



## **An Alternative Approach to the Williams Report.**

### **The Creation of Four Combined Authorities for Wales?**

#### **Discussion Paper**

*“Form follows function. Where is the debate in Wales about what local government should be about? Where is the debate about what services should be done at a particular level so we can design what structures we need? Williams was a useful and broad survey of Welsh public services – but lacked a truly coherent vision”.*

Auditor General for Wales – Hugh Vaughan Thomas WLGA Conference 19<sup>th</sup> June 2014

*Not surprisingly, most debate on local government reform tends to focus on the merger of existing units because this is a relatively easy thing to do.... However, redesign of local government from a zero base is a complex exercise, which needs analysis and consideration of a large volume of data and imaginative ideas about future options. Although redesign is more difficult, if done properly it is likely to generate a more robust configuration for local government than the merger approach.*

Professor Malcolm Prowle – Head of Business Performance, Nottingham Business School – Public Finance 6<sup>th</sup> June 2014

*“Reform has to be a collaborative process and not something imposed from above. It has to be driven by local government itself because that's the way in which we will end up with the best fit between local services and local people. I'm saying to local government leaders: It's up to you, pick up the baton now and challenge yourselves to renew and refresh yourselves”.*

Owen Smith MP Shadow Secretary of State for Wales – BBC Wales 15/06/2014

## Introduction

1. The Commission on Public Services Governance and Delivery – the Williams’ Report - was published in January 2014. It advocates that there are significant problems relating to the scale and sustainability of local authorities and proposes that the current 22 councils across Wales are cut down to a number between 10 and 12. The recent Welsh Government White Paper “Devolution, Democracy and Delivery – Reforming Local Government” broadly endorses this proposition and seeks to consult authorities on the way forward.
2. The recommendation has resulted in no consensus emerging among the political parties within the National Assembly on the way forward. In local government, there are a number of fundamental concerns. The financial outlook is that by 2018 up to £877 million<sup>1</sup> of expenditure will have been removed from local government in Wales as austerity continues. To put this in perspective, Williams argues that reorganisation will save an estimated £80 million per annum. By the time any reorganisation takes place there will be very little left to realise in savings. Put another way the £80 million in annual saving represents only 1.5% of the £5.3bn that is classified as councils’ net revenue expenditure (NRE) for 2014-15. In cash terms the £80m is half the overall reduction in aggregate external finance for 2014-15 and reductions of this scale are set to continue. In this sense, whatever happens to structures is academic for local government given this financial position.
3. A second and equally important concern is that government in Wales will become insufficiently ‘local’ and the connection between government and the experience of intimate community linkages that characterises much of Wales will be lost. This concern is clearly expressed by WLGA in its recent publication, ‘In Defence of Localism’ setting out the scale of challenges over the next ten years and the need to avoid “centralism within devolution”.
4. The fear is that the local authorities recommended by the Williams’ Commission will be too large to be local but too small to provide the scale necessary for regional planning and the delivery of some key regionally based services. More than this, the cuts trajectory in Wales is such that the debate around a range of key services is now about sustainability rather than reorganisation. For unprotected services, a structural reorganisation in 2020 offers cold comfort; the issue is to collaborate now to create resilience. This is particularly the case in a range of functions including transport, economic development, planning, regulatory services and others, which have faced the brunt of cuts thus far with more to follow.

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<sup>1</sup> The Funding Outlook paper presented to the Finance Sub Group estimates a cumulative budget shortfall of between £574m and £877m depending a range of settlement scenarios.

## Collaboration

5. The Williams' Commission was not persuaded that the experience of collaboration between local authorities gave sufficient confidence that collaborative networks were robust enough to provide the bridge between the objectives of localness and the need for scale in some functions.
6. Not everyone will agree that the history of collaboration between local authorities is as weak as the Williams' work suggests. Indeed evidence presented to the Williams Commission presents a different image. Williams commissioned a report from Paul Griffiths the former senior special advisor to the First Minister, Rhodri Morgan AM. The paper, "The Experience of Shared Services" sets out a comprehensive picture of the impact of collaboration initiatives associated with the Beecham and Simpson Reports. It is interesting to note that this document was not referred to in the main Williams Report.
7. This review concluded that *"the development of shared services is mixed: they are more prevalent in some services than in others and many shared services include some but not all local authorities. Nevertheless the review indicates that the scope of shared services is substantial and encompasses many high volume and high value activities: including school improvement services, social care procurements, major investments in transport and waste management facilities"*.
8. Moreover Griffiths points to a "Sword of Damocles" that hung over the collaboration agenda namely that *"In Wales the message from central government has been "Collaborate or face Merger". The spectre of institutional reorganisation continuously hangs. For many with hierarchical leanings this is not so much a threat as a promise and it has proved to be a serious disincentive to creating collaborative advantage. The developing assumption that there is now bound to be a significant centralisation of service delivery in Wales has put brakes on most forms of innovation including collaborative development. Those brakes will bind ever harder during the decade it would take to effect institutional reorganisation"*.
9. It is the case that the collaborative agenda has slowed significantly prior to the publication of the Welsh Government White Paper on Reforming Local Government as uncertainty about the way forward has dominated the debate over the past months.
10. It is because of this and the other factors that WLGA is putting forward a new and radical proposition for change. It is fully accepted that a lot more could and should be done to give confidence to the Welsh Government

and other partners that local government can deliver institutional arrangements that cross over local government boundaries.

11. It is suggested in this paper that the problems identified by the Williams Commission could be more easily and more effectively remedied by legislating to ensure consistent delivery of regional services rather than legislating to achieve fewer local authorities. This would in turn provide a much more cost effective approach since Paragraph 115 of the White Paper essentially indicates that local government may have to "swallow its own smoke" on funding reorganisation. This is particularly the case since recent announcements suggest that forthcoming Welsh Government borrowing powers will be under real strain not least because of the cost of the M4 alternative route.

## The Approach in England

12. This suggested approach would also chime with the burgeoning debate emerging in England from both Labour and Conservatives examining the future of regional development and devolved powers to localities.
13. The recent report by Lord Andrew Adonis "Mending the Fractured Economy – Adonis Growth Review" makes a significant contribution to this debate. In the report, the former Secretary of State for Transport argues that *"a big package of devolution to the cities and county regions of England is the key to a balanced economic recovery in which prosperity is shared"*. In his proposals, Adonis cities that new Combined local authorities would be given *"serious responsibility for planning and delivering infrastructure, including planning transport, housing and training"*.
14. Lord Adonis' argument is a compelling one and could anticipate effective use of some of the tax raising measures that will come into Wales as set out by the Silk Commission. As he states, *"Combined Authorities – new statutory authorities at the city and county region level, bringing together local authorities for joint purposes including transport – should be strongly encouraged on the successful model of the Greater Manchester Combined Authority. There should be a substantial new devolution of Business Rates income to these Combined Authorities, in return for an agreement on key infrastructure investments to drive regional growth"*.
15. In addition, Labour has just published 24 recommendations including the devolution of £6bn a year in housing, training, infrastructure and transport funds to those city regions and Combined local authorities that come together to prepare a plan for growth in conjunction with the business-led local enterprise partnerships. They would allow cities to keep all of the growth in revenue from the business rate - a topical subject in light of the Silk recommendations in Wales. The Conservatives are also talking in terms of greater devolution with the Chancellor George

Osborne's promise of "*serious devolution of powers and budgets*" for cities very clearly linked to the acceleration of the number of elected mayors.

### **Case Study 1 - Greater Manchester Combined Authority**

There are several examples of where this approach to public service delivery is already proving to be successful in England. One such example is the Greater Manchester Combined Authority.

The Greater Manchester Combined Authority (GMCA) was established under the Greater Manchester Combined Authority Order 2011 (SI 2011/908). The GMCA covers the ten metropolitan boroughs, which formerly made up the metropolitan county of Greater Manchester:

- Manchester
- Salford,
- Stockport,
- Tameside,
- Trafford,
- Wigan,
- Bolton,
- Bury,
- Rochdale, and
- Oldham.

The order provides that:

- Each constituent authority contributes one member to the GMCA. The members are entitled to travel and subsistence expenses but not payment.
- The constituent authorities must meet all of the costs of the GMCA. It has the power to set a transport levy on the constituent authorities, and to borrow for transport purposes.
- Any provision regarding congestion charging must be passed unanimously;
- The Greater Manchester Integrated Transport Authority is abolished and its functions transferred to the GMCA. The Passenger Transport Executive becomes "Transport for Greater Manchester", an executive body of the GMCA.
- Certain traffic-related functions of the constituent councils have been passed by them to the GMCA.

- Economic development functions are transferred from the constituent councils to the GMCA, though they are held on a concurrent basis (i.e. the constituent councils may continue to exercise them).

- The Combined Authority builds on the ten boroughs' long experience of working together since the abolition of the Greater Manchester metropolitan county in 1986. The Combined Authority was also centrally involved in the 'earn-back' scheme agreed with central government, allowing the retention of a proportion of business rates to be invested in infrastructure. This formed part of the Manchester city deal

## Regions and Functions

16. There are in reality definable regions of Wales which are larger than the local authorities recommended by Williams and which are suitable geographies for the undertaking of an important range of public service activities. The exact lines on maps are always negotiable and contestable but the broad parameters for those regions are those embarked upon by the WLGA when it set up 4 regions as the basis for collaborative boards in 2005:

- North Wales
- Mid and Central Wales
- South West Wales
- South East Wales

17. The presence of two City Regions Boards in the South West and South East could actually assist this process. Professor Kevin Morgan of Cardiff University believes that Combined Authorities could be the "engine" that powers the city region approach. It would also certainly chime with Welsh Government aspirations on increasing the interconnectedness of transport and housing policy.

18. Consequently, it is the view of WLGA that there is a political imperative to discuss this with authorities across Wales who should be fully consulted to design this new regional map.

19. The functions which could be undertaken on this regional basis might include:

- Regional transport planning and delivery
- Regional strategic land use planning
- Regional economic planning and promotion (including the development of globally competitive city regions)
- Regional tourism promotion
- Regional School Improvement services
- Regional commissioning of health and social care e.g consortia contracting for looked after children, national adoption service.
- Regional procurement of waste processing facilities

- Regional or national provision of IT procurement, pay roll, pensions and other back office services.
20. For many of these services that are facing the brunt of cuts and retrenchment, simple mergers across a single boundary offers very little in terms of service resilience and sustainability. Greater security and a more strategic approach would be achieved at a larger optimum level. There is no escaping the fact however that job losses could flow as a result of regional consolidation and this would require detailed discussions with the trade unions and employees.
  21. In addition, if there was willingness to debate further functional devolution to local government, a number of additional functions could be added including public health that is already within the local government sphere in England.
  22. The highly respected economist Gerald Holtham has also argued recently that with increased tax raising powers emerging as a consequence of the Silk Commission proposals that *“the only bodies in Wales that currently have experience of tax collection and administration are local authorities. “It therefore makes sense to use that experience in collecting the smaller taxes that are to be devolved, landfill and stamp duty. It would make sense for them to send the money to the local authority finance department to administer. Stamp duty and landfill could be treated like business rates, collected by local authorities, pooled centrally and then redistributed among local authorities according to a Welsh government formula”* Gerald Holtham, The Senedd Paper 2 (Institute of Welsh Affairs).
  23. All this of course would need detailed analysis and debate. Yet the potential is obvious and the prospect stimulating not least through unleashing a new approach to the delivery of public services.

## Legislation

24. It would be possible to legislate to achieve the following and this is set out in more detail in a technical note in Annex 1. In broad terms it would require:
  - The creation of four regional bodies in Wales each with their own legal identity
  - Allocation of functions between the local authorities and the regional bodies
  - Specifying the governance of each of these bodies to include representatives or nominees of all constituent local authorities plus representatives of nominees of Welsh Government
  - The governance could allow delegations to committees allowing each collaborative function to have its own responsible group accounting to the overall regional body.

25. The advantages of a legislative basis for the regional body include:
- There would be a legal duty on each local authority to participate in the regional body and deliver specified functions through such a body
  - The governance and accountability of the body would be enshrined within elected members from the constituent councils on the Combined Authority with robust links back to their authorities.
  - Unlike existing collaborative organisations the regional body would have its own legal identity capable of having legal responsibilities, the abilities to enter into contracts, control assets and employ staff
  - The ability of the Welsh Government to directly fund and regulate the regional bodies.
26. In England Combined Authorities are legal structures that may be set up by local authorities following a governance review. Two or more local authorities may establish combined Authorities. The Combined Authority must include membership from all local authorities in its area: it cannot include, for instance, part of a county council area.
27. Combined Authorities may take on transport and economic development functions. They have a power of general competence and can be passed functions by the Secretary of State under the general power to pass functions down in the Localism Act 2011. The Greater Manchester Combined Authority was established in 2011. Combined Authorities were established in West Yorkshire, Liverpool and Sheffield on 1 April 2014.

### **Case Study 2 – The Sheffield Combined Authority**

The nine local authorities that make up the Sheffield City Region (SCR) have a long history of collaboration at a scale that reflects the natural economic geography of the region. Most recently, this collaboration has taken the form of the Sheffield City Region Local Enterprise Partnership (SCR LEP) and SCR Leaders Group.

Following a comprehensive “Governance Review” – SCR Leaders concluded that the time had come to take SCR governance to the “next level” (i.e. from informal collaboration to joint decision making on some issues) and “put into legislation that which we [the SCR] have been doing by consent for some time” (Governance Review Workshop 1 – 20<sup>th</sup> July 2012).

In practical terms, this means establishing a SCR Combined Authority. The term “Combined Authority” means the bringing together of two statutory bodies – the Integrated Transport Authority (ITA) and an Economic Prosperity Board (EPB) in order to align political decision making around strategic Economic Development and Transport. The Combined Authority works in partnership with and is complementary to the private sector-led Local Enterprise Partnership (LEP) Chaired by James Newman. The Chair attends CA meetings on behalf of the LEP

Board. It is proposed that the SCR Authority will “hardwire” the partnership between the public and private sector in the SCR – providing a solid, stable platform for future governance and decision-making.

## In Defence of Localism

28. Some may argue that introducing Combined Authorities is essentially a reintroduction of the two-tier system that existed before 1996. However the differences with this proposal are significant. There remains a continued emphasis on a sense of place and localism as the predominant form of governance.
29. In our fiscally constrained climate, local authorities face a raft of new challenges and opportunities. There are ranges of financially unprotected services including transport, culture, leisure, economic development and planning, which will wither on the vine unless a new approach is taken. This approach will ensure that authorities working together under a common legal umbrella can sustain these functions whilst ensuring that decision-making is responsive to and embedded in local communities. It will also provide a crucial starting point for moving towards an economy that operates across place.
30. The counter-argument that this would mean a return to two-tier local government is a fallacious one. Even if we implement Williams we will still need to move towards overarching regional frameworks in areas such as planning, economic development and waste management. In doing so, we will be acknowledging the issues that flow from administrative boundaries not reflecting functional economic areas.
31. The approach would also address head-on the sustainability of services: how many types of council across Wales will be able to maintain economic development and tourism units into the immediate future? A Combined Authority might be a creative way to maintain a local government foothold in key strategic, but discretionary, services.
32. Others may argue that this paper in effect suggesting 26 authorities for Wales rather than 22. This again is a misreading of the central argument. As shown in England a Combined Authority flows out of the existing structure and does not add any additional staffing requirement, asset creation or increase in political representation. Ultimately a Combined Authority is not about taking-over of local authorities to create a ‘super council’. **Local authorities remain the best organisations to deliver the vast majority of services for their communities.**
33. In terms of costs of implementation councils will seek to ensure that the running costs of Combined Authorities should not cost significantly more than the arrangements that they replace. Although there may be some transitional costs, such as the cost of transferring staff and assets to Combined Authorities, integrating services into the Combined Authority

is expected to save money through better co-ordination and organisational redesign. Transparency will also be vital and it will be most efficient to build this scrutiny into the new governance arrangements.

34. The WLGA intends to approach the Core Cities Authorities in England to undertake further work in these areas based on experience to date. The WLGA would also request recognition of the principle that if Welsh Government is prepared to fund the costs of LGR that an appropriate resource be made available to underwrite this approach.
35. In another context, the Combined Authority could be focus for devolving powers from Cardiff Bay to local government. It would certainly provide a vehicle for a new approach to central local relations. This was recently envisaged by the First Minister when he stated in a Assembly Plenary Session on 28th January 2014 that: *“I spend a lot of my time arguing for powers to be devolved from London to here. I am fully aware of the fact that the same argument applies to devolving powers to local authorities, as long as they are able to deal with those powers.”* All this in addition could form part of the national debate envisaged as part of the Future Generations Bill.
36. There would be real synergies with other parts of the Welsh public sector in health, police and fire & rescue services. It also chimes with calls from business leaders for a more strategic approach to economic development whilst locally retaining links with SME's.

## Conclusion

37. The prospect of another Local Government Reorganisation is placing Welsh public services in a period of limbo, which began well over year ago and is set to continue until at least the end of the decade. At a time when public service organisations need to be alive with innovation and forward thinking as they seek to manage their way through austerity they are instead in a state of sullen stasis as they look forward only to their demise.
38. The way forward suggested in this paper could be implemented through a bespoke piece of legislation on which we would urge consensus. Even as that legislation is being prepared the prospect of such legislation would release positive energies instead of the current whirlpool of negative thinking into the Welsh public service is likely to disappear. Establishing a Combined Authority does not mean individual local authorities will have to give up powers or sovereignty. All functions related to economic growth and regeneration will be for example exercised by Combined Authorities on a concurrent basis with local authorities.
39. It would ensure at a time of massive cuts that the huge sums of money spent on the complex architecture required for a full blown reorganisation is retained in front line services and fully subject to local

democratic accountability. The approach set out in this discussion document is a genuinely radical proposal constructed by local government. It builds on a track record of experience on a wider UK level and represents an approach which requires a vigorous debate.

40. There has been frustration across councils in Wales that the process leading up to the publication of the Williams report and the slow pace of the Welsh government response have effectively excluded a full local government contribution. This recently led Councillor Bob Wellington to openly question in his recent speech to the WLGA Conference “why aren’t local government leaders in Wales at the heart of the discussion about their own future”? The recent publication “In Defence of Localism” and now this discussion document set out a new vision for Welsh local government. It is a vision that offers a pragmatic, timely and resource efficient solution to public services reform in Wales.

## **Annex 1- Technical Note**

There are five Combined Authorities in the geographic areas of Sheffield, North East, Greater Manchester, Liverpool and West Yorkshire. All these were established in 2014 whilst Greater Manchester was established three years ago. A sixth is proposed, based around Birmingham and the West Midlands, where an Integrated Transport Authority is already in place. Nottingham and some Southern English Councils are also considering their own options for Combined Authorities.

### **Membership and voting rights**

Membership of a Combined Authority depends on its constitution as adopted in the Order under which it was set up. The members are not elected directly and voting rights are held by the appointees from each constituent authority. There are some interesting differences among the four new Combined Authorities:

- In Merseyside, the Board of the Liverpool City Region Local Enterprise Partnership (LEP) has the right to appoint a non-voting member of the Authority.
- In West Yorkshire, each constituent council (as defined in the Order) is to appoint one member and in addition the intention is that the constituent councils appoint another member from three of the constituent councils so that the body of constituent council appointed members will reflect the political balance in the council areas. The non-constituent council (which is the local government area for York) is to appoint a non-voting member. The Leeds City Region LEP is also to appoint a non-voting member.
- In Sheffield City Region in addition to one member from each constituent council there are to be two 'rotational second members' appointed for a year from the 'rotational second members' selected by each constituent council and there will be a non-voting member appointed by each non-constituent council. There is no LEP representation.
- In the North East, each constituent council is to appoint a member and the North East LEP will have a non-voting member.

### **Legal Background**

In England, part 6 of the Local Democracy, Economic Development and Construction Act 2009 (the 2009 Act) provides for the establishment of Combined Authorities that take on the functions and responsibilities for economic development and regeneration from the relevant councils and, where one exists in the area, the functions of the Integrated Transport Authority (ITA).

This power does not apply in Wales. A review of legislation here identified several options available to Welsh Government:

1. **A new Bill via the National Assembly.** This would repeal all previous legislation and establish a brand new system from scratch; or it could allow an amendment framework to change the current local government structure.
2. **Current executive powers.** These are however piecemeal, myriad and none is overarching. Examples include:
  - S37 of the Local Democracy (Wales) Act which permits the functions of the Local Democracy and Boundary Commission
  - S5 of the Transport (Wales) Act 2006 which permits the establishment of Joint Transport Authorities
  - The Town & County Planning Act which permits bringing together of planning authorities (as well as proposals in the Planning Bill)
  - S9 of the Local Government (Wales) Measure 2009, which permits the operation of an Improvement Authority.
  - S162 of the Local Government Measure 2011 which permits bringing together of up to 3 Local Authorities.

Further research might be needed to ascertain the full extent and nature of current powers. All the powers reviewed so far have however been restricted and very specific. Suited to task, such as those for Transport; or applicable only in particular circumstances such as the failure of a local authority. S162 of the Local Government Wales Measure 2011 for example, permits an Amalgamation Order; but:

- Amalgamation is for two or three (but not four or more) Local Authorities
- Before making the order, Welsh Minister must try:
  - (a) the exercise by any of the local authorities concerned of their powers under section 9 (Powers to collaborate etc) of the Local Government (Wales) Measure 2009, or
  - (b) the exercise by the Welsh Ministers of their powers under—
    - (i) section 28 (Welsh Ministers: support for Welsh improvement authorities),
    - (ii) section 29 (Welsh Ministers: powers of direction etc),
    - (iii) section 30 (Powers of direction: collaboration arrangements),
    - or
    - (iv) section 31 (Powers of Welsh Ministers to modify enactments and confer new powers) of that Measure.
- This power is subject to an affirmative resolution procedure. This is the more stringent form of parliamentary control, as it requires positive approval, rather than the absence of a decision to annul. Accordingly, it is used where the delegated legislation may be more controversial.

The law in Wales has been hard to interpret, not least because several Acts, Schedules, Sections, Amendments and Repeals inter-relate. The conventional doctrine is that a legal document should be understandable ‘within all four corners.’ This raises the notion that a new Bill, that brings all these amendments together, might be due.

It is worth noting that the Local Government Wales Act 1994 included a temporary power for Welsh Government to make various changes that might have included the formation of Combined Authorities. The power lapsed in 1999 but could appear on a similar basis in a new Act.

The options above need not be restricted to economic development, regeneration and transport functions. No change or order is required for the exercise by local authorities of their own subsidiary powers to collaborate.