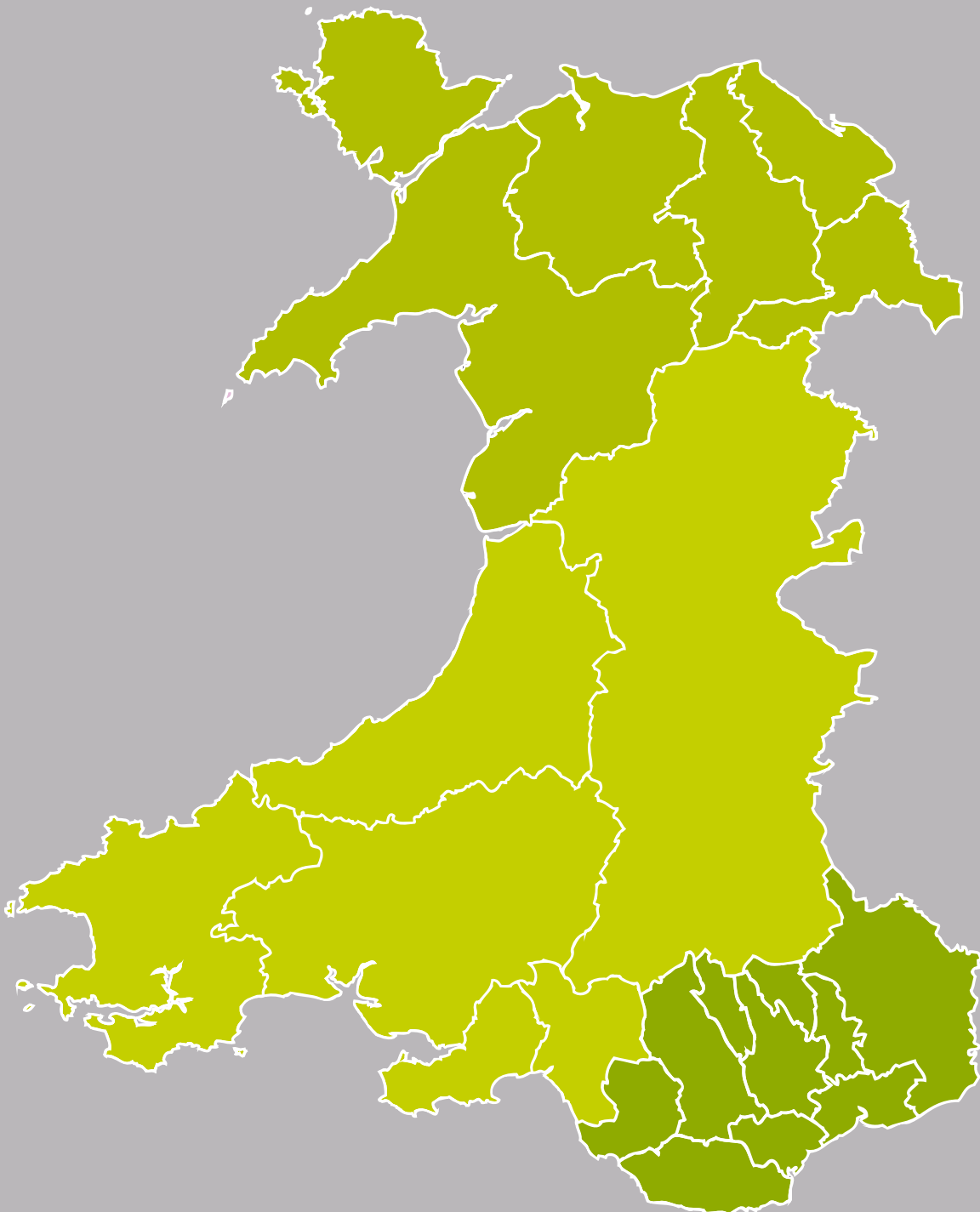


# Ways forward

Alternatives to merging councils in Wales





# **Ways forward:**

Alternatives to merging councils in Wales



**APSE (Association for Public Service Excellence)** is a not-for-profit local government body working with over 300 councils throughout the UK. Promoting excellence in public services, APSE is the foremost specialist in local authority frontline services, hosting a network for frontline service providers in areas such as waste and refuse collection, roads and highways, renewable energy, parks and environmental services, leisure, school meals, cleaning, as well as housing and building maintenance.

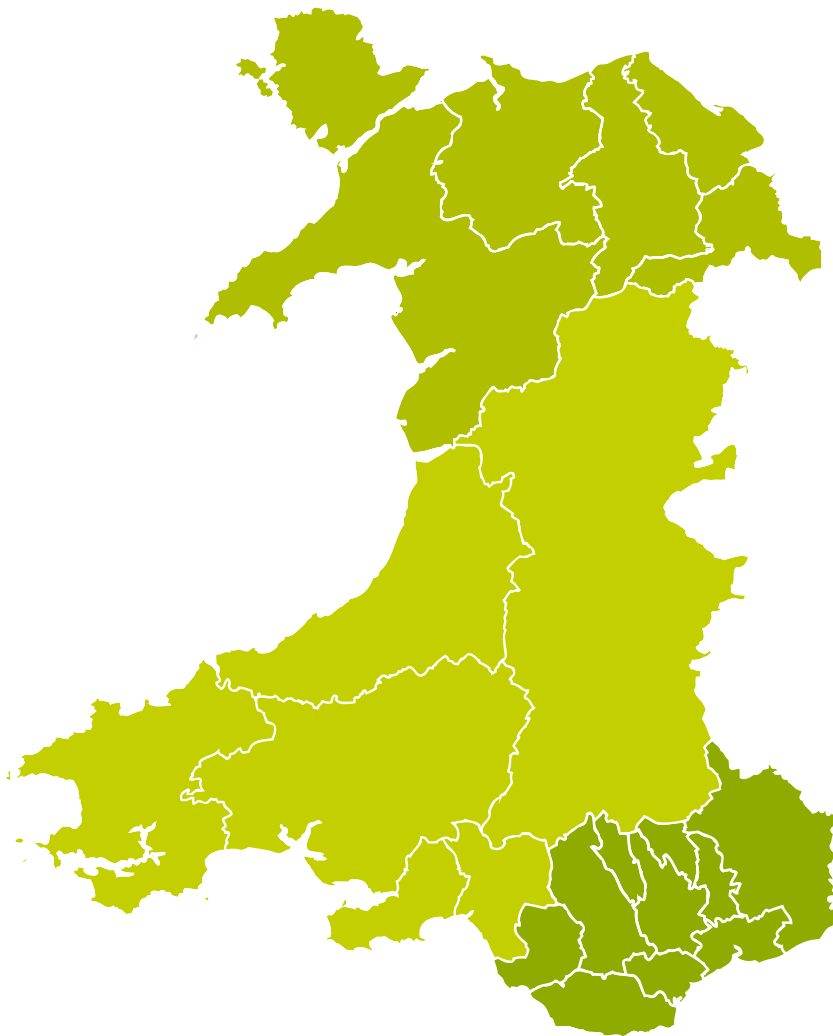


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# Executive summary

1. The merging of councils and subsequent increases in the size of local government units is a long standing policy approach by central government aimed at improving service delivery and performance
2. The proposals for mergers of Welsh councils that arose from the Williams Commission and the subsequent Local Government (Wales) Act 2015 follow that consistent trend for increases in council size
3. In June 2015 the Welsh Government produced a map which would reduce the number of Welsh Councils from 22 to eight or nine
4. The arguments on which reductions in the number of councils and increases in council size are based – that such increases will improve the efficiency and effectiveness of service delivery - has no consistent support from the results of research neither does research conclusively demonstrate that larger councils are more efficient or effective than smaller councils
5. Mergers of councils do not always result in savings or cost reduction and the merger process itself comes with a considerable cost implication – estimated in the case of Wales to be between £200-£400 million
6. Research is more consistent in its findings to show that increases in the population or geographical size of local government has a deleterious effect on democratic health of local government and local communities
7. A range of policy alternatives exist that allow councils to work together that would provide the perceived benefits of increases in size without the associated upheaval of re-organisation and without creating large, remote and artificial local government entities. Policy-makers in Wales have given scant attention to these alternatives
8. Large-scale re-organisation can be avoided if the Welsh councils develop a strategic approach, across Wales to:
  - a) Joint-working across council boundaries to achieve common goals shared across different policy areas and related to common public services
  - b) Sharing the delivery and performance of a range of council provided services
  - c) Cross sectoral working by forging strategic partnerships with other public sector bodies, third sector groups, business and voluntary organisation
  - d) Learning from the experiences of councils overseas in creating new and imaginative approaches to co-operation between councils
9. The policy alternatives in 8 a-d above can operate on the level of specific services or cut across policy areas and are strengthened where councils have the discretion to use local knowledge to respond to specific local service pressures
10. Any form of joint-working between councils, including the creation of bodies resembling the combined authorities being developed in England, should be for local government itself to explore and formulate rather than being driven by a top-down process controlled by the Welsh government
11. In policy terms sufficient evidence exists that challenges the accepted view that improvements in service delivery and performance can only be guaranteed by increases in council size and councils must be able to freely explore and experiment with those alternatives
12. Council joint-working, shared services, cross-sectoral working and a flexible framework for inter-council co-operation will avoid the costs and upheaval of re-organisation and avoid the creation of larger and more remote units of local government

# 1. Introduction

The system and structure of local government in Wales is faced with yet another potential reorganisation only 20 years after the last major restructuring which introduced the current unitary system of 22 councils across Wales. Prior to the Local Government (Wales) Act, 1994, which created the 22 unitary councils, local government in Wales had consisted of a two-tier system of 37 district councils and eight county councils, introduced by the Local Government Act 1972. The Act had swept away the system created in 1888 of 13 administrative counties and four county boroughs as well as urban and rural district councils. What can be seen in this brief outline is a constant trend of reductions in the number of Welsh councils and a consequent increase in the geographical and population size of the new entities. Seen in this context, the current proposals to further reduce the number of Welsh councils are simply following a well trodden path of reduction in the number of councils and councillors.

It may seem remarkable today, but after the 1894 Local Government Act up until the re-organisation of the early 1970s, along with the 13 counties and four county boroughs, Wales had over 70 Urban District Councils and almost 60 Rural District Councils. The shape of elected local government reflected, as far as possible, identifiable local communities. Indeed, recognising geographically identifiable communities of place is still at the heart of many European local government systems.

The policy tendency across the UK has been for the creation of larger and larger units of local government, often in an effort to secure the perceived benefits of economies of scale and efficiency improvements that are seen to come from increases in size. Yet, such size increases in local government also come with the costs associated with large scale upheaval that accompanies re-structuring and as we shall see in section three, size increases also come with no hard and fast guarantee that the imagined efficiency improvements will arise. The problem for local government is that it is often seen by central government – in differing national settlements – as being primarily responsible for the delivery – if not directly – of a range of public services and the vehicle through which central government delivers its own public service promises and policies; rather, than being seen as a representative and governing institution in its own right.

The Commission on Public Service Governance and Delivery (Williams Commission), which resulted in the Local Government (Wales) Act 2015 was primarily concerned with local government as a public service deliverer or oversight body and its 'performance' in that regard formed the first of the various sets of questions posed by the commission. Like other commissions across the UK, Williams struggled with balancing the public service role of local government with its other functions and focused on:

- Performance
- Scale and Capability
- Complexity
- Governance, Delivery and Scrutiny
- Culture and Leadership

The Commission, while casting a causal glance at local government's politically representative role was however, primarily focused on delivery and with democratic accountability seen in relation to services and delivery not a broader governing role for local government. If local government is seen, by the centre, as primarily an agent for the delivery of public services then the term 'government' in local government can become redundant – especially where the centre displays centralising tendencies. What the centre requires is for councils to be organised and structured so as to gain the often inflated claims of economies of scale perceived to result from the creation of larger units of local government. While this does not suggest that service delivery is unimportant, it means that the arguments on which the Local Government Wales Act was formulated and ultimately became statute are not guaranteed to result in improved service performance or delivery.



The larger local government becomes, not only does the word 'government' become redundant, so too does the word 'local'. The Williams Commission's recommendations that the 22 unitary Welsh councils should be reduced in number to 10, 11 or 12 (Williams, 2014, p.98) means local government is shaped for ease of administration, not community governance. It became even more apparent that increases in size was seen as a solution to perceived service performance problems when the Welsh Government, in June 2015, published two maps of what local government would look like in Wales. Those maps were based on either eight or nine super-sized councils across Wales which was a further reduction on the map suggesting 12 Welsh Councils, produced in November 2014 and even fewer councils than the number suggested by Williams. The eight or nine council option could see the number of councillors fall from 1,250 to between 700 and 900 (although the suggested cap of 75 councillors per council has now been removed). Indeed, the then minister – Leighton Andrews - called the case for fewer councils and the introduction of super-sized councils as 'compelling' (BBC Wales <http://www.bbc.co.uk/news/uk-wales-34904221>). But, it is only compelling if forced mergers are seen as the only solution to a set or pre-determined problems of and with local government and if any other policy alternatives are dismissed or more likely ignored.

What is glaring in these ideas is the demise of any notion that this is 'local' government as a level of government that has any relationship to real communities of place. Rather, we see vast tracks of the country drawn together, partly as a way of securing the perceived benefits of increases in size, which for policy-makers have now reached almost folklore like proportions, and partly, it could be suspected, as a result of considerations about the likely political control of the resultant new 'super-sized councils'. Yet, the result of the Welsh Assembly elections in May 2016 provides some hope that other policy options might emerge that would avoid super-sizing Welsh councils as the newly elected First Minister, Carwyn Jones, has announced the postponement of a radical re-organisation. Indeed he recognised that the 'maps' produced by the previous government, lacked public (and cross party political ) support. Although that position must be seen against the Labour Party's manifesto commits to 'stronger, larger local authorities. Such uncertainty makes it all the more important to explore alternatives to mergers as a way of strengthening service delivery.

It is the main alternative to forced mergers and to the creation of super-sized councils in Wales that this paper explores. That alternative, common-place across Europe and much of the globe, is the creation of a flexible and responsive legal and functional framework within which councils can co-operate and work together to achieve not only improvements in public service provision, but also strengthening their role as governors of their communities. Indeed placing councils within a framework which enables them to scrutinise, shape and over see the policies of other public and private, unelected bodies enhances democratic accountability and good governance. The paper will explore the alternatives to forced mergers by moving on in the next section to briefly review the findings of the Williams Commission and the Welsh Assembly Government's response as a way of setting the context for the rest of the paper. It does that only to remind of the context within which the debate is taking place and although Williams may now be seen as somewhat old news those committed to larger local government will no doubt return to Williams as a seemingly independent source of advice. Thus, Williams must still be held in the front of the mind in proposing alternatives to council mergers as it will set the tone of the debate that runs through the life of this parliament until the re-organisation issue is settled one way or the other.

## 2. Public service governance and delivery: setting a framework for the debate

It is necessary to briefly review Williams as the Local Government Act was based on its findings and recommendations – although re-organisation may have been postponed the debate will not go away. The Williams Commission indicated that first and foremost local government was seen as a body responsible for the delivery, or at least the over-sight of public services. The politically representative and governing role of local government took a very poor second place to its relationship with public services. As the commission reminded in its final report of its aims to:

*'gather and provide an objective, authoritative assessment of the extent to which current arrangements for public service governance and delivery in Wales meet the needs and aspirations of people today and provide a sustainable basis for the future; propose an optimal model of public service governance and delivery for Wales, that will ensure that efficient, effective and accessible services are provided to the citizen; and support continuous improvement in those services against the background of financial and demand pressures; and, as part of this, to engage with those who provide and use public services'* (Williams, 2014:1)

*'Indeed, even the term 'government' and governance' were defined in terms of public services, rather than political responsibility and community representation'* (Williams, 2014: 6).

There was insufficient consideration and debate about what local government should do, wherever or not a different purpose existed that was about governing and representing communities, or developing community capacity to interact with other organisations, or to hold those that provide public services to democratic account. Indeed, the idea that local government should govern – that is be able to take a policy line different to the centre in Cardiff or to have legislative powers devolved from the centre - was not seen as any part of the purpose of local government.

The assumption was that the purpose of local government is to do what it's doing now, only better and to be better it needs to bigger, much bigger. The technocratic and managerial tone of the report is evident through-out:

*'In considering performance we first wanted to understand both the current performance of public services and how performance could be improved by a more appropriate use of strategic outcomes, operational targets and better performance management and the use of transparent data (Williams, 2014: 7). High performing organisations demonstrate a culture of performance improvement, and one that recognises the value of their staff in delivering and demonstrating the organisational vision and values. To facilitate this it is essential that every organisation delivering public services has an effective performance management system in place Williams, 2014:184) ...we believe that there is a strong case for developing a new and more coherent national performance framework, which should include the following features: Greater clarity around fewer national strategic outcomes; A visible differentiation between those and other outcome, output, process and input measures, with clear connections between them but with less or no national prescription below the national strategic level; and Greater consistency in the collection, use and reporting of data across the public sector, which drives improvement, facilitates partnership working and strengthens accountability'* (Williams, 2014: 225).

Now it may seem unfair to cherry-pick examples such as those above, but such comments, and many others like them are indicative of the lens through which local government and public services more broadly were viewed. It is local government however, that bears the brunt of structural change through the proposed re-organisation and merger programme and it is local government, unlike any other public service delivery agency, that has a democratic mandate and an electoral base to it which means that forced mergers and super-sized councils come with a cost, which will be explored in more

detail in the next section.

There was little or no consideration of alternatives to mergers, nor any serious investigation of how to gain the desired savings, increases in effectiveness, or efficiency improvements through any way other than super-sizing Welsh councils. Indeed, the assumption was that the current structure of local government in Wales was beyond redemption and the commission's report (98-102) was quick to minimise the costs and maximise the savings from mergers. One of the certain about any debate around local government re-organisation is that the question of cost and saving – while looming large – will be anything but clear. Claims of savings in the order of £650million from reducing the number of councils to eight or nine were made by the last Welsh government which would accrue over a over a 20 year period. On the other hand, the Chartered Institute of Public Finance and Accountancy (CIPFA) in work carried out for the Welsh Local Government Association, estimated the cost of re-organisation itself at £200million to £400 million. Money that would be diverted from the provision of front-line services and which would require councillors and officers to focus on the needs of re-organisation rather than the needs of service delivery. If anything, not only are the arguments for re-organisation flawed, the timing is woefully wrong.

Austerity offers those already inclined towards larger local government a further weapon to pursue mergers as the simplistic view that if there was fewer units of local government it would be cheaper for the public purse. Such simplistic views can easily gain purchase. What such claims often forget, among many other things, is the concept of diseconomies of scale and as units become larger and larger costs can and do rise. Simplistic ideas that if we have fewer councillors and fewer officers (quite apart from redundancy payments, increased welfare payments and damage to local economies) things will get cheaper, make good sound bites when shaping the rhetoric of a debate but the reality does not match that rhetoric. It is time therefore, to briefly review what we do know about the effects of increases in council size, before setting out the alternatives to supersizing Welsh councils.

### 3. Is big really so beautiful, efficient, effective and cheap?

Austerity sets the current context in which the almost folk-lore like belief that bigger local government is more effective, efficient and offers better value for money, is continuing to drive the debate about local government size in Wales and its ability to respond to urbanisation, Europeanisation, service delivery improvements and increasing demand (Denters et al, 2005, Denters, et al 2014). Indeed, austerity is becoming a smokescreen behind which those predisposed towards large local government are hiding. In times of economic and financial downturn, efficiency, effectiveness and performance of public services have greater predominance over democratic issues than normal in the mind of policy-makers.

What we know from research about the impact of increase in council size across the decades can be summarised very simply:

Research is more consistent in its findings to show that increases in the population or geographical scale of local government have a deleterious effect on democratic criteria, such as electoral turnout, public trust in councillors and officers and levels of engagement. Such effects however, seem to reach an equilibrium point where further increases in size no longer impact negatively on democratic criteria (*see Copus, 2010, Denters, et al, 2014*).

Despite the certainty with which the case for increases in council size to improve efficiency, effectiveness and performance are made, no consistent results have been found from research and publications that conclusively demonstrate the proposition that larger councils are more efficient or effective than smaller units of local government. Indeed, the findings are often contradictory and inconsistent on the matter (*see Copus, 2010, Denters, et al, 2014*).

**The overall current understanding is worth repeating:** There is no definitive evidence suggesting that larger local government is automatically and always a better option in the provision of public services than smaller councils. That result is particularly important across the UK, as the constituent countries already have by far, some of the largest units of local government across Europe. Indeed, where amalgamations and increases in council size have occurred in Europe, they have started from a lower population base than the average UK council and the new units are still smaller than the UK average.

#### Performance

The relationship between council size and performance is a particularly complex one and APSE's Performance Networks has 18 years of data that shows how councils, large, medium or small, can perform at a better or worse level compared with councils of different sizes: no one size has a monopoly on quality or performance.. It is worth stressing that research is inconclusive on the matter of economies of scale. Such economies that do or can accrue do so for different services at different organisational scales, which begs the question, if we are so bound to a unitary system which service should dictate local government size,? The answer is straightforward: don't unitarise, use tiers.

The problem for policy-makers is how to break their prejudices towards smaller local government and a helping hand is given by Boyne (1995) who concluded:

*'Analyses of local government reorganisation have concentrated on a largely spurious link between population size and the efficiency of service provision. There is little point in setting minimum or maximum populations for local units because it is the scale of output which counts, not the number of local residents. The level of output is likely to vary considerably for a*

*given population, depending in part on the level of need for different services. Even when needs are the same in different areas, the level of output will vary as a result of decisions on service quantity and quality.'* (Boyne, 1995: 221)

Research indicates not only the complexity involved in issues of scale but also the need for careful conceptualisation when seeking to understand links between performance and an optimum council size. In a sophisticated and well designed research project involving 600 tests of the relationship between size and performance in English local government, Andrews, et al (2008) report the following:

- Size has little impact on CPA scores
- One half of the measures of service inspection show a size effect
- A majority of the measures of consumer satisfaction are significantly influenced by size
- population size makes a difference to over one third of the Best Value Performance Indicators
- Around three quarters of the value for money measures are influenced by local authority size
- Population size has an effect on two thirds of the measures of administrative overheads
- The impact of population size varies across services, and between measures of performance for the same service.
- The biggest spenders in local government show the weakest size effect.
- The relationship between size and performance is a complex mosaic: sometimes bigger is better, sometimes small is superior, and sometimes medium-sized authorities achieve the best results (Andrews, et al, 2006: 4-5)

APSE's Performance Networks have also produced a large amount of data over last 18 years which supports the findings above.

Andrews et al (2006:41). conclusions make a powerful statement for policy-makers:

*'An implication of our findings is that size effects cannot be ignored in decisions on local government reorganisation. A change in the population served is likely to make a small but significant difference to many aspects of local authority performance. However, the direction and strength of that difference is likely to vary across and within services, and to vary from place to place, depending on the size of the existing and new authorities. This suggests that a universal size formula cannot be applied to decisions on reorganization. Instead, the implications for performance, along with other considerations, should be evaluated in the context of the reforms proposed for each local area'*

## **Local democracy**

When we look at the impact increasing the size of local government has on local democracy, we see consistent findings emerge which question whether democracy is weakened or strengthened in larger units. Research has focused on the following aspects of local democracy in relation to council size:

- Electoral turnout
- Membership of and involvement in, political parties, locally
- Attendance at council and public meetings, by the public
- Levels of trust held in councillors
- Levels of trust held in council officers
- Contact between citizens and councillors
- Contact between citizens and council officers

- Local political efficacy
- Councillors perceptions of their own influence
- Involvement in local action groups or political campaigns by the public
- Levels of identification or affinity with the council held by the public
- Public satisfaction with services
- The use of local referendums

What we know from a range of research and publications is that as councils increase in size there is a negative impact in relation to the democratic features above (Oliver, 2000, Denters 2002, Ladner 2002, Baglioni 2003, Kelleher and Lowery 2004, Kjeaar, et al, 2010, Denk, 2012). But, there appears to be a tolerance within these factors to some increases in size, up to a point (Keating 1995, Cusack, 1997, Rose, 2002, Frandsen, 2002). Kriesi and Baglioni (2003) commented:

*'interest in politics differs between individuals living in a large city, in a middle-sized city, in a suburb and in a rural village revealing that interest increases when the size of the place diminishes, the number of interactions with public institutions increases and its "presence" is more easily felt'* (Kriesi and Baglioni, 2003:7)

In more recent research, Denters, et al (2014) looked at a specific number of indicators for assessing the democratic quality of local political systems, as follows:

- Local political interest
- Local political knowledge
- Personal political competence
- Confidence in local politicians
- Satisfaction with local government performance
- Local electoral participation (turnout and local distinctiveness)
- Local non-electoral participation (contacting, party activities, community action)

What they found was that increases in population size had a negative effect on the quality of local democracy (Denters, et al, 2014 passim)

As far back as 1981, Nielsen made a powerful and definite statement about both size and amalgamation of councils:

*'local distrust, local lack of efficacy, and local lack of saliency are systematically higher in medium - large municipalities than in smaller ones, even when a control is made for the fit between the party (bloc) of the mayor and the party of the voter... that local government is rated more positively is an argument in favour of decentralization. This is not least the case in a system that has witnessed large-scale protest voting at the national level, but less so at the local level... the size factor may be a warning against far-reaching amalgamation'* (Nielsen, 1981: 57).

There is plenty of material that should force policy-makers to think about how communities of place, with which people identify and which has a meaning for them are reflected in local government structures. If local government structure and size fails to do that – and the proposals for Welsh re-organisation not only fail to do that, they deliberately ignore community as having any relevance to local government structure – then local government is simply an administrative convenient structure and we should forget any idea that citizens should, or need, to identify with the council.

We have two areas of concern for local government when it comes to size: performance and democracy, which are driven by different factors (see, Copus, 2010:4) While they are not mutually incompatible performance and democracy respond to different stimuli and pressures and when considering the size of local government it is worth noting what certain writers have had to say on the subject:

*'the search for optimum size ... has proved to be as successful as the search for the philosophers' stone, since optimality varies according to service and type of authority' (Newton, 1982)*

*At best, one size cannot be called better than the others; rather, different sizes are conducive to different goals' (Muzzio and Tompkins, 1989:95)*

*'The 'right' size for a municipal government is a matter of the local circumstances and the value judgements of the observer. Like so many issues in politics, this involves matters of ideology and interest' (Keating, 1995: 117).*

*'The driving force behind reform efforts in several European countries is a belief or assumption that increasing the size of subnational authorities will produce local governments with greater system capacity. Such beliefs are often argued in an undifferentiated fashion, failing to recognise differences that may obtain with respect to, for example, the challenges associated with providing human services versus technical infra-structure' (Denters, Mouritzan and Rose, 2012)*

Despite the inconclusive nature of the research linking increases in size to improvement in local government it is intriguing that many policy-makers hold to the firm belief that larger units are, and must be, better, more efficient and effective, cheaper and better performers than smaller units. The debate about council size is less about size and more about competing views of the purpose of local government and some of those competing views are simply not based on evidence.

That democratic features and service performance respond to different stimuli and may operate differently at different levels makes it all the more import that the structure of local government recognises these elements. An overseas example elaborates the point:

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## **Slovenia**

Slovenia is a country with a population of just over 2 million (smaller than Wales), and an area of 7,827 sq miles (again smaller than Wales). Yet, Slovenia has 211 municipalities, the smallest of which is Hodos with 340 inhabitants but with its own elected seven member council and mayor. All Slovenian municipalities have the same responsibilities, but there is no clamour to merge these into super-councils, quite the opposite, citizens jealously guard the political independence of their municipalities and feel connected to, and part of them. They feel that way because they govern areas of real place rather than being over-sized and artificial units of administration. Moreover, small size local government does not feel remote and provides for a connection between and sense of belonging for communities to those responsible for the delivery of public services.

Given that the case of performance and delivery improvement through increases in size is far from proven, it remains to examine the alternatives to mergers and super-sizing Welsh local government.



## 4. Alternatives to forced mergers: Joint Working

In this section alternatives to council mergers are explored which would enable councils to work together on improving public service performance without the creation of super-sized councils dislocated from local communities.

### Enhanced Joint Working

Across Europe attempts to improve how councils work together has been a stable response to economic crisis and austerity policies implemented by central government. Countries such as Finland, Germany, Iceland, Poland, Portugal, Slovakia, Slovenia and Spain (including different approaches in different German Land and Spanish regions), have all explored how best to facilitate councils working more closely together rather than super-sizing their councils.

There are a number of reasons why improved joint working is a credible alternative to the forced mergers of councils:

- a. When councils seek to secure common goals shared across different policy areas and related to common public services; or, where councils wish to maximise resources they have available for tackling shared problems. Groups of councils can therefore coordinate (or jointly deliver) services across services that are functionally integrated but which cut across different councils, which many be governed by different political parties.
- b. Councils co-operate in the delivery, co-ordination and control of public services and decide on arrangements for their joint delivery in order to benefit from economies of scale and to reduce costs.
- c. As a way of responding to the rapidly changing political, social, technological and economic environments within which local government operates. Joint working and joint or shared delivery may be a reaction to incentives provided by central government or by rules related to EU funding or regulations, or a reaction to increasing competitiveness pressures.
- d. Shared services and council joint-working can be a deliberate policy designed to protect the existence of small local government against central pressure for forced mergers.

Co-operation between councils can be energised by different players: regions or central government through compulsion or persuasion or by providing a flexible and fluid framework within which councils can co-operate and work together on service delivery and performance.; councillors, council leaders – seeking to co-operate with other councils and using political interaction to achieve joint working; or senior officers who seek to encourage their councillors to adopt a policy of working more closely with other councils across a range of service areas.

Joint working between councils, either around a single service or across a range of services is a policy that can secure the same economies of scale that are seen to arise from amalgamations, without the resultant diseconomies of scale which are often overlooked or ignored by those proposing mergers.

At the heart of much of the debate about joint working between councils and how that links to council service delivery performance is decisions made by central government about the allocation of services between various public sector bodies as this not only affects performance but the very nature of public sector co-operation. How services are allocated between elected local government and unelected bodies such as the health service, creates a different co-operative dynamic than that created between councils themselves.

Another way of dealing with some of society's most complex problems is for public sector organisations



to operate in a framework which facilitates and encourages cross sector working. Collaboration across the public sector but also with not-for-profit bodies, the voluntary sector, business and other organisations, means local government taking a lead in stimulating cross-sector approaches to service delivery and performance as well as cost reduction. Councils can use their democratic mandate to shape the nature of cross sector interaction and to ensure the accountability and responsiveness of both services and service providers.

So far we have set a scene that posits enhanced council joint-working and cross-sector working as a policy alternative to the upheaval and cost of forced mergers and increases in council size. But to ensure such joint and cross sector working operates efficiently it is necessary to briefly look at what not to do.

## **Combined authorities: a way forward?**

The current devolution trend in England is for central government to agree a series of deals with newly created combined authorities permitted by the Local Democracy, Economic Development and Construction Act, 2009 and enhanced by the Cities and Local Government Devolution Act 2016. While the 2016 Act enables the Secretary of State to put in place devolution deals with Combined Authorities and provides the flexibility to allow for the delivery of specific devolution deals across the country, it does so within a top down framework, developed and set by the centre.

The framework for creating combined authorities, which flows from the 2009 and 2016 Acts, rests on the principle that devolution is a process designed and controlled by the centre which also regulates and agrees how that process will operate and the outcomes of that process for Combined Authorities. The complexity of the arrangements for negotiating and agreeing devolution packages means that power and sanction over local government remains at the centre. Devolution 'deals' are just that 'deals' struck between local government and the centre about how councils will work together, which councils and what structures, processes and governance arrangements they will put in place: signed, sealed and approved by the centre; but, delivered by local government.

The focus of devolution deals is the delivery and development of public services and how collaboration between councils can be used to promote economic growth and development. While promoting devolution the Act does so within the existing framework of the constitutional relationship between central and local government. It does not provide for an entirely new approach to that relationship, to devolution or to the wider relationship between the centre and local government. Neither does the Act provide a sufficiently flexible framework within which councils can develop and design co-operative relationships that suit their own specific areas and the problems of service provision and performance that they need to solve.

An alternative to forced mergers in Wales is to create a legal framework within which councils can combine for specific or general purposes of service delivery, but to maintain their own distinct and discrete existence for those aspects not pertinent to collaborative working. Moreover, by creating such a structure and avoiding mergers, Welsh communities of place would maintain their governing identity and reflect their specific community needs through an elected and powerful council.

A flexible approach to encouraging and facilitating co-operation and council joint-working is required.

## **Joint Working as a policy approach**

Councils do have the ability to construct joint working arrangements, of a broad kind, with other councils and there is little that currently constrains such an approach. The construction of business plans to set out how joint-working with other councils will operate on the basis of making high-level cost savings, is now a common-place practice. Agreements between councils to share service responsibility or for a single council to provide a service across a number of councils are ways to turn

questions of scale and size to the benefit of local government, while keeping it local.

Whether councils are sharing public services, such as highways, housing repairs or children and young people services, or are jointly commissioning services such as transport, social care or economic growth and development, or are sharing what are commonly called 'back-office' services, such as information technology, legal, payroll, finance, architectural, planning or entire management teams or a single chief executive, there is an entire policy arena where councils have the discretion to use local knowledge to respond to specific local service pressures. Not only is joint-working an area of policy discretion for local government it is not restricted to geographically co-terminus neighbouring councils or councils sharing a political ideology:

The London boroughs of Newham (Labour) and Havering (Conservative), separated by the Labour Borough of Barking and Dagenham, brokered a £40 million shared services deal to cover the areas of personnel, information technology, finance, council tax and business rates and the benefits system. The agreement was joined in January 2016 by the London Borough of Bexley, a Conservative authority –separated from its new partners by the River Thames. Political composition and geography is no barrier to successful joint working to improve public service efficiency and effectiveness and to save costs.

As well as the lessons that can be learnt from the experiences of our own councils in constructing collaborative arrangements there is much to be learnt from looking at how councils overseas approach the matter. To do this we look at two specific examples where there are transferable lessons: Poland and Portugal.

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## **The Portuguese Case**

There was strong resistance in Portugal, from communities and citizens, to suggestions of forced mergers of municipalities. Despite the small scale of much Portuguese local government, especially when compared to England, Scotland and Wales, efforts to promote amalgamation were opposed indicating a strong localist political tradition. Even the recent IMF / EU bailout agreement for Portugal which suggested municipal amalgamations only happened at the parish level.

Portuguese anti-amalgamation feelings meant finding alternative strategies so as not to disturb stable council borders and long lasting communities' sense of belonging. Inter-municipal cooperation, in Portugal, seeks to combine local self-government and rational governance. Consequently, legal forms have been designed to facilitate the transfer of responsibilities to a joint body, created by councils, and financial incentives have been offered by the centre to encourage greater council cooperation.

There are different arrangements for cooperation in Portugal. But, noticeably all councils belong to some type of co-operation arrangement. Other strategies in use in Portugal include the establishment of independent public companies for service delivery. Privately and publicly owned companies for public services have developed into locally funded public enterprises providing a range of public utilities such as water, electricity, gas, health services, social services and public housing. Indeed, council co-operation in Portugal has led to the re-municipalisation of certain basic utilities and services that have long lacked real democratic oversight in Wales. Services covered by Council co-operation agreements also include: development of software; energy distribution; environmental protection; integrated management of local resources; culture and regional development.

Since 2003 two types of municipal associations have emerged in Portugal: general purpose municipal associations (Metropolitan Areas and Inter-municipal Communities) and special purpose municipal associations (which could be public or private, many of them already existing under the previous legislation). In 2008, the legal framework for co-operation was made compatible with EU rules related to single and multi-purpose associations which now overlap the territorial areas of NUTS III giving those associations an important role in the management of EU funds.

In September 2013 a new legal framework was introduced to strengthen the management capacity of co-operating councils to share the advantages of working together that arise in terms of efficiency, rationalisation of resources, standardisation of procedures, economies of scale and sharing good practices. Inter-municipal ventures now have responsibilities around planning, regional development and for promoting shared services between councils and government departments.

The joint operation of public service delivery in Portugal has resulted in arrangements that go far beyond council borders and at the same time avoiding the forced creation of super-sized councils.

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## **The Polish Case**

There is a three-tier system of local government in Poland with two local levels – municipal and county – and a regional level. All 2,479 councils have directly elected mayors (a very popular post-Communist initiative although not a popular initiative for UK); while the 380 counties and 16 regions all have directly elected councils. The average council in Poland has a population of 15,500 with some 20% having fewer than 5,000 inhabitants. Yet, importantly all councils have the same functions and are responsible for the provision of public services such as education, culture, healthcare, transport, water and sewage, waste collection and environmental protection.

An essential element of the Polish system is absence of formal top-down government incentives to encourage or force joint working between councils. There are three main formal structures in which councils can work together: communal joint authorities, associations and agreements. It is mostly found, in the Polish context that councils of the same type work together rather than co-operation between councils of different types (municipalities and counties for example). Municipalities cannot delegate their competences to the county although the reverse is possible. Only councils of the same type can undertake the closest forms of formal cooperation – communal joint authority (CJA) and that adds to the dominance of co-operation between the same types of council. A CJA is a legal entity providing a specific framework for the joint management of public services and sharing public tasks. Most CJAs have been formed in three areas: 50% for environmental protection purposes; 40% for water supply and sewerage and about 40% for solid waste management. Municipalities can be members of more than one CJA thus expanding the potential for innovative co-operative arrangements.

The creation of one of these public service entities is straightforward – especially when compared to the creation of a combined authority in England. The Municipality informs the regional representative of central government of its intention to create a new, or join an existing, CJA and the government cannot prevent this occurring if it is made according to the law. At the central level a register of the CJAs is kept; a new joint authority is entered into this register after its establishment. Simply put: councils tell the government they are doing it and the government writes it in a big book!

The joint authority makes decisions by the assembly and by the board of the Assembly and the decision-making process must be stipulated. The assembly is the legislative and controlling body of the joint authority, which exercises the powers assigned to the council in the range of CJA activity, so the law affecting municipalities also affects CJAs. The assembly consists of mayors of municipalities concerned. The executive body of the CJA is the board which is appointed and dismissed by the assembly from among its members.

CJAs have budgets transferred to it by the constituent councils and generate fees for provided services.

It is noticeable that a slight increase in co-operative activity between councils and the creation of CJA occurred after Poland's accession to the European Union – when joint authorities were allowed to undertake investments on a larger scale, which increased the competitiveness of their projects. The recent rise in the formation of CJAs was in 2012, when a new law on solid waste management was introduced which imposed new duties on councils. Indeed, all of the joint authorities formed in 2012 (8) and 2013 (4) were focused on solid waste management.

There are two more possible legal forms of joint working in Poland – associations and agreements. The municipalities may form associations with the counties and regions. At least three municipalities are needed to form an association agreement and then apply to the district court for registration of an association. There is however, no possibility of passing the responsibilities from municipality to county on the basis of agreements, thus horizontal cooperation is in legal terms easier than vertical. Agreements between councils are made for the same reason as the creation of a communal joint authority but in this framework there is no new legal entity established, but one municipality performs public task(s) for other municipalities – a form of agency agreement for the performance of public functions.

So, local government in Poland has considerable freedom in their choice of forms of joint working and freedom to choose who and with whom they work within a fluid framework, which provides an alternative to forced council mergers.

## 5. Conclusion

The current debate about the reform of Welsh local government is predicated on the single notion that bigger units are invariably more efficient, effective and cheaper than smaller units of local government. But what we have seen however is that increasing local government size to secure improvement is a flawed policy preference with no consistent basis in evidence which underpins the degree to which policy-makers at the central level adhere to the idea that bigger is better. On the other hand there is more consistent evidence that suggests that the larger local government becomes, the more its democratic health can be damaged. Debates about the right size of local government are not about efficiency, effectiveness or cost, but rather about the purpose and role of local government within any one governing system. Centralists will always favour bigger local government, as fewer units are easier to manage and direct and pose less of a communication and control problem for the centre than many smaller councils expressing intense local patriotism.

We have also seen that there is an alternative for Wales to forced mergers and the creation of super-sized councils. That alternative is for the Welsh Assembly Government to create a more flexible and fluid system within which councils can construct arrangements for joint-working and co-operation which suited their specific needs. Indeed, if the Welsh Assembly Government desired it could encourage that joint-working not only through a flexible legal framework but also through financial and other policy inducements. Finally, more power could be given to elected local government over a broad spectrum of public service bodies enabling local government to structure co-operation between non-elected public services and for it to encourage those bodies to work together and with local government.

It is not apocalyptic to suggest that Wales stands on the verge of the destruction of any notion of 'local' in local government, even though the apocalypse may have stalled somewhat as a result of the May 2016 election outcome. The nature of debate about the future of Welsh local government has already been set and it is a long standing debate which reflects the unwillingness among some to countenance policy alternatives to the favoured idea that bigger is better. Yet, those alternatives do exist. One question remains: if the eight or nine councils that could be formed from the existing 22 as a result of the Local Government (Wales) Act end up at some future point being judged by the Welsh Government to have inadequate performance – what next for Welsh local government?

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