

Helpline and Legal Advice Clinics Annual Report 2021



CHILDREN'S
RIGHTS

ALLIANCE

A Big Thank You

A big thank you to our funder, the One Foundation. Its continuous support is invaluable. Special thanks to Eversheds Sutherland and Eoin MacAodha whose work over the last year has enabled families in need to access legal advice during the pandemic. Thank you also to Gareth Noble of KOD Lyons and his team for their support with our legal advice clinics.

The **One** Foundation



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1

Introduction

The Children's Rights Alliance unites over 140 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 and challenging situations. The Children's Rights Alliance Helpline and Legal Advice Clinics were established to provide legal information specifically about children's rights in a way children and young people can understand. With this service, we offer free one-to-one legal advice appointments with a solicitor to children or parents dealing with particularly difficult issues.

Now in its fourth year, this Report examines the work of the Helpline and Clinics in 2021 and the trends and key issues presented to the service in the last year. In 2020, responding to the needs of children and families in light of the effect of the pandemic on children and young people, we expanded the Helpline service and opened for an additional day. We continued to offer the Helpline service three days a week (Monday, Wednesday and Friday) in 2021. During the first six months of 2021, the Alliance's legal clinics were facilitated by Gareth Noble, Partner at KOD Lyons. In July 2021, the Children's Rights Alliance announced the launch of a new pro bono partnership with Eversheds Sutherland, with Eversheds' Partner Eoin Mac Aodha offering online legal advice to children, young people and their families referred through the Helpline.

Our Helpline provides children, young people, their families and people who work with them with information about what they can do to address a pressing issue for an individual child or how they can take action where there has been overall failure to protect children's rights. We also provide information to people working directly with children and families and Non-Governmental Organisations (NGOs) on children's rights issues. Through this service, we identify young people and those who care for them who need further support and, where necessary, refer them to our legal advice clinics.

This is the fourth year of our Helpline Annual Reports. Over this period, we have tracked emerging trends for children and young people accessing legal information and advice, supporting over 1,400 people.

Over the course of the four years, cases relating to **Education** have tripled (from 35 in 2018 to 101 in 2021), with a marked rise in 2020 and again in 2021 speaking to the disruption, uncertainty and challenges of Covid-19.

Family Law cases represent the majority of cases (over a fifth) through our service since it launched with a total of 305 cases. However, we have noted a decline in the number of cases in recent years, with the lowest number of family law cases in 2021 (59 cases). The decline in 2020 and 2021 could be attributed to the impact the pandemic had on the justice system and the processing of family court cases, rather than being a reflection of the prevalence of the issue. The rise we see from 2018 to 2019 would suggest a glaring gap in the informational resources and support families need in family law proceedings.

On the issue of **Child Protection**, our reports show successive drops in child protection queries and cases each year, from 2018 (31 cases) to 2019 (17 cases) and again to 2020 (2 cases). However, in 2021, cases rose significantly to 18 relating to child protection.

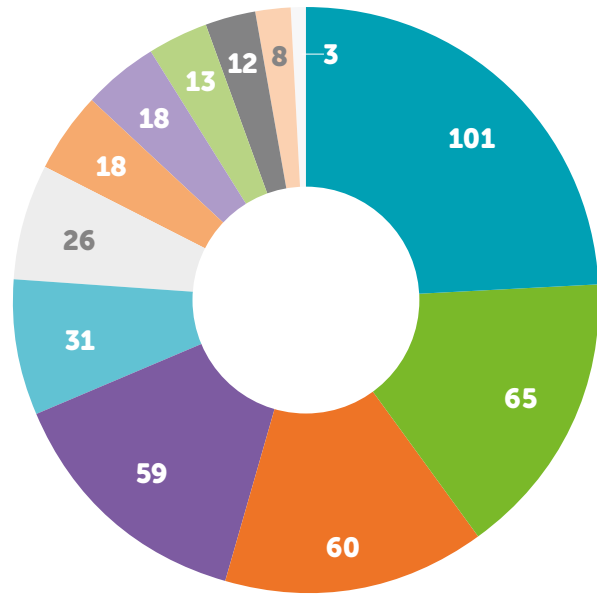
You can access previous years reports here:

▶ **2018** ▶ **2019** ▶ **2020**



The Year at a Glance

Through our Helpline and legal advice clinics, we can identify and track the most prevalent and emerging issues for children and families who contact us (and as a result, emerging trends across Ireland) and pinpoint potential areas for reform in policy, legislation and services. In 2021, the most common issues and questions to the Helpline related to **Education, Family Law** and **Children’s Rights**, with many queries focused on the impact of Covid-19 on these areas.



Issue	Number of cases	Percentage
Education	101	24%
Other	65	16%
Children's Rights	60	15%
Family Law	59	14%
Children in Care	31	8%
Disability	26	6%
Child Protection	18	4%
Immigration	18	4%
Health	13	3%
Housing	12	3%
Justice	8	2%
Early Years	3	1%
Total	414	100%

2

**Who is
contacting us?**

Children and Young People

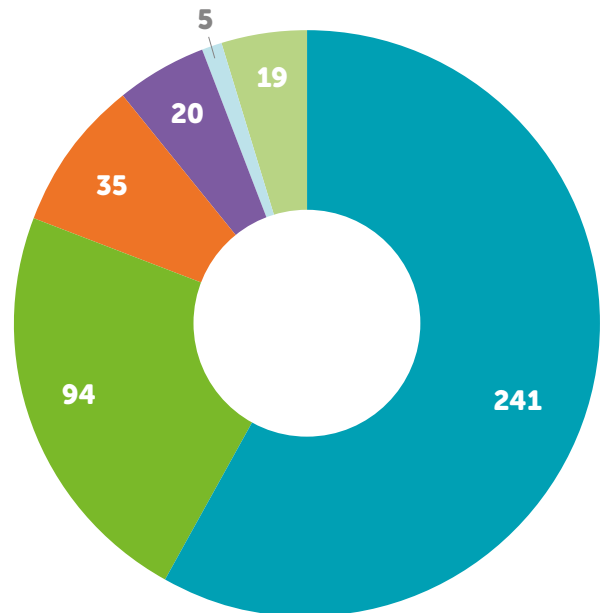
In 2021, 35 of Helpline cases involved direct contact from a child or a young person, more than double the number in previous years (16 in 2020). A number of young people contacted the Helpline to share the findings of Leaving Certificate projects completed in the area of online safety and smartphone ownership and to seek feedback on these projects. One young person contacted the Helpline for guidance on how to get a video removed from YouTube, where the publisher of the video refused to take it down (see case study 4).

Other children and young people required information on legal ages including:

- when they could visit a doctor alone
- when they could leave home
- when they could trade financial products
- when they could travel alone.

Children and young people contacted us directly for support and information in relation to family law matters. These queries included a question whether a young person can move abroad with only one parent's consent (the parent they live with), where the other parent has access to the young person. Here the young person was informed that the parent they are moving abroad with and live with will need to go to court to remove the other parent's access and may need to ask the Judge to agree for the child to be moved out of the country.

Other issues presented by children and young people to the Helpline included queries in relation to pay disparities at work, the regulation of behaviour at school, for example: whether a school can prevent a student from going to the bathroom. The Helpline also provided an avenue for some senior cycle students to raise their concerns in relation to the Leaving Certificate during what was the height of the pandemic (see Case Study 4).



Contact from	Number of cases	Percentage
Parent/Guardian	241	61%
Other Adult	94	24%
Child	35	9%
NGO	20	5%
Statutory Body	5	1%
Unknown	19	5%

► Helpline Case Study 1

Julian* (16), contacted the Helpline because his father was planning on seeking access with him. Julian's mother had not allowed his father access, so Julian's father was going to court to try to get access. Julian wanted to know what his rights were in the situation. Julian was informed of his right to be heard by the court in the access hearing and the different ways in which the court can hear his voice during the hearing, for example through an expert report under section 32 of the Guardianship of Infants Act 1964. Julian was also provided with the details for ISPCC Childline for support as he continues along the court process.

► Helpline Case Study 2

Jamie* (17) got in touch with the Helpline due to an issue regarding her pay at work. Jamie was working part time in a beautician, being paid €7.14 while a beautician apprentice in the same salon was being paid €10.20, above the minimum wage for an 18-year-old (€8.16). Jamie felt it was unfair that she was being paid less for doing the same work and wanted to know what her rights were in the situation. Jamie was brought through the available minimum hourly pay rates in Ireland: for a young person under 18 it is €7.14, which increases to €8.16 at 18 and €9.18 when you turn 19. Jamie was informed that once you are aged 20 and over you are entitled to the minimum wage of €10.20 per hour and that this is the minimum amount that should be paid and that it is open to employers to pay more. Jamie was told that as a first step, she may want to raise the pay difference with her salon manager, outlining that she is completing the same work and has the same duties/responsibilities. It may be that the pay difference was due to the other employee having additional experience or skills, which she was told is allowed. Jamie was invited to give us a call on our Helpline number to talk through this information and any potential questions she may have.

► Helpline Case Study 3

In January 2021 Conor*, a Leaving Certificate student, got in touch with the Helpline looking for information on how he could make his views known regarding the 2021 Leaving Cert. Conor highlighted the impact of the uncertainty regarding the 2021 exams on his mental health and on the mental wellbeing of young people across the country. Conor described potential plans for a traditional, in-person Leaving Cert as "soul destroying". Conor was informed that he can have his voice heard by contacting the Department of Education and Minister for Education Norma Foley, as well as his local TDs and public representatives. Conor was also provided with the contact details for the Irish Second Level Students Union (ISSU) who were working on a response to the issue and was informed that his comments would be passed onto the Children's Rights Alliance's Legal and Policy team. Contact details for the ISSU are contained in the Alliance's [Know Your Rights guide](#) on page 181, as is information on how to make a complaint, on page 14.

**Names have been changed to protect identities.*

For queries requiring additional support, such as a young person feeling discriminated against by school staff, our Helpline Team may offer an appointment at one of our free legal advice clinics, in addition to providing information about their rights and how to vindicate them, or in relevant cases, 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 or ISPCC Childline, when they need someone to talk to.

► Helpline Case Study 4

Melody* reached out to the Helpline as her son had recently been excluded from his new crèche, after having a bit of difficulty settling in. Melody's son has an additional learning need and had been in another crèche for two years without any difficulty. Without any discussion, a month after he started at the crèche, Melody was informed that her son was not to return. The crèche had not put any plans in place to support Melody's child to settle in or communicated the difficulty the child was having with his parents. Melody felt her son was being discriminated against by the early years provider due to his additional learning need. Melody also thought that the exclusion process went against the policies and procedures of the crèche, as contained in the contract between Melody and the provider. Melody was provided with a legal clinic appointment to discuss the matter further and to receive legal advice on her situation, as it could amount to discrimination on the grounds of disability under the Equal Status Acts 2000-2018.

Other Adults

Almost a quarter (94), of all Helpline cases were received from "other adults", i.e., a person over 18 who is not enquiring as a parent/guardian and does not belong to an NGO or statutory body. Queries were received from a range of individuals including foster carers, relatives, legal professionals, and public representatives.

Parents and Guardians

Parents/guardians account for most cases referred to the Helpline. In 2021, over 240 parents/guardians contacted/sought the support of the Alliance's Helpline on a broad range of issues including education, health, disability, family law, housing, immigration, early years services, children in care and child protection.

Statutory Body

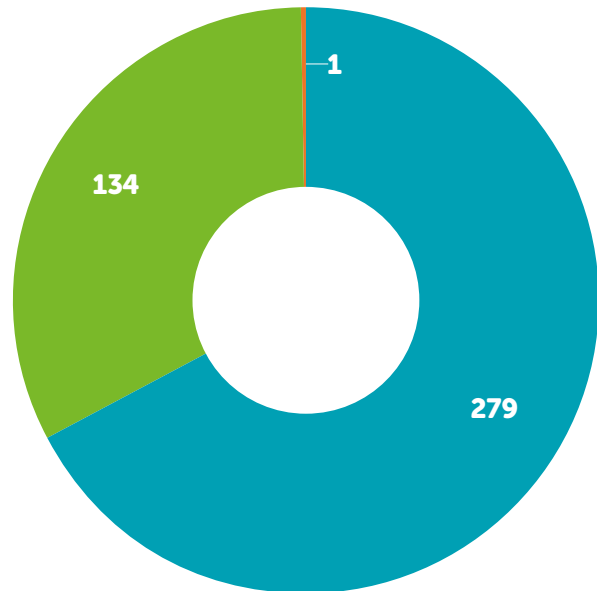
Five cases were made to the Helpline by statutory bodies, such as the Citizens Information Centre and Tusla – the Child and Family Agency.




► **Helpline Case Study 5**

Stephanie* contacted the Helpline as her daughter could not access an essential surgery in Ireland, due to lengthy waiting lists. Without the surgery, her daughter’s condition was worsening, and she could sustain permanent injuries. Stephanie sought information on where to complain regarding her daughter’s situation. Stephanie was informed of the availability of making a complaint to the Health Service Executive, which she would need to do before making a complaint to the Ombudsman for Children’s Office or before making a complaint under Section 38 of the Disability Act 2005 to the Ombudsman. Stephanie was also offered a legal clinic appointment, so she could obtain legal advice on her daughter’s situation.

How are people contacting us?

In 2021, most contacts to the Helpline were made via email - the Helpline received twice as many email contacts as it did phone calls.



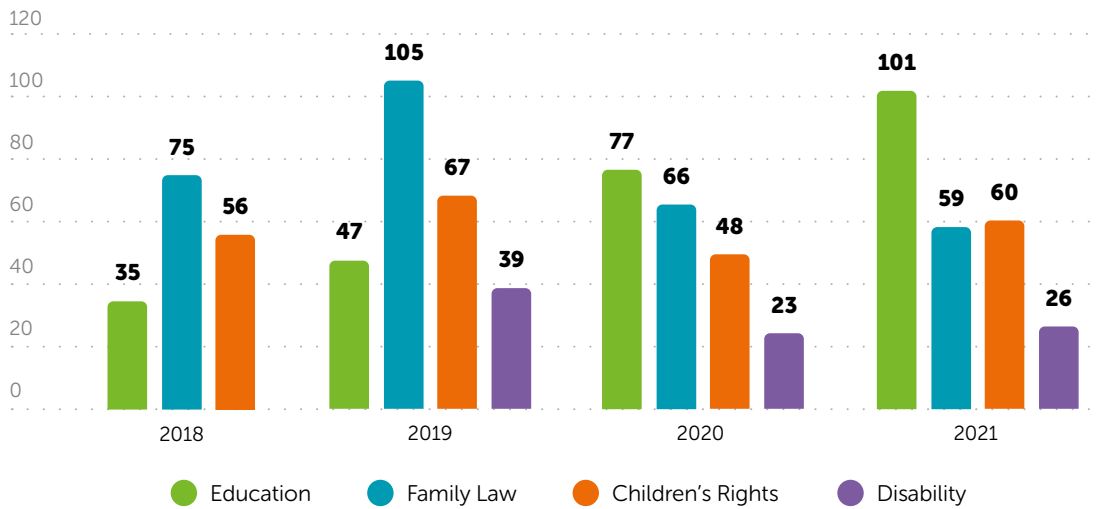
Type of contact	Number of cases
 Email	279
 Call	134
 Letter	1

3

**What are
the issues?**

For the second year in a row Education was the common issue presented to the Helpline - in 2021 there was a 31 per cent increase in Education cases referred to the Helpline. There were 41 per cent more Education cases than Family Law cases presented to the Helpline in 2021.

Emerging Trends 2018-2021



How do I change an access order?

?

How do I make a complaint to my child's school?

?

Can I travel alone on public transport?

What is the role of the voice of the child in family law proceedings?

?

What age can I go to the doctor alone?

Overview

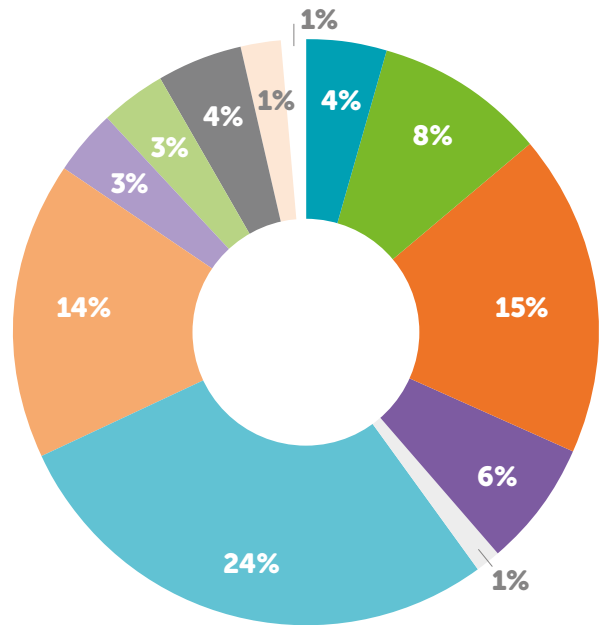
2021 Issues

The most common categories of queries received by the Helpline were:

- Education
- Other
- Children’s Rights
- Family Law

Education was dominated queries received in 2021. A large volume of education queries related to school closures, Covid-19 measures in schools and the introduction of face masks in primary schools. The trends in education issues presented to the Helpline were shared with the Alliance’s legal and policy and were used to guide the Alliance’s advocacy campaigns.

The ‘Other’ category encompasses wide-ranging queries outside the individual issues listed above, such as, the treatment of a child in afterschool activities, questions related to employment conditions, issues related to disputes with the policies of leisure facilities and questions related to the legal system, e.g., how a child can start civil proceedings. A significant number of queries in the ‘Other’ category concerned issues related to Covid-19, which are discussed in greater detail below.



2021 Issues		
	Child Protection	4%
	Children in Care	8%
	Children’s Rights	15%
	Disability	6%
	Early Years	1%
	Education	24%
	Family Law	14%
	Health	3%
	Housing	3%
	Immigration	4%
	Justice	2%
	Other	1%

Spotlight: Covid-19

In 2021, a large number of queries related to the impact of lockdown and Covid-19 measures on the rights of children and young people. Many issues presented to the Helpline prompted an advocacy and policy response from the Alliance, such as the issue of the introduction of face masks for primary school children aged nine and over. In November 2021, the Alliance [issued a statement](#) which recommended that the face mask mandate for primary schools include exceptions for children with conditions such as autism and learning issues and health issues, such as asthma. The Alliance asked the Government to advise schools to ensure they take account of each child's needs in accessing their right to an education. [Government guidance on the use of face coverings in primary schools](#) was later published. This guidance provided for exemptions from the wearing of facemasks for children who have difficulty breathing or other relevant medical conditions, are unable to remove a face mask/visor without assistance and those who have special needs and may feel upset or uncomfortable wearing a face mask/visor. The Helpline received a number of queries which indicated that while these exemptions were in place, they were not being consistently applied with some schools not following the Government guidance in this regard.

The Helpline also received calls and emails from members of the public who wished to highlight the impact of mandatory hotel quarantining on young children and sought the reopening of children's leisure activities. Other queries were related to Covid-19 restrictions and how they were to be applied to children and young people – there was considerable confusion among leisure and hospitality staff whether they were permitted to ask unaccompanied young people for ID along with their EU Digital Covid Cert.

▶ Helpline Case Study 6

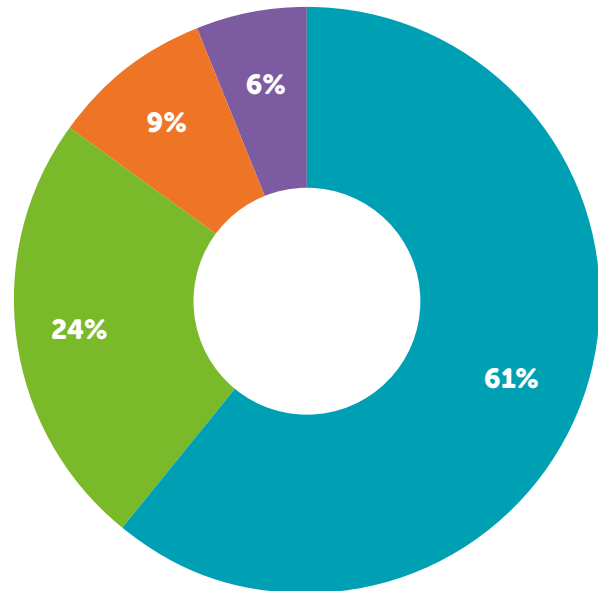
Melissa's* children and nieces were prevented from entering a store because of their age and lack of adult supervision. They were 13, 14 and 8 years of age. Melissa contacted the Helpline as she felt this refusal of entry was a form of discrimination. Melissa was informed that generally, shops are permitted to place restrictions on people under the age of 18 entering without adult supervision. Melissa was directed to Section 3(3)(a) of the Equal Status Act 2000 states that "Treating a person who has not attained the age of 18 years less favourably or more favourably than another whatever that person's age shall not be regarded as discrimination on the age ground." This means that where a person under the age of 18 is treated differently on the grounds of their age as compared to a person over the age of 18, it does not amount to discrimination. While it is sometimes necessary to treat children differently on the basis of age, for example by refusing them access to nightclubs or casinos, the current blanket application of Section 3(3)(a) of the Equal Status Act can result in unequal access to services for children and young people, like Melissa's children and nieces. For this reason, the Children's Rights Alliance is calling for Section 3(3)(a) of the Equal Status Act to be removed and replaced with a power for the Minister for Justice to exempt certain services (such as nightclubs serving alcohol) from a general ban on discrimination on the basis of age against children.

▶ Helpline Case Study 7





Damien* contacted the Helpline as his teenage son was refused entry to a fast-food restaurant as he was asked to provide ID alongside his EU Digital Covid Cert. Due to his age, Damien's son did not have an ID and was prevented from entering the restaurant. Damien was unsure as to what sort of ID children were supposed to carry with their EU Digital Covid Cert and wanted to know what was required by the Government guidelines. Damien was informed that the [Guidelines for Reopening Restaurants and Cafés](#) states that unaccompanied minors must show Proof of Immunity for entry to indoor dining, but does not mention ID. Given that the Guidance doesn't say whether unaccompanied minors need to show ID and Proof of Immunity for entry to restaurants, Damien was informed that it was unclear whether restaurants can refuse entry for failure to show ID and that his remedies were limited. One potential remedy may have been legal action, but unfortunately most people are unable to take this step, due to the significant costs involved.

Education

Overall, in 2021, the Helpline saw a 31 per cent increase in cases related to education. In January and February 2021, the Helpline received several contacts from parents concerned with school closures and their effects on children’s educational development, particularly for young primary school children. The Helpline received a number of queries seeking information on how to make a complaint to a school, where parents and other individuals were engaged in a dispute with the school. For example, one parent wished to make a complaint as his child had been prevented from using the bathroom during class. This parent was provided information on how to make a complaint to the school and to the school’s the Board of Management on this policy and that if the issue was not resolved, he could make a complaint to the Ombudsman for Children’s Office. As the query had potential to give rise to questions of discrimination on gender or disability grounds, the parent was also provided with information on how to make a complaint to the Workplace Relations Commission under the Equal Status Acts 2000-2018.



Issues in Education

	Other - Education	61%
	Disputes with School	24%
	Access to School Places	9%
	Detention/Suspension/Expulsion	6%

Spotlight: Section 29 Appeals

Other parents contacted us as they were struggling to access a primary or secondary school place for their child and wanted to know what their options were. The Helpline provided these parents with information on the availability of the section 29 appeal procedure and how they can complete the practical steps involved in the section 29 appeal. The section 29 appeal is an appeal to the Department of Education which is available where a child has been refused a place in a school due to it being full and

where a child has been expelled or suspended for more than 20 days. A number of queries received by the Helpline related to Detention/Suspension/Expulsion and reduced timetables and again, information was provided in relation to making a complaint to the school and the availability of the section 29 appeals procedure. Many parents were not aware of the availability of this statutory appeal, or the time limits associated with the appeal and required in-depth information on how to make the appeal.

The most common type of education query was categorised as 'Other', covering queries related to face coverings in schools. The introduction of mandatory face coverings for primary school age children received a strong response from parents and led to a spike in education cases in November and December. When the measure was first announced, there was confusion among parents as to the available exemptions to the requirement and there were concerns that children would be refused entry to school if they were not wearing a face mask. A number of parents and educators also had questions regarding whether a doctor's certificate was mandatory for an exemption. Some parents wished to assess their options in relation to home tuition, considering the measure.

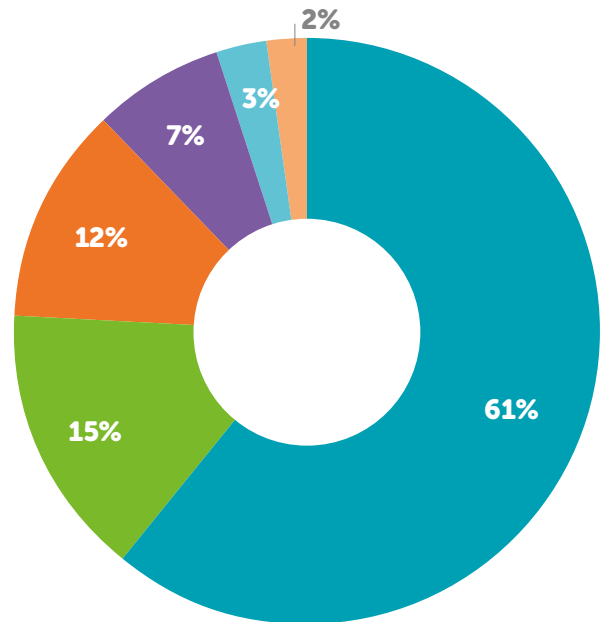
Those with face mask related queries were provided with information from the Department of Education documents "Guidance on the use of face coverings in primary schools" and "Frequently asked questions in relation to face masks/coverings in primary schools". These publications from the Department addressed some of the key questions parents had in relation to facemasks, but it was clear that more needed to be done to ensure this information was accessible to parents, many of whom were not aware of these supporting documents when they contacted us. Additionally, some parents had questions regarding the wearing of facemasks that had not been addressed by the Department in its guidance. Through the helpline, we talked parents through the available guidance and what it meant for their individual child.



Family Law

Questions regarding access was the most prevalent category of query related to family law in 2021. Some of these queries were received directly from children who were unhappy with the terms of their current access arrangement. Others required information on whether an access order could be varied and what factors a Judge can consider when deciding on access. Many Helpline contacts related to access were from parents/guardians who were struggling to get their child to attend their access arrangement and wanted to understand what would happen, if anything, if they did not attend access. Others contacting the Helpline were seeking information on how access arrangements could be managed where one or both parents/guardians had Covid-19 or were self-isolating due to being a close contact.

Last year, we also received a large number of queries regarding guardianship and custody and queries concerning the voice of the child. Many of those who contacted the Helpline had questions related to the section 32 of the Guardianship of Infants Act 1964 and how the Judge hears the voice of the child in family law proceedings and how or when section 32 expert reports are to be made. Others wanted to know what their options were when they felt the voice of the child was not listened to or given enough weight by the court. Some individuals contacting the Helpline needed basic legal information on what guardianship means and how it is decided. The Helpline also received several contacts from extended family members wishing to find out what their rights were with respect to access to grandchildren/nieces/nephews.



Issues in Family Law

	Access	61%
	Guardianship and Custody	15%
	Voice of the Child	12%
	Parenting	7%
	Adoption	3%
	Domestic Violence	2%

What is access?

Access is normally referred to as contact where a child spends time with a parent/guardian/family member with whom they do not live. This usually happens through access visits where the child meets with the parent/guardian/family member for a set amount of time. Access visits can take place during the day or overnight, and in some cases, are supervised. Access visits can be agreed between the child's parent with whom they live with and the other parent/guardian/family member or can be decided upon by the court in what is called an access order.

► Helpline Case Study 8

Matthew* contacted the Helpline as he had been prevented from seeing his grandchildren, following a breakdown in his relationship with his daughter. Matthew wanted to know if he had any rights to see his grandchildren. Matthew was provided with information in respect of his right to apply to court for access under section 11B of the Guardianship of Infants Act 1964. Matthew was provided with the details of the Legal Aid Board as well as the relevant court forms needed to make an application under section 11B. Finally, Matthew was provided with the details of the Treoir website for further information on the legal rights of grandparents.



Legal Advice Clinics

Accessing legal advice specifically on children's rights and issues is extremely challenging for most families. Children and young people under 18 have no enforceable right to legal aid or legal advice and they cannot take cases on their own. Parents and families have reported children's rights issues to us that were not covered by legal aid and have cited difficulties accessing legal advice where they do not qualify for legal aid but cannot afford to access a solicitor. Our legal advice outreach clinics offer one-to-one advice from a solicitor for free to ensure that children, young people or families can access legal support if and when they need it.

Concerns related to disability, education and children in care were the most common issues presented to our legal advice clinics. One legal clinic related to the refusal of a place in a childcare provider under the Early Childhood Care and Education Scheme,

believed to be due to the child's disability. Other cases were in relation problems accessing a school place for a child with additional needs and issues accessing supports in school for children with learning needs. From January to July 2021, legal advice clinics were facilitated by Gareth Noble, Partner at KOD Lyons. During this time, Gareth Noble held 16 legal clinics with families, guardians and foster carers referred through our Helpline. In July 2021, the Alliance's new pro bono partnership with Eversheds Sutherland was announced. The partnership, for the provision of online legal clinics, was facilitated by PILA (Public Interest Law Alliance), a project of FLAC (Free Legal Advice Centres). From July to December 2021, 9 legal clinics were held. The Alliance is enormously grateful to Eversheds Sutherland for its continued support and, to Eversheds' partner Eoin MacAodha whose work over the last year has enabled families in need to access legal advice during the pandemic.

What happens at a legal advice clinic?

Our clinics offer free, one-to-one advice with a solicitor from our pro-bono partners, Eversheds Sutherland. Appointments are typically 45 minutes long and involve the individual explaining their problem, the solicitor outlining the options available to them and guidance on potential next steps.

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. Pre-Covid 19, clinics were often held in hotels and meeting rooms to provide as much anonymity as possible. Since the pandemic, we have held the legal advice clinics online.

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–4pm

Wednesday 10am–4pm

Friday 10am–12pm



CHILDREN'S RIGHTS ALLIANCE

Uniting Voices for Children

Founded in 1995, the Children's Rights Alliance unites over 140 members 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.

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