

WIRRAL COUNCIL

WIRRAL SCHOOLS FORUM 21th November 2023

REPORT OF THE DIRECTOR OF CHILDREN, FAMILIES AND EDUCATION

Excessive clawback mechanism consultation outcome with Wirral maintained schools.

EXECUTIVE SUMMARY

This report outlines the feedback to schools' forum in relation to the surplus clawback consultation that was conducted from the 28th September until the 9th November in relation to a clawback mechanism for Wirral Maintained Schools.

At the schools' forum meeting on the 26th September it was approved by forum that the consultation should take place to capture feedback in relation to the questions that were outlined in the report, it was outlined that the schools balances position for Wirral maintained schools was still historically high in comparison to pre-covid levels and that some schools on Wirral had significantly high revenue budgets. Following the approval at schools' forum the consultation questions were circulated, and the following report gives an overview of the responses. The consultation received 13 responses from Wirral Schools.

Many other local authorities do have a clawback mechanism in place to address excessive balances where they occur. An excessive balance would be one that is higher than the DfE good practice guidance. Wirral currently does not have a mechanism in place. DfE guidelines state it is good practice for primary, nursery and special schools to have a balance reserve of 8%, for secondary schools this would be 5%.

1.0 Consultation feedback

**Q1 - Do you believe a clawback mechanism should be implemented on Wirral in relation to excessive school balances above the DfE recommended amounts?
Yes/no**

7 school responses of yes
5 school responses of no
1 school response abstain

Do you have any additional comments you wish to share in relation to this question?

It must be made clear that this only relates to funds within the formula elements of the DSG, not school funds, grants, etc. Can we clarify if there are any exemptions? (pupil premium, PP+ or SEN?)

What level of approval would be needed for capital projects identified as a reason for holding an excessive surplus?

As long as the 3 year projection shows a surplus and there is not an agreed plan to spend the existing surplus.

Why would any school want that?

Our surplus funds are committed from our delegated budget and accounted for the next four years.

We need a carry forward to find staffing structure but also to have contingency funds for high level of SEN pupils with EHCPs remaining in mainstream school and not receiving adequate funding levels from the LA.

The money we use for surplus is pupil funding money originally allocated to school and will support current pupils over their time here.

If there is an excess balance with no clear plan then those funds can be better invested elsewhere.

Why is there a difference between clawback from Primary and Secondary schools?

we believe a clawback mechanism should be implemented but only where the carry forward is not being used to set budgets for the following years without going into a deficit budget.

We do not believe that the answer to this question is as simple as 'Yes' or 'No'. The question requires more than a binary answer and should take into account what schools are intending/planning to do with the excess balances that they have. We believe that if a school has a clear plan for the future spending of the excess balance, then it is only right that they should be allowed to keep it.

Our view is that the local authority should be challenging schools that are building significant reserves and have no plans for how it will be used to improve outcomes for Wirral Children. In these circumstances, where there are clearly no plans in place, then it would be correct to use a clawback mechanism to retrieve any excess balance above the DfE recommended amounts.

There are many reasons that schools have surplus budgets and we believe this is a conversation to have with individual schools.

In our own case, we maintain a carry forward because in our 3 year projections our budget goes into deficit if we do not have the carry forward.

We are not as a school denying our children resources or equipment but being prudent in our managing of the budget.

Q2. If a clawback mechanism is to be implemented on Wirral, which of the following approaches do you feel would be appropriate in calculating the claw back amount?

A) 50% of excess balances above the DFE recommended amount of 8% for primary schools/ 5% for secondary schools, for the average surplus balance over 4-year period.

B) 50% of excess balances above the DFE recommended amount of 8% for primary schools/ 5% for secondary schools, for the average surplus balance over 3-year period.

C) 50% of excess balances above the DFE recommended amount of 8% for primary schools/ 5% for secondary schools, for the average surplus balance over 2-year period.

In relation to option A – 6 responses choose a 50% clawback over a 4-year period
In relation to option B - 3 responses choose a 50% clawback over a 3-year period
In relation to option C – 3 responses choose a 50% clawback over a 2 year period
There is one response without selecting any option

Would you like to share any other alternative proposals in relation to a clawback mechanism?

I think it should be looked at on school level basis. Clearly high schools who have 9m excess sitting in bank accounts and not committed should be challenged, but small primary schools with a 10% carry forward which is clearly accounted for is a different matter. I think it's the commitment of funds that should be questioned.

Why the 50% figure? If you started at 10% and moved up 10% at a time for future years then it would be a gradual increase that allowed schools to manage their futures. A 50% increase does not allow schools to make long term, properly controlled and considered plans to reduce spending and curtail/adapt what they had in mind for the betterment of Wirral's children in their care.

There could be individual conversations with schools where there are high surplus budgets. Schools must be able to evidence how the money will be used in their three-year projections.

Q3. If a clawback mechanism is to be implemented, it would be expected any claw back would be transferred to the high needs block, this is linked to the scheme for schools financing that states," some level of redistribution would support improved provision across a local area". Would you support this approach? yes/no

7 school responses of yes

6 school responses of no

The following comments were also written;

I don't agree with it going to high needs though as it will just added into the overall budget and not be specifically allocated. Already issues around this.

Yes, if the high needs funding would have a direct impact on the support available to schools

Yes, it is important that any clawback benefits the most vulnerable children across the whole of the Wirral.

No, unless there is a very clear identified use of the money.

Would you like to share any other options for the use of funds that are subject to claw back?

I would like it to be shared equally among schools

The full amount raised through clawback should be identified, discussed and its use directed, by forum. The process, including any disapplications, should be fully transparent. A primary PRU. We are fire fighting.

I think a full consultation with headteachers at PHCG should be undertaken around clawback and high needs funding spend.

It would be useful to support mainstream schools with provision for SEND children.

Schools would feel better if the money went back into the budget pot for the financial year, maybe with a small element into the high needs hole. So that would increase the amount on offer for all schools and benefitting all children, but 50% is far too much. Support for pupils in mainstream from appropriate specialist services, transition work for primary to secondary schools - areas where pupils are likely to fail due to lack of support and thus relieve the pressure on the specialist sector. However these need to be quality assured and recruited to carefully to ensure the service is targeted and effective for those most in need, with professionals with relevant experience recruited.

It be distributed amongst all schools prioritising those with deficit budgets.

Q4. As part of the consultation would you like to share any other comments in relation to school budget positions as part of this process?

Some schools are running at a significant loss - the clawback needs to go into areas of need, such as SEN, but also to schools where finances are absolutely crippled. My school runs at a loss, even after everything has been stripped back to the bare minimum.

I am totally opposed to the clawback.

The LA should have planned more strategically for the current situation, including the academy agenda, and schools should not be penalised for their inadequacy.

Budget positions are precarious and I know in my school staffing the school to meet the increased SEND needs we are having to support is potentially putting us in deficit and potential redundancy.

The funding for SEND is not in line with current need or staff salaries - schools are topping up by a lot more than 6 units - this needs to be analyzed and investigated further.

If the clawback is only to be for maintained schools, will it make very much difference? Is it some of the larger secondary schools, who are academies who carry forward the largest amounts of money?

Our school is able to staff our school in a way that provides the best provision for our children because we have always used an historical carry forward. If we are not able to carry the same amount forward, we would be looking to make staff redundant as we cannot balance our in year budget with the staffing that we have.

As part of this process, budgets for special schools need to be looked at again. The complexity of the children and the challenging behaviours that this brings are increasing at an alarming rate. We are happy to support children with complex needs, but providing the correct provision should not come with financial implications and place the school in a position where it is operating with a deficit budget.

Yes, the council have promoted that schools should be business savvy and work as such. To be able to improve our buildings, which is council stock, the only way we could do that is by creating a revenue credit. For example, building repairs. Consistently, we were put off replacing areas, so we had to fund most of it from within our revenue credit gained from multiple years of planned credits. Similarly in 2010, we had to part fund the joining of our two buildings.

The clawback may well penalise those who have been extremely savvy with their money, kept their schools in the right OFSTED category and maintained good results for the wider of Wirral's children.

Schools have worked hard to save money so they can keep supporting their own pupils; what will be put in place to support these schools if they go into deficit at a later date due to this clawback mechanism? Surely it is not the right time to be taking money off schools when the costs are going up and funding levels are stagnating. The timing of this process being discussed seems insensitive to schools and adds further stress on school leaders, who are already under pressure and trying to manage budgets and futureproof their schools, whilst delivering effective, good quality education to pupils and the community of Wirral.

This consultation should have included the elements of income and credit to be used in any such calculation, so that we could accurately see the proposed impact on our schools. FMS do not know what areas are to be used... I've asked them to clarify and they can't.

If this was going to be a longer term policy for the council to fill SEND black holes then we would need at least a year's notice to be able to adapt our spending plans and make decisions for the future. Our overspend is forecast to be over £120,000, so you can see how rapidly we are heading to the recommended 8% buffer, but if you take 50% of our surpluses away then we, and many like us, will be on a speedy way to deficits and multiple redundancies across school. This will further impact schools across Wirral, more than now, and place a huge burden on council traded services, namely HR.

During covid years, it was difficult to get in professional services, spend on maintenance and supply staffing, so it increased schools' credits further. Many schools are now coming down from those issues. Our budget looks to be below 8% within the next two years as we have works and projects completed.

2.0 Consultation feedback response in relation to specific areas

2.1 Analysis of all Wirral maintained budgets show a mixed a picture, there are currently 19 schools (including special schools and nurseries) with a deficit budget of £2.8 million. Support is being put in place to support these schools in returning to balanced budget position.

2.2 The removal of the 16 schools in deficit from the headline figure leaves the remaining Wirral maintained schools with a remaining balance of £16.3 million. Across the remaining schools, revenue reserves vary significantly, progressing from low reserves to schools with 25% revenue budget reserves. The DFE guidance in relation balance reserves in the eventuality of unexpected costs is 8% for primary, nursery and special schools and 5% for secondary schools.

2.3 The number of Wirral maintained school, including nurseries and special schools at the end of the last financial year with a balances in excess of the recommended DFE carry forward amounts of 8% for primary and 5% for secondary is 23 schools. These currently have a surplus budget above the DFE recommended amount of £5.5 million, this is

based on closing carry forward at the end of the financial year and any clawback amount would be based on average over a number of years.

- 2.4 The DFE recommended amounts differ for primary and secondary schools due to the size of the institutions, for this reason the DFE recommended amount is slightly higher for primary schools.
- 2.5 It is a common practice that the calculation of the clawback amount each school is liable is based on the school budget share. Funds deriving from sources other than the local authority will be taken into account in this calculation if paid into the budget share account of the school.
- 2.6 Any school that is identified to have an excess balance and liable for clawback will have an opportunity to meet with the local authority to outline their current financial position, as per the scheme for schools financing the clawback will be in relation to carried forward funds that have not been identified for a specific use, this is the reason for the clawback being the average amount over a period of several financial years. If the clawback is approved, schools will be reviewed annually.
- 2.7 Wirral does not currently have a clawback mechanism, many other local authorities do. The 50% amount over the DFE recommended carry forward is in line with other local authority claw back mechanisms.
- 2.8 Once schools with excess balance have met with the local authority, if it is identified they do have an amount subject to clawback, this would then need final approval by school's forum. The rationale in relation to the amount of clawback for the individual school would be classed as exempt information and not be disclosed in public, Wirral Schools Forum currently does not share the finance position of individual schools, balances are grouped by school type.
- 2.9 Any decisions on how any clawback funding is used would be through consultation with schools forum, it was suggested it should be consulted through the relevant headship group. Schools Forum reports can be shared at other meetings but the decision making must be taken by schools forum as per the schools scheme for financing.
- 2.10 Any funds that are subject to clawback can be utilised as approved by schools forum, the suggestion of the high needs block was based on models used by other local authorities where claw back funds are used to address a deficit in the high needs block. This is also permissible in the schools' scheme for financing. Schools' forum can decide to use the funds in another way in relation to specific areas as per the request of schools' forum members. The claw back funds cannot be transferred to the council budget, the funds are from the DSG and must remain in one of the relevant blocks.

3.0 Scheme for financing schools

- 3.1 Under the most recent scheme for financing local authority-maintained schools. In section 6.1 and 6.2 the DFE guidance makes clear. In 6.1 the guidance articulates a provision which allows a carry forward from one financial year to the next any surplus/deficit budget the school may have.
- 3.2 In 6.2 the guidance articulates that the scheme may have a mechanism to claw back excess surplus balances.

3.3 It states the mechanism should be focused on only schools which have built up significant excessive uncommitted balances or where some level of redistribution would support improved provision across a local area.

4.0 Options following the consultation

4.1 The relevant members of schools forum must now decide if they wish to approve a excessive balance claw back mechanism.

4.2 If a clawback mechanism is approved, the relevant changes to the scheme for financing local-authority schools will be made.

4.3 Schools who are eligible for an excessive clawback mechanism will be identified and will be invited to meet with the local authority regarding their current budget position. Schools will be allowed to give representation regarding the use of any funds currently in excess of the DFE recommended amount.

4.4 Following this meeting the local authority will inform schools of the amount of excess balance liable to be used in calculating a claw back amount.

4.5 The relevant schools forum members will have final approval for any calculated clawback amount. The use of any claw back funds would then need approval by the relevant schools forum members.

5.0 RECOMMENDATIONS

1. Schools' forum members are requested to make a decision regarding the commencement of a clawback mechanism for Wirral Maintained Schools.
2. If a clawback mechanism is approved, agree the time period the clawback will be calculated over – A) 4 years B) 3 years C) 2 years.
3. If the clawback mechanism is approved, the relevant forum members agree to meet again regarding the schools identified for the clawback mechanism.

Simone White
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