



# New Legislation

- ▼ **Since 1 April 2009, under Section 69Y of the Employment Relations Act 2000:**
  - Employers are required, as far as is reasonable and practicable, to provide appropriate breaks and facilities for employees who wish to breastfeed their infants or express milk during work hours



## ➤ Code of Employment Practice on Infant Feeding

In March 2010 the Minister of Labour approved a new Code of Employment Practice on Infant Feeding.

- The new code contains practical guidance for employers and employees on how Section 69Y of the Act (relating to breastfeeding in the workplace) can best be implemented
- The code explains how reasonable and practicable should be interpreted

## ➤ Breastfeeding arrangements

- Establishing arrangements for breastfeeding breaks and facilities at work is a matter for employees and employers to negotiate
- These arrangements do not have to be formal variations to an employment agreement
- The code recommends that these arrangements should be written to help set out mutual understanding and provide a clearly agreed basis for any necessary change



## ➤ Further Information

### **Code of Employment Practice on Infant Feeding**

[www.ers.govt.nz/parentalleave/infantfeeding/code/](http://www.ers.govt.nz/parentalleave/infantfeeding/code/)

### **Guide to Breastfeeding in the Workplace**

[www.ers.govt.nz/publications/breastfeeding/index.html](http://www.ers.govt.nz/publications/breastfeeding/index.html)

### **Flexible Working**

[www.dol.govt.nz/worklife/flexible/index.asp](http://www.dol.govt.nz/worklife/flexible/index.asp)

### **Employment Problem Solving**

[www.ers.dol.govt.nz/problem/](http://www.ers.dol.govt.nz/problem/)

### **Worklife Balance**

<http://www.dol.govt.nz/worklife/index.asp>

### **Department of Labour Contact Centre**

0800 20 90 20

### **Ministry of Health Website**

[www.moh.govt.nz/breastfeeding](http://www.moh.govt.nz/breastfeeding)





## MAKING IT EASIER FOR MOTHERS WHO ARE RETURNING TO WORK MAKES GOOD BUSINESS SENSE<sup>1</sup>

The New Zealand workforce is changing. The number of women in paid work continues to increase, many employees have family responsibilities and women are increasingly returning to work following the birth of a baby.

By putting in place practical steps to help women to continue to breastfeed their babies or express breast milk when they return to work, your business can benefit too.

- **Recruitment savings**

Your business can save money by retaining valuable employees who might otherwise decide to leave. This can save on recruitment and training costs.

- **Less absenteeism boosts productivity**

Babies who are breastfed get sick less often and working mothers take fewer days off to care for them. An American study of two corporations showed 50 percent fewer sick days for parents of breastfed babies than for bottle-fed babies.<sup>2</sup> Retaining trained staff and good staff morale also boosts productivity.

- **Helps company image**

Supporting working mothers and family-friendly measures can enhance your company's image. The mothers are likely to be more productive, happier, and less likely to resign, and help improve your company image in the community.

- **Be known as a good place to work**

Providing family-friendly measures can also directly increase the pool of potential staff that your business might not otherwise attract. This is particularly important in a tight labour market.

All employers are different, and the things that larger employers can do will differ from the things smaller employers can do – this guide contains ideas for both large and small businesses.

## IT JUST TAKES FOUR SIMPLE THINGS

If you employ women who want to:

- continue breastfeeding their babies when they return to work, or

- express breast milk at work

and you need some practical ideas about how you can enable them to do this

in your workplace, then these guidelines can help you.

Enabling your employee to breastfeed at work just takes four simple things:

1. Talking with your employee
2. Time
3. Space (facilities)
4. Support

### 1. TALKING WITH YOUR EMPLOYEE

- **Start early**
- **Be flexible and open**
- **Be supportive**
- **Be clear**

#### Good communication is the key

Talking with your employee early may assist you and your employee to develop practical solutions that meet both of your needs.

The effectiveness of any support you can provide to your employee depends on your employee knowing about the options available, or knowing where to get information about it (including from her union). Make sure your employee knows about any existing rights to breastfeeding breaks or facilities that are provided in your employment agreements.

If your business does not have a written plan relating to breastfeeding in the workplace, you may want to consider developing one. A written plan may help employees feel more comfortable about discussing their needs.

- **Start early –**  
Talk with your employee about her needs at an early stage.
- **Be flexible –**  
Be open to considering different or creative options. People's needs vary and may change over time. What suits one person may not suit another, and an individual's arrangements may need to be renegotiated if they're not working out, or as time goes on. Also, in some circumstances, a creative approach might help to find solutions.
- **Be supportive –**  
Knowing that her employer is supportive of her decision

1. Part of the material in this section has been sourced from the Women's Health Action Trust.

2. Cohen, R. et al (1995), "Comparison of maternal absenteeism and infant illness rates among breastfeeding and formula-feeding women".



to combine breastfeeding and work is important in helping an employee's transition back to work. This also means encouraging a positive attitude among other staff. If you are unable to provide breaks or space for breastfeeding, listening and openly considering all options is showing support.

- **Be clear –**

Make sure you are both clear about what is agreed, and your obligations towards each other. It is a good idea to have arrangements written up into the employee's written employment agreement. If your employee is a member of a union, she should have the opportunity to talk with her union before making any formal changes to her employment arrangements. If you are unable to accommodate all of an employee's needs, or are unable to provide breaks or facilities for breastfeeding or for expressing breast milk, make sure the employee understands the reasons for this.

## 2. TIME

This means the time needed to breastfeed, either at the workplace or off-site, or to express breast milk.

Some of the things you may wish to discuss with your employee include:

- what hours she will work on her return to work
- timing and frequency of breaks, and
- whether these breaks are paid or unpaid.

### Hours on return to work

An employee returning from parental leave is entitled to return to the same role and under the same terms and conditions of work (including pay) that she had before taking leave. While an employee may want to return to work under the same terms and conditions, she might also want to negotiate a change in her terms and conditions to help her combine working and family responsibilities or breastfeeding. If reasonable and practical, options to consider include working part-time, job sharing, flexi-time, changing shifts, working from home, or changing roles.

Under the Human Rights Act, an employer may give preferential treatment to an employee because of her pregnancy or childbirth.<sup>3</sup>

It is good employment practice to be open to considering such changes (any changes agreed to would need to be set out in her written employment agreement, specifying whether these changes were for a defined period or permanent).

3. Human Rights Act 1993, section 74.

### Timing and frequency of breaks

The timing and frequency of breaks should be sufficient to

enable a baby to be breastfed adequately at work (or sufficient milk to be expressed), and enable the mother to successfully combine breastfeeding and paid work.

By the time your employee returns to work, she is likely to have established breastfeeding routines and may already have some idea about what works for her and her baby. Remember that the mother's and baby's needs may change over time. (She may need fewer breaks as time goes on, but this isn't always the case.)

Plunket recommends that the overall duration of arrangements around breastfeeding or expressing breast milk at work is left open-ended, as it is difficult (and even unhelpful) to try to estimate the number of months a woman and her baby may require for breastfeeding.<sup>4</sup>

You'll need to think about what can be accommodated given the particular work conditions of your business.

You and your employee will need to agree on how many breaks for breastfeeding or expressing milk she can take each working day, and, the length of time of these breaks. For example, 1 x 60-minute break, 2 x 30-minute breaks, 3 x 20-minute breaks, or 3 x 30-minute breaks (and reducing over time as needs be), or if your particular workplace arrangements allow, you may be able to be as flexible as "3 breaks a day for as long as is needed".

Whether the time agreed on is an adjustment to existing breaks (paid or unpaid), or additional paid or unpaid breaks, is a matter you should discuss with your employee. The International Labour Organization (ILO) recommends at least 90 minutes of paid breastfeeding breaks per working day.<sup>5</sup> However the time required to breastfeed (or express breast milk) will vary between different mothers and babies and should be sufficient to ensure the baby is fed adequately.

4. Royal New Zealand Plunket Society, letter to Department of Labour, 20 June 2005.

5. Recommendations supporting Maternity Protection Convention 183, ILO, 2000.

Some ideas to consider:

- can she use her existing lunch and tea breaks and take them at one time (e.g. have 1 x 90-minute break per day)? This might suit someone who is breastfeeding off-site
- providing additional paid or unpaid breaks
- if the employee prefers to breastfeed at home, she may want to do without one break and go home slightly earlier (say 4.30pm rather than 5pm), or she may want to start later and finish earlier
- changing shifts (see also above under 'Time').

### Important

Your employee needs to know if breaks are paid or unpaid, and



this needs to be negotiated between both of you (or between you and her representative). For some employees these sorts of terms might already be set out in the collective or individual employment agreement.

### 3. SPACE (FACILITIES)

To set up an appropriate place for employees who are breastfeeding you need:

- a private, clean, quiet, warm room or space – such as a screened off area (spaces don't need to be sterile, just clean), which needs to be big enough to manoeuvre a pram
- a low comfortable chair.

To ensure privacy, windows or glass walls may need to be screened.

If an employee is expressing breast milk, in addition to the things listed above you will need:

- a lockable door
- a washbasin
- a fridge (or chilly bin with ice packs) for storing expressed breast milk.  
(A communal fridge is acceptable, because breast milk is considered food, not a body fluid, so can be readily stored in a labelled container in the fridge.) If a fridge or chilly bin is not available, breast milk can safely be stored at room temperature (19-22°C) for up to two hours<sup>6</sup>
- a table
- a clean space to store equipment (e.g. small locker or cupboard)
- power point (if using electric pump).

Toilets are not acceptable places to breastfeed or express breast milk.

Toilets are not only unsanitary, but are also inappropriate for some cultures. While it is not a great option (because a mother will need daily and regular access to whatever room is set up for her), a sick room could be used as a breastfeeding/expression room when not otherwise being used.

(Note – a chair is still needed as well as the bed.)

6. Food and Nutrition Advisory Committee recommendation. For more information on handling and storing breast milk, see Judith Galtry and Marcia Annandales' "Guidelines for supporting Breastfeeding in the Workplace" at [www.eeotrust.org.nz](http://www.eeotrust.org.nz)

The following things are nice to have but not essential:

- a two-seater sofa is preferable, with a low table beside it. The chair's arms should be low, soft and wide enough to accommodate and support a feeding baby comfortably
- a tri-pillow
- a foot stool
- a changing pad or table.

You may also wish to consider providing a carpark near work for the mother to use, particularly if she is breastfeeding off-site, or for the baby's carer to use when bringing the baby to work for breastfeeding.

### 4. SUPPORT

Providing space and time for breastfeeding is great, but breastfeeding in the workplace also needs a supportive environment.

Knowing in advance that she has an understanding boss and workmates can positively influence a pregnant employee's decision about whether to breastfeed.

Combining breastfeeding and work isn't always easy for an employee.

Having a supportive boss and workmates is essential.

This support can be as simple as ensuring that people don't make inappropriate remarks or jokes and that they are co-operative about any temporary work changes made to accommodate breastfeeding.

Support could include:

- making sure other staff know the workplace is breastfeeding-friendly and, if necessary, encouraging tolerance around any additional noise or disruption associated with having a baby at work
- making sure the employee is comfortable with the arrangements and is able to raise any issues
- checking with the employee every so often to make sure arrangements are working effectively
- making sure any caregiver, partner and baby is welcome in the workplace.



## IDEAS FOR SMALLER BUSINESSES

Small businesses can face additional challenges when considering initiatives to support breastfeeding, particularly those that have confined spaces.

If you are a small business, some creative ideas that other small employers have already used might work for you:

- If you can't provide the space, can you provide the time e.g. flexible working hours, reduced hours, longer lunch hours and working from home?
- Make one or more offices available at intervals during the day. They might need blinds installed for privacy, or a comfy chair added
- A number of different businesses in a mall, or in the vicinity of a mall, or in a single building, could pool resources to lease and equip a family room for staff
- If a room isn't available, look at the different spaces you have and consider whether anything could be reorganised or stored off-site to create a suitable space, even if only temporarily
- Could a sick room be adapted?
- Use screens and 'do not disturb' notices to make a cubicle private
- Contact a breastfeeding advocate to work with your organisation one-to-one.

For more ideas see the section headed "For more information".

## FREQUENTLY ASKED QUESTIONS

### Q. What will it cost?

- A. The cost will vary depending on circumstances and what is put in place. Any costs would need to be measured against short- and long-term savings, such as increased productivity, and intangible benefits to business like improved staff morale and a good company image in the community.

### Q. How long will it last?

- A. Different international and national standards vary slightly, but they generally recommend that women exclusively breastfeed their babies for the first four to six months i.e. no additional fluid or food, and continue to partially breastfeed for up to two years or more. Some women may, however, decide to breastfeed for shorter

periods. For the first six months a mother may need to have access to her baby frequently or to express milk frequently. Between six months and one year, the baby reduces the frequency of breastfeeding as it starts eating solid foods. At this time the frequency of breaks may decrease. Generally speaking, while some women will wish to continue to take breaks at work to breastfeed or express breast milk, by the time their child is a year old, many mothers will have stopped requiring breaks at work.

### Q. Will I need to make space permanently available?

- A. Generally no, but this depends on the size and make-up of your workforce. If you employ large numbers of women between the ages of 20-45 you may want to make such spaces permanently available. For some organisations, it may be a one-off, or intermittent temporary measure, in which case a permanent space may be unnecessary. It may be as minimal as making an appropriate space available for your employee's use for two or three 30-minute breaks each day for six months (if the employee is expressing milk). The World Health Organization advises that workplace support should be made available for the first 12 months after the birth of a baby, and that after that a woman should be more easily able to balance work and breastfeeding.<sup>8</sup>

### Q. Are there any legal obligations I should think about?

- A. The Human Rights Act (section 74) provides that preferential treatment based on pregnancy and childbirth is permitted.

Health and safety regulations also do not prevent employers from allowing a baby to be breastfed in the workplace, provided this can be done under healthy and safe conditions.

Your existing health and safety management systems (hazard identification and controls under the Health and Safety in Employment Act) should already have identified any actual or potential hazards for employees and other people in the workplace. Another risk assessment may need to be done bearing in mind the particular needs of a breastfeeding woman and her baby (including a risk assessment of any facilities or storage space provided).

As with all employees, the law requires you to do several things. It requires you:

- to protect the health and safety of all workers, and any other people, e.g. a baby and the baby's caregiver who are at work, or in the vicinity of work (section 5, Health and Safety in Employment Act)



- to 'take all practicable steps' to prevent health and safety risks to employees and others at work or in the vicinity of work (i.e. this applies to the mother or caregiver and the baby).

While it is the responsibility of employers and employees to identify hazards, you can call your local branch of the Department of Labour (Occupational Safety and Health), an occupational health nurse, or the woman's lead maternity carer for guidance on whether a particular substance could be hazardous.<sup>9</sup>

Some things that you may want to specifically focus on when an employee decides to breastfeed include:

- How work is organised – could the employee's work or work conditions, e.g. her role or hours of work, cause her harm or stress? For example, if an employee's usual role involves heavy manual handling, this task may be risky shortly after child-birth, or could interfere with breastfeeding, in which case, if it is reasonable and practical for the business, suitable alternative work may need to be found temporarily. The same terms and conditions of work, including pay, should apply. However, in general, pregnancy or lactation shouldn't prevent a woman from doing anything, unless medically indicated or deemed hazardous.
- Hazardous substances – some substances, such as inorganic or organic lead, mercury or solvents, can enter breast milk and so pose a danger to the breastfed baby. If an employee is coming into contact with, or is close to, hazardous substances, the job either needs to be made safe for the breastfeeding employee or alternative work in the organisation needs to be found. In some cases the needs of the job or the risks posed to a baby on-site might prevent the provision of facilities for breastfeeding.

### Q. Why is breastfeeding beneficial?

- A. Research<sup>10</sup> shows that, in almost all cases, breastfeeding means better health for both mothers and babies.

The benefits of breastfeeding for both mothers and babies are well-documented, and evidence also shows that, the longer a mother breastfeeds her baby, the better the health benefits are for both her and her baby.

The research shows that:

- breast milk is the healthiest food for most babies and protects babies from illness and infection, so babies who are breastfed are less likely to have gastroenteritis, and other gastro-intestinal illnesses like diarrhoea
  - respiratory infections
  - urinary tract infections
  - ear infections
- mothers who breastfeed are less likely to develop
  - breast cancer before the menopause
  - some forms of ovarian cancer
  - hip fractures later in life
- enabling a breastfeeding employee to feed her baby or express breast milk as she needs to will also reduce her risk of physical complications that can be associated with breastfeeding (like infection).

### Q. I employ Maori and/or Pacific people and/or people from different cultures or religious backgrounds – are there any potential issues I should know about?

- A. Women from all cultures generally want dignity, respect and consideration around breastfeeding issues and, while cultural support for breastfeeding varies, people are generally supportive if breastfeeding in the workplace is done discreetly.

Generally, Maori, like Pakeha, treat breast milk as kai (food), which means that it can be stored in a communal fridge.

Note that, for Maori staff, it is not appropriate to have a door leading from a breastfeeding/expression room into a toilet.

Make sure that clear communication and discussion take place to resolve any issues. If there are concerns from staff, you may want to discuss how to deal with these with a Plunket Society Kaiawhina or contact Nga Maia, the organisation for Maori Midwifery and traditional childbirth.

### Q. Is this good for business?

- A. The benefits to business of having good employment practices, being an employer of choice, having family-friendly practices and/or having regard to work-life balance are well documented. Some of this research has specifically considered breastfeeding in the workplace. Evidence has shown both tangible savings and other less tangible benefits to business.



### Q. How will other employees benefit?

- A. If an employee is given support to breastfeed/express, then she may be more open to accommodate the needs of other staff. It will make for a better, more co-operative and tolerant workplace culture.

## FOR MORE INFORMATION

### Department of Labour

Freephone: 0800 20 90 20

Website: [www.dol.govt.nz](http://www.dol.govt.nz)

The Department of Labour provides information about employment and health and safety legislation, such as the Employment Relations Act 2000, the Parental Leave and Employment Protection Act 1987, and the Health and Safety in Employment Act 1992.

### EEO Trust

Phone: 09 525 3023

Website: [www.eeotrust.org.nz](http://www.eeotrust.org.nz)

Provides information about equal employment opportunities policies and practices, including family-friendly practices. The EEO Trust website provides guidelines for combining breastfeeding and work, including guidelines for child-care centres, written by Judith Galtry and Marcia Annandale and Sarah Farquhar.

### Human Rights Commission

Freephone: 0800 496 877

Fax: 09 377 3593 Attn Infoline

Website: [www.hrc.co.nz](http://www.hrc.co.nz)

Provides information about the Human Rights Act 1993 and other human rights matters.

### La Leche League, New Zealand Ltd.

Phone: 04 471 0690, National Headquarters, Wellington

Freephone: 0800 20 90 20

Website: [www.lalecheleague.org](http://www.lalecheleague.org)

Provides information for women about breastfeeding and expressing milk at work. Local branches listed in the phone book.

### Ministry of Health Maternity Consumer Enquiries

Freephone: 0800 686 233.

Website: [www.moh.govt.nz](http://www.moh.govt.nz)

Provides several publications on breastfeeding, including a free pamphlet on combining breastfeeding and work.

### Nga Maia Aotearoa

Phone: 06 867 4226

Website: [www.ngamaia.co.nz](http://www.ngamaia.co.nz)

The organisation for Maori midwifery and traditional childbirth.

### Royal New Zealand Plunket Society, Inc

Freephone: 0800 933 922

Website: [www.plunket.org.nz](http://www.plunket.org.nz)

Local Plunket clinics are listed in the phone book.

### Women's Health Action Trust

Phone: 09 520 5205

Website: [www.womens-health.org.nz](http://www.womens-health.org.nz)

For advice on breastfeeding in the workplace from a breastfeeding advocate. The Women's Health Action Trust has also produced guidelines for combining breastfeeding and work.

### New Zealand Breastfeeding Authority

Phone: 03 357 2072

Email: [info@nzba.co.nz](mailto:info@nzba.co.nz)

Co-ordinator

PO Box 20-454

Bishopdale

Christchurch