DIRECTION OF SCHOOLS EXCESS BALANCES & CLAWBACK POLICY
1. Introduction

1.1 The Education Reform Act 1988 introduced Local Management of Schools and the requirement for schools to receive delegated budgets. With this came the right for schools to carry forward balances from one financial year to the next. The Council’s Fair Funding Scheme for Financing Schools is required to contain a statement to that effect. The following is an extract from the Council’s Fair Funding Scheme:

‘4.1 The Right to Carry Forward Surplus Balances

Schools will be allowed to carry forward from one financial year to the next any underspend on its budget share for the year plus/minus any balance brought forward from the previous year.’

1.2 In September 2010 The School Funding (Wales) Regulations 2010 came into force and gave Local Authorities powers to direct schools to spend surplus balances or to clawback surplus balances.

1.3 The Council’s Fair Funding Scheme for Financing Schools is required to contain a statement outlining the Local Authority’s powers relating to surplus school balances. The following is an extract from the Council’s Fair Funding Scheme:

‘4.2 Treatment Of Surplus Balances

4.2.1 Reporting On The Intended Use Of Surplus Balances

Governing bodies will be required to report to the Authority on the use which the school intends to make of surplus balances in cases where the total balance exceeds 5% of the school budget share or £10,000 whichever is the greater.

4.2.2 Direction On The Use Of Surplus Balances

In accordance with The School Funding (Wales) Regulations 2010 the local authority is able to direct a governing body how to spend a surplus of £50,000 or more in the case of a nursery/primary school and £100,000 or more in a secondary school/special school.

Should the governing body fail to comply with the local authority direction then the amount of the surplus could be recovered and applied to the local authority’s Schools Budget.’

1.4 It is prudent and recognised as good financial practice for schools to retain a contingency the level of which will vary school to school depending on size and circumstance.

1.5 However, the scheme of delegation requires schools to provide an explanation for all variances in excess of 5%, whilst schools are expected to plan sufficiently well to safeguard against a deficit balance. Schools are therefore recommended to hold balances of between 2%-4%, up to the prescribed limits of £50k for Primary/Nursery and £100k for Secondary/Special.
1.6 The Local Authority recognises that actual balances at the end of the year may differ from that predicted for a host of reasons eg. late notification of grant funding, unexpected donation, lower energy bills than anticipated, lower staff costs resulting from staff turnover and/or maternity, delayed building works etc.

1.7 Some schools may decide to 'earmark' all or part of their balance. Balances may only be classed as earmarked if the school provides evidence to show that they have been set aside for a specific purpose, will be spent within a defined timescale and have been approved by the governing body.

1.8 Schools will be required to give reasons for the surplus balance but will be given the opportunity to spend it the following year; this would be reflected in the following year's budget and predicted balance.

1.9 Although the Local Authority can only clawback surplus balances above the limits outlined in 1.3 above it will continue to challenge schools with balances in excess of 5% of the school's formula allocation for the year because this continues to be a requirement of the Schools Funding (Wales) Regulations 2010.

2. Engaging & Challenging Schools with Surplus Balances

2.1 All Nursery/Primary Schools with balances in excess of £50,000 and Secondary/Special Schools with balances in excess of £100,000 will be asked to complete and submit a pro-forma return in order to provide detailed plans for its use.

2.2 Any schools with balances in excess of 5% that are below the regulatory limits will also be required to complete and submit the pro-forma.

2.3 The returned forms will be reviewed by the local authority and the school will be expected to plan to spend the additional balances on raising the standards of the school eg. improving pupil outcomes, better quality teaching and learning environment, improved ALN provision etc.

2.4 The planned expenditure should be scheduled to be within an appropriate time frame, which would usually be within the following years’ budget, and should be targeted to deliver clear outcomes where possible, in order to demonstrably provide value for money.

2.5 Schools will need to be mindful when planning the use of the balance wherever possible not to spend it on recurrent expenditure eg. permanent staff, which might not be sustainable in the future and the intended use should be minuted by the finance committee and full governing body when approving the school's budget for the financial year.

2.6 For schools with balances in excess of the prescribed limits (above £50k Primary/Nursery, £100k Secondary/Special) then the Chief Education Officer and Chief Finance Officer will be required to authorise the intended use of the balances.
2.7 If a school does not have a specific plan within their budget to use their excess balances (above £50k Primary/Nursery, £100k Secondary/Special) then the local authority will direct the school to spend the surplus as approved by the Chief Education Officer and Chief Finance Officer.

2.8 If a school fails to successfully bring its level of balances back within the prescribed limits (£50k Primary/Nursery, £100k Secondary/Special) by the approved time period (usually by the following financial year end) then the local authority will direct the school to spend the excess balances as part of the following year's budget. This direction will be approved by the Chief Education Officer & Chief Finance Officer.

2.9 In considering a direction to spend the Local Authority will take into account the overall standards of the school and target school improvement through the use of the expenditure as per 2.3 above. The direction should include a clear timeframe for the expenditure to be incurred and target clear outcomes so that value for money can be demonstrated in the use of excess school balances.

2.10 If a school does not adhere to the direction of the Local Authority and/or fails to successfully bring the level of balances back within the prescribed limits by the end of the approved period, then the local authority will clawback the excess balance above the prescribed limits (£50k Primary/Nursery, £100k Secondary/Special).

2.11 Ordinarily the timeline will be as follows:

- 1st Year of excess balance – School required to plan for use of their balance by end of financial year.
- 2nd Year of excess balance – School directed to spend their excess balance by the local authority by end of financial year.
- 3rd Year of excess balance – Funds are clawed back from the school and spent by the local authority on the wider Schools Budget ie. ISB + central schools budget.

2.12 The decision to clawback surplus balances will be made by Cabinet following a recommendation from the Chief Education Officer and Chief Finance Officer.

2.13 Cabinet’s decision to clawback excess balances will be the final decision and there will be no appeals process.

3. How will the Clawback be used

3.1 Any balances clawed back must be spent in the financial period that the clawback occurs and must be spent as part of the local authority’s overall Schools’ Budget which includes central monies spent on schools as well as the ISB.

3.2 Amounts clawed back will not be used to write off on part or full any other school’s deficit. Schools in a deficit position are required to agree and implement budget recovery plans as part of a Planned Licensed Deficit application.

3.3 The school from which the balance is withdrawn may not necessarily benefit from the amount withdrawn.
3.4 Cabinet will receive a recommendation from the Chief Education Officer regarding the planned use of the balance clawback, and this will also include a consideration of the Schools Forums views regarding the appropriate use of monies clawed back from schools.

3.5 The planned use of monies clawed back should be one-off in nature and targeted to deliver clear outcomes where possible, in order to demonstrably provide value for money. Eg. improving standards of achievement, school buildings, invest-to-save schemes.

3.6 The Schools Forum will be notified of all amounts clawed back and their use.

4. **Timescales**

4.1 This scheme will become effective immediately and will be applied to 2014/15 as the first year of excess balances.

4.2 Schools are required to receive notification of their Formula Allocation for each financial year by 31st March preceding the year in question, the Local Authority will make every effort to notify schools as soon as practicable. Schools also receive a three year indicative budget.

4.3 The Local Authority is required to close its accounts for each financial year by mid-May of the following year.

4.4 By 31st May all schools must set their budgets for the new financial year. The school’s budget must include provision for all planned expenditure in the financial year and be ratified by the full governing body.

4.5 Each school with an outturn balance in excess of the respective limits will receive a request and a pro-forma by the end of May of how the school plans to use its balance. Schools may be required to provide documentary evidence eg. School Improvement Plan, governing body minutes, copy of quotes received and orders placed. This information will be required by mid-June.

4.6 Schools will be contacted by the local authority before the end of the Summer Term to clarify any matters and to confirm whether the plans to spend the excess balances are acceptable.

4.7 If the plans submitted do not meet the criteria/do not indicate an appropriate spend the Head Teacher/Chair of Governors will be notified and reasons given. The school will be asked to resubmit the plans by the end of September.

4.8 Failure to return the completed pro-forma or to provide the required supporting documentation will result in a directive to spend the excess balance during the current financial year.
4.9 Should the plan still not indicate an appropriate spend then the Local Authority can, if it so wishes, direct the school to spend the excess balance during the current financial year.

4.10 The balances will be monitored during the year and if the excess balance remains unspent or uncommitted at the end of the financial year then the Local Authority will in the first instance direct the school to spend and to record this as part of their budget setting process by the end of Summer Term.

4.11 If a school fails to bring its level of balances back within prescribed limits following a direction to spend the local authority will seek to clawback the excess balance by the end of June.

4.12 The planned use of this money will be reported to the Schools Forum in the first meeting of the Autumn Term and the money will be spent during the financial period.

4.13 A monitoring report detailing the expenditure incurred from the monies clawed back will be reported to Cabinet and the Schools Forum at the financial year end.

5. Contacts

5.1 Any questions or clarification regarding this scheme should be directed in the first instance to the Local Management of Schools (LMS) Manager.

6. Review

6.1 This scheme will be reviewed as and when there are any changes to the Regulation and/or guidance whichever is the soonest.