

Restructuring Local Government - It's not just central interference: A case study of Wales

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Abstract

There is an extensive literature on the different ways in which central government interferes in local government. Within the UK, there appears to be a regular interference, with restructuring in the mid-1970s, the early 1990s, and a seemingly ongoing process over the last decade or so. With a unitary constitution, any government - or, more accurately, any government using its parliamentary majority to push through legislation - can remould or even abolish local government.

Yet with the introduction of devolution to Scotland, Wales and Northern Ireland in the late 1990s, the newly created 'regional' assemblies and parliament were given varying degrees of power over local government. The Welsh Assembly and Welsh Government were originally given secondary legislative powers in a discrete list of policy sectors, which included local government. After a referendum in 2011, these secondary powers were changed to primary legislative powers.

In Wales, there are a number of issues concerning restructuring local government. These include the extent to which it is a party-political concern, with the Labour Party driving the reform agenda, as opposed to a Welsh Government drive. The establishment of the Williams Commission into public sector reform, of which one component was local government, was presented as a public consultation exercise. Yet the extent to which the Williams Report was in line with the position of the Labour Party over local government restructuring needs to be examined.

The implementation of the plans to restructure local government in Wales was put on hold until after the 2016 elections to the Welsh Assembly, with the clear plan from the Labour Party of winning a mandate for implementation. Interestingly, local government restructuring was not high on the election agenda. A minority Labour Government was returned to power. No potential coalition partner was willing to run with local government restructuring. For now, that agenda appears to be on hold.

This paper will assess the extent to which local government restructuring in Wales is driven from a party political base, as well as from a centralising 'regional' government. Local government restructuring is not always driven from the 'national' centre, but can be driven from a 'regional' centre. Yet there may also be a party-political drive in that region as well.

There is an extensive literature on the relationship between central government and local government in the UK. Much of it focuses upon how the centre is able to dominate and influence local government (a sample of the literature includes Dearlove, 1979; Rhodes, 1981; Goldsmith and Newton, 1983; Dunleavy, 1984; Loughlin, 1996; Chisholm, 2000; Wilson, 2003; Bache and Flinders, 2004). The most obvious way in which the centre can interfere is with the threat of abolition. The abolition of the metropolitan county councils and the Greater London Council in 1986 is clear evidence. So there is a situation in the UK where the centre dominates local government. Even local

government elections are reported in the media along the lines of 'if this was a general election, the result would be...' The UK is one of the most centralised countries in Europe if not beyond.

Yet it must be noted this is the formal constitutional position of the UK. With a unitary constitution, all power is focused on Parliament. In the UK there is parliamentary sovereignty. It is the corner stone of the UK constitution. Parliament can pass any law it likes, and may not be bound by its predecessors. Thus any law may be repealed by a future government using its parliamentary majority. Local government has no constitutional protection whatsoever. It can be created, restructured or abolished if central government can get its legislation through parliament. There is a whole debate about the need for the constitutional protection of local government (see Copus, 2017; Copus, 2016; Copus *et al*, 2017; House of Commons Political and Constitutional Reform Committee, 2012; John, 2014; Wilson & Game, 2011), but such a debate goes beyond the remit of this paper. A short corollary here is that the devolved bodies in Scotland, Wales and Northern Ireland have as much constitutional protection as local government.

When examining local government in Wales, the extent of central interference is clear (see Wilson and Game, 2011). There was a restructuring in 1974, which saw the creation of a tiered system of local government. This was carried out in tandem with a similar restructuring in England, and a separate one in Scotland a year later. In Wales, eight county councils were created and 37 district councils. There were parish or community councils as a third tier. In 1996, this structure was changed to 22 unitary authorities (although the parish or community councils remained in place). Both of these restructurings of local government in Wales were centrally driven. In the case of the latter restructuring, the then-Secretary of State for Wales, John Redwood, had the final decision on the structure of local government.

The introduction of devolution by the Blair-led Labour Government in the late 1990s was presented as an attempt at decentralisation. Parliament devolved power to sub-national government in Northern Ireland, Scotland and Wales (and London). The idea was to remove the centralising aspects of central government; to bring government closer to the people. The relationship between central and local government in the areas where devolution was implemented would change significantly (see Wilson, 2003). In the case of Scotland, where primary law making powers had been devolved, there were concerns very early on over the relationship between the Scottish Parliament and Scottish local government (see Bennett *et al*, 2002). There is a perception of centralisation to Edinburgh, rather than London, although the relationship is not "a fuzzy microcosm" of that which exists in England (McGarvey, 2012). The role and function of local government in Northern Ireland was minimal at this point in time. In Wales, the plan was for a partnership between the devolved assembly, which had secondary legislative powers, and Welsh local government. Laffin (2004) argued, guardedly, that regional centralisation was not likely to occur. There were a number of caveats, including the need for there to be more than one party dominating power. This issue will be revisited later.

The devolution referendum in Wales in 1997 was not exactly a ringing endorsement of the policy. The campaigning was muted from all sides, unlike in Scotland where it was most vociferous. Some of this could be attributed to the lack of powers being devolved to Wales. One criticism was that the new Welsh Assembly would be little more than a glorified county council (Jones, 2014, 186). This criticism had also been directed against the proposed devolved body in 1978. The criticism persisted even after the powers of the Welsh Assembly were increased!

Voting in Wales was held a week after the Scottish referendum on devolution; there was a clear hope from the Blair Government in London of creating a bandwagon effect. The result saw a

turnout of 50.2%, with 50.3% of those voting endorsing devolution: a majority of 6721 votes. The results, reported by council authority, saw half the councils in Wales return a 'Yes' vote.

The Government of Wales Act (1998) contained an entire section on "Relations with local government". Specifically, Section 113 (2) noted: "The Assembly shall establish and maintain a body to be known as the Partnership Council for Wales". While the plan was for a clear partnership, the Assembly was responsible for the management of local government in Wales. The Partnership Council for Wales was established in 2000, with a clearly stated aim of promoting joint-working. The Government of Wales Act (2006) restated the requirement for a partnership between the Welsh Government and local government. This was reinforced with the Local Government Partnership Scheme (April 2008) and "A New Understanding" (November 2009), which were signed by the Welsh Government and the Welsh Local Government Association (WLGA), and built upon the statutory partnership. Interestingly, the Local Government Partnership Scheme acknowledged that Ministers could revise this scheme/partnership at any time, but only after consultation. There was also a commitment towards partnership, trust and mutual respect. Despite this seemingly positive relationship, a number of question marks arose over the governance structures of Wales. Martin *et al* (2011, 92) described these structures as "overly complicated and overlapping". There were also suggestions for a "wholesale reorganisation of local government" (98). The same source noted, however, that centre-local relations were "reasonably harmonious" (107).

This relationship appeared to change with the second referendum on devolution in Wales, 4 March 2011, the result of which saw the law making powers moved from secondary to primary.

More specifically, the second referendum proposed to transform the law making powers in the existing policy areas devolved to the Welsh Assembly from secondary to primary. The referendum question demonstrated the complexity of the issue: Do you want the Assembly now to be able to make laws on all matters in the 20 subject areas it has powers for? There was an apparent resounding victory for the move to primary law making powers, with 63.9% of the population voting 'Yes', and 21 of the 22 council areas returning 'Yes' results. The caveat to this success was the turnout: 35.2%.

The Welsh Government established the Simpson Review - "Local, Regional, National: What services are best delivered where?" - prior to the referendum on primary law making powers. The Simpson Review focused on collaboration and joint-working between councils. The emphasis was upon better quality of service delivery, as well as enhanced accountability. There was no consideration of restructuring local government. In fact, Principal 3: "It is about better collaboration not just geography" reinforced this position. Paragraph 2.16 noted:

...not all collaborations need to be based on geographic proximity. Some will be based on geographic similarities. Coastal erosion is an important issue for coastal areas be they in north, west or south Wales, whilst urban planning expertise is something urban authorities might share irrespective of their geographic proximity. However, commonality of socio-economic conditions and service challenges also present a set of themes that can create a powerful common platform from which authorities can work. (Simpson, 2011, 15)

The point to note here is that the Welsh Government was investigating the role and function of local government in Wales. At this stage, there appeared to be negligible demand for restructuring of local government. Partnerships and collaboration were of a higher priority. Only two months later, during the Welsh Assembly election campaign, priorities changed. The Welsh Labour Party committed itself to establishing an Independent Commission to review the governance and delivery arrangements of public services (Welsh Labour Manifesto 2011, 21), although there was a

subsequent pledge to "place representation and community interests at the heart of any future boundary review" (28). Party divisions will be examined later in this paper.

The findings of the Williams Commission, with particular regard to local government, pushed for a radical overhaul of local government. Arguments hinged around the cost savings of larger local authorities. This being despite the evidence supporting the creation of larger local authorities for economic gain being far from conclusive, and the decline in democratic participation being considerable (see Copus and Jones, 2013; Copus and Jones, 2015).

The Williams Report recommended the restructuring of local government across Wales, from 22 local authorities to either 10, 11 or 12. Williams left the final decision on the specific number with the Welsh Government. The planned new local authorities would be created through the mergers of existing authorities. It would be far less expensive than starting from a blank piece of paper. The then-Minister for Local Government, Leighton Andrews, speculated on the creation through such mergers of only eight or nine local authorities for all of Wales, or even as few as six.

The final imposition of new local government structures was left until after the 2016 elections to the Welsh Assembly. With Labour failing to win outright, they were unable to find any coalition partners willing to support the planned restructuring of local government. Thus, for now, the plans appear on hold.

Although the dominance of the Welsh Government on local government restructuring is clear, the failure to push the proposed reforms from the Williams Commission raises a second question: that of the issue being party-led alongside being centrally-dominated.

Prior to the establishment of the Commission on Public Service Governance and Delivery, the First Minister of Wales, Carwyn Jones, said talk of reorganisation of local government "was premature" (Iorwerth, 2013, 1) but that a "fundamental reorganisation may... be the way forward" (2).

The proceedings in the Welsh Assembly with regard to the establishment of the Commission on Public Service Governance and Delivery, highlighted the degree of divisions between the political parties (available at www.assembly.wales/en/bus-home/pages/rop.aspx?meetingid=48#80025). The Williams Commission was perceived as being a partisan body. In his statement to the Assembly, Carwyn Jones made two very clear points about the Commission. He said: "the status quo is not an option"; and, "change is inevitable and essential". The centre is clearly driving change; the issue is now around the extent of the party-politicisation of such restructuring.

When asked by the leader of the Conservative Party in Wales, Andrew R T Davies, if he was wanting the Commission to make the case for local government reorganisation, Carwyn Jones responded: "I do not believe there is anyone... who believes that having 22 local authorities, with their present boundaries, is right for delivering local government services across Wales".

Peter Black, a Liberal Democrat Assembly Member, speaking in the same debate, described the Williams Commission as "a Government commission", adding "the conclusions will be the ownership of the Government".

Yet there were divisions among Labour ranks in this debate. Mike Hedges, a Labour Assembly Member, questioned the First Minister over which local authorities in Wales had "serious problems" in delivering services? At that point in time, only one council had such problems - Ynys Môn. The response from Carwyn Jones was to focus on the effectiveness of the delivery of services rather than any specific problems.

The establishment of the Williams Commission, with its planned consultations, gave a veneer of impartiality. The reality was the Commission was established to push through plans to restructure local government. Such plans would benefit one party more than any other: Labour.

Anecdotal evidence from the WLGA Independent Councillors annual conference highlighted the extent to which they saw "Cardiff Bay" (as they termed the Welsh Government) imposing their plans on local government in Wales. Ever since the establishment of the Williams Commission, these councillors have given vent to what they see as a far from subtle attack on the existence of Independent councillors in Wales. Independent councillors, collectively, comprise the second largest grouping of councillors in Welsh local government. Although they are far from being a cohesive body, they get lumped together. They outnumber by a significant margin Plaid Cymru, who are the official opposition in the Welsh Assembly and the second largest 'party' of Welsh local government (see Jones, 2017). There are currently no Independent Assembly Members (and only two Independent Assembly Members have ever been elected).

Interestingly, perhaps, these same Independent councillors do not distinguish between the Welsh Government and the Labour Party. The two are almost synonymous. Such a perception is not unusual, noting Labour have formed the government (occasionally in coalition) after every election to the Welsh Assembly.

When examining party manifestos, the issue of local government restructuring is far from prominent. In the 2007 election manifestos, none of the political parties focused on restructuring local government, although both the Liberal Democrats and Plaid Cymru campaigned for electoral reform at the local level, and have continued to do so.

In the 2011 Assembly elections, Labour gave a commitment to establishing an Independent Commission to review the governance and delivery arrangements of public services. As previously noted, this was to become the Williams Commission. The Conservatives made no mention of local government restructuring, although they did campaign for local referenda for the introduction of elected mayors in the larger towns and cities of Wales - Cardiff, Swansea, Newport and Wrexham. Plaid Cymru, on the other hand, campaigned to develop better partnerships between councils and between councils and the Welsh Government, utilising a "memorandum of understanding between the Welsh Government and local government" (Plaid Cymru, 2011, 17). The Liberal Democrats campaigned to repeal "the powers that allow Ministers to merge councils by decree without proper consultation with local people" (Welsh Liberal Democrats, 2011, 58). Both Plaid Cymru and the Liberal Democrats appeared keen to devolve powers from the Welsh Government to local councils and community councils.

In the most recent Assembly elections, with the plans to restructure local government placed on hold until after the campaign, there might be an expectation of this issue featuring prominently in the campaign. Labour were quite blunt in their plans to carry their version of the Williams Report through. They proposed "to create stronger, larger local authorities, as well as stronger town and community councils, leading to the devolution of powers from Cardiff Bay" (Welsh Labour, 2017, 20). The Liberal Democrats wanted to restart the whole process of consultation, and to "commission the Local Government and Boundary Commission to draw up alternative proposals for the restructuring of local councils in Wales" (Welsh Liberal Democrats, 2016, 57). The Conservative proposals were not too dissimilar, wanting to "allow local authority mergers only with the expressed consent of the public through a referendum" (Welsh Conservative, 2016, 39). Plaid Cymru proposed far more extensive plans about an evolutionary restructuring of local government, proposing the

creation of "up to six regional combined authorities" (Plaid Cymru, 2016, 43) which would comprise existing councils. These proposed RCAs would have directly-elected mayors.

In sum, there was a clear lack of support for Labour's plans to restructure local government in Wales. It must be noted, however, that all major parties in Wales proposed some form of reform of local government - even with local consultation. There is a clear situation of all of the major parties wishing to impose some form of new structure upon local government in Wales. Of these parties, only Labour is ever likely to be in a position to implement their plans. The problem for Labour is that none of the other parties are supportive of what Labour has done so far, or for the imposition of the Williams Commission proposals.

The current situation has seen the Welsh Government introducing a new white paper on local government. The plans are to change the electoral system - which will most likely be to the detriment of Independent councillors - and the creation of regional bodies to enhance cooperation between councils. This may be Labour attempting a quid pro quo with the Liberal Democrats, but also the former-coalition partner, Plaid Cymru. Currently, there is only one Liberal Democrat Assembly Member, and she had not been supportive of the findings of the Williams Commission. Previous experience from other tiers of government has seen the Liberal Democrats change a policy position in return for either electoral reform or a referendum on electoral reform. What is not clear is the extent to which this proposal will be driven by the Welsh Government or by local government in Wales. Plaid Cymru may move to support Labour, although they are still suffering from an electoral backlash against their time in coalition with Labour. Labour appear to be playing a canny game, by proposing sweeteners to other political parties.

Conclusion

Noting the comment from Laffin (2004) that centralisation under devolution is less likely to occur when there is more than one party vying for power, the opposite appears to have happened in Wales. There has been greater centralisation, with the Labour Party dominating each of the Assembly elections. At each election, the outcome over who will win is between Labour and an anti-Labour Rainbow coalition. The latter has yet to succeed.

When examining the extent to which the centre interferes in any restructuring of local government, the constitutional position of the UK must be borne in mind. The UK has a unitary constitution: all power is centralised in Parliament. Parliament can devolve powers to different parts of the UK, but such decisions can also be reversed. Powers have been devolved to the elected regional bodies in Edinburgh, Cardiff and Belfast, not to forget London. A future Parliament could repeal such decisions. As an aside, devolved powers to the Northern Ireland Assembly have been suspended on four separate occasions since 1998.

When examining the development of devolution in Wales, the emphasis started with partnership. This was at the time of a devolved Assembly wielding the power of secondary legislation. The change in the relationship occurred after the Assembly received primary law-making powers (in specific policy areas). The partnership, with the Assembly as manager, changed. The manager gained more powers, and had the desire to wield the power. Thus there is a single party dominating Welsh politics, and a First Minister willing to pre-empt the results of a Commission examining public service delivery (including the structures of local government) by announcing what he did not want before the Commission had even been appointed.

The Williams Commission was supposed to consult with the public. While it did so, it appeared dismissive of any submissions which did not gel with their allegedly preconceived findings. The Williams Commission was not an independent commission; rather, it was a government commission.

It lacked the support of any parties not in government. Instead, it gave the veneer of consultation, while the outcome fitted in with the desires of the government.

This panel is focusing on central intrusion into local government restructuring. In the case of the United Kingdom, the introduction of devolution saw 'control' over local authorities handed to the devolved bodies in Scotland, Wales and Northern Ireland. In the case of Wales, the central body interfering in local government restructuring is no longer London; instead, it is Cardiff.

Yet a caveat must be noted. Rather than it being the 'centre' interfering in local government restructuring, the Welsh case study raises the possibility of the interference being party-political as opposed to structural, or, more likely, a combination of the two. All of the major parties have ideas with regard to how local government should be structured. While there is talk of consultation, the extent to which that actually happens can be questioned. Thus, rather than focusing solely upon one institution interfering in local government restructuring, the partisan interference - especially in the case of Wales - needs to be acknowledged.

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