

# DRAFT

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

## SCHOOLS FORUM

### MINUTES OF THE MEETING HELD ON MONDAY 15 JULY 2024

**Present:** Reverend Mark Bennet (Church of England Diocese), Nicolle Browning (Maintained Secondary School Headteacher), Councillor Heather Codling (Executive Portfolio Holder: Children and Family Services), Councillor Iain Cottingham (Executive Portfolio Holder: Finance and Resources), Paul Davey (Maintained Primary School Governor), Jacquie Davies (Pupil Referral Unit Headteacher), Richard Hand (Trade Union), Michelle Harrison (Maintained Primary Schools), Keith Harvey (Maintained Primary School Headteacher), Trevor Keable (Academy School Governor), Jo Lagares (Maintained Primary School Headteacher), Jo MacArthur (Maintained Primary Headteacher), Maria Morgan (Maintained Nursery School Headteacher), Jamie Morton (Non School - Post 16 Providers), Chris Prosser (Maintained Secondary School Headteacher), David Ramsden (Maintained Secondary School Headteacher), Campbell Smith (Academy School Governor), Graham Spellman (Roman Catholic Diocese), Phil Spray (Maintained Primary School Governor) and Charlotte Wilson (Academy School Headteacher)

**Also Present:** Rose Carberry (Principal Adviser for School Improvement), AnnMarie Dodds (Executive Director - Children and Family Services), Melanie Ellis (Acting Head of Finance and Property), Nicola Ponton (SEN Manager) and Jessica Bailiss (Democratic Services Officer)

**Apologies for inability to attend the meeting:** Richard Hawthorne (Academy School Headteacher), Jon Hewitt (Maintained Special School Headteacher), Julie Lewry (Academy School Headteacher) and Gemma Piper (Academy Trust Representative)

#### PART I

##### 1 **Minutes of previous meeting dated 17th June 2024**

**RESOLVED** that the minutes of the meeting held on 17<sup>th</sup> June 2024 were approved as a true and correct record and signed by the Chair.

##### 2 **Actions arising from previous meetings**

It was noted that all actions were completed or in hand.

##### 3 **Declarations of Interest**

Chris Prosser, Jacquie Davies, Nicolle Browning and Maria Morgan declared that they had an interest in agenda item seven due to being from a school with a surplus balance. As their interest was a prejudicial and pecuniary interest they would leave the meeting for the duration of the item and not take part in the vote.

##### 4 **Schools' Forum Membership and Constitution Report (Jess Bailiss)**

Jess Bailiss introduced the report (Agenda Item 5), which aimed to review and assess the membership and Constitution, which the Schools' Forum was required to do on an annual basis. It was confirmed that there had not been any changes to legislation requiring a change to the Forum's current practise.

Table 1 showed that the number of pupils in each sector had remained broadly the same and therefore no changes were proposed to the structure of the membership at this time.

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No changes were proposed to the Constitution at the current time. The proposal was for the Forum to approve the membership and the Constitution from September 2024 and once approved the Schools' Forum webpage would be updated accordingly.

Trevor Keable asked for confirmation that section A - 1.2 and 1.3 of the Schools' Forum Constitution was correct, which set out areas the Local Authority (LA) must consult the Schools' Forum on annually in relation to school funding areas and areas that were decided by the Schools' Forum. Melanie Ellis believed that this had relevance to agenda item seven on the agenda (Surplus School and School Balance Statement), where the LA had made a proposal and the Schools' Forum were being asked to make a decision. It was confirmed that the Schools' Forum would be required to make the decision and vote on this item. Trevor Keable felt it was important for the Schools' Forum to be clear on the distinct differences between the items set out in section A (1.2 and 1.3) of the Constitution.

Trevor Keable referred to section 2.4 of the Constitution which set out the non-school members of the Schools' Forum and asked how the decision was made regarding how this membership was arranged. He noted that both the Roman Catholic Diocese and Church of England Diocese were mentioned in the DfE Bill however, this also suggested there could be other representative groups too and he queried why there was no one from a Mosque, given West Berkshire had a large Asian population. He was of the understanding that the Schools' Forum decided on the non-school membership however, queried what the logic had been for choosing the existing group. Jess Bailiss confirmed that the non-school membership was based on what was suggested in the Schools' Forum Regulations 2012 and Education Skills and Funding Agency's Good Practice Guidelines, and that this was likely decided when the West Berkshire Schools' Forum was formed. Jess Bailiss would look into this and why other faith groups were not represented.

Reverend Mark Bennet reported that several schools in West Berkshire were either Church of England or Roman Catholic schools. There were not any Muslim schools in the district although there were pupils. It depended on if the membership was based on the school level or community level. He was not against wider representation however, expected the membership was based on school level and this was the reason why the Roman Catholic Diocese and Church of England Diocese were represented on the Forum whilst others were not.

**RESOLVED that** Jess Bailiss would look at how the non-school membership was formed and why only the Church of England Diocese and Roman Catholic Diocese were represented currently.

### 5 **Scheme for Financing Schools (Melanie Ellis)**

Melanie Ellis introduced the report (Agenda Item 6), which presented the responses to the consultation on the updated Scheme for Financing Schools (SFS).

The SFS had been out to consultation with all schools and responses were detailed under section five. Changes had been made to the SFS where requested.

Melanie Ellis drew attention to the first response concerning section 5.14 of the SFS. This section had been amended to make it clearer regarding how schools could ask for revenue contributions to their capital.

Melanie Ellis referred to the response regarding the removal of the section under 7.2 of the SFS describing community facilities as part of the clawback mechanism. Melanie Ellis reported that she had been asked what 'community facilities' included and she clarified that these were facilities that were in consistent financial reporting codes (E31, E32, I16, I17) and as such they were excluded from the clawback calculation. Melanie Ellis added

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that it was also not referring to income generation but just the specific CFR codes mentioned above. Melanie Ellis suggested that schools should contact her directly if they required further information on this area.

Melanie Ellis reported that she had provided responses to other general queries about the SFS that had not resulted in any changes.

It was proposed and seconded that Schools Forum approve the suggested amendment and publish and adopt the updated SFS by 16<sup>th</sup> July 2024. At the vote the motion was carried.

**RESOLVED** that the Schools' Forum approved the updated SFS.

### 6 Surplus School and School Balance Statements (Melanie Ellis)

*(Chris Prosser, Nicolle Browing, Jacquie Davies and Maria Morgan left the meeting at 5.18pm)*

Melanie Ellis introduced the report (Agenda Item 7) and explained that some Part II information had also been circulated to members of the Schools' Forum. If anyone wished to discuss something specifically in relation to this information this would need to be done so confidentially in Part II.

Melanie Ellis explained that at the last meeting of the Schools' Forum in June 2024 it was approved that a clawback mechanism should be introduced from March 2024 and 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. It had been agreed that the Heads Funding Group (HFG) would review the commitments on the School Balance Statements and then a recommendation for an amount to be clawed back would be brought back to the Schools' Forum in July for approval. This process had been followed and the proposed amount to be clawed back from each school was included in section seven of the report. Two schools would be reviewed at the next meeting of the HFG, these were iCollege due to the different way the setting was funded and The Castle because members of the HFG wished to see the split between The Castle and the Castle at Theale.

Melanie Ellis drew attention to section eight of the report, which set out three areas raised by HFG that had required clarification. These areas had been checked and were clarified as follows:

- 1) Garland – check that the HR and toilet blocks are fully committed/spent: Melanie Ellis confirmed that these areas were fully committed/spent.
- 2) John Rankin – check that the £65k hardware has been committed/spent: Melanie Ellis confirmed that this had not been committed and spent but was due to be by the end of 2024/25. This funding could therefore be clawed back if the Schools' Forum wished to agree a different amount to what was set out in the report for the School.
- 3) Beedon – recommend taking the minimum (£15k) rather than zero: This was for consideration by the Schools' Forum.

AnnMarie Dodds confirmed that the process agreed by the Schools' Forum had been followed. Schools had made submissions and a four hour meeting had taken place where the HFG had gone through the detail for each school in question. The report provided by Melanie Ellis was essentially a summary of this meeting where schools had been invited along to answer questions about their balances.

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Lesley Roberts commented on why she felt the clawback had returned to the Forum for consideration and stated that it was because the Local Authority (LA) had wanted to appeal to the Department for Education (DfE), which in turn would have impacted more schools. The decision by the Forum to overturn the decision taken in December 2023, had been done in an effort to protect more schools. Lesley Roberts queried if the clawback amounts were agreed, if schools impacted would be able to appeal. There had been little time for schools to respond and they had been provided with only 15 minutes to attend the HFG. Lesley Roberts commented on the HFG being required to consider vast amounts of detail provided on each of the schools, which had needed to be read in a short amount of time. Lesley Roberts was of the view that schools should be able to appeal due to the way the decision had come about.

In response to the comments raised by Lesley Roberts, AnnMarie Dodds commented that the process had been agreed by the Schools' Forum and an appeals process had not been identified. To add this at the current stage would be adding something to the process that was subsequent to the original decision. If clawback amounts were not agreed, there would be two options available. All of the information could be provided to the Secretary of State, who could be asked to make a decision, or the Secretary of State could be approached and asked to revert to the original decision in line with the original consultation. This could result in a five and eight percent clawback position, which could be more detrimental to the schools involved than what was proposed currently however, this would be matter for the Secretary of State. Lesley Roberts stressed that her request was only for an appeal mechanism for schools in relation to the LA, due to the short amount of time involved.

AnnMarie Dodds stated that it was a Schools' Forum decision to revoke on the clawback and not an LA decision. The LA had informed the Schools' Forum of the action it intended to take and subsequently the Schools' Forum had decided there should be a revoke on the matter. For the LA to take the matter to the Secretary of State was the legitimate appeals process. AnnMarie Dodds voiced her concern that it was being implied that the LA had undermined the Schools' Forum. Lesley Roberts was of the view that it felt like this because the only reason the clawback from March 2024 had been approved was because more schools would be impacted if the LA appealed to the DfE. Lesley Roberts acknowledged that there was not an appeal process available for schools because the LA would again take the matter to appeal. Lesley Roberts was concerned that the Schools' Forum was not able to do the role it was supposed to do and was having to make the best of a bad situation.

Reverend Mark Bennet reported that he had not been present for the discussion at the last Forum meeting in June. He noted in the report that there were a number of 'avoidable items not committed' and he felt that 'not committed' items could cover a wide range of areas and he was not clear on where the line had been drawn or how it had been assessed in terms of the balances that schools could legitimately hold. Regarding commitments, Melanie Ellis reported that all the details had been provided in the balance statements/other documentation. Melanie Ellis referred to areas deemed avoidable and not committed within the tables and highlighted that most schools would be left with a balance that was sufficient to cover these areas.

Keith Harvey referred to the question on what was deemed avoidable and unavoidable and stated that the HFG had looked at all the financial statements and supporting documents however, as highlighted previously he had not had time to read through all the information in detail. The LA had therefore been asked to form a recommendation for the Schools' Forum. He queried for clarity how the decision was made regarding what was avoidable and unavoidable. He referred to Springfield Primary School and the rebuilding of their fort that would have to be knocked down as part of drainage works. Keith Harvey was of the view that this was a necessity. AnnMarie Dodds clarified that

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anything impacted by building works would form part of a building plan and returned to its previous state. The school had proposed keeping money separate for something that was already part of a building project. Regarding what was deemed committed, these were areas already underway or where purchase orders had already been raised. These areas had either been included as additional sums of funding or through schools holding onto ten percent plus any commitments, enabling the work to be completed.

David Ramsden acknowledged the difficulties referred to by Lesley Roberts and that individual schools would find decisions on clawback difficult. David Ramsden commented on the time spent on the matter and although the timescales for paperwork for the current meeting cycle had been short, members of the HFG and Forum had been dealing with the issues for months. The merit of going to the DfE had been discussed originally at HFG and concern had been raised regarding the risk of this in terms of more schools being involved and also the possibility of a harder cut. David Ramsden also referred to concerns about West Berkshire being moved into the DfE's Safety Valve Programme and commented that there had not yet been any mention at the current meeting of the real issue, which was that the High Needs Block (HNB) was significantly in deficit. David Ramsden felt that there had been robust, professional and sensitive consideration of all the issues. Many of the schools concerned would see money excluded from the clawback because it was already committed. A sensible rationale had been applied and it was not about the LA versus schools but rather about the HNB and what was being done to properly address the issues being faced.

Lesley Roberts clarified that she did not see the situation as the LA versus schools. Her concern was due to the way the LA was operating to get what was needed and the Schools' Forum was being used as a vehicle to get there. For transparency reasons Lesley Roberts felt that there should be an option for schools to appeal.

Charlotte Wilson reported that as Chair of the Secondary Heads Forum she had been asked to communicate that there had been concern raised about the amount of documentation the headteachers of the schools concerned had needed to prepare in the timescales, the robustness and consistency of the process and the impact on individuals in preparing for this meeting. Charlotte Wilson noted that there were two schools that would require a decision at a later stage as further information was required and she questioned the parity and fairness around this.

In response to Charlotte Wilson, AnnMarie Dodds clarified that a decision would be taken at a later stage for two schools because the mechanism for funding for alternative provision was different and needed approaching in a different way. The funding for the Castle and the Castle at Theale needed separating out so it could be identified where the surplus was.

Keith Harvey stated that he had come into the meeting unsure if he was going to abstain or vote for the motion. He stated that having listened to the discussion he planned to vote for the motion however, only due to the consequence that the matter would be taken to the DfE if not agreed. He stated he would therefore be voting reluctantly for the motion.

The Chair acknowledged the sensitivity and difficulty of the decision required however, encouraged members to vote either for or against the motion rather than abstaining due to the amount of work that had gone into the matter.

The Chair invited the Schools' Forum to consider the LA recommendation to agree the clawback amounts proposed for each school as detailed in section seven of the report. It was proposed and seconded by maintained school representatives that the recommendation be approved. At the vote the motion was carried.

**RESOLVED** that the clawback amounts proposed were approved by the Schools' Forum.

## 7 Update on the DfE's Delivering Better Value Programme (Hester Collicut)

*(Chris Prosser, Jacquie Davies and Maria Morgan rejoined the meeting at 5.45pm)*

Susan Tanner introduced the report (Agenda Item 8), which provided an update on the Delivering Better Value Programme (DBV) and its impact on the SEND system in West Berkshire, improving outcomes for children and young people.

Susan Tanner referred to the action from the last meeting and reported that the information within the report was a replica of what had been submitted to the DfE as part of West Berkshire's quarterly submission. Susan Tanner provided detail on the key points of the report as follows:

Progress against the implementation plan:

- Key posts in the programme team had been recruited to, enabling work to be pump primed and capacity to be increased in the first busy phases of the programme.
- The DBV Programme and the SEND and Inclusion Strategy were now fully aligned under the umbrella of Innovation in SEND. This enabled a single strategic approach, and a coherent delivery plan to work from. It also enabled the transformation programme work to continue as sustainable business as usual once the DBV Programme came to an end.
- DBV working groups were meeting regularly.
- Support was continuing with the Primary Care Forum to develop and increase its membership.

Grant Expenditure:

- Spend to date was £114k, which was lower than anticipated. This was primarily due to a delay in some recruitment and a delayed start to the Whole School Mental Health Project. There was a struggle to recruit to Educational Psychologist posts generally, so alternative ways to staff the project were being explored.

Work streams:

- An update was provided on the following two work streams, which was detailed under section four and five of the report respectively:
  - Clear communications with families and wider local partners to support access to services and the SEND System.
  - Enabling settings, schools and colleges to meet the diverse needs of their communities locally.

Deficit Management Plan:

- It was highlighted that the mitigated deficit as at 2027/28 was estimated to have increased by £4.5m to £65.9m. This was the mitigated deficit position.

Trevor Keable referred to section 3.2 of the report, which set out that two key posts had not yet been appointed to. He queried if there had been any change in this since the report had been written. Susan Tanner confirmed that the commissioning post had been appointed to and shortlisting had just taken place for the coordinator post and interviews were due to take place later that week. Susan Tanner confirmed that she was the Service Director for DBV. It was clarified that her appointment had been delayed and she was appointed in May 2024 rather than the beginning of April and this had formed part of the underspend.

Trevor Keable referred to the situation with Educational Psychologists (EPs), which schools were aware of. His understanding was that there was an issue around whether EPs were buying into the process. Susan Tanner believed that reference was being made to the delay with the School Mental Health Project and commented that the

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recruitment of EPs was challenging as they were in short supply. The recruitment and retention of EPs was an issue for every LA. Susan Tanner provided reassurance that the proposal for the School Mental Health Project had come from EPs themselves and they were the authors of the project initiation document.

**RESOLVED that** the Schools' Forum noted the report.

### 8 Deficit Schools (Melanie Ellis)

Melanie Ellis introduced the report (Agenda Item 9) on the outturn position of the nine schools (Beenham, Brimpton, Kennet Valley, Long Lane, Pangbourne, Spurcroft, St Finians, St John & St Nicolas Federation and St Josephs) that set a deficit budget in 2023/24. The report also provided detailed on four schools (Enborne, Hermitage, Theale and Woolhampton) closing 2023/24 with an unlicensed deficit.

Melanie Ellis drew attention to the summary under section 5.1 of the report. The combined position at the end of 2023/24 was £74k worse than the original budget. One school had ended the year with a surplus rather than a deficit and three schools had ended with a lower deficit than expected. Five schools had ended the year with higher deficits than planned. The details for individual schools were included under section five of the report.

Section six of the report provided details on the four schools that had ended the year with an unlicensed deficit. No further action was required for two of the schools as the deficits were expected to be paid off immediately. The other two schools had been asked for licensed applications for 2024/25.

The next report would be brought to the Forum in October and would detail all the schools being licensed for 2024/25.

Reverend Mark Bennet asked if anything had been learnt from the review of school deficits. Melanie Ellis suggested she could bring a report to the next meeting on this matter. The learning did not indicate that deficits were a result of the size or location of a school however, falling numbers of pupils was a significant factor.

**RESOLVED that:**

- Melanie Ellis to bring a report to the next meeting setting out the learning for why schools were in deficit.
- The Schools' Forum noted the report.

### 9 DSG Monitoring Report 2024/25 Month 3 (Lisa Potts)

Melanie Ellis introduced the report (Agenda Item 10), which provided the forecast financial position of the services funded by the Dedicated Schools Grant (DSG), highlighting any under or over spends, and to highlight the cumulative deficit on the DSG.

Melanie Ellis drew attention to Table One on page 63 of the agenda pack, which provided the forecast position at the end of June, which was an in-year deficit of £7m. The forecast cumulative deficit at the end of 2024/25 was £16.5m.

The table under section 5.11 of the report showed the surplus of deficit against each of the blocks. It could be seen the High Needs block was facing the majority of the deficit.

**RESOLVED that** the Schools' Forum noted the report.

### 10 Forward Plan

*(Richard Hand joined the meeting at 6pm)*

**RESOLVED that** the Schools' Forum noted the forward plan and contracts forward plan.

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### 11 Date and Format of the next meeting

The next meeting of the Schools' Forum would take place in person at Shaw House on Monday 14<sup>th</sup> October 2024.

Richard Hand stated that he had arrived late to the meeting and asked if he could read out a statement on behalf of Union Members in relation to item seven on the clawback. The Chair agreed to allow the statement to be read out as follows:

'Whilst the unions recognise the collective value of the clawback mechanism and that the LA has to make efforts to deal with the SEND deficit, members across the teaching unions have raised concerns about the process and implications.

To be clear, we believe that the ultimate responsibility lies with central government as a result of years of underfunding which has put both the LA and heads in an invidious position. Perhaps some difficult decisions about clawback surpluses should also have been addressed, historically, in a more timely manner.

However, the unions would like the following items noted in the context of the vote on item 7 tonight:

1. There is a concern about the timescale of the process and that it has been rushed. This has therefore not given heads at surplus schools the time they need to effectively argue their case.
2. What are the parameters that define 'Avoidable items not committed' which are therefore included in clawback calculations? Unions would ask that these are more clearly defined. Also concerns around heads only being given 15 minutes at HFG to fight their corner.
3. Why have self-generated funds not been protected and excluded from clawback?
4. Will there be an appeal process for schools to contest the amount of clawback? It is our belief that there should be and that it is independently adjudicated.
5. DBV seems to be driving the process without schools affected feeling that they have any agency. Heads and schools are therefore feeling unsupported and there is a fear that the LA will 'lose the dressing room'. LA has supported schools over the years very well in difficult circumstances. There is a sense that this is being lost as a result of a spreadsheet approach. The clawback sums are a relatively small part of the overall black hole in finance, but they are significant sums for the schools affected. There is a feeling that what will be a big impact for clawback schools will make very little difference within the wider context of council deficit.'

The Chair thanked Richard Hand for his comments and stated that most of the points had been covered as part of the discussion on the matter. It had been a very difficult discussion and a difficult decision had been reached.

*(The meeting commenced at 5.00 pm and closed at 6.08 pm)*

**CHAIR** .....

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