

Helpline and Legal Advice Clinics Annual Report 2019



CHILDREN'S
RIGHTS

ALLIANCE

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Introduction

The Children’s Rights Alliance unites over 100 member organisations working together to make Ireland one of the best places in the world to be a child. We change the lives of all children in Ireland by making sure that their rights are respected and protected in our laws, policies and services.

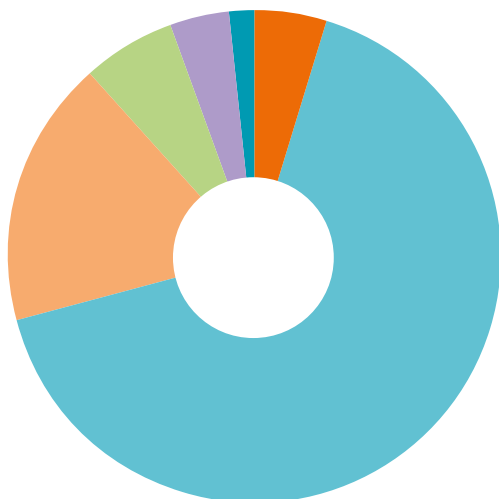
Accessing legal advice or getting legal information can be a difficult and daunting task for children, young people and their families, especially those in vulnerable situations. The Children’s Rights Alliance Helpline and Legal Advice Clinics were established to provide legal information specifically about children’s rights and free one-to-one legal advice appointments with a solicitor for children or their parents. Now in its second year, this Spotlight Report takes a look at the trends emerging from cases in 2019 and potential areas of legal and policy reform that would make a positive impact on the lives of children and families across the country. In 2019, our Helpline operated two days a week and Community Law and Mediation provided legal advice through a contract for services through our outreach clinics nationwide.

Our Helpline gives families information about what they can do which helps them to address a pressing issue for a child or a failure to protect children’s rights. We identify young people and families who need further support and refer them to our legal advice clinics if necessary. In 2019, the Helpline saw over 366 cases, an increase of 18 per cent on the first year of the service. These included 18 contacts from children and young people directly as well as 242 contact from parents and guardians, 22 contacts from other NGOs and 14 contacts from statutory bodies including Tusla, the Child and Family Agency and the Citizens Information Centres.

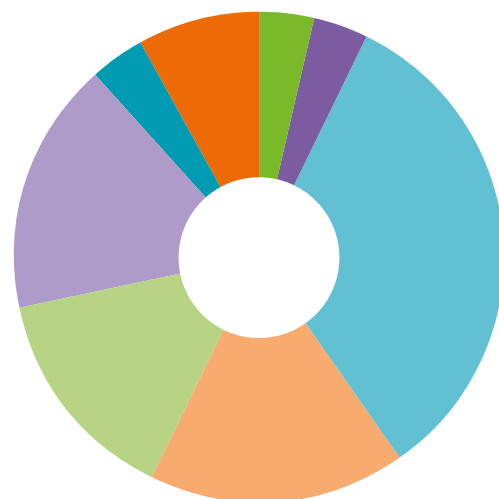
Through the helpline and legal advice clinics, we identified and tracked the most prevalent and emerging issues for children and families who contact us and aim to pinpoint potential issues for reform.

The Year at a Glance

Contact



Issues



- Parent / Guardian - **242**
- Child - **18**
- Other Adult - **64**
- Statutory Body - **14**
- NGO - **22**
- Other - **6**

- Family Law - **80**
- Other - **19**
- Education - **41**
- Immigration - **9**
- Children's Rights - **40**
- Housing - **9**
- Disability - **35**
- Child Protection - **9**

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**Who is
contacting us?**

Children and Young People

In 2019, 18 cases were children or young people contacting us directly. General questions about their rights account for the majority of these, in particular, the legal age at which they can do various things.



As well as general queries about their rights, young people also contact us with specific concerns. A key area emerging around legal ages is the age of consent to medical or mental health treatment. The legal age of consent for medical treatment is 16 years but for mental health treatment, it is 18 years old. This causes confusion between parents, young people themselves. A typical query would be a teenager ringing us up looking to know what age they can go to the doctor or a counsellor alone without their parents' consent. Other queries have included employment rights questions about the hours a young person can work when they are 16 and how much is the minimum wage at this age.

In 2019, we also received queries about Education, Family Law and the Care System:

- Young people have called us because they feel discriminated against by teachers based on their ethnicity
- Young people have contacted us because they do not want to relocate to another country and they wanted to know their rights.
- Young people in care have contacted us requesting information about how they can see their parent more

For queries that may require additional support, such as a young person feeling discriminated against by school staff, our Helpline Team will offer the person an appointment at one of our free legal advice clinics as well as providing information about their rights and how to vindicate them, or in this case how to make a complaint. The Alliance empowers the young person or their family to take action by providing them with the necessary information and support to do so. We also refer children and young people to specialist support services such as Empowering People in Care (EPIC)'s advocacy service for children in care.

Did you know:

The age of consent of medical treatment is 16 and for mental health treatment it is 18.

For more information, see our [Know Your Rights Guide](#)

Parents and Guardians

The greatest number of our calls come from parents seeking information or advice for their child (67 per cent.) What is interesting to note is that for the second year in a row, we see parents calling about older children (in 2019, parents were calling about children aged 13-18, in 2018 the most common age was 15-16 years) and the same issues are emerging as distinct trends: Family Law, Education and General Queries. In 2019, we also see a new emerging issue in Disability (14 per cent of cases).

Other adults and carers raised 17 per cent of cases in 2019. These were usually a grandparent or family friend. In 2019 we have noticed an increase in the numbers of foster carers contacting our service which included queries about:

- Difficulties managing specific court-ordered times for access visits
- How to get a passport for a child in their care
- How to get consent to take a child in care on holidays with the foster family
- A child being removed from foster care placement

In these situations, we have been able to provide the foster parents with information on legal processes and also, where necessary, offer them an appointment with our legal advice clinic. We have also been able to refer them to support services such as the Irish Foster Care Association.

Non-Governmental Organisations (NGOs) and Statutory Bodies

Approximately a third of all cases in 2019 were referrals into our Helpline services from other NGOs or statutory bodies. These are often complex cases that require further legal assistance and advice and include complicated and often intersectional issues such as housing and homeless issues intertwined with immigration issues, issues around homelessness for

young care leavers and complex guardianship issues for young parents who have been in the care system. The level of complex cases being referred through other organisations highlights the need for services like our Helpline and Clinics that can offer specialist information and advice across a number of areas.

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**What are
the issues?**

Emerging trends 2018

1 Family Law

2 General Queries on Children’s Rights

3 Education

Emerging trends 2019

1 Family Law

2 General Queries on Children’s Rights

3 Education

New in 2019

4 Disability

What age can my child be left home on their own?



What age can my child consent to medical treatment at?



How do I ensure my child’s voice is heard in court?

► Overview

For the second year in a row, Family Law and Education are the two biggest issues we have seen through the service. In both cases, these queries have raised some serious concerns about the family law and education systems and how they are often impinging on the rights of children and young people.

One of the most significant changes in the issue breakdown of cases is the noticeable drop in child protection queries. In 2018, the rights of children in the child protection system was one of the top issues coming through the Helpline with 31 cases. In 2019, this dropped to just 17.

Through the Helpline we can also see that cases relating to Disability more than doubled from 2018 to 2019 (from 16 cases to 35).

Family Law

Family Law tops the list of issues for parents/guardians contacting our helpline for the second year in a row (22 per cent of all cases in 2019). In 2019, Family Law queries eclipsed other queries, with twice as many cases in the area compared to the next most common query (Children's Rights/ Education). Often the people calling in family law cases are ineligible for legal aid and may have had at one stage engaged a solicitor but can no longer afford to.

One of the most common issues that surfaced through the year was around access visits. Parents who contact us in this situation are often in crisis as many are faced with the dilemma of breaching the court order or sending their child on a visit they do not wish to go on. One of the most common questions coming from parents is at what age a child is considered old enough to make these decisions on their own. We often hear from lay litigants in family law cases who are seeking to represent themselves in court cases looking for some information on children's rights in family law. Often, they tell us they do not qualify for legal aid and cannot afford a solicitor.



▶ Helpline Case Study 1

A mother contacted our Helpline to find out what rights her 8-year-old had in an access dispute. She did have a solicitor acting for her and was told she could be held in contempt of court if she kept her daughter from access visits.

Through the Helpline service we were able to explain to her that a decision in relation to access has to be made in the best interests of the child. One part in determining best interests is to hear the views of the child, but this not the only factor that the decision is made on. We explained that once an order is made, a person can be held in contempt if they violate that order. We advised that she could ask her solicitor about appealing the order or going back into court to have the order change if there is a change in circumstances.

▶ Helpline Case Study 2

A Mother called the Helpline concerned about her little girl. Her daughter who is seven years old did not want to go on access visits. In this particular case, there was a court order in place but the mother was not happy with the way in which the Section 47 Report* was done. She did have a solicitor but did not know what questions to ask. She wanted to know more about her daughter's rights.

Through our Helpline, we were able to point her in the right direction for supports in her situation and gave her the number for One Family to contact. We explained the law to her and the duties on judges in cases like these. We suggested that she contact her solicitor to get advice on whether she could appeal the decision of the judge.

* A Section 47 Report: Under the Family Law Act, 1995, the court may appoint a person to determine what the best interest of the child or children are in family law proceedings.

▶ Helpline Case Study 3

A parent contacted the Helpline because he felt that the views of his children were not being heard in respect of custody and access. The Judge in his case refused to hear the views of the three children in the family. The parent had a solicitor but wanted to get specific information and advice on their children's rights in this situation.

Through the Helpline we were able to explain that children have a right to have their opinion heard. There are many ways a judge can hear this. Sometimes a judge might decide to talk to the child directly. Otherwise the judge might decide to have an expert talk to the child who will then write a report to the court that will include the opinion of the child on what should happen. It is important to note that while a judge or expert will listen to the child's views, they may not ultimately make a decision in line with them. This is because the views of the child are only one part of what the judge has to look at when deciding what is best for the child overall. We suggested that he talk to his solicitor and ask about a judicial review or a right of appeal which would mean that he could challenge the decision of the judge in the case.

We have also heard from young people themselves in these situations who do not feel like their voice has been heard and some feel anxious or stressed about the thought of going on access visits. These can be quite sensitive cases as well, where children no longer wish to live with their family or situations involving domestic violence. Through our legal advice clinics, we can offer the child or the family a free appointment to come and get advice which can empower the child through better knowledge of their own rights in these situations. We have found that children are more likely to accept a decision when they feel they have been listened to, even when that decision goes against their wishes.

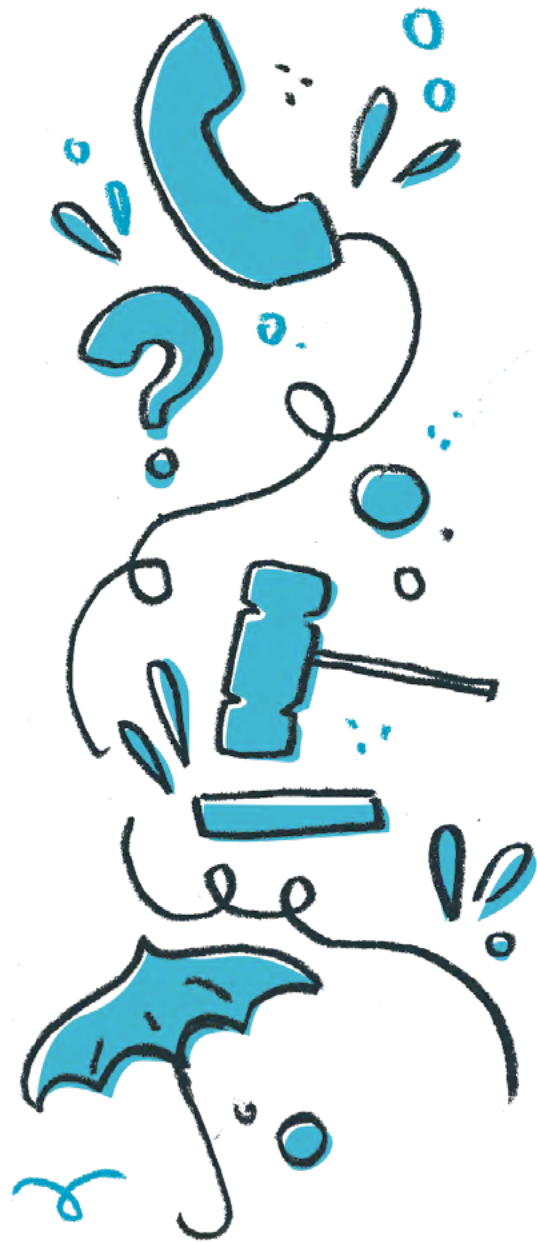
We also receive a lot of calls around the processes involved in family law proceedings. For example, calls from parents in the early stages of family breakdown looking for general information on their options. We received queries from families who have legal representation but want to get more information and feel like they cannot ask their solicitor or do not understand what they have been told by their solicitor.

Spotlight Issue: Reports in Family Law

In Family Law cases a judge can order expert reports on considering the voice and welfare of a child. Parties involved in the proceedings do need to pay a fee for these reports. If they are unable to pay the cost, an expert cannot be appointed which means there is a possibility that the views of the child are simply not heard. This has also led to judges, attempting to hear the voice of the child without the assistance of any expert or follow-up support. Currently, the parties involved in the proceedings, regardless of their financial situation must pay for the reports if they want them to be included. Those entitled to legal aid get half of the cost covered by the Legal Aid Board.

What is the issue?

For lower income families and those struggling already, the cost of these reports may be too much, raising the risk that reports are not obtained at all and the right of the child to be heard may not be respected in these cases. Through the Helpline we have seen situations where parents have not been happy with the report that has been given to the court or have felt that the expert appointed by the court has not been independent. We have also heard from parents who have been concerned about the potential cost of the report and how else they can ask the judge to hear the voice of the child. Sometimes, even when considering the voice and views of the child through this court reporting process, the expert will make a decision that is different to the child or parent's wishes. We have received queries from parents in these situations who find it difficult to understand the decision of the expert or the judge.



What do I do when the judge refuses to hear the views of my child?



My child refuses to go on access visits and I don't know what I can do?



I need more information on children's rights in proceedings.

Education

Education Queries Breakdown



- Disputes with School - **23**
- Access to School Places - **7**
- Detention / Suspension / Expulsion - **10**
- Other Education - **7**

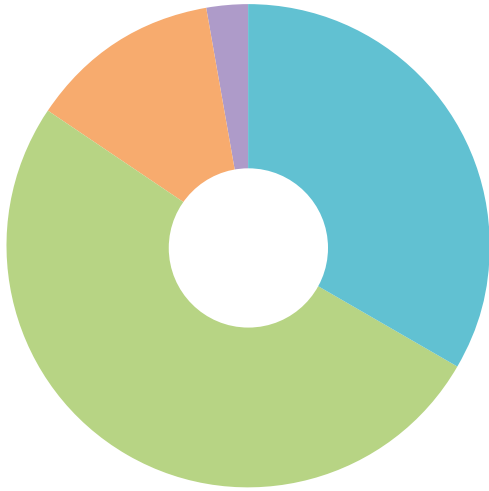
For the second year, **Education** remains a central theme in queries to our helpline for both children and young people themselves and parents/guardians, accounting for 11 per cent of all cases. Parents often contact us when they feel their child’s rights are being denied in the education system. When we look deeper at the cases coming through under Education, we see a large majority relate to disputes with schools, with parents/guardians seeking advice on how to engage with the school on matters of detention or expulsions, or how to make a complaint so their child’s rights can be vindicated in situations where children’s access to bathrooms is being restricted by schools during certain times of the day, and where students are not being allowed to carry medications such as inhalers, instead needing to go to teachers.

A recurring query on the helpline in 2019 has been advice on how to engage with a school’s Board of Management when it concerns an issue with the school’s own policy. We have received calls asking for information and advice on how to raise concerns or dissatisfaction with the school policy on uniforms, policies that restrict children’s or on subject choice.



Disability

Disability Queries Breakdown



- School Supports - 20
- Healthcare Supports - 13
- Other Disability - 5
- Other - 1

Highlighted as an area of concern by our Helpline Report in 2018, **Disability** becomes a top issue in 2019 with cases and queries relating to a child with a disability became a significant proportion of all cases.

The majority of these cases relate to accessing school supports with many parents coming to us after exhausting other options for information and help. We also see a crossover between Education and Disability queries when it comes to issues around access. We received a number of calls in 2019 where parents were unable to access school places or appropriate school support for their child with special educational needs. We have heard from parents who have had difficulties in accessing Special Needs Assistant (SNA) supports or finding that their child has not been given enough SNA hours during the day.



Spotlight Issue: Reduced Timetable

What is a reduced timetable?

Children in both primary and secondary schools are being put on reduced hours/partial suspension in school. The practice is distinct from a formal suspension and is not subject to any safeguards. This practice is occurring for complex reasons and it appears that reduced hours is relied upon in response to learning difficulties, behavioural or social/emotional issues. However, it can also be used to help with the integration or reintegration of children into school life depending on their needs.

What are the issues?

There is currently no formal system for recording reduced hours in the education system despite the fact that it is an interference with a child's rights to access education.

We have had families contact our Helpline about children as young as five being put on a reduced day due to behaviour difficulties. We are able to advise families on how they can appeal this decision through the school's Board of Management and also through an appeal under Section 29 of the Education Act 1998 to the Secretary General of the Department of Education and Skills. This covers a decision by a board of management or a person acting on behalf of a board of management to:

- permanently exclude a student from the school, or
- suspend a student from the school for a cumulative period of 20 school days in any one school year, or
- refuse to enrol a student in the school.

The Department of Children and Youth Affairs and the Department of Education and Skills have developed draft guidelines to underpin the practice and to require schools to notify Tusla (the Child and Family Agency) when it has been employed. These guidelines have not yet been published.

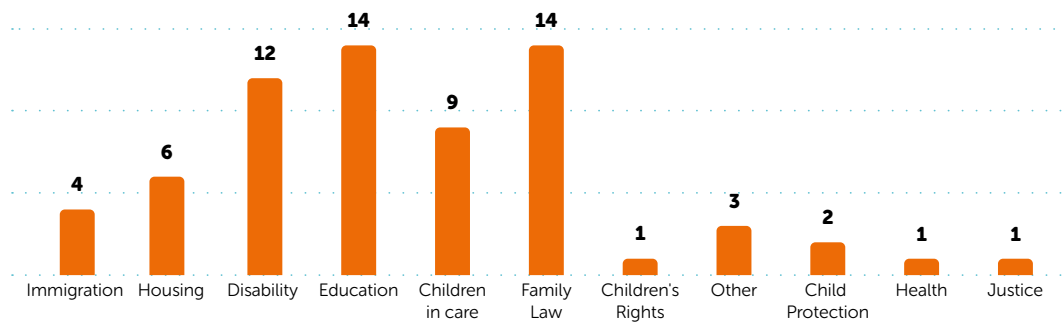
► Helpline Case Study 4

A mother contacted our helpline to get some information on getting increased Special Needs Assistant (SNA) hours for her eight-year-old son. She felt her son needs more supervision at break times from the SNA. We suggested she contact her Special Education Needs Organiser (SENO) for support. She had never heard of a SENO so we were able to provide her with information on how she can make contact with the local SENO in her area. We also directed her to further information resources and explained to her how she can make a complaint.



Legal Advice Clinics

Issues Presenting



What happens at a legal advice clinic?

Our clinics offer free, one-to-one advice with a solicitor. Appointments are typically 45 minutes long and involve the individual explaining their problem, the solicitor outlining the options available to them and guidance on how to take action.

Our clinics are designed to be as accessible as possible. They are held in child-friendly, community spaces across the country. We try to offer a large enough space so that parents can bring their children along. Often clinics were held in hotels and meeting rooms to provide as much anonymity as possible.

Accessing legal advice specifically on children's rights and issues can be almost impossible for most families. Children and young people under 18 have no enforceable right to legal aid or legal advice. They cannot take cases on their own.

Our legal advice outreach clinics offer one-to-one advice from a solicitor for free. Last year, five of our legal advice clinic appointments were child-led, that is, the child has been the primary client getting advice from the solicitor.

In 2019, we helped 67 families through our legal advice clinics.

When we take a look at cases that needed additional support from our service through our Legal Advice Clinics, the same trends are persisting. The top three issues in 2019 were Family Law,

Education and Disability with Children in Care and Housing also coming through as issues where families require further legal assistance.

For Family Law cases, families are coming to us on a wide range of issues including how to have the voice of the child heard in court, a father's rights in relation to guardianship and grandparents' rights in relation to access.

In Education, a large number of our cases related to situations where there was an allegation of bullying and the parents were unhappy with the way in which the school dealt with the allegation. There were also cases about families of minority religions not being able to access a non-denominational school or migrant families being unable to access a school place. We were able to give advice on how to make appeals in both of these types of cases.

A Big Thank You

A big thank you to our funder, the One Foundation. Their continuous support is invaluable. Special thanks to our members who have supported the legal advice clinics in 2019 including Cork Life Centre, Inclusion Ireland and the ISPCC. We would also like to thank solicitor Ruth Barry and the Community Law and Mediation team for their work on the legal advice clinics.

The **One** Foundation



Rialtas na hÉireann
Government of Ireland



THE BAR
OF IRELAND
The Law Library

Every child has rights. But to protect those rights you need to know what they are.

If you are experiencing any of the issues mentioned in this document, or have concerns about a child's rights, we are here to help.

Contact our Helpline 01 902 0494

Or email us at help@childrensrights.ie

Monday 10am–2pm

Wednesday 2pm–7pm

and Friday 10am–12pm



CHILDREN'S RIGHTS ALLIANCE

Uniting Voices for Children

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