

**Report To:** Council

**Date of Meeting:** 9 September 2014

**Lead Member / Officer:** Councillor Hugh Evans, Leader

**Report Author:** Mohammed Mehmet, Chief Executive

**Title:** The future of Denbighshire County Council

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## **1. What is the report about?**

- 1.1 Denbighshire County Council is facing an important strategic decision about its future. The decision must be made in the light of the severe financial context for local government and the proposals within the White Paper-Reforming Local Government.
- 1.2 The council, like all local councils in Wales, is currently planning for unprecedented cuts to jobs and services over the next three years, with the prospect of further cuts beyond the next local government elections in May 2017. Public sector austerity is predicted to continue until at least 2022. It seems certain that three or more years of deep cuts will transform the future shape of the council and significantly reduce the range of services it is able to provide to its residents.
- 1.3 At the same time, the White Paper forces the council to choose between voluntary merger with another council, by April 2018, or the prospect of compulsory merger by April 2020.
- 1.4 The strategic decision facing the council is whether, given the very challenging financial context, it is in its interest to pursue the option of voluntary merger, especially if that option could help to reduce the level of cuts the council is currently facing. Alternatively, the council could reject the voluntary merger option, at this stage, and concentrate its resources on managing the cuts and maintaining services the best it can without being distracted by a merger, at least for the next three years. The choice is a difficult one and should not be made without serious consideration.
- 1.5 This report provides an analysis of the key issues involved and recommends to members which route to take. It also requests that this decision be formally communicated to the Welsh Government by 1 October 2014.

## **2. What is the reason for making this report?**

- 2.1 The White Paper – Reforming Local Government <http://wales.gov.uk/docs/dsijlg/consultation/140725-white-paper-consultationv2-en.pdf> was published for consultation on 8 July 2014. The consultation period will close on 1 October 2014 at 23:59. The purpose of this report is to set out the main proposals within the White Paper, provide a strategic assessment of the options it presents for the council and request a decision on whether to submit an expression of interest to voluntarily merge with Conwy County Council. The expression of interest must be submitted by November 2014 and will require the agreement of Conwy County Council.

## **3. What are the Recommendations?**

- 3.1 Council is asked to agree that, subject to reaching agreement with Conwy County Council, both councils proceed to develop a joint expression of interest to voluntarily merge by April 2018 and to submit this expression of interest to Welsh Government by November 2014, provided the two councils can:
- i. Secure a substantial financial and support package from Welsh Government that is binding; and
  - ii. That once the two authorities and Welsh Government agree the statement of intent in November 2015 that the agreement is binding on all three partners
- 3.2 The ‘substantial financial and support package’ referred to will be negotiated with Welsh Government and put before both Denbighshire and Conwy members to consider before agreeing to proceed.

## **4. Report details**

### **4.1 Introduction**

- 4.1.1 The White Paper can be described as being in two parts. The first part contains sections on ‘Democracy and Scrutiny’, ‘Community Governance’, ‘Partnership and Collaboration’ and ‘Performance’. Denbighshire’s response to the Commission on Public Service Governance and Delivery was comprehensive on all of these areas and it is proposed that, rather than repeat that contribution, the council points the Welsh Government to it in its response to the White Paper.
- 4.1.2 The second part, and the central purpose of the White Paper, sets out the necessary steps towards the merging of local authorities into larger, ‘more sustainable’, organisations. It is proposed that members carefully consider the implications of this part of the paper and develop a response by the closing date of consultation, 1 October 2014.

## **4.2 The Future of Local Government**

- 4.2.1 The White Paper identifies, as its preferred option, a programme of local authority mergers that would reduce the current 22 local authorities to 12, with three in North Wales and Denbighshire merging with Conwy. This is the first option proposed by the Commission on Public Service Governance and Delivery. In response to that Commission's consultation, Denbighshire County Council had expressed its opposition to local government reorganisation at that time, but also agreed that if local government reorganisation is to happen, then the three local authority option in North Wales is better than other options. In other words, if mergers are to happen then the proposal in the White Paper is consistent with Denbighshire County Council's policy.
- 4.2.2 The Welsh Government is still receiving representations on alternative configurations but to date they have not been presented with any specific proposals, backed by evidence, and supported by the existing authorities. The Welsh Government is unlikely to support any proposal that cuts across current Health and Police boundaries and will not support proposals that change existing local authority boundaries.
- 4.2.3 The White Paper is clear that there is not sufficient time to develop, plan and legislate for a full programme of mergers before the next National Assembly elections in May 2016. A Bill to merge authorities will not, therefore, be introduced to the National Assembly during the assembly term, which ends in April 2016.
- 4.2.4 A draft Bill will be published in autumn 2015 for consultation so that the Welsh Government, which is elected in May 2016, will be in a position to make early decisions about whether and how to proceed. However, in light of 'the compelling strategic case for urgent action', the Welsh Government is continuing to develop the programme of mergers at pace and allow local authorities which wish to voluntarily merge to do so more quickly.
- 4.2.5 Provision for early mergers will be included in legislation which will be introduced early in 2015. The White Paper had promised to publish a 'Prospectus' by the summer of 2014, setting out Welsh Government's incentives for voluntary merger. At the time of writing this report (1 September 2014), the 'Prospectus' had not been published.

## **4.3 Timetable for mergers**

- 4.3.1 In January 2015, the Welsh Government will introduce a first Bill that will enable preparatory work for a programme of mergers, but this would not contain specific merger options. It would include the powers to enable ministers to require the Local Democracy and Boundary Commission for Wales to start work on considering and making recommendations for electoral arrangements for proposed new authorities.

- 4.3.2 In May 2017 there would be local government elections to existing councils for a three year term (unless the authority is unaffected by merger). In May 2019, there would be local government elections to the new authorities, with councillors elected for a three year term. The resulting councils will exist as 'shadow authorities' until Vesting Day on 1 April 2020. In May 2022 full local government elections, for all authorities, would be held, for a proposed term of five years.
- 4.3.3 However, if two or more authorities wish to voluntarily merge then the process would be different. Authorities wishing to voluntarily merge would submit expressions of interest by November 2014 and fully developed cases for merger by June 2015. Authorities would then submit statements of confirmation of intent by November 2015. The Welsh Ministers will, by February 2016, develop the necessary subordinate legislation for approval by the Assembly.
- 4.3.4 There would be no elections in May 2017 to authorities wishing to voluntarily merge. Instead their term will be extended to 2018. In October 2017, a shadow authority and shadow council for the merged authority would be established, consisting of the full body of serving councillors on the constituent councils. Vesting Day for the new voluntarily merged councils would be April 2018. First elections to the new authority would be held in May 2018, based on new wards following an electoral review of the whole of the new authority with new councillors assuming responsibility four days after the elections. They would serve for four years until a full round of local elections take place in May 2022.
- 4.3.5 Local authorities that wish to voluntarily merge must commit to merger whatever the outcome of the next Welsh Government elections in May 2016.

## **5. Analysis of options**

- 5.1 Denbighshire County Council's policy on local government reorganisation is that it should not happen, but that if it does then a three authority solution in North Wales is better than other options. In fact the only other realistically possible option is to create two local authorities to replace the current six: one including Wrexham, Flintshire and Denbighshire and another including Anglesey, Gwynedd and Conwy. Members have previously considered this option and expressed the view that it would be against Denbighshire's interests for several reasons, including the vast difference in culture (organisational and wider community) and service delivery models. These reflect the considerable linguistic and demographic differences and would be enormously challenging to address, even for a well resources and stable council. The scale of such a merger would be enormously disrupted and bound to cause significant loss of momentum, if not serious deterioration of standards. There are also legitimate fears that this option would marginalise the council's regeneration strategy in the north of the county and its town and community strategies across the whole county. It would also further reduce North Wales' voice and representation across Wales.

- 5.2 In July 2014 the WLGA had published a document arguing for ‘Combined Authorities’ <http://www.wlga.gov.uk/wlga-management-sub-committee/17-july-2014/> . The central idea in the proposal is to establish four additional regional structures to take over the running of certain local authority functions, such as economic development, transport planning, waste management and school improvement. There is coherence and pragmatism to this proposal because it builds on the work already done for the ‘Simpson Review’, but the proposal does not address the problem of the increasing unsustainability of 22 local authorities; it seems to add to costs and it creates more complexity in the public sector governance environment. It does not, therefore, offer an alternative to the choices the council needs to make about its future.
- 5.3 Denbighshire, merging with an authority other than Conwy, is highly undesirable and unlikely to be supported by Welsh Government, for several reasons: the geography of the region means that if Denbighshire was to merge with Flintshire then Wrexham would have to stay as a stand-alone council and that alone would rule out such a proposition. In addition, Denbighshire’s demographics, culture: both organisational and wider community, existing collaborations and service delivery all argue against Denbighshire contemplating merger with an authority other than Conwy.
- 5.4 Therefore, the only two strategic options that are available and likely to be supported by Welsh Government and the two local authorities, are to wait and see what happens in the Welsh Government elections in May 2016 or to start the merger process with Conwy now, provided of course Conwy are willing to consider the option too. These two options are considered below.

#### **Option1: Wait for the Welsh Government election in May 2016**

- 5.5 There are two main arguments for this option. The first is that the outcome of the next Welsh Government elections is hard to call; that it is possible to have a new government that is less keen on the merger proposals than the current one. If this were to happen then those who chose to voluntarily merge could be left without the promised support from the previous government. If the merger plans were to be abandoned after the Welsh Government elections then those who opted for voluntary merger would have acted prematurely. The second argument is that it cannot be effectively managed, because of the size of the budget problems and the associated change that would need to be simultaneously addressed. Both of these arguments require attention, although the obvious weakness at the heart of them is that they fail to offer a vision for the future, but instead they only offer tactical arguments against voluntary merger.
- 5.6 Twenty two unitary local authorities are no longer sustainable and they certainly will not be beyond 2017/18, if the current threatened level of cuts is to be realised. Further, it is known that public sector cuts are likely to continue until at least 2022, by which time deep cuts into key statutory services would have been made with serious job losses, service cuts to residents and further slippage against international standards. The enormous cost of hundreds of councillors and 22 management structures would appear even more

disproportionate than it does already. Furthermore, this argument offers no answer to what would follow next. At that point reorganisation, of some sort, would appear inescapable, but after enormous damage had been done. Given what is known about public sector finances for the foreseeable future, this appears to be the inevitable outcome of the 'Wait and See' option.

- 5.7 In addition, this argument assumes that mergers are a bad thing; an imposition that local government should try to avoid. Certainly, a proposal to merge two weak authorities into a single, larger, weak one would be a very bad idea. Similarly, where the cultural, demographic or competency of authorities are significantly different, mergers could make things a lot worse for a long time, especially if merger is attempted at the same time as unprecedented cuts to services. But these are not the circumstances for Denbighshire and Conwy councils. These authorities are very similar in terms of culture and demographics, deliver reasonably good services and, even together, they are not too large. So merger is a reasonable option, even if others in the region and beyond are 'let off' after the May 2016 elections. In fact if these two councils did merge and others didn't the new merged council would be more powerful, better resourced and strategically placed to benefit from national and international opportunities.
- 5.8 The second argument for the 'Wait and See' approach is capacity to manage. Both councils are currently preparing for several years of unprecedented cuts. The impact of managing this certainly cannot be underestimated. Many of the most difficult proposals including transformational change to social care, cuts to education, outsourcing of certain activities and large scale redundancies are all significant challenges that will demand the full engagement of our most able people. Many of the controversial cuts will require constant attention and engagement with the public. The council also has an ambitious Corporate Plan, including significant capital projects in education that are only now beginning to be implemented. At the same time, there is the standards challenge. For example, educational standards in Wales are low in comparison to international standards and doing well in Welsh terms is only a start; slipping back would be unacceptable.
- 5.9 Attempting to manage all this while also planning and managing a merger of the two authorities is full of risks. Even with strong and stable management teams, which cannot be guaranteed because, understandably, staff will start to leave to secure permanent jobs elsewhere, neither authority has the capacity to do all this well, at the same time.
- 5.10 The conclusion of this argument could suggest that a better strategy would be to focus the council's capacity on making the cuts and maintaining standards for the next few years and turn its attention to merger after the next local elections in May 2017, if that is still relevant. However, by then the council would be into the third year of deep cuts and would be committed to at least three more years of severe cuts because it would take that long for any alternative reorganisation plans to be implemented. At that time the council would either be in a state of uncertainty or starting to contemplate enforced merger.

## **Option 2: Voluntary merger with Conwy**

5.11 If it is accepted that mergers, or something else that closed Denbighshire down within the next six years, is inevitable then there are several advantages for choosing an earlier merger:

- It might be possible to secure a deal with Welsh Government that enables the council to avoid making the worst of the cuts and create the time to extract savings from the merger to protect services;
- April 2018 is better than April 2020 because there would be a shorter period of planning blight, shorter period of uncertainty and drift and a shorter period of managing with restrictions (as promised in the White Paper);
- Voluntary merger, rather than forced merger, sets the right tone for the future culture of the new organisation;
- There would be more opportunities for the councils to control their own destiny;
- One fewer set of elections would give more time and greater stability to plan the merger.

There are also some disadvantages and serious risks:

- The proposed Shadow Authority, established in October 2017, would have over 100 councillors, with a Cabinet of no more than 10, until May 2018. Managing this would be a real challenge;
- If Denbighshire and Conwy managed to fall out during the process the reputational damage would be enormous and the culture of the new council, established in April 2020 (probably), would get off to a very bad start, not to mention the wasted effort and money up to that point;
- If the Welsh Government elections in May 2016 produced an administration that was not keen on the merger proposals the merger project could end up without any real support from that key partner;
- The Welsh Government's financial planning can appear chaotic, so there must be a risk that any promises of funding and support, offered to encourage voluntary merger, would not be honoured.

## **6. Conclusions**

6.1 It seems clear that waiting to see what happens in May 2016 is in fact to accept that serious cuts to budgets and services will occur for at least the next six years, after which the future is either uncertain or enforced merger. This is the scenario whether the actual level of cuts are at 3% or 4% or a similar figure. The only difference the actual figure makes is to timing. Making severe

cuts, for several years, followed by enforced merger, does not appear as a particularly good outcome for residents or the council.

6.2 On the other hand, voluntary merger, at this stage, risks taking on too much, at the wrong time. Relying on Welsh Government to deliver consistent support over a period of years could prove unwise, especially given the Welsh Government's tendency to change plans in a haphazard manner. For example, the sudden change of 'indicative' budget assumptions for 2015/16 and the equally sudden announcement of significant in-year cuts to education grants. The history of Denbighshire and Conwy collaboration initiatives includes some important successes, such as the joint Local Safeguarding Children Board, the Local Service Board and the joint Youth Offending team but it also includes setbacks, for example, the unsuccessful merger of Highways departments and the failure to agree to merge Children Social Care, even though there was a business case for doing so. There is a real risk, therefore, that such an undertaking would fail. In such a scenario trying and failing would be worse than not trying at all because of the implications on the council's reputation, financial cost and staff morale.

6.3 This decision, therefore, is not a simple one and either option carries risks and costs. On balance, the voluntary merger option is strategically better because it is a viable option for both councils, and it could offer the possibility of avoiding the worst of the cuts by a combination of securing a financial deal with Welsh Government and securing savings from the merger itself. However, this option should only be considered if two conditions can be satisfied:

- i. That the financial and support package from Welsh Government is substantial and binding; and
- ii. That once the two authorities and Welsh Government agree the statement of intent in November 2015 that the agreement is binding on all three parties.

If these conditions can be secured then that would allow both councils to reduce the level of cuts to services and avoid the possible failure of the project either because of local disagreements or change of position by Welsh Government. If they cannot be secured then the risks of voluntary merger are too high.

## **7. Operational Considerations**

7.1 This report is concerned with the strategic decision about whether or not the council should pursue the voluntary merger option with Conwy County Council. If both Denbighshire and Conwy decide to pursue this option then very quickly members and officers will need to turn their attention to some really important operational considerations. Including:

- Does early merger create opportunities for earlier joint decisions on budgets and service design?



- What is the most appropriate planning and process for developing a business case for early merger?
- What are the key principles that both councils should sign up to?
- How would the councils address the different Council Tax levels?
- How would the councils address areas of service where management arrangements are very different, for example, management of housing?
- How would the Shadow Authority actually work?

7.2 These and many other questions will need to be addressed during the planning phase and before June 2015.

## **8. Next Steps**

8.1 If members decide not to pursue the voluntary merger option then there is nothing more to do, other than inform Welsh Government by 1 October.

8.2 If members decide to proceed with an expression of interest, subject to the conditions set out in the recommendations, then the next step would be to wait for a position statement from Conwy County Council.

8.3 If Conwy councillors take a similar position then the next step is for the officers of Denbighshire and Conwy County Councils to closely scrutinise the 'Prospectus' for voluntary mergers, which should be published imminently. This will clarify what support the Welsh Government is proposing for voluntary mergers and whether or not progressing with the idea is worthwhile.

8.4 If the support from Welsh Government satisfy Denbighshire County Council's conditions, as set out in the recommendations, then Denbighshire officers would engage with Conwy officers with a view to develop an expression of interest and submit that to Welsh Government in November 2014.

8.5 Provided Conwy takes a similar position, the two corporate teams and Welsh Government officials would then set out a planning strategy and process for member approval. This would detail how the two authorities propose to develop the business plan, which must be with Welsh Government by June 2015.

8.6 The draft business plan will be put before both sets of members for consideration before it is submitted to Welsh Government. If at that point both set of members agree that the business case is strong then the plan would be submitted for approval. If the business case is not strong then the process would stop.

8.7 There would then be a further period, until November 2015, for refining the business plan and resubmitting it as the two authorities' Statement of Intent. Formal planning for merger would start after November 2015 and the Shadow Council would be established in October 2017.

**9. How does the decision contribute to the Corporate Priorities?**

9.1 The decision sought does not affect the council's corporate priorities at this stage.

**10. What will it cost and how will it affect other services?**

10.1 There are no costs to the recommendations other than senior management time.

**11. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.**

11.1 There are no equality implications at this stage.

**12. What consultations have been carried out with Scrutiny and others?**

12.1 Consultations have taken place with senior officers in Conwy County Council and Welsh Government, Cabinet members and group leaders and the Corporate Executive Team

**13. Chief Finance Officer Statement**

13.1 There are no financial implications in this report.

**14. What risks are there and is there anything we can do to reduce them?**

14.1 There will be considerable risks if the proposal progresses, but none at this stage. These will be comprehensively set out for members to consider in June 2015, if the proposal proceeds to that stage.

**15. Power to make the Decision**

15.1 The implications of the proposals affect every elected member and the future of the council. It is therefore appropriate to seek full council's endorsement.