

# DRAFT

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

## SCHOOLS FORUM

### MINUTES OF THE MEETING HELD ON TUESDAY, 19 DECEMBER 2023

**Present:** Reverend Mark Bennet (Church of England Diocese), Nicolle Browning (Maintained Secondary School Headteacher), Councillor Heather Codling (Executive Portfolio Holder: Children, Education and Young People's Services), Councillor Iain Cottingham (Executive Portfolio Holder: Finance and Corporate Services), Paul Davey (Maintained Primary School Governor), Jackie Davies (Pupil Referral Unit Headteacher), Richard Hand (Trade Union), Keith Harvey (Maintained Primary School Headteacher), Jon Hewitt (Maintained Special School Headteacher), Jo Lagares (Maintained Primary School Headteacher), Maria Morgan (Maintained Nursery School Headteacher), Chris Prosser (Maintained Secondary School Headteacher), David Ramsden (Maintained Secondary School Headteacher), Lesley Roberts (Maintained Primary School Headteacher), Campbell Smith (Academy School Governor), Charlotte Wilson (Academy School Headteacher), Tristan Whiteman (Maintained Primary School Headteacher - Substitute for Melissa Cliffe) and Lindsay Wood (Academy School Headteacher)

**Also Present:** AnnMarie Dodds (Executive Director - Children and Family Services), Melanie Ellis (Acting Head of Finance and Property), Jessica Bailiss (Democratic Services Officer) and Michelle Sancho (Acting Head of Education Services)

**Apologies for inability to attend the meeting:** Melissa Cliffe, Gemma Duff, Michelle Harrison, Richard Hawthorne, Trevor Keable, Gemma Piper, Jane Seymour, Graham Spellman and Phil Spray

## PART I

### 1 Declarations of Interest

Due to the nature of the meeting the Chair explained the procedure in terms of Declarations of Interest in line with paragraph 3.7 of the Schools' Forum Constitution.

Jacqui Davies declared that she had an interest in agenda item two due to her school having a surplus balance for 2022/2023. As her interest was a prejudicial and pecuniary interest Jacqui Davies would leave the meeting for the duration of the item and not take part in the vote. Jacqui Davies also declared a further personal interest in the item as she was a Governor at the Downs Foundation, which was one of the other schools with a significant surplus.

Jon Hewitt reported that he had been advised that he had a prejudicial interest in item two due to being from a school with a significant surplus balance. He stated that he was not happy with the advice provided however would leave the meeting for the duration of the item and not take part in the vote in line with the Constitution. Jon Hewitt reported that he was concerned that as a result of his interest there would not be a special school representative present for the meeting.

Chris Prosser reported that he had also been advised that he had a prejudicial interest in agenda item two due to being from a school with a significant surplus. Chris Prosser concurred with Jon Hewitt and was not happy with the advice as it was felt that the matter

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involved all schools and could involve all schools into the future. Chris Prosser stated he would accept the legal advice and leave the meeting for the duration of the item and would not take part in the vote.

### 2 **Scheme for Financing Schools - Claw back mechanism**

Melanie Ellis introduced the report (Agenda Item 2). A consultation was recently undertaken with all schools on the updates to the 2023/24 Scheme for Financing Schools and on the 2024/25 funding formula. At Schools Forum of 4<sup>th</sup> December 2023, the majority of the consultation was approved, but it was agreed that an additional Heads Funding Group and Schools Forum be arranged to discuss the inclusion of a clawback mechanism in the updated Scheme for Financing Schools.

The Heads' Funding Group had met at an additional meeting on 5<sup>th</sup> December and formed the recommendations set out in section 2.1 of the report. Melanie Ellis highlighted that there had been significant discussion on each of the points. It had also been agreed that there should be an opportunity for a counter view to be presented at the Schools' Forum meeting.

Melanie Ellis reported that school surplus balances currently totalled £13.7m and £10.8m of this was held in main school budgets. The table under section 5.3 of the report showed which schools were holding these balances and what they equated to.

Section six of the report provided a summary of the consultation with schools where 13 had voted in favour of a claw back and six against. A summary of comments for and against the claw back were included. Section seven of the report showed how a sliding scale could operate.

The Vice-Chair invited Nicolle Browning to present a counter view to the claw back. Nicolle Browning added that it was a collective view from schools unable to be present at the meeting:

- It was acknowledged that carrying £13.7m of public funding forward across years was unsustainable – the increases in funding to schools had been minimal in recent years and many schools' balances were being significantly eroded. Some schools were maintaining a large carry forward to avoid being in deficit in future years. However, it was understood that these large carry forwards might indicate to the government that all was well with school budgets and the system could absorb further cuts, which was not the case.
- There was an agreement that there needed to be a system whereby balances were brought down to more realistic levels, whilst maintaining sound financial management.
- Some of the schools with surplus balances had very clear plans about how the funding would be allocated and could justify carry forwards.
- If a clawback were to be introduced, this should be for any balances carried forward from 2024/25 into the 2025/26 budget period. This allowed schools to consider their surplus balances and use the funds for the benefit of their pupils for the coming financial year, which was what the money was provided for.
- The broader concern was that if this did not happen it could cause current local authority maintained schools to move to academy status at a faster rate. Academy schools were not placed in a position of facing possible claw back.

David Ramsden noted that the only real difference between the proposal contained within the report and the proposal put forward as part of the counter view, was the date for a claw back. It was felt that there was consensus on other areas including whether a claw

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back mechanism needed to be re-introduced; whether there should be a sliding scale; and whether there was support for head teachers to be able to present plans for how surplus funding would be used to a panel. It was felt that it would be helpful to discuss these areas first. The Vice-Chair agreed this would be a sensible way forward but first invited further comments from the Forum.

Paul Davey queried if the claw back would only benefit maintained schools, or academy schools as well. Melanie Ellis confirmed that only maintained schools would benefit.

Reverend Mark Bennett felt he might need to declare an interest as he was also a Governor at an Academy Trust and more schools might be looking to join trusts due to the claw back. He stated that putting money back into the High Needs Budget would effect all schools because all schools used these services. The Vice-Chair clarified that as Reverend Bennett would not take part in the vote on the item as a non-school member it was acceptable for him to express his view.

Lesley Roberts read out comments that she had received from other headteachers expressing they were opposed to a claw back. In summary, schools that had provided comments were against clawed back funding being used to fund the High Needs Block (HNB) budget. It was felt that the high needs budget was a Local Authority (LA) budget. One view had also stated that there would not be places in high needs schools, which were already funded on a tight budget. It was queried what the impact would be to the LA from further schools converting to academies. It was felt that current actions by the LA were leading more schools to explore academisation.

Keith Harvey asked Michelle Sancho to comment regarding the impact caused by increased schools converting to academies. Michelle Sancho reported that the Council was keen for schools to remain maintained and to continue to be supported by the LA. If further schools converted to academies this would potentially impact on LA services. Michelle Sancho commented however, that many of the academies in West Berkshire had a very positive relationship with the LA and bought back services showing these services were valued.

AnnMarie Dodds provided some clarity on points that had been raised. The HNB was not a LA budget but was a schools' budget, which formed part of the Dedicated Schools Grant (DSG). There was a significant overspend in the HNB, which was controlled by the Schools' Forum. Regarding money going back into the HNB, it had been discussed previously that money would go back to where it came from initially. Funding for special schools came from the HNB and therefore if money was clawed back from special schools it would go back to the HNB. Money clawed back from primary and secondary schools would go back into the schools block.

AnnMarie Dodds explained that the current situation would not alter the way schools were funded, whether maintained or academy, because schools were funded on a per pupil basis. AnnMarie Dodds reiterated that the LA very much wished for schools to remain maintained and had no desire to lose schools to academisation. This however did not make the current funding situation go away in that there was still an overspend on the DSG. West Berkshire was part of the Delivering Better Value Programme (DBVP), which meant the DSG would have to be balanced within the next couple of years. A position needed to be reached where the Schools' Forum agreed a mechanism to balance school budgets.

The Vice-Chair queried that if funding was clawed back from special schools, would it be used to reduce the high needs deficit, which could result in some of the funding going to profit making independent schools. AnnMarie Dodds reported that the HNB included all additional SEN spend including support for schools; places in special schools; and in extreme circumstances funding places in independent special schools because there

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were not enough special school places in West Berkshire. The HNB also funded a raft of interventions provided for schools. AnnMarie Dodds felt it would be disingenuous to assume that the money was exclusively going out of West Berkshire and into the independent sector elsewhere.

AnnMarie Dodds highlighted that when a school converted to an academy, any surplus budget was taken with it. If money was clawed back from special schools at the present time then this would bring the deficit down by about £3m however, there would still be a situation where £6m needed to be found. If academisation took place and funding was not clawed back £9m would need to be found. It was a question of whether the gap should be partially recouped with the surplus balances, or alternatively the Forum could agree to not claw back at the current stage with the knowledge that £9m would still need to be recouped over the next couple of years.

Councillor Ian Cottingham concurred with the points made by AnnMarie Dodds. He stressed that a primary challenge for the new Administration had been balancing the books. He understood that the £9m referred to had accrued over many years and this needed to be paid back over the short term. There was a particular risk of one school converting to an academy and if a claw back mechanism was not introduced by 31st March 2024, a substantial amount of money might be lost. He understood why some headteachers might wish to defer the date of the claw back however, he stressed that the deficit needed to be recouped and urged the Forum to agree to its reintroduction as of 31st March 2024.

The Vice-Chair stated that he had not been aware that a particular school was looking to convert to an academy in the near future.

Maria Morgan queried the timescales that had been referred to in terms of recouping the deficit. AnnMarie Dodds clarified that there had been a statutory override in place on the DSG to date, which meant there had been no penalty related to overspends or any consequence to the Schools' Forum or Council. This override was however, due to be removed at the end of the 2025/26 financial year and would mean that any deficit against the DSG would become the LA's problem. Normally a deficit in the DSG against the HNB doubled yearly and therefore if left unmitigated the deficit could be in excess of £20m by 2026. The LA did not have enough in its budget or reserves to cover this overspend. As the deficit currently stood this would likely result in the LA becoming bankrupt and commissioners taking control of spending. West Berkshire had been placed in the DBVP because it had been identified as a risk. The deficit would need to be recouped over the next two years so that the budget could be balanced. Thought needed to be given to what levers needed to be used to reach a stronger financial position as soon as possible.

The Vice-Chair voiced that he was aware that West Berkshire was not the only LA in the position faced and currently had a lower deficit against the DSG compared to other LAs such as Bracknell Forest, which was similar in size to West Berkshire. He queried what other LAs in a similar position were doing. AnnMarie Dodds reported that LAs with higher deficits had been placed in the Safety Valve Programme, which was the most extreme level of intervention from the Department for Education (DfE). In this programme many decision making powers were removed and there was an expectation of significant actions such as claw back and funding transfers. AnnMarie Dodds recommended looking at percentages rather than numbers as a factor regarding the overspend. Decisions moving forward were what was important in terms of the next few years. No decision was going to be easy and there were no simple solutions.

The Vice-Chair suggested having a non-public meeting in the future looking at the funding situation. AnnMarie Dodds felt that this would be helpful.

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Reverend Mark Bennett noted the discussions that had taken place on funding however, stated that this needed to be balanced with statutory obligations to educate children and provide for them in various ways. He stated that he had not seen clearly benchmarked, the extent to which the grant received enabled these obligations to be met. He felt that this was a necessary piece of work going forward and would increase understanding of the situation faced. Michelle Sancho reported that statutory obligations were met however, because these were met and demands were rising the spend was increasing. A number of invest to save initiatives had been put in place to help reduce costs however, a decision would be required on these areas going forward. The Vice-Chair felt that what was being implied by Reverend Bennett was that if all non-statutory elements were removed from the High Needs Budget, how much would the budget still be overspent. Reverend Bennett agreed and felt it would be useful to see any modelling when decisions were being made.

David Ramsden stated that he agreed with a private meeting being organised to help Forum Members understand the bigger picture. David Ramsden commented that he was in support of the claw back being introduced from 31st March 2024. He acknowledged comments from Officers and Members that the DSG was a schools' budget in a difficult situation. David Ramsden stated that he had been a member of the Forum for many years and many hours of work had been put into trying to pull back the position on the HNB. Subsequently the LA had stepped in and stopped this happening and he had not understood at the time why this had been the case. Care needed to be taken when comments were made regarding the Forum allowing the deficit to grow. AnnMarie Dodds apologised if she had commented unhelpfully on this area causing frustration and appreciated David Ramsden's comments.

David Ramsden stated that he was of the view that a tough decision needed to be made at the current meeting to re-introduce a claw back. He supported comments from AnnMarie Dodds regarding not wanting to lose control of spend to the Department for Education. He wished to avoid being placed further up in the DBVP. If a claw back was not re-introduced and the date of introduction was deferred then the situation would be prolonged. Headteachers would need to trust that a thorough process would be put in place including a quality assurance panel to review surplus balances.

Charlotte Wilson referred to comments earlier in the discussion that cuts and invest to save had been discussed in depth overtime. Impact reports had been continuously requested by headteachers over the years to show what was having an impact and making a difference to children, and it was not felt that this information had been received. Charlotte Wilson asked for assurance from Officers and Members that this information would be received so the Schools' Forum were fully informed moving forward and able to spend money where it was going to make a difference. In response, AnnMarie Dodds stated that over the next 12 months, as part of the next stage of the DBVP, spend against the HNB would need to be looked at in great detail including benchmarking against neighbouring authorities. AnnMarie Dodds stated that she was committed to looking at whether what was being done was making a difference across all aspects of Children's Services and this could therefore be the expected approach. Numerous discussions would be required at the Schools' Forum over the next period regarding how money was being spent and collective decisions would be required over what should continue or stop.

Councillor Cottingham stated that he fully supported a proposal for greater understanding of finances relating to the LA. The LA was currently going through a consultation regarding next years' budget and £14m needed to be found. He understood a preventative strategy approach was being taken for children and families in West Berkshire.

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Paul Davey commented that from a business perspective they were looking at needing to save £6m or potentially £9m over the next two years. He understood that the DBVP could deliver some better value however, was not confident it would deliver the scale of what was required. He thanked AnnMarie Dodds for her openness and honesty about the situation and the clarity provided. He felt the inevitable point was that to recoup the money from the DSG would have a quality impact on education provided and statutory obligations to provide this education. Paul Davey stated he could not identify anything that was being proposed or discussed that would stop this happening. He queried what the priority was in terms of what would be cut first.

In response to Paul Davey's points, AnnMarie Dodds acknowledged that this was certainly a discussion that needed to take place and would need to do so in a closed meeting. AnnMarie Dodds acknowledged the scale of the challenge faced and that there were frustrations around a number of areas however, a point needed to be reached at the current meeting where a decision could be made regarding the single issue of the claw back. A meeting could then take place in January/February regarding the bigger financial picture.

In response to the points raised by Charlotte Wilson, Michelle Sancho reported that reports on the invest to save projects had included impact data. Michelle Sancho acknowledged however, that more could be done going forward in terms of evaluation.

The Vice-Chair queried if the claw back was actioned immediately and money was redistributed back to the HNB, if this money would essentially be filling a black hole. The amount clawed back would be less than the increase in the deficit expected over the next year. AnnMarie Dodds agreed that it would however, flagged the risk that one of the surplus schools had submitted an academisation notice and would therefore take the surplus balance in to an academy trust.

David Ramsden voiced that caution need to be taken when commenting that certain amounts of money would not have an impact on the deficit, as this approach had caused the situation in the first place and needed to be avoided. David Ramsden felt that the claw back needed to be introduced from 31st March 2024. He understood this would not recoup the whole deficit however, would demonstrate that the Schools' Forum was doing what it could to try and mitigate the situation.

The Vice-Chair drew attention to the recommendations under section 2.1 of the report and suggested the Forum vote on those that there was a likely consensus on.

It was proposed and seconded by maintained school members that the Schools' Forum agree recommendation 2.1 (1) *to include a clawback mechanism in the updated SFS*. At the vote with all maintained school members the motion was carried.

It was proposed and seconded by maintained school members that the Schools' Forum agree recommendation 2.1 (3) *that the maximum amount that could be clawed back each year was the amount of school balance in excess of 10% of their budget share. This was subject to leaving the schools with a minimum of £50,000 balance. The actual amount to be clawed back would be recommended by Heads Funding Group after reviewing the commitments on the statement, and taking into consideration the sliding scale in the first year. Schools Forum would then make the decision*. At the vote with all maintained school members the motion was carried.

The Vice Chair sought consideration of recommendation 2.1 (2) regarding the date for a claw back to be re-introduced. He stated that having listened to the points raised and the views of other headteachers he had formed a firm view he would not be able to vote in support of the recommendation to introduce the claw back from 31<sup>st</sup> March 2024. However, having listened to the points also raised by AnnMarie Dodds he queried if there would be support for further discussing the matter at the next Schools' Forum meeting in

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January. AnnMarie Dodds commented that the matter could be taken forward into the new year if this would be helpful however, felt the Forum would be well placed to make a decision at the current meeting. The consultation with schools had been in support of the recommendation and there had not been a change to the date. The Forum had just voted unanimously in support of recommendation 2.1 (3), which would ensure any commitments on school balance sheets would be taken into account and schools would not suffer a detriment. Melanie Ellis agreed with this view and stated that this was the point of schools providing year-end balance statements setting out any commitments.

David Ramsden was of the view that the decision should not be delayed. He felt that reasons for and against had been discussed in detail and there should be enough quality assurance in place to support heads through careful review of balances.

It was proposed and seconded by maintained school members that the Schools' Forum agree recommendation 2.1 (2) *To apply the clawback based on balances as at 31<sup>st</sup> March each year, less any evidenced commitments, starting from 31.3.24. This would be introduced on a sliding scale for the first year.* At the vote with all maintained school members the motion was not carried.

It was clarified that if the Schools' Forum wished to make an amendment to the recommendation then this would need to be proposed, seconded and voted on. This would need to be followed by separate consideration of any revised recommendation proposed.

The Vice-Chair felt that there were two possible options. Firstly, it could be proposed that the claw back be introduced from 31<sup>st</sup> March 2025 or alternatively it could be proposed that the minimum claw back percentage in 2024 could be increased, which might capture more support from the Forum.

Lesley Roberts understood why some headteachers did not wish to defer the decision however, it was important to involve colleagues in discussions. Lesley Roberts felt that she would have to vote with the consensus she had noted from other headteachers and the group. It was felt if others had the wider knowledge that had been explained then there might be support for the minimum in 2024.

The Vice-Chair reminded Forum Members that they had been nominated to represent their colleagues' views, similar to the system in the wider Council and Parliament. David Ramsden concurred with this view and highlighted the counter information that had been presented from a wider set of headteachers. David Ramsden felt that if there was a completely different proposal rather than just changing the date then this should go out to consultation. Nicolle Browning echoed that colleagues' views had been well captured in preparation for the meeting.

The Schools' Forum voted in support of amending the recommendation set out in section 2.1 (2). Subsequently it was proposed and seconded by maintained school members that the date for re-introduction of the claw back be changed to 31<sup>st</sup> March 2025. At the vote with maintained school members the motion was carried.

The Vice-Chair drew attention to recommendation 2.1 (4) regarding where the funds should go once clawed back and it was felt that this decision should be taken in a years' time once the financial situation at that point was known. David Ramsden concurred with this view however, felt it should be reviewed annually where the funding should go when clawed back as circumstances could change radically.

It was proposed and seconded by maintained school members that recommendation 2.1 (4) was not voted on at the current meeting. At the vote with maintained school members this was carried.

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### RESOLVED that:

- A non-public meeting be set up in the future for Schools' Forum Members to help provide an understanding of the wider financial situation faced.
- Recommendations 2.1 (1) and (3) were approved by the Forum.
- It was agreed by the Forum that recommendation 2.1 (2) should be amended. It was subsequently agreed by the Forum that a mechanism for claw back should be introduced from 31<sup>st</sup> March 2025.
- It was agreed by the Forum that a vote would not be taken on recommendation 2.1 (4) as set out above.

### 3 Date of the next meeting

The next meeting of the Schools' Forum would take place on Monday 22<sup>nd</sup> January 2024 at 5pm on Zoom.

*(The meeting commenced 5pm and closed at 6.18pm)*

**CHAIR** .....

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