

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

CABINET

16 May 2018

Joint Report of the Chief Executive and Assistant Chief Executive

LOCAL GOVERNMENT REORGANISATION

Matter for Decision

Wards Affected: All

Purpose of Report

1. To provide Members with advice on the Welsh Government's Green Paper "*Strengthening Local Government, Delivering for People*" issued on 20 March 2018 (at Appendix 1) and the terms of a suggested response.

Background

2. This is the fifth Green or White Paper since the Williams Commission Report in 2014¹ (excluding others on the subject of electoral reform for example). It is also the third set of proposals for local government reorganisation/reform in as many years.
3. In all probability, it will result in a continuation of the stalemate that has characterised this debate for years i.e. the Welsh Government/ National Assembly will not impose a solution and local government is clearly not going to reorganise itself. This is despite the Green Paper stating that "*the need for radical change is urgent and pressing*"². Thus the discussion has become almost completely circular - and the opprobrium heaped upon the proposals from local government and opposition parties in the Assembly has been entirely predictable.
4. However, the proposals are not completely without merit (see below) and some aspects might usefully be explored further on a basis to be determined by Members.

¹ Officially known as the Commission on Public Service Governance and Delivery.

² At Paragraph 2.15.

Analysis

5. The basic problem is that the Green Paper is too high level in a number of key areas, particularly the financial aspects. Nor does it really develop the arguments which have been articulated several times before in previous White Papers and policy statements or set a vision for the future of local government in a devolved context.
6. The Williams Commission is referenced frequently in the Green Paper as a source of evidence; but Williams stated *that “it is a myth that there is some ideal structure or configuration of the public sector in Wales or anywhere else that will eliminate problems of governance and delivery by design”*³. The Commission also made clear that its recommendations were to be taken as an integrated package and not subject to cherry picking of individual components.
7. For its part, local government/the WLGA continues to champion the voluntary collaboration agenda; but some 12 years on from the publication of the Beecham Report⁴, it represents an agenda that has produced minimal benefits – most certainly as a response to austerity. The Green Paper describes the benefits as “*patchy and inconsistent*”; but we would go further. There have been some modest successes; but the budgetary dividend from collaboration has never featured in successive budget rounds here simply because there hasn’t been one. Moreover, the often quoted collaboration models such as the City Deal and the school improvement consortia – to name but two – do not represent a panacea either. At the time of writing, there is a particular issue with the school improvement consortia where Welsh Government appear to wish to exercise control through funding whilst local authority Members remain accountable through the Joint Committee. That represents sub-optimal governance arrangements in our view.
8. Moreover, in some cases, collaboration has actually increased costs to this authority or failed to deliver significant savings⁵. It also brings with it a significant overhead in terms of demands on Member and officer time and the current arrangements have created an industry of legal agreements and complex structures. They are not well understood by local Elected

³ At Paragraph 1.57

⁴ Delivering Beyond Boundaries: Transforming Public Services in Wales: Sir Jeremy Beecham 2006

⁵ The Auditor General’s report on the National Procurement Service: November 2017

<https://www.wao.gov.uk/publication/national-procurement-service>

Members with a consequential negative impact on accountability and the recommendations presented by Williams to address complexity are not taken on board in the Green Paper even though the Commission was clear that this stifles innovation and creates a risk averse, short term compliance culture.

9. Perhaps the essential point here is that the Green Paper proposes to maintain regional working in its current form and implement structural change. This looks like a fudge (particularly as the geographical boundaries are not always coterminous between the two e.g. the City Deal⁶). To be clear, we are not opposed to the concept of regional working; but as currently configured it does not produce the benefits that have been claimed.
10. The Green Paper poses 15 questions to which responses are requested. This report does not address most of them because they are secondary issues and/or we have already addressed many (directly or indirectly) in responses to previous White Papers. Instead, the report addresses the core issues.

Where does Neath Port Talbot sit in the equation?

11. As things stand today, we do not believe that there is a compelling case for this Council to immediately merge with the City and County of Swansea (or anyone else).
12. Without blowing our own trumpet or underestimating the challenges ahead, our budget is structurally sound - despite cutting some £77m since 2011 - and we continue to receive favourable reports from the Wales Audit Office, more recently Estyn and other regulators on the quality of the services we provide. However, there are no guarantees that this will remain the case as we must find another estimated £58m over the next four years from 1 April 2019. It would therefore be foolish to rule out mergers indefinitely - particularly as there are no credible alternatives on the table - and the imperative to merge may already exist elsewhere. Perhaps it would therefore be more achievable/realistic to instigate a reorganisation of 22 Councils to, say, 15 or 16 rather than down to 10 in one go?

⁶ Ceredigion would be part of the proposed new West Wales Council; but is not part of the Swansea Bay City Deal.

13. The Green Paper's central thesis is that a significant reduction in the number of local authorities would improve financial resilience medium/long term; enhance the quality of services and the new authorities would benefit from more powers (notably a general power of competence which already exists in England and Scotland). That might be the case; but the Green Paper's "*Case for Change*" (Chapter 2) lacks an evidence base as other commentators have pointed out since its publication⁷ - certainly one that is applicable to this authority. The Green Paper is particularly weak in terms of the evidence that larger Councils are necessarily better/stronger. Indeed in Northamptonshire, it has been proposed to split the all but bankrupt local authority into two smaller Councils and the largest Council in the UK, Birmingham, has a history of major problems on service delivery.

The Options for Reorganisation

14. The Green Paper identifies three at Chapter 3 (described below) and paragraph 5.5 states that final proposals would be part of a Bill to be introduced into the National Assembly this autumn.

Voluntary mergers

15. This option would see the Welsh Government enable local authorities to come forward with merger proposals if they were within a specified future footprint (paragraph 3.5).

16. Basically, this won't work in our opinion – and the Green Paper itself (at paragraph 3.7) lists many of the disadvantages. Despite the claim that this wouldn't be a repeat of 2014/15 (where three sets of two Councils had voluntary merger proposals rejected), we suspect that there will few, if any, volunteers this time around. In any event, the chances of all 22 Councils participating in such a process are zero. Thus it inevitably represents a piecemeal approach - to a greater or lesser extent - where, even if two or more Councils had voluntary merger proposals accepted, the potential and unforeseen knock on effects next door (or even across Wales) could cause as many problems as they would solve.

⁷ For example Mike Hedges AM (Swansea East) has contributed a number of thoughtful articles on the subject. His two latest pieces are to be found at these links: <http://www.iwa.wales/click/2018/03/reorganisation-welsh-government-funded-welsh-public-sector/> and <http://www.iwa.wales/click/2018/04/reorganisation-welsh-government-funded-welsh-public-sector-part-2/>

A phased approach with early adopters merging first followed by other authorities

17. As paragraph 3.10 states, this would see the Welsh Government make provision for local authority mergers in 2026, in line with a specified future footprint for local government; but also enable local authorities to move more quickly in time for new authorities to be vested in 2022.
18. This proposal could bring a long period of uncertainty; but it has some merit and should not be entirely discounted for the reasons outlined above. The Green Paper sets out the advantages and disadvantages of this approach (at paragraph 3.11 and 3.12 respectively). The former may outweigh the latter and we can see ways in which the end point of 2026 might be brought forward; **but** the tests outlined at paragraph 19 below would need to be met first.
19. So, as things stand, we would not recommend that this Council aim for a merger by 2022. However, it may be that other, smaller Councils who face proportionally greater financial challenges and diseconomies of scale, would wish to pursue this option. They should not be denied that opportunity if they wish to pursue it.
20. If we were ever to go down this route, officers conclude that a minimum of three tests would need to be met:
 - First, the Welsh Government would need to be far clearer on the key financial issues. There has been a sterile debate on the cost of reorganisation in recent years with the Welsh Government and the WLGA trading and contesting each other's estimates. The Green Paper does not provide an updated Regulatory Impact Assessment (RIA) and paragraphs 3.19 and 6.31 outline a very wide range of potential costs and savings. There is an assumption that capacity would increase and savings would be achieved; but there is no evidence to support this assertion. The more likely reality is that at least for the medium term there would be a reduction in capacity and increased costs and no clarity as to how those additional costs could be funded (see immediately below).

This last point is perhaps equally as important: who is expected to meet the cost? The Green Paper is silent on this. 80/20 Welsh Government/local government? 50/50? 40/60? If there are real concerns about the financial resilience of some local authorities

then there should be a proposed mechanism to address it; but there isn't.

Similarly, on Council Tax harmonisation, the issue is identified; but not addressed in substance. It could result in significant increases in Council Tax for anyone merging with this authority as our relatively high Council base is very largely a legacy of the last local government reorganisation in 1996 and this has produced inequities across Wales in terms of the contribution of residents to funding public services. Chapter 5 suggests that this would be a matter for the Transition Committees and Shadow Authorities

In our view, there is also a strong case for revisiting the local government funding formula which has created imbalances in the funding levels between existing Councils. For example, the rural authorities habitually occupy the bottom end of the funding table year on year and funding floors have had to be deployed to mitigate the worst of these impacts; but if, say, Powys Council is to remain as it is, one might ask whether services there or in other rural authorities are sustainable under the status quo?

The Green Paper acknowledges (at paragraph 4.6) that there are "*many challenges*" to be addressed e.g. staffing issues, pay, ICT, etc. but again only lists them.

- Second, there needs to be greater clarity in terms of prioritising Welsh Government expectations in a number of policy areas. Put another way, is it realistic to expect local authorities and local health boards to be transforming Health and Social Care⁸ at the same time as our local health board is undergoing structural change (with the Bridgend area likely to transfer to Cwm Taff) and reorganise local government simultaneously? The simple answer is "No" in our view. Realistically, there is a limit to the capacity available to this Council, other local authorities and other partners to accomplish complex transformation programmes (and that capacity is reducing); and
- Third, if we were to enter into any preliminary discussions about mergers, it would be reasonable to seek an unequivocal political commitment from the other party (and them from us) that we were

⁸ The Green Paper identifies implementing the Parliamentary Review of Health and Social Care as a priority and we are working with Swansea Council and ABMU to address these issues in response to a recent dialogue with Welsh Ministers.

both fully committed to the process from the outset as was the Welsh Government.

The scope for wasted effort and resource is virtually unlimited otherwise – it has already cost a great deal of time and money - and the Green Paper perhaps betrays a sense that the Welsh Government prefer to take a hands off approach with the stated desire to keep “*to a minimum the period the Welsh Government has to provide support to the process*”⁹.

A single comprehensive merger programme

21. This option would see the Welsh Government make provision for local authority mergers in 2022, in line with a specified future footprint. We don't think this is a practical proposition. It would require a more or less immediate consensus on a way ahead (unless the Welsh Government impose it); but that is very unlikely for the reasons explained above. Moreover, it is possibly too late already in the current Assembly term to start such a process and complete it before the next Elections in 2021.
22. The advantages and disadvantages of this approach are set out in paragraphs 3.14 and 3.15 of the Green Paper respectively.
23. The other practical obstacle is that this process would require the Local Democracy and Boundary Commission for Wales (LDBCW) to completely redraw the ward boundaries across the whole of Wales in little more than two years (paragraph 5.18). Based on previous experience and the convoluted nature of the process, we seriously doubt whether the Commission has the capacity to do the job. Fairly recently, it took eighteen months to determine whether half a street should be in the Taibach or Margam ward.

Other issues

24. We have no particular problem with the remainder of the issues identified in Chapters 6-8. They are largely framed in aspirational language. There are warm words about the role of Elected Members; but no discussion about what “*strengthened*”, “*empowered*” or “*reinvigorated*” actually means in terms of the role and function of

⁹ Paragraph 3.14

local government. Moreover, the Councillor to elector ratio varies enormously for the proposed ten new authorities.

25. The additional powers would be welcome (but paragraph 6.14 suggests that these would only be available to Councils who merge); but conversely the call for service transformation does not really reflect what is already going on by way of change and reform here and elsewhere in local government – e.g. social care, the digital services agenda, income generation and so on – and they do not depend on structural change anyway.
26. Chapter 7 on Community Councils adds nothing to what has gone before. We have already given evidence to the Review Panel; but the future role and functions of Community Councils needs to be an integral part of any process, not some sort of subsequent add-on.

Financial Implications

27. None at this stage (they are impossible to assess on the basis of the information available). However, as noted above, the financial implications of the whole exercise are a key consideration if the proposals are taken forward.

Sustainable Development

28. Not required at this stage; but the Green Paper is silent on how citizens and other stakeholders will be engaged in this process of debate (required under Future Generations Act 2015).

Workforce Implications/Equality Impact Assessment

29. None/not required at this stage; but again, these would be another key factor going forward.

RECOMMENDATIONS

That Members agree:

1. That the Leader of Council write to the Cabinet Secretary for Local Government and Public Services in terms of the draft letter at Appendix 2 conveying the Council's response to the Green Paper. This majors on the points in paragraphs 11-23 above including the "tests" outlined; and

2. That Cabinet refer this report to full Council on 30 May for further discussion prior to the proposed response being sent.

Reasons for proposed decision

To invite Members to endorse the Council's response to the Green Paper. The deadline for responses is 12 June.

Implementation of the decision

The decision is proposed for implementation after the three day call in period.

Appendices

Appendix 1 – Welsh Government Green Paper: “*Strengthening Local Government, Delivering for People*” 20 March 2018 (available via the link below):

<https://beta.gov.wales/sites/default/files/consultations/2018-03/180320-strengthening-local-government-consultation-v1.pdf>

Appendix 2 – Draft reply from the Leader of Council to the Cabinet Secretary for Local Government and Public Services

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