



Breastfeeding and the Workplace

CONGRESS GUIDELINES FOR NEGOTIATORS



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FOREWORD

The Irish Congress of Trade Unions particularly welcomes the introduction of new rights for working mothers. These new rights demonstrate clearly how unions are taking action to bring about real improvements in peoples' working lives. These guidelines will assist unions in achieving the effective implementation of these rights in the workplace.

These new rights will be of benefit to a substantial group of workers every year. The most recent figures for 2003 from the Central Statistics Office show that there were 61,517 births in the Republic of Ireland and just over 40% of these mothers were breastfeeding on discharge from maternity hospital/care. Interestingly, data from the National Perinatal Reporting System shows that it is women in the workforce who are more likely to opt for breastfeeding. The right to breastfeed a child after returning to work is an important part of maternity protection, having major benefits for both the mother and her child.

Enabling mothers to continue to breastfeed when they return to work will bring many benefits to workers and their families including:

- Breastfeeding can significantly reduce the costs of rearing children.
- Many of the health enhancing and disease preventative benefits of breastfeeding in infancy are sustained not just throughout childhood, recent research shows that these benefits continue into adulthood..
- Mothers benefit too as breastfeeding gives them some protection against pre-menopausal breast cancer, ovarian cancer and osteoporosis in later life.
- Employers also benefit as research shows that women who continue to breastfeed after returning to work are 3 times less likely to be absent from work to care for their ill children, as breastfed children are much healthier.

Congress has long recognised that rights for working mothers are not just a women's issue and Congress is committed to developing and protecting workplace rights that support working parents and vigorously campaigns for work-life balance policies to assist working parents combine work and caring responsibilities. Congress is committed to ensuring that women who want to continue breastfeeding on returning to work are provided with appropriate working arrangements and facilities.

David Begg
General Secretary

WHY IS THIS AN ISSUE FOR TRADE UNIONS?

Protecting the rights of women workers has long been a core issue for Congress and our affiliated unions. The Irish Congress of Trade Unions has successfully campaigned for some new rights for working mothers in the Republic of Ireland. Working mothers now have the right to paid breastfeeding/lactation breaks where the employer provides facilities or a reduction in working hours without loss of pay for breastfeeding where no facilities are provided.

Unions are now negotiating at the level of the workplace to see the introduction and proper implementation of these rights.

When developing the negotiation agenda for workplace rights for working mothers unions recognise that some mothers will choose not to breastfeed or may have great difficulty in doing so and these mothers should be given every support in their chosen feeding method.

It is important, however to point out that facilitating breastfeeding mothers does not discriminate against non-breastfeeding mothers. To sustain breastfeeding it is vital that mothers either breastfeed their babies or express breast milk at regular intervals every day. If they are not able to do this their milk supply will be jeopardised. The need for lactation breaks does not apply to non-breastfeeding mothers.

AN AGENDA FOR NEGOTIATING BREASTFEEDING FRIENDLY WORKPLACES

These Congress recommendations aim to assist trade union representatives to build on the new legislation and to negotiate for *Breastfeeding Friendly Workplaces*. Current trade union practice in each organisation will determine the best method for placing this issue onto the agenda for negotiation. As is the case with other workers rights, these new rights in legislation are welcome but they provide a minimum entitlement, and improved arrangements can be negotiated between employers and unions at local level.

There are a range of options to enable breastfeeding to be combined with work and these guidelines outline a negotiation agenda for the development of breastfeeding friendly workplaces in the main areas of

- Paid Breastfeeding/Lactation Breaks
- Provision of Facilities at Work
- The Breastfeeding Friendly Workplace Policy
- Ensuring the Health Safety and Welfare of Breastfeeding employees
- Protecting Breastfeeding Employees from Discrimination at Work

These arrangements can be placed within the context of, and work in conjunction with, the organisations existing work/life balance or family friendly working arrangements.

WHO IS A BREASTFEEDING EMPLOYEE - AGREEING DEFINITIONS

The breastfeeding policy should be supported by a clear and straightforward process for applying for the various options. A key issue to be agreed will be who can avail of the provisions.

Legislation in Ireland defines "an employee who is breastfeeding" as any employee who is breastfeeding within 6 months (26 weeks) of giving birth and has informed her employer accordingly. Congress believes that this limit to six months is insufficient and that the work place provisions should apply for as long as the working mother chooses them to and for at least one year.

Our recommendation is supported by the **Department of Health and Children**. In addition **Irelands National Breastfeeding Policy** recommends that Breastfeeding policies should ensure that mothers are supported to breastfeed for as long as they choose to do so and recommends that Breastfeeding continue for two years or beyond. This recommendation is supported by evidence that demonstrates the important benefits of breastfeeding for the health and well being of children, working mothers, enterprises and wider society.

The Congress recommendation is in line with practice in other countries. An examination of the ILO data base on *Conditions of Work and Employment* (2004) shows that over 90 ILO member States provide nursing breaks of at least one hour and that the most frequent provision for entitlement to breastfeeding breaks is until the child reaches the age of one year.

Congress recommends that the workplace policy negotiated by unions should apply to women for at least the first twelve months after giving birth.

For the purposes of giving certainty the legislation confirms that breastfeeding includes expression of breast milk by the mother.

AGREEING A PROCEDURE FOR INFORMING EMPLOYERS

In order to ensure consistency in how employees inform their employer of their intention to use the breastfeeding arrangements it may be useful to agree a common format. The suggested format below is similar to the type of form recommended by the Equality Authority for use in relation to Force Majeure Leave.

Using this type of format allows for advance notification and agreement with the employer as to

which of options available will be used, along with providing an opportunity for the necessary arrangements to be made. There is a requirement set out in the *Maternity Protection (Breastfeeding) Regulations 2004* that employers must reply to the request within two weeks of receiving it. Any problems will need to be dealt with promptly as these rights are "time specific" and to be relevant the resolution needs to be in place immediately on the return to work and during the breastfeeding period. Employers can require employees to provide proof of the child's age, such as a birth certificate.

EMPLOYERS NAME

Name of Employee _____

PPS Number

Expected Date of Birth of Baby / Date of Birth of Baby _____

I confirm that I will be/am breastfeeding my child and I intend availing of the breastfeeding facilities and break arrangements from

The preferred manner in which I will take the breaks are

Declaration

I declare that the information given above is true and complete. I confirm that when I cease to breastfeed my child I will notify accordingly.

Signature of Employee

Date _____

PAID BREAKS FOR BREASTFEEDING MOTHERS

Lactation breaks are breaks to express milk or to breastfeed babies. These breaks are essential if a woman is to maintain her milk supply and her comfort during working hours. Lactation options to support working mothers include:

- Having the care provider bring the baby into the workplace to be breastfed.
- Expressing breast milk at work so that the baby is fed expressed breast milk by the child-care provider at a later stage.
- Attending the on-site workplace crèche (where available)
- Leaving the workplace to breast feed the baby.

The new legislation provides workers with new rights in relation to breastfeeding at work. The *Maternity Protection (Amendment) Act 2004* provides an entitlement to paid breastfeeding/lactation breaks where the employer provides facilities or a reduction of working hours without a loss of pay for breastfeeding where no facilities are provided.

Specifically, Section 9 the 2004 Act provides that an employee who is breastfeeding her child and has informed her employer that she is doing so, shall be entitled without loss of pay at the option of her employer to either:

- a) Time off from work for the purpose of breast feeding in the workplace in accordance with regulations made under this section by the Minister where facilities for breastfeeding are provided in the workplace by her employer or
- b) a reduction of her working hours in accordance with regulations made by the Minister for the purpose of breast feeding otherwise than in the workplace.

These new provisions begin to bring us in line with a number of other European countries including, Germany, Italy the Netherlands, Spain and Portugal which have all instituted paid breastfeeding breaks.

The Maternity Protection (Breastfeeding) Regulations 2004 set out the minimum legal entitlements to be provided at the workplace.

FREQUENCY AND DURATION OF PAID BREAKS

Most countries provide nursing breaks of at least one hour although a number of countries, particularly in Europe provide for a longer break. While the *Maternity Protection (Breastfeeding) Regulations 2004* set out a minimum entitlement to a total of one hour a day for paid breastfeeding/lactation breaks they also provide that more favourable arrangements can be negotiated.

- Each individual woman will vary in relation to the number of times and amount of time she needs for lactation breaks and best practice will allow the frequency and duration of lactation breaks to be flexible and tailored to meet the needs of each employee.
- The Regulations give a right to a minimum breastfeeding/lactation break of one hour per normal working day. The regulations go on to give an entitlement that this paid break can be broken into 1 x 60 minute break, 2 x 30 minute breaks or 3 x 20 minute breaks. The duration and the frequencies of these or improved arrangements can be negotiated by unions.
- The Regulations provide for a pro-rata entitlement for part-time employees.
- Where facilities are not provided adequate time must be given in addition to the time for lactation breaks to allow mothers to travel to the facilities that they will be using.

WORKPLACE FACILITIES

Facilities for expressing breast milk or breastfeeding do not involve a lot of expense. But simply placing a chair in the ladies toilets is not acceptable from any perspective including the health, safety and welfare of workers. Many workplaces can provide adequate facilities at a minimal cost and two or more businesses might combine to make a room and facilities available for their employees. For example in an industrial estate or shopping centre the provision of a dedicated facility for employees from all of the neighbouring enterprises might provide an effective option for the companies involved.

Facilities should include

- **A Private Room:** A clean hygienic and private area with lockable door in which women can express breast milk or breastfeed their baby.
- **Refrigerator:** secure dedicated refrigerator for storing breast milk.
- **Storage:** a lockable storage cupboard/locker for storing/sterilising pumping equipment.
- **Comfortable chairs:** to use while expressing or breastfeeding.
- **A table:** to support the breast pump and any other equipment.
- **A power point:** for mothers who use an electric breast pump.
- **Sink:** Ideally the room will also have hand washing facilities but access to a place to wash hands and equipment is essential.
- **A changing mat and refuse bin.**

THE BREASTFEEDING FRIENDLY WORKPLACE POLICY

Negotiating a *Work and Breastfeeding Policy Statement* that describes the organisations policy and states the workplace provisions will demonstrate the union's and the enterprise's commitment to a breastfeeding friendly workplace.

The policy statement can be used to:

- Assure women that the enterprise is supportive of their combining breastfeeding with working.
- Outline workplace provisions to enable women to maintain breastfeeding
- Outline the employers commitment to best practice in helping employees balance their work and family life through flexible working arrangements

This policy can be linked to the organisations other family friendly policies.

SAMPLE BREASTFEEDING POLICY FOR THE WORKPLACE

This enterprise recognises the importance of breastfeeding for both mother and baby and supports, protects and promotes breastfeeding.

This enterprise provides facilities and the support necessary to enable mothers in their employment to balance breastfeeding with their work.

Lactation breaks

Lactation breaks are paid breaks. There is flexibility for mothers to take lactation breaks during their work day. The timing of the breaks can be agreed by the mother, her union representative and her supervisor/manager.

Our options include:

- Paid time off to express breast milk or to breastfeed her baby at the work place
- A short period of time off to breastfeed at another location without loss of pay
- We allow lunch and other breaks to be taken to coincide with feeding times

Facilities

A clean private room with a power point, lockable door, comfortable chair, table, refrigerator, hand washing facilities and a storage area for breast pump and sterilising equipment are provided.

Flexible work options

A range of flexible working options are available (such as flexi-time, part time, e-working or other home –based work). The mother and her union representative can negotiate flexible work options with her supervisor taking into account both the employee's and organisations needs.

Information

All staff are made aware of this policy. All women who are going on Maternity Leave will be provided with information on how they can combine breastfeeding and work. Employees who are considering breastfeeding can make arrangements for breastfeeding facilities, flexible working options and other supports before going on Maternity Leave.

A supportive work environment can be further built by providing employees with relevant information about the policy. Information on the policy can be disseminated in many ways such as through a newsletter and during the induction or other training courses. The aim should be to change the culture of the work place so that breastfeeding at work and the provision of facilities is seen as normal.

All good policies are supported by clear mechanisms for making decisions on applications,

and the provision of an appeals process that can be followed if necessary. The existing grievance procedures can be utilised in this regard.

In order to monitor the take up of the various options unions are advised, on an biannual basis to examine the take up of the options across departments, sections and grades. Unions may also want to include questions on the breastfeeding facilities and arrangements as part of their wider review of work life balance and family friendly working arrangements.

PROTECTING THE HEALTH AND SAFETY OF EMPLOYEES WHO ARE BREASTFEEDING

Every employer is required by the *Health and Welfare at Work Act* and the *Health and Safety at Work (Northern Ireland) Order* to conduct a risk assessment to identify all hazards and risks in the workplace. Risk assessments should already have identified any hazards which may present a risk to breastfeeding employees.

In addition, the *Safety, Health and Welfare at Work (Pregnant Employees etc) Regulations 2000* in the Republic of Ireland and the *Management of Health and Safety at Work Regulations 1999* in Northern Ireland provide a specific legal protection for women who are breastfeeding. The Regulations require the employer to:

- assess the specific risks to the particular breastfeeding employee; and
- take action to ensure she is not exposed to anything that will damage her health or that of her child.

It is clear then that the risk assessment must also include an examination of the breastfeeding facilities and storage facilities for breast milk.

The above Regulations identify those conditions known to affect a breastfeeding woman and outline ways to manage the health and safety of the breastfeeding woman. The *Health and Safety Authority* and the *Health and Safety Executive for Northern Ireland* as well as the organizations Health and Safety Representative can provide detailed information on working conditions, physical, biological and chemical hazards and risks to breastfeeding women and how to avoid these.

PROTECTION FROM DISCRIMINATION IN EMPLOYMENT

The guarantee for breastfeeding women that they will not be discriminated against in their employment because of breastfeeding is an important component of maternity protection for workers.

In this area, as in any other, members need to be made aware of their legal entitlements. Firstly, breastfeeding women cannot be discriminated against at work. The Maternity Protection Acts 1994 & 2004, the Employment Equality Acts 1998 & 2004, the Sex Discrimination (Northern Ireland) Order 1976 (as amended) provide protection against unfavorable treatment on grounds of maternity related matters including breastfeeding.

In addition the maternity protection legislation works with other employment rights legislation to outlaw dismissal or discrimination for unfair reasons including the exercise, or the proposed exercise, by the employee for their rights to breastfeeding at work. It is important to remember that the requirement for one years' continuity of service before being able to claim unfair dismissal is not required where the employee was dismissed for the exercise, or the proposed exercise of their rights to breastfeed at work.

But sometimes there is a gap between law and practice and despite being unlawful, women who breastfeed at work may still experience discrimination or a lack of support at work. Part of the negotiations on a *Breastfeeding at Work Policy* should be the development of an information programme for all workers to avoid any bad feeling that might arise when fellow workers are getting off early or having extra paid breaks. Negotiators will need to ensure that where working time is reduced, that workload is correspondingly reduced and that changing an individual's work pattern or hours does not result in an unfair distribution by the organisation of workload or responsibilities onto work colleagues.

Included in the *Breastfeeding at Work Policy* should be a commitment to disseminate information to all the workforce on the desirability

of supporting breastfeeding women and why the policy is part of the employer's commitment to equality of opportunity and work-life balance practices.

Part of the organisation's information programme can include some details on the benefits of breastfeeding to mothers and babies and should also recognise that fathers want the best for their families too. There are also benefits for the workplace and these can also be included. It is important that the information programme recognises that not all women will want to breastfeed or may not be able to and that information sessions should ensure that employees feel supported no matter what their choice of feeding method is.

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