

Submission on breastfeeding to the Health Select Committee 1pm, Wednesday 13 April, Wellington

The Human Rights Commission has received six complaints and 37 enquiries since January 2002 that relate to breastfeeding. Four of the complaints have been progressed by the Commission's Disputes Resolution Team. One is current, one involved Commission intervention with a satisfactory outcome, one was informally mediated on the day and in another we assisted the complainant with advice on self help.

We did not progress the fifth, the Liz Weatherly complaint, and the sixth was referred to the Ombudsman responsible for prisons and the Howard League for Penal Reform because of its complexity and because those avenues were considered more appropriate.

In relation to the Weatherly complaint it is not accurate to suggest the HRC sat on the complaint. It was received on December 8 2003 and a letter was sent to the complainant on 30 March 2004 indicating that the Commission's Disputes Resolution Team would take no further action.

During this time the complaint was assessed and a legal opinion was sought. The complaint was rejected as being outside jurisdiction for the following reasons: For the child there was an area (access to education) but no ground; for the mother there was a ground (sex) but no area. The HRC also told the complainant, Ms Weatherly, that the situation "does not appear to amount to discrimination" (which related to the Montessori philosophy of independence and how the policy would also apply to an infant bottle fed by dad).

One of the outcomes of the analysis of the dispute was that the EEO Unit of the Commission worked on developing a set of principles that could be applied to those organisations or agencies that are considering how to best protect the international right to breastfeed. A draft discussion document was produced that was widely circulated amongst Government agencies. MPs, women's health organisations, other NGOs, individuals, and international experts.

A total of 26 submissions were received in response and a final paper has been published and widely circulated. Members will have seen this work. The principles are:

- A woman has a right to breastfeed and is protected from discrimination for breastfeeding under the HRA and international law.
- A woman should be permitted to breastfeed where she and her child or children would otherwise be permitted to be.
- The right to breastfeed should not be limited by any individual, group, or party unless the intervention is based on evidence of significant detriment to either the mother or the child.
- Breastfeeding should, generally, be considered to be in the best interests of the child but in most circumstances parents should be allowed to determine what is in the best interests of their child with respect to infant-feeding.

- The approach to breastfeeding discrimination should encompass the view that breastfeeding mothers and their babies form an inseparable biological and social unit.

It will form the basis of further discussions and a forum is planned for May 5. The Human Rights Commission is bringing international expert, Professor George Kent from The University of Hawaii, to New Zealand to participate in this conversation.

The Human Rights Commission believes that the Human Rights Act 1993 provides a legislative framework to protect and promote the right to breastfeed within the context of anti-discrimination. The Commission, however, believes that legislation must be accompanied by stronger policy commitment and by improvements in practice. Some of the non-legislative approaches that this Committee might consider are:

- Strengthen support and healthcare resources in the post-partum period immediately following birth. This is the crucial period where breastfeeding is established or not. The average length of stay in hospital 30 years ago was around 10 days, during which time breastfeeding could often be established with the support of health professionals. Today, without complications, it is 2.8 days. MoH identified in their submission to the Health Select Committee that early discharge from hospital is a factor that may affect the initiation and continuity of breastfeeding. One-on-one breastfeeding advice and skilled counselling is currently difficult to access and sustain in the today's hospital environment.
- Increase funding for activities that coordinate various health, education, and policy initiatives in the area of breastfeeding. Currently there is little oversight on the various activities involved in breastfeeding promotion; communication between the sectors and organisations can be poor.
- Initiate NZ-based research to investigate the key barriers to the rapid drop-off of breastfeeding rates from 5-6 weeks after birth (66%) to 4-6 months after birth (23%). Address these barriers through the relevant government agency.
- Address the social stigma of public breastfeeding which could be done by public awareness campaign which describes the undisputed benefits of breastfeeding and its impact on the public health system.
- Promote the Department of Labour's Employers Guidelines for Breastfeeding in the Workplace (now in draft form) and other business imperatives. Fund and develop case studies to illustrate how breastfeeding-friendly workplaces have longer-term benefits for employers.

- Use the international thinking that has already occurred to better promote breastfeeding. There is no paucity of information from international bodies about how to do this.
 - The Innocenti Declaration on the Protection, Promotion and Support of Breastfeeding (1990) sets out four operational targets including appointing a national breastfeeding coordinator with appropriate authority,
 - ensuring that every facility providing maternity services fully practices all the “Ten steps to successful breastfeeding” as set out in the WHO/UNICEF guidelines for baby-friendly hospitals
 - give real effect to the International Code of Marketing of Breastmilk Substitutes, and
 - establish a system to monitor feeding practices, assess trends using sex-disaggregated data and evaluate the impact of interventions.