



Submission to Legco Panel on Manpower on
Provision on maternity leave under the Employment Ordinance
May 2016

Baby Friendly Hospital Initiative Hong Kong Association (BFHIHKA) welcomes the Legco Panel on Manpower's initiation to review the provision on maternity leave.

BFHIHKA was established in 1994 by the Hong Kong Committee for UNICEF to promote, protect and support breastfeeding in Hong Kong. WHO recommends that mothers exclusively breastfeed for 6 months and with the introduction of appropriate complementary foods continue breastfeeding to two years or beyond.¹ Breastfeeding is an important public health issue linked to the sustainable development of our population. As we have one of the lowest fertility rates in the world while facing an increasingly aging population, the health of our children and their mothers is crucial to Hong Kong.

Implication of Breastfeeding to our Society

The short and long term health risks of not breastfeeding are well known. A series of articles in the leading medical journal Lancet published in January 2016 supported by WHO re-affirmed the importance of breastfeeding to not only low and middle income but also high income countries.^{2 3} Although the infant mortality rate in Hong Kong is overall low, as mentioned in the series, the reduction of sudden infant death syndrome and necrotising enterocolitis, a condition with high mortality in premature babies in any country would be of importance to Hong Kong. Breastfeeding also saves the lives of mothers notably from breast cancer. Both breastfed children and breastfeeding mothers are healthier creating less of a burden on our healthcare costs. Breastfed children have fewer infections and are less likely to be overweight and develop diabetes while breastfeeding mothers are less likely to have cancer of the ovary and also diabetes. Hong Kong studies^{4 5} found breastfed babies not only have fewer admissions to hospitals for diarrhoea and chest infections but also less attendances at outpatient clinics for such illnesses. This means fewer mothers would be taking time off work to attend to their sick children.

Breastfeeding enhances human capital. Breastfeeding is associated with higher intelligence, education attainment and income earning capacity.⁶ Hong Kong's Commission on Poverty does not need to look far for remedies to reduce the poverty gap between generations. The Lancet Breastfeeding Series Group³ estimated the economic cost to countries of a population-wide reduction of intelligent quotient of 2.6 points from not breastfeeding. If all

¹ WHO/UNICEF. Global strategy for infant and young child feeding. WHO/UNICEF 2003.

² Victor CG, et al. Breastfeeding in the 21st century: epidemiology, mechanisms, and lifelong effect. *Lancet* 2016;387:475-90.

³ Rollins, NC, et al. Why invest, and what it will take to improve breastfeeding practices? *Lancet* 2016;387:491-504.

⁴ Tarrant M, et al. Breast-feeding and childhood hospitalizations for infections. *Epidemiology* 2010;21:847-54.

⁵ LEUNG GM, ET AL. HEALTH CONSEQUENCES OF BREAST-FEEDING: DOCTORS' VISITS AND HOSPITALIZATIONS DURING THE FIRST 18 MONTHS OF LIFE IN HONG KONG CHINESE INFANTS. *EPIDEMIOLOGY* 2005;16:328-35.

⁶ Victora CG, et al. Association between breastfeeding and intelligence, education attainment, and income at 30 years of age: a prospective birth cohort study from Brazil. *Lancet Glob Health* 2015;3:e199-205.



children receive even any breastfeeding up to 6 months of age from the current levels, high income countries will be reducing the loss on GNI (gross national income) by 0.53%. Hong Kong's GNI⁷ for 2015 is estimated to be HK\$2,442,004 million by the Census and Statistics Department. The 0.53% could translate to HK\$13 billion for Hong Kong.

Breastfeeding and Work

With decades of public education, in 2014 nearly 9 out of 10 mothers elect to breastfeed when their babies were born but only 27% of the mothers managed to exclusively breastfeed their babies at 4 months.⁸

Women generally hold a double role, the productive role and the reproductive role. In Hong Kong, with improvement in the level of educational attainment and increase in training opportunities, more and more women participate in the labour force and economy as indicated in the 2015 Women and Men in Hong Kong Key Statistics.⁹ From 1986 to 2014, there was an increase of 91.5% in the number of women in the labour force. Amongst them, the majority were of childbearing age. Women's reproductive role includes pregnancy, giving birth, caring for and nurturing their newborn through breastfeeding for periods of months to years. Their maternity leave should be of a duration that could restore their health after childbirth and ensure a healthy start for their newborn with time to bond with their babies and establish a sound breastfeeding routine. Their work environment should be safe to them and their children and facilitate rather than impede breastfeeding. However, their current productive and reproductive roles appear conflicting rather than in harmony.

Mothers in Hong Kong were more likely to stop breastfeeding even before their baby was one month old if they were returning to work.¹⁰ On the other hand 85% of mothers return to formal employment within 10 weeks after delivery and over 90% full time.¹¹ Hence maternity protection that enshrines mothers' right to breastfeed and children's right to be breastfed is important. Maternity protection should cover pregnancy, childbirth and lactation (breastfeeding).

Recommendations on Maternity Protection

1. Maternity leave

International Labour Organization (ILO) Convention 2000 (No. 183)¹² recommends at least 14 weeks

⁷ Census and Statistics Department, HKSAR. National income.

<http://www.censtatd.gov.hk/hkstat/sub/sp250.jsp?tableID=039&ID=0&productType=8> accessed 9 May 2016.

⁸ Family Health Service, Department of Health. Breastfeeding Survey. Department of Health 2015.

http://www.fhs.gov.hk/english/reports/files/BF_survey_2015.pdf accessed 9 May 2016.

⁹ Census and Statistics Department, HKSAR. Women and men in Hong Kong – key statistics 2015.

<http://www.censtatd.gov.hk/hkstat/sub/sp180.jsp?productCode=B1130303> accessed 9 May 2016.

¹⁰ Tarrant M, et al. Breastfeeding and weaning practices among Hong Kong mothers: a prospective study. BMC Pregnancy Childbirth 2010;10:27.

¹¹ Bai DL, et al. Factors associated with breastfeeding duration and exclusivity in mothers returning to paid employment postpartum. Matern Child Health J 2015;19:990-9.

¹² International Labour Organization Convention 2000 (No.183).

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C183. Accessed 9 May 2016.



of paid maternity leave. According to a 2014 report from ILO¹³ only 15% of 185 countries provide less than 12 weeks. Unfortunately Hong Kong that claims to be a world city is in this category. Hong Kong should increase paid maternity leave to at least 14 weeks with a view to further extension to 18 weeks as in the ILO Maternity Protection Recommendation 2000 (No.191).¹⁴

2. Cash benefits for maternity leave

The current 10 weeks of maternity leave paid by the employer should be 100% of the average daily wages paid in the 12 months before the date of confinement. The further 4 weeks of maternity leave, a limited period, is proposed to be paid as a maternity allowance by the government to avoid the anticipated resistance from employers. The employer is bearing the cost of the further absence from work of the mother for 4 weeks while the society collectively bear the cost of the maternity allowance. The allowance is proposed to be at a level that the woman can maintain herself and her child in proper condition of health and with a suitable standard of living.

3. Employment protection

Women should be protected from dismissal during the period of pregnancy, childbirth and lactation for reasons related to their pregnancy, childbirth and lactation. The burden of proof is with the employer.

At the return from maternity leave, women should be able to return to their former position, or if it no longer exists, to a suitable alternative position on similar terms and conditions prior to the maternity leave.

4. Nursing (or breastfeeding, including expression of breastmilk) breaks

Women who are breastfeeding should be entitled to a nursing break of one hour or two half-hour breaks or a corresponding daily reduction in hours of work till their child is one year old. These breaks should count as working time and remunerated accordingly. Employers are obliged to provide breastfeeding facilities at the workplace.

5. Prohibition of assignment of heavy, hazardous or harmful work

Pregnant or breastfeeding women should not be obliged to perform work which has been determined to be prejudicial or of a significant risk to the pregnant woman, mother and / or the child. Workers should be transferred to another post in case of danger, or stop working temporarily (with pay) if a transfer is not feasible.

A pregnant or breastfeeding woman should not be obliged to do night work or overtime if a medical certificate declares such work to be incompatible with her pregnancy or breastfeeding.

¹³ International Labour Organization. Maternity and Paternity at Work: Law and practice across the world. International Labour Organization 2014.

¹⁴ International Labour Organization. Maternity Protection Recommendation 2000 (no.191).
http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312529:NO. accessed 9 May 2016.



6. Non-discrimination

Pregnant or breastfeeding women should not be treated less favourably in the work situation.

Work arrangements that take into the account the needs of working women who have young infants are to be encouraged. These could be part-time employment, work from home, flexible working hours and further unpaid leave with position guaranteed on return. The no pay leave requested by the mother should be at least up to the child reaching 6 months old as WHO recommends 6 months of exclusive breastfeeding.

The government should also look into other areas of support of breastfeeding women at work. Provision of crèche in areas with a concentration of working women with young children could facilitate working mothers to directly breastfeed their babies during nursing breaks as feeding of expressed breastmilk is only a second best.

The current entitlement of paternity leave in the private sector should be on par with the government sector.

Conclusion

WHO / UNICEF's Innocenti Declaration¹⁵ in 1990 identified four essential measures to promote, protect and support breastfeeding, namely, establishing a national breastfeeding committee, ensuring maternity services practise the Ten Steps to Successful Breastfeeding through a Baby-Friendly Hospital designation process, implementing the International Code of Marketing of Breastmilk Substitutes and protecting the breastfeeding rights of working women through legislation. The government has already set up a Committee on the Promotion of Breastfeeding, the Hospital Authority has announced a time frame for all its hospitals with maternity services to become Baby-Friendly Hospitals, and the Department of Health has drafted a Hong Kong Code of Marketing and Quality of Formula Milk and Related Products and Food Products for Infants and Young Children. It leaves the Labour Department to amend the out-dated provisions on maternity protection.

Sustained breastfeeding is an important element for the optimal growth and development of our children and the health of their mothers. These children and their mothers are essential components of our future and current manpower. The responsibility to protect and support sustained breastfeeding does not lie on the mother or the family alone but is a collective responsibility of our society. Considering the savings in healthcare costs and the reduction in the loss of GNI we can hardly find a more sound investment for the future of Hong Kong.

¹⁵ WHO/UNICEF. Innocenti Declaration. <http://www.unicef.org/programme/breastfeeding/innocenti.htm> accessed 9 May 2016.