

# DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

## COUNCIL

### MINUTES OF THE MEETING HELD ON THURSDAY 5 SEPTEMBER 2024

**Councillors Present:** Adrian Abbs, Antony Amirtharaj, Phil Barnett, Dennis Benneyworth, Dominic Boeck, Jeff Brooks, Patrick Clark, Heather Codling, Martin Colston, Jeremy Cottam, Iain Cottingham, Laura Coyle, Carlyne Culver, Paul Dick, Billy Drummond (Chairman), Nigel Foot, Denise Gaines, Stuart Gourley, Clive Hooker, Owen Jeffery, Paul Kander, Jane Langford, Ross Mackinnon, Alan Macro, David Marsh, Erik Pattenden, Justin Pemberton, Vicky Poole, Christopher Read, Matt Shakespeare, Richard Somner, Stephanie Steevenson, Joanne Stewart, Louise Sturgess, Clive Taylor, Tony Vickers (Vice-Chairman) and Howard Woollaston

**Also Present:** Nigel Lynn (Chief Executive), Paul Coe (Executive Director – Adult Social Care), AnnMarie Dodds (Executive Director - Children's Services), Joseph Holmes (Executive Director - Resources), Sarah Clarke (Service Director (Strategy and Governance)), Neil Goddard (Service Director - Education and SEND), Honorary Alderman Adrian Edwards, Stephen Chard (Democratic Services Manager), Melanie Booth (Group Executive (Lib Dems)), Councillor Geoff Mayes, Honorary Alderman Tony Linden, Honorary Alderman Graham Pask (Honorary Alderman) and Nicola Thomas (Service Lead – Legal and Democratic Services)

**Apologies for inability to attend the meeting:** Councillor Nick Carter, Councillor Lee Dillon, Councillor Janine Lewis, Councillor Biyi Oloko, Councillor Martha Vickers, Honorary Alderwoman Hilary Cole, Honorary Alderman Paul Bryant, Honorary Alderman Andrew Rowles and Honorary Alderman Anthony Stansfeld

#### PART I

##### 1. Declarations of Interest

Councillor Antony Amirtharaj declared an interest in Agenda Item 3 by virtue of the fact that he was a Governor of Springfield Primary School in 2014/15, but reported that, as his interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.

Councillor Laura Coyle declared an interest in Agenda Item 3 by virtue of the fact that her son attended The Downs School, but reported that, as her interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, she determined to remain to take part in the debate and vote on the matter.

Councillor Paul Dick declared an interest in Agenda Item 3 by virtue of the fact that he had previously been a member of the Schools' Forum, but reported that, as his interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.

Councillor David Marsh declared an interest in Agenda Item 3 by virtue of the fact that he was the Chair of Governors of John Rankin School. He clarified that while he had spoken on this matter previously at meetings of Council and the Executive, he had not done so on behalf of John Rankin School. It was also the case that affected schools were located within his ward. Councillor Marsh reported that, as his interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.

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Councillor Carlyne Culver declared an interest in Agenda Item 3 by virtue of the fact that one of the affected schools was within her ward, but reported that, as her interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, she determined to remain to take part in the debate and vote on the matter.

Councillor Jo Stewart declared an interest in Agenda Item 3 by virtue of the fact that one of the affected schools was within her ward and she intended to speak in support of the school, but reported that, as her interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, she determined to remain to take part in the debate and vote on the matter.

Councillor Clive Taylor declared an interest in Agenda Item 3 by virtue of the fact that one of the affected schools was within his ward. He added that his children attended this school in the 1980s and he was part of a fund raising committee at the school at that time. He reported that, as his interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, he determined to remain to take part in the debate and vote on the matter.

### 2. To consider the requisition for Council

Councillor Billy Drummond introduced Agenda Item 3 and outlined the requisition that had been put to Council and signed by the requisite number of Members:

*This Council calls on the Chairman of Council to write to the Schools' Forum to request that they review the decision to clawback West Berkshire schools' surplus funds, to be applied to their budgets for the financial year 2024/25.*

Councillor Drummond proposed that speaking rights be extended to five minutes for both the Mover of the Motion and the relevant Portfolio Holder for this agenda item. This was seconded by Councillor Jeff Brooks.

This was put to the meeting and duly **RESOLVED**.

**MOTION:** Proposed by Councillor Ross Mackinnon and seconded by Councillor David Marsh:

That Council debate the matter and consider the proposed action in the requisition.

Councillor Mackinnon felt this had been a sorry episode for the Administration. The decision to bring forward the clawback of funding to April 2024 was of significant concern to Headteachers, School Business Managers, teachers and parents. Parent Teacher Associations (PTAs) and other fund raising groups had lost their motivation to seek to raise funds for their schools in light of this.

Angry statements had been issued from Headteacher Associations, one of which followed a suggestion at the Executive held in July 2024 that schools were not working together. Councillor Mackinnon made clear that schools were willing. They had agreed to the clawback (for the 2025/26 financial year) at the Schools' Forum in December 2023 in order to help fund the High Needs Block (HNB).

However, six months on from this decision, the Administration informed schools that they would need to revote on implementing the clawback from the 2024/25 financial year. This was three months into the current financial year when budgets had already been set.

Schools were informed that if they did not vote in favour of the proposal, the Council would appeal to the Secretary of State to overturn the decision which could result in a poorer outcome for schools. Schools had to, reluctantly, concede.

The process undertaken at the resulting Schools' Forum was of concern with those schools at risk of a loss in funding being unable to vote on the decision.

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The statement issued by the Council, following the Forum meeting, advised that this was the decision of the Forum and not the Council.

Headteachers were considering a move to academisation, a move they had not previously considered before.

There were concerns for the Education Service, particularly following the resignation of many educational psychologists.

In conclusion, Councillor Mackinnon felt the Administration should change their mind on this matter, withdraw the proposal for clawback from April 2024 and withdraw the suggestion of submitting an appeal to the Secretary of State, with a new vote to revert back to the original date for implementing the clawback of April 2025.

Councillor Heather Codling gave some background to the situation. Many local authorities nationally were struggling to meet Special Educational Needs and Disability (SEND) costs. Schools were responsible for providing appropriate support to an increasing number of SEND pupils from their revenue budgets.

Pupils with higher levels of need required an Education, Health and Care Plan (EHCP). This plan set out the support required and the need, in some cases, for additional funds from the HNB. The HNB was funded by the Dedicated Schools Grant, which in turn came from the Department for Education (DfE). The number of EHCPs was increasing year on year, as was the increasing complexity of need and therefore cost.

87% of local authorities were expecting an overspend in their HNB and an overspend of £3.6bn was expected across the country at the end of this financial year. These overspends had accrued under the previous Government.

The DfE had been looking at options for reducing the overspend with a number of local authorities, with West Berkshire invited to participate in the third phase of the Delivering Better Value (DBV) Programme.

The DfE were monitoring activity at local levels and expected to see local authorities and Schools' Forums taking steps to reduce spend in the HNB.

Therefore, towards the end of 2023, the majority of schools on the Forum voted to reintroduce the clawback mechanism from 2025. Some schools were in support of the measure, even those likely to be affected, as being the right approach.

When school budgets were received in May 2024, consideration was given to lodging an appeal with the Secretary of State to review the decision taken (as permitted by the DfE) as it did not accord with the original consultation held with schools. The Forum agreed unanimously to reconsider its decision and from there agreed to clawback surplus funds from April 2024. Schools were not pressurised to do so. This step would keep control of decisions at a local level rather than going to the DfE.

The clawback was for uncommitted school funds and funding would be placed in the ring-fenced HNB in order to support West Berkshire's young people, starting with this financial year. The clawback would not push any school into deficit in this financial year.

Councillor Codling confirmed that no PTA or fund-raising monies would be included.

Councillor Dominic Boeck stated that the significant challenges being faced with meeting the needs for SEND provision were fully understood by the Conservative Group and was not a new problem. However, the view was held that there had been a concerning level of 'dither and delay' in the management of the process.

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The Education Service had always worked closely with schools, providing assistance wherever possible and often lobbying Government for increased funding for the HNB. However, the deficit in the HNB had grown.

He felt that schools were pressurised into agreeing to bring forward the clawback of surplus funding from 2024/25. Concern remained that fund raising monies would be lost.

Councillor Boeck felt that earlier action could have been taken to address the deficit, but the delay described had resulted in schools being impacted in year.

Councillor Jo Stewart spoke on the situation being faced by Springfield Primary School, a school within her Ward.

A detailed pack was submitted by the school to the Education Service in August. It was put together by the school during the summer holidays providing justification for the sums being held. The receipt of this information had not been acknowledged and Councillor Stewart felt this extremely disrespectful. It was noted that officer resource had not been at a sufficient level in the Education Service and this had impacted on the school.

Back in June 2021, the Headteacher of the school had expressed concerns to the Council over drainage issues following flooding. Inspections and surveys were undertaken which identified the need for significant works to resolve the issues. However, these works had not been progressed and drainage issues had continued.

There was justification, since June 2021, for the accumulation of some funds and the school believed this was known by the Council. Planned projects, including to the playground, had not been progressed as drainage issues had not been resolved and it would not be prudent to proceed while the flood risk remained.

The school, its staff and its pupils would be let down if this funding was clawed back.

Councillor Carolyne Culver advised that The Downs School was within her Ward. The Downs had been told that £490k could be clawed back. However, a large proportion of this sum had come from fund raising activity and was intended to be used for increasing classroom space and extending the sixth form.

The Council had informed the school that such funds should be held in a separate budget and could therefore be subject to the clawback. Councillor Culver had reviewed the Scheme for Financing Schools which stated that schools were permitted to accrue income from fund raising. The Scheme did not specify that the funds needed to be held in a separate account.

The Schools' Forum had agreed, in December 2023, to the clawback from 2025/26. This was more acceptable as it gave schools time to plan. This was not possible from 2024/25 with funds already committed.

Councillor Culver was concerned that effected schools could not vote at the Schools' Forum, whereas other schools, who could potentially benefit from the decision, could vote.

If the clawback proceeded from 2024/25 then The Downs School would be pushed into a significant deficit from 2025/26. She was aware that the Leader of Council had met with representatives of the school this week and advised that the process would be reviewed which could result in a reduced clawback amount.

The significant challenge facing the Council and local authorities nationally in this area was acknowledged, but the process undertaken was unjust, had been badly handled and had impacted on trust. It was concerning for the Council's reputation.

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Councillor Chris Read felt the statements that had been made by the Administration on this matter showed that the approach taken had been carefully considered. The funding proposed for clawback would be used to help support SEND pupils to achieve the best possible outcomes.

Costs, as already described, continued to increase and actions had needed to be considered. He congratulated the Schools' Forum for taking the decision to redeploy uncommitted reserves. Councillor Read added that the safeguards attached to the clawback process would mean that no school would be pushed into deficit and funds committed in year would not be impacted.

Councillor Clive Taylor supported the comments of his fellow Ward Member, Councillor Stewart. Springfield Primary School continued to hold an extremely good reputation. It was much loved by its pupils and parents, both past and present.

He was shocked when he learned that Springfield Primary was to be included in the clawback. This had caused immense distress to the school and its staff. If the proposed clawback of £137k was taken, then this would have a severe impact on the budget for 2025/26.

He felt there was no justification for any clawback from the school when considering the evidence it had submitted on the reasons for holding funds.

Councillor Adrian Abbs felt that it had become necessary to consider the clawback in light of insufficient funds being made available by Central Government. This was not a decision that anyone wanted to make.

Committed funds should not be subject to the clawback. Councillor Abbs sought reassurance that fund raising monies would not be clawed back.

He added concern at the retrospective step of implementing the clawback from 2024/25, giving schools no planning time.

Councillor Owen Jeffery felt there had been much misinformation on this matter. He was clear that no funds raised by PTAs would be clawed back.

The purpose of the clawback was to move public funds from reserves into supporting SEND pupils who needed and deserved this support. Councillor Jeffery was aware, from having a SEND child in his family, of the level of support that was needed.

Councillor Denise Gaines explained that her sister was, until recently, a teaching assistant in a primary school outside of West Berkshire. It was often teaching assistants who supported children on an EHCP within mainstream schools. The school her sister worked at had a SEND unit but this was always at capacity. An issue across the country.

EHCPs were funded by the HNB. Between January 2023 and January 2024 there had been an 11.4% increase in the funding required to support children and young people with an EHCP.

The need to meet these costs and ensure the best education provision possible, could impact on the provision of the many important tools and equipment required to support a child's education throughout the school year.

Councillor Gaines stated that fund raised monies and funds committed to capital projects would not be clawed back.

Councillor Richard Somner felt there was a lack of understanding shown of the Education Service, schools and their headteachers. He was concerned at the suggestion that headteachers were either misinformed or had been stating untruths about this situation. This was not acceptable.

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There was full understanding of the funding difficulties faced in meeting SEND provision. The purpose of the Motion was to implement the clawback from 2025/26 to provide schools with preparation time.

Councillor Paul Dick referred to the written statement of The Downs School provided to the DfE, its parents and to the press, which outlined that the vast majority of the money identified by the Council for clawback was from fund raising. He considered this to be a rare step for a school to take.

When the proposal was brought forward to appoint a Director responsible for SEND, the Conservative Group felt the funding could be better used for staff working on the ground with pupils.

Councillor Dick was aware that in some cases, funds identified for clawback by the Council were already earmarked by schools to help support children with SEND.

Councillor Jeff Brooks reminded Members that at the Executive meeting on 25 July 2024, he confirmed that a review would be undertaken of the amounts identified for clawback in order to support schools and help manage the process moving forward.

This review was ongoing and as part of the review, Councillor Brooks confirmed that he was visiting schools with Councillor Codling. To date they had visited Brookfields School, John Rankin and The Downs. Others would follow and would hopefully include Springfield Primary. The review was being taken very seriously and was not a token exercise.

Councillor Brooks reiterated the points he made at the Executive in July that funds raised by PTAs would be excluded from the clawback. A point he had since publicly repeated. This was not however covered in the recent Newbury Weekly News report and no reference was included of the review. He added that committed funds were excluded from the clawback.

Schools had until 11 September 2024 to respond to the review and it was likely that the funding to be returned to the HNB would be reduced as a result of the review.

Councillor Brooks was not supportive of the Motion, but assured Members that the Administration was taking a hands-on approach in assisting schools and supporting its pupils.

The Schools' Forum would be asked to review the amounts due for clawback but the mechanism would remain.

Councillor Marsh welcomed the review. He was however of the view that it was only happening due to the involvement of Opposition Members.

Schools had been told at meetings in June 2024 that funds would be clawed back imminently. Schools had therefore been put under pressure to urgently review their budgets at the end of the school year and over the summer holidays.

Councillor Marsh had sought to ask questions on this matter at the Council meeting on 18 July, which was just days after the Schools' Forum had been pushed to accept the clawback from already approved budgets. However, he was not permitted to do so.

12 schools had been targeted for clawback in this year in order to make a one-off reduction in the SEND deficit. However, even if all funds identified were clawed back, a deficit of £6m would still remain.

The reserves had been kept for the good of all pupils, including SEND.

Councillor Marsh queried why the Council's special schools were subject to the clawback.

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Councillor Brooks raised a point of order to clarify that The Castle School had not been included in this process.

Councillor Marsh concluded that the Motion, if approved, would ask the Schools' Forum to revert to its original decision to implement the clawback from 2025/26. He urged Members to support the Motion.

Councillor Mackinnon stated that he would be unable to understand how Members could vote against this Motion after taking into account the contributions made at this meeting on behalf of schools. If the Motion was not carried it would be of significant concern to parents and headteachers.

Reference had been made to millions of pounds being sat in reserves, but some projects could take many years to raise the necessary funds before it could proceed.

The point had also been made that no schools would be placed into deficit in this financial year as a result of the clawback, but Councillor Mackinnon questioned the impact into the next financial year.

The review that was ongoing was taking place six months into the financial year and he questioned when it would conclude.

Councillor Mackinnon felt that Liberal Democrat Councillors should listen to the carefully made points at this meeting, recognise that they had taken the wrong approach and support the Motion.

The Motion was put to the meeting and declared **LOST**.

*(The meeting commenced at 7.00pm and closed at 8.05pm)*

**CHAIRMAN** .....

**Date of Signature** .....