syllabus** adopted for those schools or for their pupils. The current arrangements for schools with a religious character are different. The current **default for voluntary controlled schools³ with a religious character** is for learners to receive RE in accordance with the **agreed syllabus**.

³ Voluntary controlled schools are run by a voluntary organisation (in Wales this is typically the Roman Catholic Church or the Church in Wales) but closely controlled by the local authority. The local authority employs the staff and sets the admission criteria, but the school land and buildings are owned by a charity (often the church) which appoints some members of the governing body.

However, where a parent requests RE in line with the trust deeds or tenets of the faith (i.e. denominational RE), the school must consider whether to provide denominational RVE. The school does not have to meet the parent's request if the governing body is satisfied that because of any special circumstances it would be unreasonable to do so.

The current **default for voluntary aided schools⁴ with a religious character** is for learners to receive **denominational RE**. However, where a parent requests RE in accordance with an agreed syllabus, the school must consider whether to provide RE in accordance with the agreed syllabus. The school does not have to meet the parent's request if the governing body is satisfied that because of any special circumstances it would be unreasonable to do so.

5.3.b The broader scope of RVE

The Bill establishes Religion, Values and Ethics (RVE), which is intended to be broader and more inclusive than the traditional RE it replaces. RVE will be mandatory for most pupils aged 3-16 within the Humanities AoLE.⁵ The Bill **amends the existing legal definition of 'agreed syllabus'** in Wales (currently section 375 of the Education Act 1996) so that the syllabus:

- a) must reflect the fact that the religious traditions in Great Britain are in the main Christian while taking account of the teaching and practices of the other principal religions represented in Great Britain;
- b) must also reflect the fact that a range of non-religious philosophical convictions are held in Great Britain.

Parents will not have the right to withdraw their children from RVE. The Explanatory Memorandum (para 3.46) states:

RVE is a field of study in which a range of disciplinary approaches are used by learners to critically engage with a **broad range of religious and non-religious concepts**. The intention is to ensure **all children and young people** are provided with the scope to explore Wales' historical and contemporary relationship to philosophy and religious views, including non-religious beliefs. [my emphasis]

The decision not to include a parental right of withdrawal was part of the

⁴ Voluntary aided schools are run by a voluntary organisation and enjoy greater policy and financial independence than voluntary controlled schools. They tend to be religious or faith schools, in Wales typically the Roman Catholic Church or Church in Wales. The governing body employs the staff and sets the admission criteria and the school buildings and land are usually owned by a charity (often the church).

⁵ It will not be mandatory for those pupils who are educated other than at school or those who are in a pupil referral unit. In respect of children below compulsory school age RVE does not have to be provided in accordance with the Bill.

consultation in autumn 2019 regarding 'ensuring full access of all to the curriculum' (alongside the proposals for RSE).

The Welsh Government intends to issue **statutory guidance to local authorities regarding agreed syllabi** for RVE, under the general power to issue guidance under section 66.

The Bill (section 62) also makes specific provision for RVE in the case of pupils in school years 12 and 13. Such pupils will only be provided with RVE if they request it.

5.3.c Agreed syllabi and denominational syllabi, and expectations for different types of school under the Bill

Sections 24, 31 and 32 of the Bill require that the teaching of the mandatory element of RVE must (subject to exceptions for pupils below compulsory school age) accord with Schedule 1 of the Bill. Schedule 1 sets out the position in relation to RVE for **three different categories of schools**.

The main difference between the different categories of schools is that **schools without a religious character will be required to deliver RVE having regard to the agreed syllabus, whereas schools with a religious character will be required to prepare two syllabi**: a denominational syllabus and one having regard to the agreed syllabus. This is explained in more detail below.

Community schools and foundation and voluntary schools without a religious character

Community schools must design and implement their curriculum to provide for RVE **having regard to the agreed syllabus**. The main difference to current arrangements is the broader scope of RVE which is intended to be more objective, critical and pluralistic compared to RE. However, an additional difference is that community schools must only have regard to the RVE agreed syllabus in their curricula, rather than having to teach in accordance with the agreed RE syllabus as at present.

Foundation and voluntary controlled schools that have a religious character

Voluntary controlled schools with a religious character will be required to design their curriculum so that it **provides for both denominational RVE, and RVE having regard to the agreed syllabus**. The **default** for these schools will be for learners to receive the RVE which has been designed having regard to the **agreed syllabus**.

However, RVE in line with the trust deeds or tenets of the faith (i.e. **denominational RVE**) **must be provided where a parent requests it**. In the case of voluntary controlled schools, a parent will therefore effectively be able to opt their child out of receiving the pluralistic RVE.

One difference under the Bill is the broader scope of the form of RVE which has regard to the agreed syllabus, compared to RE. Another difference is that where a parent requests denominational RVE, rather than RVE with regard to the agreed syllabus, voluntary controlled schools must provide it rather than consider whether to provide it as at present.

Voluntary aided schools that have a religious character

Voluntary aided schools with a religious character will be required to design their curriculum so that it **provides both denominational RVE, and RVE in accordance with the agreed syllabus**. The **default** for these schools will be for learners to receive RVE in line with the trust deeds or tenets of the faith of the school (**denominational RVE**).

However, **where a parent requests RVE in accordance with the agreed syllabus, it must be provided**. It is possible, perhaps likely, that a large proportion of pupils in voluntary aided schools will only receive denominational RVE, even though these schools are required to also design a curriculum which is pluralistic.

One difference under the Bill is the broader scope of the form of RVE which has regard to the agreed syllabus, compared to RE. Another difference is that where a parent requests RVE which has regard to the agreed syllabus, rather than denominational RVE, voluntary aided schools must provide it rather than consider whether to provide it as at present.

5.3.d Recent consultation

The Welsh Government **recently consulted on** the provisions in the Bill for RVE. The consultation considered the scope of RVE, arrangements for local authority-level Standing Advisory Councils (SAC) and Agreed Syllabus Conferences (ASC), and curriculum expectations for different types of schools.

A further consultation is expected on the statutory guidance which the Welsh Government intends to issue to local authorities, SACs and ASCs on the development of agreed syllabi for RVE.

6. Local school-level curricula within a national framework

Section 10 of the Bill requires **individual head teachers to design a curriculum** for their school. This curriculum, in addition to encompassing the four purposes, six AoLEs, three cross-curricular skills and four mandatory elements outlined in sections 4 and 5 of this briefing, must comply with requirements specified in sections 21 to 23 of the Bill which are that:

- The curriculum must provide for **appropriate progression**.
- The curriculum must be suitable for pupils, or children, of **differing ages, abilities and aptitudes**.
- **The curriculum must be broad and balanced.**

The curriculum in secondary schools must also offer **pupils in Year 10 and 11 a choice of teaching and learning within each AoLE** (section 24), although they must undertake at least some learning in every AoLE. This is similar to the current position, whereby pupils select 'options' at the end of Year 9 and are able to 'drop' certain subjects. However, under the new curriculum, they will not be able to cease studying a whole AoLE.

The Welsh Ministers will be able to make **Regulations specifying further requirements of the curriculum for pupils in Year 10 and 11**. This may include provision of a minimum number of courses of study. (Currently, [legislation](#) requires that pupils have a choice of a minimum of 25 courses at Key Stage 4, of which at least three must be vocational courses.)

The headteacher and governing body must jointly adopt the curriculum the headteacher has designed and must publish a summary of the adopted curriculum. They must jointly keep it under review and must ensure it is implemented in a way that adheres to the statutory requirements.

6.1. Funded non-maintained nursery settings

The Bill makes slightly different provisions for funded non-maintained nursery settings. In recognition of the differing resources of such settings to design their own curriculum, the Bill requires the Welsh Government to develop and publish a curriculum for use in these settings (section 13). Settings then have the **choice whether to adopt the Welsh Government's curriculum or to design and**

adopt their own, provided it meets the stipulated curriculum requirements.

6.2. Exceptions

Chapter 4 (sections 39-50) of the Bill provides for exceptions to the curriculum requirements.

- Under section 40, the Welsh Ministers may direct that the requirements of the curriculum do not apply to certain schools, or to schools or funded non-maintained nursery settings of a specified description, in order to facilitate **development work or experiments** to be carried out.
- Section 43 enables the curriculum requirements to be excepted for pupils with **Additional Learning Needs (ALN)**, as part of provision put in place under the **Additional Learning Needs and Education (Wales) Tribunal Act 2018**.
- Section 44 provides for Regulations to be made which enable head teachers and funded non-maintained nursery settings to disapply curriculum requirements in relation to pupils for a **temporary period**.

In all such cases, where curriculum requirements are disapplied, any curriculum that is provided must still satisfy the requirements that it:

- (a) enables each pupil to develop in the ways described in the **four purposes**,
- (b) secures teaching and learning that offers **appropriate progression** for each pupil,
- (c) is **suitable** for each pupil's **age, ability and aptitude**,
- (d) takes account of each pupil's **ALN** (if any), and
- (e) secures **broad and balanced** teaching and learning for each pupil.

The Bill also makes exceptions to the curriculum requirements on Pupil Referral Units (PRUs) and other EOTAS provision. This is discussed at section 7 of this briefing.

7. Education Otherwise Than At School (EOTAS)

Part 3 of the Bill sets out the curriculum requirements for education provided under section 19A of the Education Act 1996 (Education Otherwise Than At School (EOTAS)), which is **predominantly in Pupil Referral Units (PRUs)**.

In 2018/19, there were 2,286 EOTAS pupils, equating to **3.8 per 1,000 pupils** (the highest rate since 2009/10, when it was 2.6 per 1,000). Further information on EOTAS can be found in the **Senedd Research Briefing from November 2019**, published ahead of the **Children, Young People and Education Committee's policy inquiry**.

Section 52 of the Bill requires the curriculum provided in PRUs, as in sections 20-23 for pupils in schools generally, to:

- a) enable pupils to develop in the ways described in the **four purposes**;
- b) provide for **appropriate progression** for pupils;
- c) be **suited** for pupils of **differing ages, abilities and aptitudes**; and
- d) be **broad and balanced**, [so far as is appropriate for pupils in PRUs].

Rather than teaching all six AoLEs, the Bill requires PRUs to encompass the **Health and Well-being AoLE** within any curriculum. The curriculum **must also encompass the mandatory element of RSE** and the **three cross-curricular skills**.

PRUs must also teach the other five AoLEs and the other mandatory elements, 'if it is reasonably possible and appropriate to do so'.

The Bill places similar requirements on other forms of EOTAS provision.

8. School sixth forms

Whilst the age range of the Curriculum for Wales will be 3-16, section 61 of the Bill requires that schools must ensure that the curriculum for pupils above compulsory school age is a '**balanced and broadly based curriculum**' that:

- a) Promotes the spiritual, moral, cultural, mental and physical development of the pupils and of society, and
- b) Prepares the pupils for the opportunities, responsibilities and experiences of later life.

Further education institutions are not subject to this requirement.

Currently, religious education is compulsory for sixth form pupils at school. Under the Bill, Religion, Values and Ethics (RVE) will not be compulsory for school sixth form pupils, although it must be **provided to those who request it**.

There is **no equivalent requirement on schools to teach Relationships and Sexuality Education (RSE)** to sixth form students who request it. Sex education and personal and social education (which RSE replaces) are not currently compulsory for sixth form pupils, unlike religious education.

9. Progression and assessment

The Bill will remove the current separation of schooling into key stages: the Foundation Phase, Key Stage 2, Key Stage 3 and Key Stage 4. Instead, the intention is that **pupils will progress along a single learning continuum**, according to descriptions of learning, progression steps and expected achievement outcomes at ages 5, 8, 11, 14 and 16.

Section 7 of the Bill requires **the Welsh Ministers to issue a ‘Progression Code’**, setting out how the curriculum is to provide for progression by pupils and children. Under section 21, the curriculum must provide for appropriate progression and section 7(2) states that a curriculum does not provide for appropriate progression unless it accords with the Progression Code.

Relatively little detail is included on the face of the Bill regarding assessment. Section 58 provides the Welsh Ministers with a power to make Regulations about the planning, implementation, evaluation, revision and provision of information associated with assessment arrangements. These **Regulations will be made under the Senedd’s negative procedure** for subordinate legislation, rather than the affirmative procedure.⁶

Section 59 enables the Welsh Ministers to make Regulations to direct relevant persons to take steps to promote and maintain understanding of progression.

The **curriculum documentation published in January 2020** proposed **three main roles for assessment** under the Curriculum for Wales:

- Supporting individual learners on an ongoing, day to day basis;
- Identifying, capturing and reflecting on individual learner progress over time;

⁶ Under the affirmative procedure, the Senedd must vote to approve the statutory instrument. Under the negative procedure, the statutory instrument automatically becomes law if the Senedd does not vote to annul it within 40 days of it being laid.

- Understanding group progress in order to reflect on practice.

These purposes of assessment are not specified on the face of the Bill but are likely to be reflected in any Regulations made under section 58. The Welsh Government will issue **separate statutory assessment guidance** on supporting learner progression in addition to the overarching statutory guidance and the statutory guidance on each AoLE (provisional versions of which were published in January).

10. Power to make subordinate legislation

This section of the briefing summarises the powers to make subordinate legislation under the Bill which are listed in a table in Chapter 5 of the Explanatory Memorandum. Annex A summarises the key statutory documents which must or may be issued under the Bill.

10.1. Regulations

The Bill gives the Welsh Ministers **14 powers** to make Regulations.

- **2** of these are to be exercised under the Senedd's **affirmative** procedure:
 - Amending AoLEs, mandatory elements or cross-curricular skills;
 - Amending the grounds on which head teachers may decide that the requirement to implement a Year 10 or 11 pupil's choice over teaching and learning does not apply;
- **12** are to be exercised under the Senedd's **negative** procedure (including Regulations about assessment arrangements).

10.2. Directions, determinations and issuing of codes and guidance

The Bill gives the **Welsh Ministers 7 such powers**:

- **3** powers to issue **codes** (What Matters Code, Progression Code and the Relationships and Sexuality Code), each to be made under the Senedd's enhanced negative procedure⁷;
- **2** powers to make **directions** (to disapply curriculum requirements in certain cases and to take steps in relation to promoting and maintaining an understanding of progression);
- **2** powers to issue **guidance** (duty to publish a curriculum for funded non-

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Under the enhanced negative procedure, the Welsh Ministers must consult on a draft statutory instrument before laying it before the Senedd.

maintained nursery settings and general power to issue guidance).

Schools and funded non-maintained nursery providers have 4 such powers:

- Head teachers and governing bodies have a joint power to **determine that the requirement to teach the mandatory element of English up to age 7 should not apply**. Funded non-maintained nursery settings have an equivalent power.
- Head teachers have a power to **determine that the requirement to implement a Year 10 or 11 pupil's choice over teaching and learning does not apply**. Governing bodies have a power to confirm the headteacher's decision or direct the headteacher to take certain action.

11. Consideration of other options and financial implications

11.1. Options considered

The Regulatory Impact Assessment (RIA), contained within the **Explanatory Memorandum**, assesses two options:

- Option 1: **Business as Usual** (BAU) – retain the existing provisions relating to curriculum and assessment.
- Option 2: **Introduce new legislation** (including amending existing legislative provisions) relating to the curriculum and assessment arrangements set out in '*Successful Futures*' (the Donaldson Review).

The RIA does not discuss an alternative option for reform, i.e. to use the resources required for the Bill towards school improvement initiatives that are not dependent on a new curriculum.

11.2. Overall costs

The RIA details the costs associated with the implementation of the Bill.

The total cost over the appraisal period is presented as a **range of between £327.9 million (m) and £619.9m**. A ten-year appraisal period is accounted for, running from **2021-22 to 2030-31**. Costs taper to zero over this period. As such, all costs identified within the Bill are considered transitional.

The RIA identifies costs under three categories and attributes those costs to three

types of organisation:

- **Administrative costs - £175.4m:** These costs fall to the **Welsh Government** and taper to zero over the course of the appraisal period. Activities include support for professional learning, provision of Welsh language resources, funding regional and national networks, and direct costs such as staff and communication costs.
- **Compliance costs - £146.0m to £438.0m:** A significant proportion of costs are 'compliance costs' and lead to the overall range in costs. These are costs primarily to **schools**, incurred as they comply with the legislation. Schools will be required to design and implement their new curricula. Through this they will incur both direct and indirect costs. The main element is associated with the opportunity cost of professional learning, which is presented as a monetised value of staff time in the RIA. These costs are due to be incurred between 2021-22 and 2025-26.
- **Other costs - £6.5m:** These costs fall to the regulator, **Qualifications Wales**, and relate to review and reform of both vocational and general qualifications in response to curriculum reform, including consulting on and developing qualification criteria, and approving and monitoring the new qualifications. These costs are due to be incurred between 2021-22 and 2027-28.

11.2.a Sunk costs

There are a number of costs relating to curriculum and assessment reform which have either already been incurred or which are expected to be incurred before the Bill receives Royal Assent. The RIA provides information on these 'sunk costs'.

Sunk costs are identified from 2015-16 to 2020-21 and amount to **over £100m**. The majority of these costs have fallen to the Welsh Government, which has incurred £89.1m (including provisional expenditure of £21.1m in 2020-21).

Sunk costs for other organisations, over the period 2015-16 to 2020-21, include:

- Estyn - £4.4m
- Qualifications Wales - £3.4m
- Careers Wales – £86,000
- Regional Consortia - £16.7m

The RIA notes that there may be sunk costs not included in the version published

upon introduction of the Bill. It says:

We will provide the Senedd with additional information during Stage one scrutiny on the sunk costs of other organisations such as the Catholic Education Service, Church in Wales, ITE [Initial Teacher Education] providers and Wales Association of Standing Advisory Councils for Religious Education (WASACRE) before incorporating the information into a revised RIA at the end of Stage two. (para 8.136)

11.2.b Unquantified costs and impact of COVID-19

The RIA also identifies that there are some costs which have not been included or where work is yet to be undertaken. The RIA notes that **'engagement with a number of key stakeholders** such as WLGA, ADEW and Estyn **had to be paused as they prioritised their response to the COVID-19 pandemic'** (page 53). The Welsh Government has therefore not been able to quantify the impact of the Bill on those organisations and does not include detailed costs in that respect (although some information in regard of sunk costs for Estyn is included).

The Welsh Government outlines in the RIA that it intends to engage with those organisations at an 'appropriate point' and that **any additional information received will be shared with the Senedd during Stage 1 scrutiny**, before being incorporated into a revised RIA at the end of Stage 2.

11.2.c Key assumptions

Between 45% and 71% of the total costs are estimated to fall to schools. The Welsh Government provides information in the RIA on the methodology used to estimate the costs for schools. It details that a **survey of Innovation Schools⁸** has informed analysis of costs in this area. However, there are currently only 15 Innovation Schools (of around 1,500 schools across Wales) and these are schools that are engaged with the new curriculum and assessment arrangements and have received additional funding due to this status. The RIA notes (page 54) that on this basis Innovation Schools **are not representative of the wider school population**.

This uncertainty has led to the Welsh Government including a **+/-50% range on the costs that it has estimated for schools**.

8 The Welsh Government selected 16 **Innovation Schools** to provide feedback on the implications and manageability of curriculum reform. There are four from each consortia region they include a range of primary, secondary and special schools. One school left the programme in late 2019.

11.2.d Summary of costs

The table below shows the Welsh Government's estimated range of costs of the Bill, broken down by organisation and year.

Table 1: Summary of costs – Curriculum and Assessment Bill

Organisation	Range	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	Total
Welsh Government		25,607	25,607	25,232	25,007	24,982	9,982	9,740	9,740	9,740	9,740	175,377
Qualifications Wales		1,700	1,500	1,331	1,330	294	254	102				6,511
Schools - Direct Costs												
	High	19,180	15,330	4,890	2,370	1,850						43,620
	Central	12,790	10,220	3,260	1,580	1,230						29,080
	Low	6,400	5,100	1,630	790	620						14,540
Schools - Absorbed Costs												
	High	128,000	143,790	63,510	36,420	22,640						394,360
	Central	85,340	95,860	42,340	24,280	15,100						262,920
	Low	42,660	47,930	21,170	12,140	7,540						131,440
Total	High	174,487	186,227	94,963	65,127	49,766	10,236	9,842	9,740	9,740	9,740	619,868
	Central	125,437	133,187	72,163	52,197	41,606	10,236	9,842	9,740	9,740	9,740	473,888
	Low	76,367	80,137	49,363	39,267	33,436	10,236	9,842	9,740	9,740	9,740	327,868

Source: Welsh Government – Regulatory Impact Assessment, Curriculum and Assessment (Wales) Bill, para 8.377 (as introduced, 6 July 2020)

12. Impact assessments

Chapter 9 of the EM/RIA contains the impact assessments carried out and reported on by the Welsh Government.

It includes, amongst other assessments, a Child Rights Impact Assessment, a Welsh Language Impact Assessment and an Equality Impact Assessment. It also summarises the contribution the new curriculum will make to the seven well-being goals outlined in the [Well-being of Future Generations Act 2015](#).

13. Post-implementation review

Chapter 11 of the Explanatory Memorandum discusses the Welsh Government's plans to undertake a post-implementation review. The government says it will start an '**evaluability assessment**' in parallel with the Bill's passage through the Senedd. This will aim to identify how high quality evidence about the implementation and impacts of the reforms can be reliably collected and presented.

The Welsh Government says it will produce a detailed **evaluation plan** following the evaluability assessment. It will also carry out an economic evaluation, including a review of the costs and benefits set out in the RIA.

The evaluability assessment will be completed by Summer 2021, the evaluation plan will be undertaken in 2021/22, and there will be a **post-implementation review of the first five years** following Royal Assent by Summer 2026.

The Welsh Government says the longer term impact of the legislation will be understood from the outcomes for children and young people as they progress from their schooling into examinations, further and higher education and training, and adult life in general.

14. Senedd scrutiny

The Minister for Education, Kirsty Williams AS, issued a [written statement](#) upon the Bill's introduction to the Senedd on 6 July 2020 and made a statement in [Plenary on 8 July 2020](#).

There are four stages to the Senedd's scrutiny of Bills, which are explained in this

Guide to the legislative process.

14.1. Stage 1

The Senedd's **Business Committee** has referred the Bill to the Children, Young People and Education (CYPE) Committee and set a deadline of **4 December 2020** for it to report on the general principles of the Bill (Stage 1 scrutiny).

The CYPE Committee undertook its initial scrutiny of the Minister for Education regarding the Bill on **14 July 2020** and held its first oral evidence session with stakeholders on **20 July 2020**. Further evidence sessions will follow in September and October. The CYPE Committee has also launched an **open call for evidence on the Bill, which runs until 29 September 2020**.

Further information on scrutiny at Stage 1 is available on the **Bill webpage**.

The Bill is also receiving oversight and scrutiny from the Legislation, Justice and Constitution Committee, and Finance Committee, which will report from their own perspectives.

14.2. Stage 2 and beyond

Should the Bill proceed past its Stage 1 debate with Members of the Senedd supporting the general principles, it will be subject to amendment at Stage 2. These amendments will be considered by the CYPE Committee. The Business Committee's timetable for the Bill sets a deadline of **5 February 2021** for Stage 2 to be completed.

The Bill will then be subject to further amendment by all Members of the Senedd in Plenary (Stage 3) before a final vote on whether to pass the legislation (Stage 4). If the Bill does not complete its passage through the Senedd before the election in May 2021, it will fall.

16. Annex A: Statutory documents to be issued under the Curriculum and Assessment (Wales) Bill

The table below summarises the key statutory documents which must or may be issued under the Bill.

Aspect of the Bill	What will be issued?	Procedure	What is available already?
<p>What Matters within each AoLE</p>	<p>The Welsh Ministers must issue a code (the “What Matters Code”) that sets out key concepts for each Area of Learning and Experience (AoLE). This is intended to form part of the ‘national approach’ which the Minister for Education says will ensure consistency for learners.</p>	<p>The Welsh Ministers must consult and then lay a draft before the Senedd. (enhanced negative Senedd procedure)*</p>	<p>The Welsh Government included statements of what matters within each AoLE, as part of the Curriculum for Wales documents published in January 2020. This followed several years of development work and a feedback exercise in Spring 2019. There are between three and six statements of what matters for each of the six AoLEs (27 in total). A list is provided at Annex B. It is expected that these statements of what matters will form the basis of the What Matters Code</p>

Aspect of the Bill	What will be issued?	Procedure	What is available already?
<p>Progression along the learning continuum (section 7,72)</p>	<p>The Welsh Ministers must issue a code (the “Progression Code”) that sets out the way in which a curriculum is to make provision for progression by pupils and children.</p>	<p>The Welsh Ministers must consult and then lay a draft before the Senedd. (enhanced negative Senedd procedure)*</p>	<p>The Welsh Government had previously stated its intention to follow the recommendations of Professor Donaldson’s ‘Successful Futures’ review (2015) by replacing the current separation of the curriculum, into the Foundation Phase and Key Stages 2, 3 and 4, with a single learning continuum. There will be ‘progression steps’ along this continuum at ages 5, 8, 11, 14 and 16 at which there will be ‘descriptions of learning’ (they have also been referred to as ‘achievement outcomes’).</p> <p>The <u>Curriculum for Wales documents published in January 2020</u> contained these descriptions of learning at each progression step within each AoLE. The documents also described how five generic ‘principles of progression’ would be applied to each AoLE.</p> <p>It is expected that these principles of progression and the concepts of progression steps and descriptions of learning will form the basis of the Progression Code.</p>

Aspect of the Bill	What will be issued?	Procedure	What is available already?
<p>Relationships and Sexuality Education (RSE) (sections 8, 72)</p>	<p>The Welsh Ministers must issue a Code (the “RSE Code”) setting out themes and matters to be encompassed by the mandatory element of RSE</p>	<p>The Welsh Ministers must consult and then lay a draft before the Senedd. (enhanced negative Senedd procedure)*</p>	<p>At present, sex education is a compulsory part of the basic curriculum in secondary schools. Primary schools may teach it but are not required to. The Welsh Government currently issues non-statutory guidance on how sex and relationships education should be taught.</p> <p>Following the report of an Expert Panel, the Welsh Government consulted in February 2019 on draft statutory guidance on RSE. It also consulted in autumn 2019 on not including a parental right to withdraw their child from sex education which is not part of a national curriculum subject.</p> <p>It is expected that the draft guidance will form the basis of the RSE Code</p>

Aspect of the Bill	What will be issued?	Procedure	What is available already?
<p>Religion, Values and Ethics (RVE) (sections 24(3), 31(3)(b), 32(6)(b), 62, 66. Schedules 1 and 2)</p>	<p>The Welsh Government may issue statutory guidance on any aspect of the curriculum under section 66. The Bill amends section 375 of the Education Act 1996 so that the agreed syllabus which a local authority must adopt for use by schools they maintain must be one for RVE (rather than religious education (RE) as is the case at present). The amendment to the 1996 Act includes a requirement on local authorities to have regard to guidance issued by the Welsh Ministers when developing and adopting their agreed syllabi.</p>	<p>The Welsh Government must consult the persons they think appropriate (if any) before issuing guidance, which local authorities must have regard to when developing and adopting their agreed syllabi for RVE.</p>	<p>The Welsh Government decided in January on the name 'Religion, Values and Ethics' (RVE) to replace religious education (RE), following a consultation it held in autumn 2019.</p> <p>The Explanatory Memorandum (para 3.99) states:</p> <p>The guidance setting out the framework for RVE has already been developed in partnership with key stakeholders, including representatives of existing SACs and religious organisations.</p> <p>The Welsh Government recently consulted (5 May – 28 July 2020) on the scope of RVE, arrangements for local authority-level Standing Advisory Councils for Religious Education (SACRE) and Agreed Syllabus Conferences (ASC), and curriculum expectations for different types of schools.</p>

Aspect of the Bill	What will be issued?	Procedure	What is available already?
<p>Religion, Values and Ethics (RVE) (sections 24(3), 31(3) (b), 32(6)(b), 62, 66. Schedules 1 and 2)</p>	<p>The Welsh Government intends to issue statutory guidance to local authorities regarding agreed syllabi for RVE.</p>		<p>The current consultation seeks views on the provisions within the Bill regarding RVE and does not set out a draft framework for RVE or draft guidance on agreed syllabi. It is expected that a further consultation will be needed on the statutory guidance regarding a draft framework for RVE.</p>
<p>Statutory guidance (generally) (section 66)</p>	<p>The Welsh Ministers may issue statutory guidance in relation to the exercise of functions conferred by or under the Bill. The Bill lists persons who must have regard to the guidance in exercising their functions, including head teachers and governing bodies.</p>	<p>The Welsh Government must consult the persons they think appropriate (if any) before issuing guidance. Guidance under section 66 will not be subject to any Senedd procedure.</p>	<p>The Welsh Government published the Curriculum for Wales 2022 in January 2020. This is provisional statutory guidance consisting of:</p> <ul style="list-style-type: none"> • Introduction to the Curriculum for Wales guidance. • Guidance for legislation – an outline of proposed legislation. • Designing your curriculum – general guidance on developing a curriculum across all areas of learning and experience.

Aspect of the Bill	What will be issued?	Procedure	What is available already?
<p>Statutory guidance (generally) (section 66)</p>	<p>This power is likely to be used to issue the statutory guidance intended to underpin and amplify the four purposes, the six AOLEs and the three cross-curricular skills (in addition to the What Matters Code), as well as on assessment (in addition to the Progression Code). This is essentially intended to provide the 'national approach' which the Minister says will ensure consistency for learners.</p>		<ul style="list-style-type: none"> • Introduction to each area of learning and experience. • Statements of what matters – the 'big ideas' and key principles in each Area. • Principles of progression – how learners make progress throughout their learning across the curriculum. • Descriptions of learning – how learners should make progress within each statement of what matters. • Designing your curriculum – principles for each Area – more Area-specific guidance on developing a curriculum. • Supporting learner progression – assessment guidance.

Aspect of the Bill	What will be issued?	Procedure	What is available already?
			<p>The guidance was provisional as it cannot have statutory force until the Bill has received Royal Assent. However, it should not be considered as 'draft' as the Welsh Government has published it as the final version of the Curriculum for Wales, albeit subject to the successful passage of the Bill. The Welsh Government published a draft curriculum for feedback in May 2019</p>
<p>* Under the enhanced negative procedure, the Welsh Ministers must consult and then lay a draft before the Senedd for not less than 40 days. If the Senedd resolves not to approve the Code it cannot be issued. If there is no such resolution the Welsh Ministers must issue the Code in the form of the draft.</p>			

15. Annex B: List of the ‘What Matters’ statements within each Area of Learning and Experience (AoLE)

The list below is as published as part of the [Curriculum for Wales documents](#) in January 2020. They are not included on the face of the Bill and final versions will be as specified in the What Matters Code which the Welsh Ministers must issue under section 6 of the Bill.

Expressive Arts (three ‘What Matters’ statements)

- Exploring the expressive arts is essential to developing artistic skills and knowledge and it enables learners to become curious and creative individuals.
- Responding and reflecting, both as artist and audience, is a fundamental part of learning in the expressive arts.
- Creating combines skills and knowledge, drawing on the senses, inspiration and imagination.

Health and Well-being (five ‘What Matters’ statements)

- Developing physical health and well-being has lifelong benefits.
- How we process and respond to our experiences affects our mental health and emotional well-being.
- Our decision-making impacts on the quality of our lives and the lives of others.
- How we engage with social influences shapes who we are and affects our health and well-being.
- Healthy relationships are fundamental to our well-being.

Humanities (five ‘What Matters’ statements)

- Enquiry, exploration and investigation inspire curiosity about the world, its past, present and future.
- Events and human experiences are complex, and are perceived, interpreted and represented in different ways.
- Our natural world is diverse and dynamic, influenced by processes and human actions.
- Human societies are complex and diverse, and shaped by human actions and

beliefs.

- Informed, self-aware citizens engage with the challenges and opportunities that face humanity, and are able to take considered and ethical action.

Languages, Literacy and Communication (four 'What Matters' statements)

- Languages connect us.
- Understanding languages is key to understanding the world around us.
- Expressing ourselves through languages is key to communication.
- Literature fires imagination and inspires creativity.

Mathematics and Numeracy (four 'What Matters' statements)

- The number system is used to represent and compare relationships between numbers and quantities.
- Algebra uses symbol systems to express the structure of mathematical relationships.
- Geometry focuses on relationships involving shape, space and position, and measurement focuses on quantifying phenomena in the physical world.
- Statistics represent data, probability models chance, and both support informed inferences and decisions.

Science and Technology (six 'What Matters' statements)

- Being curious and searching for answers is essential to understanding and predicting phenomena.
- Design thinking and engineering offer technical and creative ways to meet society's needs and wants.
- The world around us is full of living things which depend on each other for survival.
- Matter and the way it behaves defines our universe and shapes our lives.
- Forces and energy provide a foundation for understanding our universe.
- Computation is the foundation for our digital world.

