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# Clawback of Surplus Balances

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**Report being considered by:** School's Forum2024  
**Report Author:** Neil Goddard / Melanie Ellis  
**Item for:** Decision                      **By:** All Maintained Schools Representatives

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## 1. Purpose of the Report

- 1.1 This report updates School's Forum on the outcomes of the review of the proposed clawback of excessive balances in relation to the 2023/24 financial year end.
- 1.2 This review was established in response to concerns raised by schools that there had been insufficient time allowed for a fully evidenced assessment of the level of uncommitted reserves that were held by each school.
- 1.3 This report sets out the process that was followed in undertaking the review, and the outcomes that are now proposed to the Schools Forum for consideration
- 1.4 The revised amount that is proposed to be clawed back from schools has reduced from £2,855,480 to £1,518,292.

## 2. Recommendations

- 2.1 School's Forum considers the process and outcomes of the review and approves the clawbacks as per the Local Authority's revised proposals

**Is the Schools' Forum required to make a decision as part of this report or subsequent versions due to be considered later in the meeting cycle?**

Yes: x

No:

## 3. Implications and Impact Assessment

Equalities Impact:	Impact			Commentary
	Positive	No Impact	Negative	

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<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		x		
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		x		
<b>Data Impact:</b>		x		
<b>Consultation and Engagement:</b>	Heads Funding Group, all schools.			

## 4. Background

4.1 The DfE Scheme for Financing Schools says the following:

*Any mechanism should have regard to the principle that schools should be moving towards greater autonomy, should not be constrained from making early efficiencies to support their medium-term budgeting in a tighter financial climate, and should not be burdened by bureaucracy.*

*The mechanism should, therefore, be focused on only those schools which have built up significant excessive uncommitted balances or where some level of redistribution would support improved provision across a local area.*

4.2 It is sound financial management for maintained schools to plan their budgets over more than one year and to be given the flexibility to manage their finances and retain a reserve from year to year. The Scheme for Financing Schools requires that schools must submit a three-year budget each year. This enables schools to:

- (1) Progress capital works where capital resources are insufficient,
- (2) Progress 'spend to save' strategies,
- (3) Support costs associated with expanding or reducing pupil numbers,
- (4) Support reducing funding or increasing costs or manage exceptional circumstances to avoid an impact on standards at the school.

4.3 However, this should only be if the Governing Body has made deliberate decisions to allocate revenue funding for these purposes with a clear timescale for spending, and

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that these decisions do not impact the maximising of in-year spending on the school's key priorities.

- 4.4 This must be balanced against the Local Authority duty to maximise the spending of resources, targeted correctly, to improve outcomes for children and young people.
  - 4.5 A clawback mechanism is important in enabling the Local Authority, with the Schools Forum, to redistribute funding that is not being used by schools.
  - 4.6 In November 2023 School's Forum approved the updated West Berkshire Scheme for Financing Schools. This included provision for maintained schools with year end uncommitted balances of over 10% of their annual revenue funding to be subject to a clawback. The clawback amount would be equal to the amount on the balance over the 10% threshold, where this did not reduce the remaining balance below £50k.
  - 4.7 At this time, it was agreed that the first clawback would be made following the closure of the 2024/2025 financial year accounts.
  - 4.8 In May 2024, having received maintained school's 2023/24 year end position, and 2024/25 three year budget plans, the Council was of the view that it may be appropriate to ask the Secretary of State to review the Forum's decision, and to request the implementation date be brought forward to the 2023/24 financial year. This view was informed by the ongoing high levels of balances being held in some schools.
  - 4.9 When presented with this position, Heads Funding Group (HFG) agreed that the previous decision should be revisited by School's Forum, rather than being referred to DfE. At its June meeting the Forum decided to bring forward the implementation of the clawback as proposed by the Council.
  - 4.10 The Council engaged with all schools that had a surplus of a size that may be the subject of a clawback, in line with the agreed Scheme for Financing Schools. This data was then analysed to identify proposed levels of clawback where appropriate. This data was then presented to HFG and Schools Forum where the proposals were ratified, and clawback values agreed. This process was completed before the end of July to provide schools with certainty around budgets moving into the new school year.
  - 4.11 Having received the decisions of the School's Forum, a number for schools who were subject to clawback raised concerns about the process, in particular the speed at which this has been completed, and the level of input they had been able to have to evidence balances which were committed to specific future expenditure.
  - 4.12 The Council took the decision to pause any clawback of funds and undertake a review of the decision making process. As this would be over the summer period, the end date was set as 11<sup>th</sup> September to allow schools to fully engage. The review would offer schools the opportunity to provide further information about any balances that they felt should be treated as committed. In support of this, schools were offered the opportunity to meet with the Leader of the Council, the Portfolio Holder for Children's Services and the Service Director Education and SEND. Many schools took up this offer and this provided a helpful forum to develop shared
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understanding of how balances had been accrued, and the commitments that maybe set against these.

- 4.13 The further information provided by schools was reviewed by a panel of officers made up of the Audit Manager (Head of Internal Audit), Service Director Education and SEND and Service Lead - Financial Management, Revenues & Benefits. The outcomes of this review are presented in this report.

## 5. Proposals

- 5.1 The following is a summary of the outcome of the review process of each school, including, where appropriate the revised level of clawback proposed.

School	Original Recommendation	Revised Recommendation	Reason for Change
Victoria Park Nursery	-11,943	0	Budgeted contribution towards roof repair capital project
Beeton C of E Primary	0	0	None
Chaddleworth St. Andrew's & Shefford Church of England Federated Primary	-4,592	0	Budgeted investment in Nurture Unit and safeguarding
Curridge Primary	-5,583	-5,583	None
Garland Junior	0	0	None
John Rankin Federation	-103,042	0	Budgeted contribution of capital works and one off staffing costs
Parsons Down Partnership	-83,489	0	Budgeted Contribution to capital works
Springfield Primary	-137,204	0	Budgeted contribution to capital works delayed by drainage issues
Downs	-490,453	0	Agreed transfer to capital delayed due to contractual issues
Brookfields	-2,019,174	-1,512,709	Budgeted investment in building and support for high need pupils
Castle School / Castle at Theale	0	0	Budgeted contribution to capital works
iCollege	0	0	Out of scope due to nature of AP funding
	<b>-2,855,480</b>	<b>-1,518,292</b>	

- 5.2 The review was based on the additional information provided by schools. Through this process additional committed expenditure was identified that reduced the level of clawback. The majority of this related to capital projects that were planned but not yet being delivered.
- 5.3 Two schools had been identified as potentially subject to clawback, but not included in the original report to HFG. The review identified committed expenditure that meant no clawback was required from Castle School / Castle at Theale. In the case of iCollege the review found that, due to the nature of Alternative Provision funding, which is significantly more volatile than formulaically funded schools, clawback would not be appropriate and so the school should be excluded from this process in future.
- 5.4 Based on the outcomes of the review process, the council recommends a total clawback of £1,518,292 as set out above. This full amount to be transferred to the High Needs Block to support pupils with additional needs.
- 5.5 Head's Funding Group reviewed these proposals on 2<sup>nd</sup> October 2024 and supported the proposals as set out on this report.

## Equality Impact Assessment (EqIA) - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (section 149 of the Equality Act 2010), which states:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
  - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; This includes the need to:
    - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;*
    - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;**
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.**
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.*
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.*

The following list of questions may help to establish whether the decision is relevant to equality (the relevance of a decision to equality depends not just on the number of those affected, but on the significance of the impact on them):

- Does the decision affect service users, employees or the wider community?
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- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the Council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

<b>What is the proposed decision that you are asking the Schools' Forum to make:</b>	Agree amount of surplus balance to clawback
<b>Name of Service/Directorate:</b>	<b>Finance and Property/Resources</b>
<b>Name of assessor:</b>	Melanie Ellis
<b>Date of assessment:</b>	25.6.24

Is this a .... ?		Is this policy, strategy, function or service ... ?	
<b>Policy</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<b>New or proposed</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Strategy</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<b>Already exists and is being reviewed</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Function</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<b>Is changing</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Service</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		

<b>(1) What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?</b>	
<b>Aims:</b>	To agree the amount of surplus balance to claw back
<b>Objectives:</b>	To comply with Scheme for Financing Schools
<b>Outcomes:</b>	To clawback funds to put to the high needs block
<b>Benefits:</b>	To reduce the deficit on the high needs block

<b>(2) Which groups might be affected and how? Is it positively or negatively and what sources of information have been used to determine this?</b>
<i>(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation)</i>

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Group Affected	Potential Positive Impacts	Potential Negative Impacts	Evidence
Age	none	none	
Disability	none	none	
Gender Reassignment	none	none	
Marriage and Civil Partnership	none	none	
Pregnancy and Maternity	none	none	
Race	none	none	
Religion or Belief	none	none	
Sex	none	none	
Sexual Orientation	none	none	
<b>Further Comments:</b>			

<b>(3) Result</b>	
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Please provide an explanation for your answer:	
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Please provide an explanation for your answer:	

If your answers to question 2 have identified potential adverse impacts and you have answered 'yes' to either of the sections at question 3, or you are unsure about the impact, then you should carry out a EqIA 2.

If an EqIA 2 is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the EqIA guidance and template – <http://intranet/index.aspx?articleid=32255>.

<b>(4) Identify next steps as appropriate:</b>	
EqIA Stage 2 required	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

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<b>Owner of EqIA Stage Two:</b>	
<b>Timescale for EqIA Stage Two:</b>	

**Name: Melanie Ellis**

**Date: 25.06.24**

**Please now forward this completed form to Pamela Voss, Equality and Diversity Officer ([pamela.voss@westberks.gov.uk](mailto:pamela.voss@westberks.gov.uk)), for publication o**