

Norma Foley TD  
Minister for Education  
Minister's Office  
Department of Education  
Marlborough Street  
Dublin  
D01 RC96

2 December 2021

**Re: Legal basis for refusing entry to schools for primary school children not wearing a face mask**

Dear Minister Foley,

We are writing to you jointly as Barnardos, the Children's Rights Alliance and the Irish Council for Civil Liberties are concerned about the recent guidance issued by your Department in relation to the wearing of face masks in primary school for children in third class upwards.

All three of our organisations support the public health efforts of the Department of Education and the great efforts being taken by schools and teachers to protect children in the classroom. We also accept the role that face-coverings can play in reducing the spread of disease in the classroom and we acknowledge that this step is on foot of the public health advice.

We welcome in particular that exceptions have been made for children with additional needs or health conditions where a medical certificate has been provided. However, we are concerned that the guidance to schools explicitly states that '[i]n other circumstances where a medical certificate is not provided that person (staff or pupil) will be refused entry to the school'. We would query the legal basis for this position as it would appear to interfere with a child's constitutional right to education.

We share your commitment to ensure that children can stay in school given the detrimental impact school closures have already had on their education and wellbeing. We are clear that school exclusion should only ever be used as a measure of last resort, and only then where it complies with fair procedures including an appropriate appeal process. In the context of complex public health matters, to exclude a child from school for not wearing a mask would be disproportionate. We believe a softer approach would be more effective and child centred. If children and parents were to be asked to cooperate with mask-wearing on a voluntary basis, we are very confident that the vast majority would be more than happy to play their part in supporting the public health effort.

Following the issuing of the guidelines on Tuesday evening, the Children's Rights Alliance has been inundated with queries from concerned parents and teachers about the enforcement of mandatory face-coverings in primary schools. While a lot of schools are taking a flexible approach initially, some schools have interpreted the guidance as not allowing for any flexibility at all in cases where a child does not have a medical certificate. Some children may not fall within the stated exemptions but there may still be a legitimate reason that they cannot wear a mask, for mental health reasons for example. There are also reports of GPs refusing to provide medical certificates even where a child has a recognised condition that would fall within the exemptions. We are

concerned that some schools will take a restrictive approach and will refuse to allow children to attend without a facemask.

We believe that further discussion on the Government's decision is necessary to ensure that no child is excluded from school for not wearing a facemask and that a fair, proportionate and child-centred approach is taken. Minister, we are calling on you to ensure and clarify that no child will be excluded on this basis. we would welcome an opportunity to discuss this important issue with you at your earliest convenience.

Yours sincerely,

Suzanne Connolly  
Chief Executive  
Barnardos

Tanya Ward  
Chief Executive  
Children's Rights Alliance

Liam Herrick  
Executive Director  
Irish Council for Civil Liberties