

Human Rights Commission

**Local Government
(Auckland Council) Bill**



Auckland Governance Committee

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Contents

1. Executive Summary3

2. The Human Rights Commission.....5

3. The Human Rights Commission’s Concerns5

4. Rationale for including human rights principles in the Bill.....6

5. Participation7

6. Representation on Council and Boards – Accountability and Empowerment.....9

7. Representation of Māori10

8. Representation of Women.....12

9. Proposed Structure – Empowerment13

10. Employment.....15

11. Conclusion17

1. EXECUTIVE SUMMARY

- 1.1 Human rights underpin New Zealand's system of government, our ability to have a say, equal opportunity and fair treatment. While central government has specific responsibilities for the promotion and protection of human rights, those responsibilities extend beyond the State to regional and local government.
- 1.2 The Local Government (Auckland Council) Bill ("the Bill") that will establish the new Auckland Council must make it explicit that the Council also has those human rights responsibilities. It could do so by including a statement that "Council decision making and provision of services will be consistent with, and have respect for, human rights".¹ Such a reference would reinforce the principles already found in the Local Government Act 2002 ("LGA").
- 1.3 The promotion of concepts such as participation, transparency, equity and accountability which are central to a human rights approach would increase public confidence and trust, and core services would be delivered more effectively.
- 1.4 The Human Rights Commission ("the Commission") supports a more effective and democratic local government structure for New Zealand's biggest region which is premised on human rights principles. To ensure effective and fair governance structural change anticipated by the Local Government (Auckland Council) Bill needs to provide for:
- Improved participation
 - Fair representation
 - Strengthened democracy
 - Greater effectiveness and efficiency
- 1.5 A summary of the Human Rights Commission recommendations follows. The remainder of the submission then provides argument to support the recommended changes to sections of the Bill.
- An amendment to Part 1 Clause 3 Purpose of the Act to include a statement that Council decision-making and the provision of services will be consistent with, and have respect for, human rights. This would be a new clause 3(d).
 - A minimum period of 12 weeks should be allowed to make submissions of matters of national importance such as the Local Government (Auckland Reorganisation) Bill. Early advice of this minimum should be advertised in relation to the third Bill to be introduced in October 2009.

¹ Similar s.8 of the Policing Act 2008

- To increase civic participation in the Auckland region and to address the potential for disenfranchisement of specific community groups because of the proposed large Auckland Council structure, an active voter education campaign must accompany the reorganisation of governance in Auckland.
- To ensure the new structure as proposed in Part 2 of the Bill adequately reflects all sectors of the Auckland's population there must be effective participation in the electoral process.
- Part 2, Clause 8 of the Bill needs to be amended to provide for specific Māori seats as a Treaty of Waitangi obligation and to reflect mana when representation.
- The restructure of local governance in New Zealand's largest region must include measures to ensure women are adequately represented on Auckland's council and community boards, given their representation in the region's population.
- Part 2, Clause 10 of the Bill must be amended to strengthen by statute the powers and responsibilities of local boards. In particular amendments are needed for clauses 10, 13 and 15.
- Part 2, Clause 13 of the Bill should be amended to require local boards to prepare a community plan in consultation with the local community.
- The "good employer" principles that bind chief executives in local government under the Local Government Act must be adhered to in the reassignment and recruitment of staff in the reorganised structures for the Auckland region.

2. THE HUMAN RIGHTS COMMISSION

2.1 The Commission's statutory role is set out in the long title to the Human Rights Act 1993 ("the Act") and refers to the better protection of human rights in New Zealand in accordance with the United Nations Covenants and Conventions on human rights.

2.2 The Commission has four major functions:

- To advocate and promote respect for, and an understanding and appreciation of, human rights in New Zealand society,
- To encourage the maintenance and development of harmonious relations between individuals and among the diverse groups in New Zealand society,,
- To lead, evaluate, monitor and advise on equal employment opportunities
- To provide a service to deal with complaints of unlawful discrimination.

2.3 In 2004 the Commission carried out a comprehensive review of the state of human rights in New Zealand. The resulting report, *Human Rights in New Zealand Today: Nga Tika Tangata O Te Motu*², while recognising that New Zealand's structures and processes were seen as largely democratic also noted that people placed great importance on the ability to participate in those processes and valued being consulted and involved in decision making.

2.4 The report formed the basis for the *New Zealand Action Plan for Human Rights: Mana ki Te Tangata*³ ("the Action Plan"). Among the priorities in the Action Plan is promoting the incorporation of human rights standards - including the use of human rights statements in local government community plans - by government agencies in daily practice.⁴

3. THE HUMAN RIGHTS COMMISSION'S CONCERNS.

3.1 The Commission welcomes the opportunity to submit on the Bill. Rights such as democratic participation, transparency and accountability are integral to local government. Without them, effective and fair governance will not be achieved in New Zealand's biggest region. It is therefore critical that legislation reforming the structure of Auckland's local government is adequately scrutinized by the Select Committee to ensure it fulfils and protects human rights. The role of the Select Committee in improving proposed legislation and incorporating suggestions from those in the

² Human Rights Commission, Wellington (2004)

³ Human Rights Commission, Wellington (2005)

⁴ Ibid. 7.4 at 38

community who make submissions is a vital democratic check and balance, which is even more critical in a unicameral system.

3.2 The submission covers sections proposed in the Bill and also recommends the incorporation of amendments to address identified omissions. It addresses:

- The rationale for including a statement of human rights principles in the Bill;
- Effective participation;
- Diversity of representation;
- Representation of Māori;
- Representation of women;
- The proposed structure and whether it can deliver what it needs to;
- Employment issues likely to arise with the amalgamation.

4. RATIONALE FOR INCLUDING HUMAN RIGHTS PRINCIPLES IN THE BILL

4.1 Human rights and good governance are inextricably linked. This is because a human rights framework:

- Empowers citizens and voters who stand at its heart;
- Requires governments to act consistently and prevent discrimination;
- Affirms that government has a legal obligation to observe its human rights commitments;
- Recognises that rights are linked (so that, for example, economic and social rights cannot be achieved when rights to information or free speech are obstructed)⁵.

4.2 The Explanatory Note to the legislation states that a primary objective of the Bill is the provision of democratic and effective local government in order to maximise ... the current and future well being of Auckland and its communities⁶. The structure proposed is designed to enhance community participation and local democracy.⁷The Commission considers that the explicit recognition of human rights in local government legislation would be consistent with, and actively promote, these goals.

4.3 Good governance can enhance human rights by strengthening a government's ability to ensure realisation of economic and social rights while the human rights framework is seen as a way to both improve services and enhance public satisfaction and engagement in how those services are delivered.

⁵ International Council for Human Rights, *Local Government and Human Rights: Doing Good Service*, Geneva (2005) at 4

⁶ Explanatory note at 9

⁷ Ibid. at 2

Services provided by local government – such as the supply of water and the provision of transport – directly influence the quality of life of most people. This was recognised by the Royal Commission on Auckland Governance (“The Royal Commission”) in Chapter 9 of its report dealing with social wellbeing.

- 4.4 The Bill is designed to complement the LGA and the Local Electoral Act (“LEA”) but where there is an inconsistency with those Acts, the Bill will prevail⁸. Incorporating a statement of human rights principles in the Bill is consistent with the LGA. The LGA identifies the purpose of local government as being to enable democratic decision making and action by and on behalf of communities along with promoting the social, economic environmental and cultural well being of communities⁹.
- 4.5 A specific reference to human rights principles would go some way to addressing the concerns of those who feel that the Bill could have the effect of undermining or abrogating their democratic rights. As it stands at present there is no explicit, principled human rights statement in the legislation.
- 4.6 **We therefore recommend that clause 3 is amended with a new 3(d) to include a statement that *Council decision making and provision of services will be consistent with, and have respect for, human rights.***

5. PARTICIPATION

- 5.1 Under Art.25 of the International Covenant on Civil and Political Rights (“ICCPR”) everyone has the right to take part in the conduct of public affairs¹⁰. A human rights approach requires participation that is both free and meaningful. The consultation process and aspects of the Bill raise questions about whether participation and consultation was, or will be, adequate.¹¹
- 5.2 The Bill was introduced and had its first reading on the 13th May. It was referred to a Select Committee and the date for submissions set at 26th June. The timeframe for introducing and enacting the Bill appears to be driven by

⁸ Clause 6

⁹ Section 10 LGA 2002

¹⁰ Public affairs include all aspects of public administration and the formulation and implementation of policy at all levels including at regional and local levels: General Comment 25 CCPR/C/21/Rev.1/Add.7 at para 5.

¹¹ A national survey carried out in June for the New Zealand Business Council for Sustainable Development: *New Zealanders’ Attitudes to Super City Reform* indicates that New Zealanders overwhelmingly believe that there has not been adequate consultation on the reform and believe that there should be a referendum or vote on the issue.

the timetable set by the Royal Commission¹² together with the assumption that consultation on the original proposal was, in effect, a proxy for consultation on the Bill even though the legislation differs in significant respects from the Royal Commission's recommendations¹³.

5.3 Compared to the present structures, the new model proposed in the Bill with a concentration of power in a Council has a significantly reduced number of councillors (about 25%) and fewer community boards with diluted powers and responsibilities. The legislation has significant community implications, makes major changes to the status quo and differs markedly from the model suggested by the Royal Commission. There was limited opportunity for consultation with, and among, those most affected. Interested parties and communities need time to address complex issues in a meaningful and appropriate manner.

5.4 As Sir Geoffrey Palmer has observed¹⁴

Law making should be a solemn and deliberate business. It ought to permit time for reflection and sober second thought. It ought to be organised so that people have a chance of knowing what is happening and making representations about it if they wish.

He identified the dangers which flow from the rapid passing of legislation including lack of time for the public to participate in the parliamentary process and make their views known. This has the potential to lessen the faith of the people in Parliament as a watchdog on government and a place where their opinions will be listened to.

5.5. Participation is a foundation stone of democracy in a modern society. While voting is fundamental to participation, so too is the ability to contribute in a meaningful way to the development of legislation. The Commission considers 12 weeks should be allowed to make submissions on legislation of national significance, such as the Local Government (Auckland Reorganisation) Bill. This would allow time for better community understanding, and improve the debate in the media and among the public on significant issues. The quality of public submissions would be enhanced and better enable a constructive and meaningful select committee process. **The Commission requests a minimum 12 week period from first reading until submission deadline for the third Bill, to be introduced in October, 2009.**

¹² The Royal Commission suggested that the changes should be in place for the next local body elections in 2010. The timetable for implementation on p.15 of the Explanatory Note is consistent with this. It is worth noting the Royal Commission described the 18 months time frame as "ambitious but achievable and ... most important that the deadline is met": *Auckland Governance Report* Vol. 1 at para 78.

¹³ See discussion at p.13 of Explanatory Note

¹⁴ *Unbridled Power* (OUP, 1987) at 160.

- 5.6 Statistical data from the Department of Internal Affairs shows that the larger the structure the lower the voter turnout in local government, with an overall turnout of only 38% in the last Auckland Regional Council elections, another 4 % drop between 2004 and 2007 elections. In 2007 all of the Auckland councils (Auckland, Manukau, North Shore, Waitakere, Papakura and Franklin) were officially classified as low turnouts. Without an active campaign to increase electoral participation, the governance structure proposed could further dilute civic participation¹⁵. There is a real possibility of disenfranchisement in the Auckland region as a result of structural changes that enlarge structures to cover greater geographical areas and a wider number of communities and communities of interest. An active voter education campaign, properly resourced and funded, must accompany the reorganisation of Auckland's local governance.

6. REPRESENTATION ON COUNCIL AND BOARDS – ACCOUNTABILITY & EMPOWERMENT

*Local governments are more effective and legitimate if they involve citizens in decisions that concern them ... meaningful participation empowers them to take decisions and accept decisions taken by those who represent them.*¹⁶

- 6.1 Participation is heavily influenced by who is able to speak for communities and how. That is, who is represented on the decision-making bodies. Only when those directly affected have the ability to influence the priorities of local government, or determine the allocation of the budget, does participation become truly effective and meaningful.
- 6.2 The proposed structure gives rise to a range of issues relating to equity of participation and engagement. The size of Auckland raises issues relating to the ability to participate as a candidate and whether the region's diversity is adequately represented. If the election process means that those most likely to be on the Council are those with the money to run an effective campaign, and the community boards themselves are relatively weak and limited in what they do, then arguably effective participation is compromised as power will be concentrated in the Council alone.
- 6.3 Auckland is the most ethnically diverse region in New Zealand. According to the 2006 census 56 % of the regional population identified with European ethnic groups, 19% with Asian, 14% with Pacific peoples and 11% with Māori. Apart from recommending that three seats on the council should be specifically designated for Māori, the Royal Commission made no comment

¹⁵ Dept. of Internal Affairs, *Local Authority Election Statistics 2007* (2008) at 24: Typically, city councils experience lower turnout than district councils

¹⁶ International Council on Human Rights Policy supra 6 at 4

on how Auckland's increasingly diverse community should be reflected in the new structure.

- 6.4 While the Royal Commission suggested a second tier of local councils to act as advocates for the residents, ratepayers and communities within their areas and to focus on regional issues, this has been scrapped in favour of a greater number of community boards. Some would argue that this will result in a wider range of ethnic input at that level, but the diluted powers and responsibilities - and therefore the ability to influence council decision making - have been weakened as a result.
- 6.5 People of different ethnicities are already under represented at local government level. In Auckland Māori make up 11 % of the region and 9 % of local body winners. Asians comprise 19 % of greater Auckland but hold just 4 % of council seats. Pacific peoples make up 14 % of the population. They also have only 4 % of elected local body positions. It would not be practical to have designated seats for the large number of different ethnic communities that comprise Auckland's population. However, the voice of diverse communities within decision-making processes will be crucial to the credibility and effectiveness of the new structures.
- 6.6 **The Commission recommends that to ensure the new structure adequately reflects all sectors of the population there needs to be effective participation in the electoral process and the powers of the community boards need to be strengthened.**

7. REPRESENTATION OF MĀORI

- 7.1 One of the more contentious issues that emerged during the debate was the representation of Māori in the new structure.
- 7.2 The Royal Commission consulted extensively with Māori themselves on this point, taking into account Treaty of Waitangi obligations and the requirements of the LGA and concluded that Māori should have a certain number of specific safeguarded seats at regional level.
- 7.3 The principle reason for recommending the establishment of safeguarded Māori seats was to give effect to obligations under the Treaty although considerations of equity and fairness of representation were also relevant. The Royal Commission's decision ran counter to some of the submissions which it had received that submitted that special seats for Māori would be granting them additional rights, that it would be racist and divisive and that if there were special seats for Māori, then there should also be seats reserved for other ethnic groups.

- 7.4 The Government opted to disregard the Royal Commission's recommendation suggesting instead a Māori Advisory body. However, there has been strong opposition to this and how Māori will be represented remains contestable.
- 7.5 The Commission recognises that even if specific seats are reserved for Māori there are complexities relating to the selection of who should fill those seats that are not easily resolved. For example, whether seats should be reserved only for mana whenua or whether there should only be one designated seat for mana whenua with others reserved for Māori generally to accommodate Māori living within the Auckland region with no ancestral ties to the area.
- 7.6 The Commission's position on the Treaty as it relates to local government is relatively straightforward. Where the Government delegates authority to another entity, the delegated authority should be subject to the same duties as apply to the Government itself. As the Crown has committed itself to upholding the principles of the Treaty, the Commission would argue that these principles should apply wherever relevant to the activities of local authorities.
- 7.7 Although this is not consistent with the Royal Commission's position (which drew a distinction between the Crown and local government), s.4 LGA requires local authorities to "recognise and respect the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi ..." and specifically to ensure that opportunities are provided¹⁷, established and maintained¹⁸ that allow Māori to contribute to decision making processes. While this reflects international best practice in relation to indigenous peoples¹⁹, there is no single position on how it is best achieved and the approach adopted tends to vary depending on the nature of the society.
- 7.8 The Commission does not consider that allowing specific representation for Māori means that similar provision should be made for other ethnic groups. Although it could (and undoubtedly will) be argued that allocating specific places for Māori amounts to discrimination on the ground of race, the Commission considers that both the obligations under the Treaty and the internationally recognised right of Māori as indigenous people to participate in decision making, justifies this.
- 7.9 This does not, however, resolve the issue of how representation is effected. One option is the Royal Commission's recommendation that three seats be specifically designated for Māori – one for mana whenua and two others for Māori generally (which may include mana whenua but are likely to be taura as they outnumber mana whenua) with the mana whenua representative

¹⁷ S.14(1)(d) LGA 2002

¹⁸ S.81(1)(a) LGA 2002

¹⁹ Art. 6 ILO Convention 169 (Convention concerning Indigenous and Tribal People in Independent Countries) requires governments to enable indigenous people to participate in decision making.

appointed by the Mana Whenua Forum and the other two elected at large. The actual representation should be worked out between mana whenua and the Crown as treaty partners

7.10 **The Commission supports specific Māori seats as a Treaty obligation.**

8. REPRESENTATION OF WOMEN

- 8.1 The Human Rights Commission has been committed to addressing gender imbalance in public life since the introduction of the original Act in 1977. More recently this has involved benchmarking the progress of women in public and professional life in a series of annual reports. These reports provide an objective tool to describe and debate the position of New Zealand women in both elected local governance and in local government employment from a factual vantage. The 2008 Census reveals that women are under-represented in decision-making roles at local government level²⁰. The Commission also ran workshops in 2007 for first-time candidates in local government elections, the majority of them women in diverse communities, to build electioneering confidence and capacity.
- 8.2 New Zealand ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1985. In 2007 the Committee responsible for monitoring State performance on the Convention considered New Zealand's sixth periodic report in New York. The report relied principally on data up to 2006. Three alternative reports were presented²¹. All raised concerns about the absence of women in leadership positions.
- 8.3 The Committee's concluding comments recommended that New Zealand should take concrete action to increase the number of women in decision-making positions at the local level and political decision-making at all levels. It expresses concern that the number of women in local government and political decision-making positions is actually declining and women remain underrepresented at most levels of public and political life.
- 8.4 The Committee suggested action could include temporary special measures to rectify the imbalance²². The Committee considers such measures are not an exception to discrimination but a necessary strategy that States should employ

²⁰ *New Zealand Census on Women's Participation*, Human Rights Commission (2008) at 56. The 2007 local government elections show only 29% female representation up from 27% in 2004.

²¹ Reports were presented by the National Council of Women, the Māori Women's Welfare League and Pacific Women's Watch (NZ)

²² *Concluding comments of the Committee on the Elimination of Discrimination against Women: New Zealand* CEDAW/C/NZL/CO/6 10/8/07 at para 31

to ensure de facto or substantive equality and is not dependent on proof of past discrimination²³.

- 8.5 The Commission considers that measures are necessary to ensure women, given their representation in the population, are adequately represented in Auckland's council and community boards as well as other areas of local government. This could include the use of temporary special measures to redress the imbalance of women in decision making positions or requiring local government "tickets" to have a percentage of women on candidate lists.

9. PROPOSED STRUCTURE – EMPOWERMENT

- 9.1 A significant deviation from the Royal Commission's recommendations - but possibly the one with the most far reaching implications - was the decision not to adopt the governance model suggested in the report. The model proposed by the Royal Commission would have consisted of a Council with significant powers supported by six local councils focusing on local engagement and the delivery of quality local services. The Council was to focus on strategic issues while the local councils would have had a certain independence and discretion about the delivery of services and reflected local preferences and concerns.
- 9.2 For a variety of reasons (identified at page 11 et seq. of the Explanatory Note) the Royal Commission's model was not adopted. A decision was made to retain the concept of the Council but to create a second tier of approximately 20 to 30 local boards with considerably less power. While it was acknowledged that this structure was likely to be less efficient, it was thought to be justified as more democratic²⁴.
- 9.3 The Commission supports any move which promotes a more democratic approach. It is unconvinced, however, that the structure suggested will result in genuine representation and ensure delivery of services to the more vulnerable communities given the weak and limited role of the boards.
- 9.4 The Bill reduces what the boards can do to certain core functions that are so limited that they are unlikely to improve the lot of their communities while at

²³ *General recommendation No.25 on article 4, paragraph 1 of the Convention on the Elimination of All Forms of Discrimination against Woman, on temporary special measures* at para 18. See also CCPR General Comment No.25 supra 19 at para 23: "Affirmative measures may be taken in appropriate cases to ensure that there is equal access to public service for all citizens ... basing access to public service on equal opportunity and general principles of merit ... ensures that persons holding public service positions are free from political interference or pressures."

²⁴ Explanatory Note, p.14.

the same time placing a disproportionate burden on the Council in relation to more major decisions. As one commentator observed²⁵

Reducing local councils to local boards advising on graffiti, dog licensing and liquor control has the potential to give us the worst of both worlds: severely disempowered and ineffective local democracy and deadlocked overburdened regional government ... the whole point of better metropolitan governance is to place the powers and resources at a level where better decisions can be made.

- 9.5 Clause 10 of the Bill identifies the purpose of the local boards as being to enable democratic decision making by, and on behalf of, communities within the local board area, facilitate local input into the Council's decision making processes and identify local preferences in relation to matters of local significance. Subsection (2) then goes on to identify how the boards will do this – basically they will act as advocates and make recommendations to the Council but they will also have certain functions and duties under cl.13 and any powers that the Council decides in its discretion to delegate under cl.15. Clause 15(3) requires the Council to give consideration to the benefits of reflecting local circumstances and preferences against a single approach.
- 9.6 The Royal Commission noted that community engagement was central to giving effect to the democratic values in s.10 LGA and could contribute to the more efficient allocation of resources, by determining community preferences²⁶. At the same time it identified a lack of genuine engagement with communities in the present system.
- 9.7 Local democracy will only come from a local government sector able to implement decisions at a level in line with the needs and requirements of the community. To be truly effective input needs to reflect the concept of subsidiarity. That is, the ability to make relevant decisions should rest with the lowest competent authority capable of undertaking the activity. To ensure that this happens the Commission considers that **clauses 10, 13 and 15 should be amended to ensure that local boards have meaningful powers and responsibilities which are clearly defined and protected by statute.**
- 9.8 The relationship between the local boards and the Council should be formalised so that consultation is not simply at the Council's discretion when it considers the benefits of community consultation outweigh the benefits of a single unitary approach. This could be done by amending the delegation power in cl.15(3) by inserting a requirement that limits the Council's ability not to delegate to those situations where:

²⁵ D Wilson, Director of Institute of Public Policy AUT "Time to move with a collective purpose" *New Zealand Herald*, 16/6/09

²⁶ *Supra*, 20 at 296

- the policy applies outside a relevant board area;
- the provision of the function could be compromised if undertaken by a local board;
- the function involves a region-wide network.

But, conversely, it would require them to delegate when:

- the situation is for the direct benefit of the local community;
- the services in question will result in a sense of place or address community safety;
- local knowledge is a significant factor in carrying out the function.

9.9 For any governance structure to be truly empowering there must be clearly defined avenues for consultation and the ability to deliver services to the people that need them most. We therefore recommend that there is a statutory obligation on local boards to prepare a community plan which would require the board to consult with the local community. This would specify the vision and objective of the local community and identify essential or significant community services taking into account:

- the population including the age, cultural and disability demographics and the proportion of children and young people in the area²⁷;
- social, economic and cultural demographics and the needs of the particular community;
- existing facilities; and
- environmental features.

10. EMPLOYMENT

10.1 The Royal Commission recommended that the staff of the eight existing councils be transferred to the new enlarged Council and emphasised the importance of providing stability and certainty for existing council staff.

10.2 While the initial draft of the Local Government (Tamaki Makaurau Reorganisation) Act included a provision that was more consistent with what the Royal Commission recommended²⁸ this did not find its way into the final Act although it is apparently intended to include something similar in the third Bill due for release in October.

²⁷ It is estimated that there are approximately 250,000 children and young people under 18 (or approximately 25% of Auckland's population) in the greater Auckland region, and this will increase by 2030.

²⁸ The Bill provided that "every person who was an employee of an existing council on 31 October 2010 would become an employee of the Auckland Council on 1 November 2010 on the same terms and conditions, if agreement had not already been reached with the employee to transfer. Employees would be unable to claim redundancy compensation by reason of their transfer to the Auckland City Council".

- 10.3 The Commission is concerned that current local government employees are not unfairly disadvantaged by the transition and that the “good employer” requirements contained in the Local Government Act are adhered to in transitional arrangements, in reassignment of staff, and in recruitment to reflect a genuine commitment to the region’s diversity, to the traditional merit selection principles and to ensure the necessary skills and competencies are both recruited and retained.
- 10.4 As the amalgamation is designed (among other things) to produce economies of scale, the duplication of functions in the current local government structures suggests that redundancies are inevitable²⁹. Redundancies are most likely to occur in the post-establishment phase so any statutory protection needs to be robust enough to ensure protection both during and after the transition is effected. It is not enough to provide protection for employees only during the actual transfer and make them redundant when it is completed.
- 10.5 At the time of the last major local government restructure in the 1980s, specific provision was made for the transfer of employees to the new local authorities. The Local Government Amendment Act 1989 provided for the application of the (subsequently repealed) Local Authorities (Employment Protection) Act 1963 (“LA(EP)Act”) by making the conditions of existing employees subject to the LA(EP)Act rather than the Amendment. This included ensuring that benefits – such as superannuation and now matters such as access to paid parental leave - that accrued as result of continuous service would not be lost.
- 10.6 **Provision must be made for any contingencies likely to arise as a result of the amalgamation, if not in this Bill then certainly in the next.** Care will have to be taken to ensure that the benefits of accrued service are protected³⁰ and that the benefits of diversity are recognised and respected. It is also important that in a time of economic recession adequate provision is made for social support in the event of redundancy³¹.

²⁹ There have been varying estimates of how many redundancies are likely ranging from John Bank’s estimate of 1200 to an economic consultant who used the Royal Commission’s modelling on costs and updated it to include the Government’s changes, who claimed that job losses would range from 539 to 817 as a result of the merger - the lowest projected increase was 57% higher than under the Royal Commission model. See also Buddle Findlay *Creating a Super City: Integration Issues, Part 6 – Employees of the Super City* Legal Update, 16/6/2009. The authors consider that the full impact on employees will not be felt until after 1/1/2010.

³⁰ In relation to paid parental leave we recommend either referring to the Paid Parental Leave Act or explicitly including a provision similar to s.2AC of that Act.

³¹ The advice on the Commission’s website (www.hrc.co.nz) in relation to redundancy and employment identifies a number of ways in which this can be achieved.

11. CONCLUSION

- 11.1 Good local governance requires the explicit incorporation of human rights values and standards. As the Institute of Human Rights Policy notes

... informed application of human rights principles and standards would improve local government performance further and help to institutionalise elements of rights-based local governance, including accountability, non-discrimination and participation... the long term systematic use of human rights criteria will improve policies and strengthen the legitimacy of local government.

- 11.2 The reorganisation of the Auckland region's local governance, given its significance to the provision of services and to social wellbeing and community cohesion, must be credible, relevant and enjoy the confidence of those who will live with the new model.

- 11.3 For that confidence to build, structural and functional change of the region's local governance must fulfil and protect human rights - civil and political as well as economic, social and cultural rights. The Human Rights Commission is prepared to offer advice as the reorganisation proceeds to ensure fundamental democratic principles are enhanced.