

National Assembly for Wales
Finance Committee

Report on the Local Government (Wales) Bill

May 2015

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Finance Committee

The Committee was established on 22 June 2011. The Finance Committee's role is to carry out the functions set out in Standing Order 19. This includes consideration of the use of resources by the Assembly Commission or Welsh Ministers, and in particular reporting during the annual budget round. The Committee may also consider any other matter relating to expenditure from the Welsh Consolidated Fund.

Their remit also includes specific statutory powers under the Public Audit Act 2013 relating to new responsibilities for governance oversight of the Wales Audit Office.

Current Committee membership:



Jocelyn Davies (Chair)
Plaid Cymru
South Wales East



Peter Black
Welsh Liberal Democrats
South Wales West



Christine Chapman
Welsh Labour
Cynon Valley



Mike Hedges
Welsh Labour
Swansea East



Alun Ffred Jones
Plaid Cymru
Arfon



Ann Jones
Welsh Labour
Vale of Clwyd



Julie Morgan
Welsh Labour
Cardiff North



Nick Ramsey
Welsh Conservatives
Monmouth

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The Committee's Recommendations

Recommendation 1. The Committee is concerned that the Bill will give Welsh Government the power to approve the voluntary mergers without the costs and benefits of the mergers being known. The Committee recommend that further details on the costs and benefits of mergers should be provided. (Page 11)

Recommendation 2. The Committee has also found that clarity is needed as to how the costs of voluntary mergers will be scrutinised and recommends that Welsh Government works with local government to prepare a clear plan for how it will estimate the costs of mergers. (Page 12)

Recommendation 3. The Committee recommends the Minister revisit the costs associated with the transition committees to identify whether this is a true reflection of the expected costs and whether any costs can be borne centrally for services which all transition committees will require. (Page 15)

Recommendation 4. The Committee believes there are some areas which need further consideration in relation to the thresholds of transition committees and recommends the Minister review this area of the Bill. (Page 15)

Recommendation 5. The Committee recommends that Welsh Government publishes clear plans for minimising the impact of mergers on differential Council Tax levels. (Page 17)

1. Background and Overview

1. The Local Government (Wales) Bill¹ (“the Bill”) and accompanying Explanatory Memorandum (“EM”) was laid before the National Assembly for Wales on 26 January 2015. The Communities, Equality and Local Government (CELG) Committee will consider and report on the general principles of the Bill by 8 May 2015.

Development of the Bill

2. The Williams Commission published its report on public service delivery and governance² in January 2014 and called for Welsh local authorities to be merged to create either 10, 11 or 12 authorities.

3. The Welsh Government responded to the Williams report in July 2014. This included publishing an initial White Paper on Local Government Reform.³ A second White Paper⁴ was published on 3 February 2015, containing further proposals to improve how local government works.

4. With regard to mergers, the first White Paper published set out the Welsh Government’s preference for 12 local authorities. The Welsh Government said that it intended to proceed with this process of merger through two Bills, as there would be insufficient time in this Assembly to deliver a full legislative merger programme before the 2016 elections.

5. The White Paper said that the first Bill would enable local authorities who wished to merge voluntarily to do so early, as well as enabling preparatory work for further mergers to take place. The second Bill would be issued in draft form for consultation in autumn 2015, and would contain the main merger proposals for the remaining authorities. This second Bill would not be introduced formally until after the next Assembly elections in May 2016 (depending on whether the government of the day decided to proceed with it).

6. On 26 January 2015, this first Bill was introduced and contains provisions that would allow voluntary mergers to take place. The Bill also

¹ National Assembly for Wales, [Local Government \(Wales\) Bill](#)

² [The report of the Commission on Public Service Governance and Delivery](#)

³ Welsh Government, White paper, Devolution, Democracy and Delivery White Paper – Reforming Local Government, July 2014

⁴ Welsh Government, Written Statement - White Paper: Reforming Local Government – Power to Local People, February 2015

contains steps that can be implemented to prepare for further mergers once a second Bill is published and then formally introduced.

Key purposes of the Bill

7. The overarching objective of the Bill is to enable preparations to be made for a programme of local government mergers and reform and to allow Principal Local Authorities to merge voluntarily by April 2018. The Bill will also put in place safeguards to discourage and counter activities by existing Principal Local Authorities which might bring reputational or financial harm on any new Principal Local Authority created by future merger.

8. The Bill also amends provisions of the Local Government (Wales) Measure 2011 (relating to the Independent Remuneration Panel for Wales and the survey of councillors and unsuccessful candidates) and the Local Government (Democracy) (Wales) Act 2013 (relating to electoral reviews) to ensure the effective operation of those statutes.

9. The Bill can be summarised as follows:

- Sections 3 to 10 contain powers for Ministers to make regulations allowing voluntary mergers of local authorities to take place;
- Sections 11 to 15 require Ministers to make provisions for merging authorities (whether merging voluntarily or as set out in the second Bill when it is formally introduced) to establish transition committees to undertake preparatory work for merger;
- Sections 16 to 24 enable Ministers to direct the Local Democracy and Boundary Commission for Wales (“LDBCW”) to start conducting electoral reviews of proposed new principal areas. This can include reviews of areas proposed in the regulations enabling voluntary mergers, or new areas proposed in a second Bill (even if only published in draft form);
- Sections 25 to 28 enable the Independent Remuneration Panel for Wales to make recommendations about the remuneration of members and senior staff of the proposed new principal areas;
- Sections 29 to 32 impose restrictions on the current transactions of merging authorities (whether merging voluntarily or as set out in the second Bill when formally introduced), and can require authorities to share certain information;
- Sections 35 to 38 make other amendments to local government law.

2. Costs of mergers

Background

10. Prior to the introduction of the Bill the Welsh Government invited local authorities to submit proposals for voluntary mergers by 28 November 2014. Three expressions of interest were made for merging six councils: Conwy with Denbighshire; Bridgend with Vale of Glamorgan; and Torfaen with Blaenau Gwent. On 27 January 2015, the day after the introduction of the Local Government Bill, the Minister for Public Services announced that none of the expressions of interest met the criteria to proceed with a full voluntary merger proposal.⁵

11. The explanatory memorandum states that under the direct provisions of the Bill, there will be costs of:

- £1.117 million for the Welsh Government (mainly in additional funding for the LDBCW to undertake reviews of proposed new areas, and additional funding for the IRP to start early work on remuneration and extending its functions);
- £1.219 million for local government (the costs of establishing joint transition committees minus savings made after implementing LDBCW electoral reviews).

12. These costs are based on the assumption that there will be one voluntary merger and eight mergers via a second Bill.

13. If voluntary mergers take place, the EM states that those costs would be “considered as part of any regulations made”. The EM also states:

“For a number of the policy intentions [in the Bill], the nature of the identified benefits means that a qualitative description of the benefits is presented. Since the benefits cannot be quantified, it is difficult to compare the costs and benefits in an objective way.”⁶

Evidence

14. In the consultation response issued to the CELG Committee the Welsh Local Government Association (“WLGA”) says the financial implications of the Bill:

⁵ Welsh Government, [Written Statement Voluntary Mergers: Update on Expressions of Interest Received](#), 27 January 2015

⁶ National Assembly for Wales, Explanatory Memorandum – Local Government (Wales) Bill

“... appear to be appropriate as far as they go in terms of assessing the costs of known factors, such as the potential cost implications on the Local Democracy and Boundary Commission, the Independent Remuneration Panel and the establishment of Transition Committees and Shadow Authorities ... however, the regulatory impact assessment can only be completed and any financial implications considered when an agreed map is produced and the costs and benefits of (voluntary or enacted) mergers of authorities have been fully and robustly assessed.”⁷

15. The WLGA have concerns about how the merger process will be funded in the current financial climate. They have concerns that the Welsh Government is pressing ahead with legislating for wholesale change in Local Government without a clear and costed business case underpinned by any form of assessment of potential costs and/or likelihood of return or savings.⁸

16. In their evidence to CELG, the Chartered Institute of Public Finance and Accountancy (“CIPFA”) noted that there would be significant costs to local government which are not identified, and which Welsh Government may need to fund:

“CIPFA has previously estimated these costs at between £160m to £268m relating to people, property, systems and programme costs. Given the financial position of some councils and evidence that some authorities may be over-relying on balancing their budgets by using reserves; we believe there is a strong case for the Welsh Government to consider financial support, either in the form of direct funding or through regulation allowing councils to mitigate the impact of merger costs.

“In Northern Ireland for example, the local government reform arrangements include a significant funding package from the Northern Ireland Assembly amounting to £47.9m. This covered key areas such as system convergence and rates harmonisation measures.”⁹

17. Prior to the scrutiny session with the Minister the Finance Committee wrote to the authorities involved in the three proposed voluntary mergers to

⁷ Written Evidence, Communities Equality and Local Government Committee, LG 01

⁸ Written Evidence, Communities Equality and Local Government Committee, LG 01

⁹ Written Evidence, Communities Equality and Local Government Committee, LG 19

identify their own costs of preparing cases. Three authorities responded, although their costs were mostly staff time:

- Conwy Council - £2,500 for assistance from CIPFA; and “many hours of office and member time”;
- Blaenau Gwent – “considerable time, effort and energy was given in seeking to ensure the Expression of Interest met the requirements of the invitation”;
- Vale of Glamorgan – “A substantial amount of senior officer time was spent on drafting the Expression of interest”.

Minister’s evidence

18. On 27 January 2015, the Minister for Public Services announced that he had decided to reject all three expressions of interest for voluntary merger on the grounds that they did not meet the criteria set out. As such, he said that he would give “further consideration” to the provisions in the Bill relating to voluntary merger “as the Bill proceeds”.¹⁰

19. The Minister was asked to outline his plans for the mergers of the local authorities, he said:

“... this is a preparatory Bill, which sets the framework, if you like, for further mergers. It extends the possibility of further voluntary merger proposals being brought forward. It also puts into legislation the necessary arrangements for transition committees and for statutory authorities and for any controls that we would need to have in respect of authorities that were merging. Our timetable remains the timetable in the Bill; there is a closing date of 30 November for further voluntary merger proposals, though that could be varied, and, clearly, our expectation is that we will publish a map by the summer recess indicating our preferred view going forward.”¹¹

20. When asked about the cost estimates of the voluntary mergers the Minister said “this Bill doesn’t include costings for specific voluntary mergers, but that is not the purpose of the Bill”.¹²

¹⁰ Welsh Government, [Written Statement Voluntary Mergers: Update on Expressions of Interest Received](#), 27 January 2015

¹¹ Finance Committee, ROP, 25 March 2015, paragraph 9

¹² Finance Committee, ROP, 25 March 2015, paragraph 16

21. When asked what time frame could be expected to identify costs the Minister said:

“... we would expect to receive any further voluntary merger proposals by that date [30 November]. We would then need to deliberate on those and then subsequently to submit proposals for further scrutiny arrangements, and it would be at that stage. So, it will be sometime in 2016 or beyond, I would assume, that we would do that.”¹³

22. In relation to the scrutiny of the costs of any future mergers the Minister said there would need to be a specific scrutiny process around each merger.¹⁴

Committee view

23. The Committee notes that the cost information provided in the Explanatory Memorandum/RIA is limited to the administration costs of the Bill rather than the costs of the mergers themselves, which are expected to be much larger.

24. The Committee notes that the estimated costs are based on the assumption that there will be one voluntary merger and eight mergers via a second Bill. The Committee believes it is clear that these costs would need to be revisited if the number of eventual mergers differed or if there were to be no voluntary merger at all.

25. The Committee is concerned that the overall costs of the eventual merger process have not been fully considered as part of this Bill. Whilst the Committee is aware that there are difficulties in providing detailed costings before knowing the detail of the mergers, the Committee views that this lack of detail on financial information is not acceptable and the uncertainty around the merger process has added to the difficulties of scrutinising the financial aspect of the Bill.

The Committee is concerned that the Bill will give Welsh Government the power to approve the voluntary mergers without the costs and benefits of the mergers being known. The Committee recommend that further details on the costs and benefits of mergers should be provided.

¹³ Finance Committee, ROP, 25 March 2015, paragraph 22

¹⁴ Finance Committee, ROP, 25 March 2015, paragraph 20

The Committee has also found that clarity is needed as to how the costs of voluntary mergers will be scrutinised and recommends that Welsh Government works with local government to prepare a clear plan for how it will estimate the costs of mergers.

3. Costs and functions of transition committees

Background

26. Sections 11 to 15 of the Bill require Ministers to make regulations that will oblige merging authorities to establish transition committees. These committees would be tasked with undertaking preparatory work for merging. This could apply either to authorities identified for voluntary merger, or merging authorities as set out in the second Bill when formally introduced in the Assembly.

27. Section 12 deals with the composition of transition committees while section 13 deals with the functions of the transition committees which could include providing advice and recommendations to the merging authorities and any shadow authority on transition issues.

28. Local authorities will be required to meet the costs of establishing transition committees themselves, with the EM estimating this to be around £77,000 per committee.¹⁵

Evidence

29. The consultation responses received by CELG note some weaknesses in the completeness of administration costs for transition committees, but do not highlight the total administration costs as a particular concern.

30. However, some respondents were concerned about the financial implications of the restrictions imposed on transactions by the Bill. Sections 29 to 32 impose restrictions on the transactions of merging authorities. It means current authorities must first seek the opinion of the relevant transition committee and, when established, the written consent of the shadow authority before:

- buying or selling land or buildings for a consideration exceeding £150,000;
- entering into contracts or agreements exceeding £150,000 (non-capital) or £500,000 (capital);
- giving any financial assistance or grants exceeding £150,000.

31. The Auditor General for Wales noted:

¹⁵ National Assembly for Wales, Explanatory Memorandum – Local Government (Wales) Bill

“The financial values applied to the relevant land acquisition/disposal provisions appear to be low. Applying these thresholds could impair an existing council’s ability to run the day to day business of the authority. The transition committee/shadow authority could potentially be considering significant numbers of contracts, in addition to planning for a merger, and this might delay legitimate and necessary projects.”¹⁶

Minister’s evidence

32. When asked about the funding of transitional committees the Minister said:

“... we would expect, in the case of voluntary mergers, clearly, the bulk of that to be borne by the authorities themselves. As you can see from the summary table we’ve provided to you, we’ve put in an estimate for this financial year of a sum of £9,000 for the establishment of joint transition committees, which would fall to us.”¹⁷

33. In relation to the thresholds for transactions requiring approval by the transition committee the Minister said thresholds had been set following the process used at the last local government reorganisation, with inflation related adjustments to the thresholds.¹⁸

34. When asked about the Auditor General’s view that the thresholds could impair councils’ ability to run the day to day business of the authority, the Minister said he was open to looking at the limits, the Minister continued:

“This is the right stage, in a sense, for that kind of scrutiny to contribute to our own thinking on these issues, and I welcome the input we’ve had from the auditor general, just as I’d welcome input from this committee on the basis of the evidence that you receive. It’s a difficult balance, ... because you’ve got to strike a balance between, on the one hand, not wanting, ... to inhibit day-to-day performance of local authorities, but, at the same time, you do want to ensure that your limits are set at such a level as to capture any necessary inappropriate spending, shall we say.”¹⁹

¹⁶ Written Evidence, Communities Equality and Local Government Committee, LG 19

¹⁷ Finance Committee, ROP, 25 March 2015, paragraph 69

¹⁸ Finance Committee, ROP, 25 March 2015, paragraph 73

¹⁹ Finance Committee, ROP, 25 March 2015, paragraph 87

Committee view

35. Although the RIA attempts to identify some of the administration costs of transition committees, it appears that these costs are not complete. The Committee believes there has not been adequate consideration given to the additional support which may be needed by the transition committees, such as external consultancy advice and support from staff with specialisms in finance, legal, and Human Resource. If there is a need for specialist staff advice there could be a wide variation in the actual staff and councillor costs at different authorities beyond the £77,000.

36. There is no indication in the RIA on whether there is scope for Welsh Government to incur some of these additional costs centrally on behalf of transition committees rather than each committee incurring costs to seek the same advice.

The Committee recommends the Minister revisit the costs associated with the transition committees to identify whether this is a true reflection of the expected costs and whether any costs can be borne centrally for services which all transition committees will require.

The Committee believes there are some areas which need further consideration in relation to the thresholds of transition committees and recommends the Minister review this area of the Bill.

4. Council Tax

Background

37. The July 2014 White Paper stated that “it would [not] be helpful to speculate on the precise impact on council tax at this stage”. It also stressed that “there should be no need for the overall council tax requirement to increase as a consequence of mergers”.²⁰

Evidence

38. The approach to council tax has been criticised by the WLGA who referred to past experience of local government reorganisation and the failed proposals for police mergers in 2006, they said:

“Council Tax harmonisation is however a fundamental issue as was shown with Home Office plans for Police Authority mergers in 2006. It has significant financial as well as legal and political ramifications and impact on the public acceptability of merger plans. Council Tax harmonisation is not addressed through the Bill, but the Welsh Government will have to provide clear guidance around what its council tax policy and legal considerations are regarding harmonisation.”²¹

39. The WLGA goes on to suggest that there could be three options for council tax harmonisation, namely levelling it down to the level of the lowest of the merging authorities; equalising it around the weighted average; or levelling it up to the level of the highest of the merging authorities. The WLGA states that “in terms of ensuring local financial stability the third option is the most prudent”.²²

Minister’s evidence

40. In evidence the Minister said the issues around council tax will need to be explored, but the Minister did not think that “council tax levels have to be harmonised between merging authorities on day one of any merger process”.²³

41. The Minister continued:

²⁰ Welsh Government, White paper, Devolution, Democracy and Delivery White Paper – Reforming Local Government, July 2014

²¹ Written Evidence, Communities Equality and Local Government Committee, LG 01

²² Written Evidence, Communities Equality and Local Government Committee, LG 01

²³ Finance Committee, ROP, 25 March 2015, paragraph 132

“I would say this: if authority A has a level of council tax and is providing a level of service to its residents, and council B has a level of council tax that is different and is providing a different level of service to its residents, they don’t, on the day of merger, necessarily expect to receive different levels of council tax or new levels of service. So, I think these are things that we can accommodate within the merger process, and we have the powers to allow authorities to vary council tax levels within their authorities.”²⁴

Committee view

42. The Committee notes that the Minister believes that merged authorities will not need to harmonise council tax immediately, and different council tax levels could be held in different parts of a merged authority. The Committee think it would be appropriate that such a key issue is addressed through this Bill.

The Committee recommends that Welsh Government publishes clear plans for minimising the impact of mergers on differential Council Tax levels.

²⁴ Finance Committee, ROP, 25 March 2015, paragraph 134

Witnesses

The following witnesses provided oral evidence to the Committee on the date noted below. The transcripts of the oral evidence session can be viewed in full at:

www.senedd.assembly.wales/documents/s38637/25%20March%202015.pdf

25 March 2015

<i>Witness</i>	<i>Role</i>
Leighton Andrews AM	Minister for Public Services
Claire Smith	Regulatory Impact Assessment Lead for the Bill, Welsh Government
Gareth Thomas	Policy Adviser, Local Government Reform, Welsh Government