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A Critical Policy Analysis of Ireland's Child Protection Procedures for Schools: Emerging Policy Considerations

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Abstract

The *Child Protection Procedures for Primary and Post Primary Schools* were published in December 2017, and, by March 2018, all schools in Ireland were comprehended by their statutory requirements. This paper analyses those *Procedures* using a hybrid analytical tool premised on Walt and Gilson's (1994) *Policy Analysis Triangle*, with a selection of Riddell's (2003) *Models of Administrative Justice* acting as lenses to aid interpretation. The *Procedures'* context, content, actors and processes are explored, and the influence of case law and regulatory theory is examined. The multi-agency approach to child protection in Ireland is also delineated. Difficulties related to differentiating the curricular component to child protection for learners with special educational needs, and the implications of having more non-mandated than mandated persons employed in special schools is considered. The article concludes with an overview of the possible implications of this policy review for pedagogy and practice.

Keywords: child protection procedures, policy analysis, schools, special education

Introduction

*It was never a secret. Fathers knew. Mothers knew. The waters rippled to the secret truth. It was not meant to be known. It was not meant to be known.*¹

A systemic failure to protect a significant number of vulnerable pupils from child abuse, is a permeating feature of any twentieth century historical analysis of the Irish school system (Kilkelly, 2012). Although many in Irish society, including those at both "official and unofficial levels" knew that abuse was endemic (Ryan, 2009, p. 14), a "widespread and appalling" lapse of oversight exacerbated the problem and ensured that it continued for decades

¹ This quotation is taken from the poem "The Second Secret of Valleymount", by poet and abuse survivor Patrick Bolger (Finlay, 2018).

(O'Mahony & Kilkelly, 2014, p. 321). Inadequate state supervision of schools and the lack of legislative provision around child protection were partly responsible for the failure (Kilkelly, 2012), as deference towards the Catholic Church deterred any interference which could endanger the system of denominational schooling (Coolahan, 1981). In recent years, the findings from a series of official investigative commissions, detailing the scale of the abuse, compelled the State to act and to legislate for child protection (McGuinness, 1993; Murphy, Buckley & Joyce, 2005; Ryan, 2009; Gibbons, 2010). This culminated in the passage of the *Children First Act* (2015)², to ensure that mistakes of the past were not repeated (Government of Ireland, 2015a).

Following the legislative process, the *Child Protection Procedures for Primary and Post Primary Schools* (2017)³ were published to inform school management and personnel of "new statutory obligations", laid down by *Children First*, to ensure that all pupils were sufficiently protected (Government of Ireland, 2017, p. i). This paper will present a comprehensive policy analysis of the *Child Protection Procedures* in a broad sense and will then detail specific policy anomalies in relation to provision for children with special educational needs (SEN). It will spotlight the tensions that exist around the curricular component to child protection and underline the possible difficulties presented by special needs assistants (SNAs) being denied official recognition as mandated persons. The article will also showcase how bureaucratic practices can result from the enactment of high-stakes policy texts in a multitude of ways.

Interpretations of Policy

Before embarking on an evaluation of child protection policy in Ireland, interpretations of what is meant by "policy" must be probed. As a concept, it is generally hypothesised as the process of operationalising a set of values (Bowe, et al., 1992), the meanings of which are often contested by various policy actors (Bell & Stevenson, 2015). It is frequently viewed as a response to a problem and an expression of how that particular problem ought to be responded to when encountered in practice (Harman, 1984). Analysing specific policies is a complex task, the success of which depends on the selection of a suitable analytical framework to organise different policy aspects and their relationships with each other (Ostrom, 2007; Walt et al., 2008; May et al., 2014). Research literature on the efficacy of hybrid frameworks is still evolving, with some evidence to suggest that they provide researchers with greater reflexivity in reviewing complex policies (Mayer et al., 2004; Mengo, 2015). Given the sensitivities around child protection in Ireland, this school of thought was relied upon to construct a custom-designed framework for analysing the *Child Protection Procedures for Primary and Post Primary Schools*.

Analytical Framework

Walt and Gilson's (1994) *Policy Analysis Triangle*, as shown in Figure 1, forms the basis of the analytical tool employed in this study. This framework - predominantly used to

² Henceforth, for the purposes of brevity the *Children First Act* (2015) will be referred to as *Children First*.

³ Henceforth, for the purposes of brevity, the *Child Protection Procedures for Primary and Post-Primary schools* (2017) will be referred to as either the *Child Protection Procedures* or the *Procedures*.

scrutinise policies in the health domain - has been judged effective for analysing policy reform both in Irish (May et al., 2014) and international contexts (Walt & Gilson, 1994; Gilson & Raphaely, 2008). Its application can be justified here, as child protection policy in Ireland was historically a function of the Department of Health (Buckley, 2003). The fact that the curricular component to child protection is situated within the *Social, Personal and Health Education* curriculum in primary school, was also an important consideration in its utilisation. The Triangle's explicit focus on the processes, context and actors that impact upon policy development, addresses the frequent concern of many scholars that policy analyses are often too content-focused (Walt & Gilson, 1994; May et al., 2014). The emphasis on policy actors also allows sufficient scope to explore the strength of "inter-agency co-operation", a practice strongly recommended by child protection practitioners (Buckley, 2003, p. 186).

To augment the effectiveness of Walt and Gilson's (1994) framework, Figure 2 shows how a selection of Riddell's (2003) models of administrative justice have been applied to each domain, as lenses to aid interpretation. The potency of these models for analysing special education provision has been highlighted in both the English and Scottish contexts (Riddell, 2003).

Figure 1: Walt and Gilson's (1994) Policy Analysis Triangle

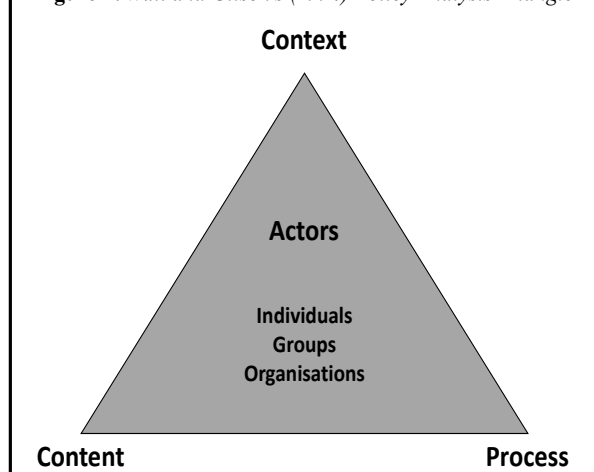
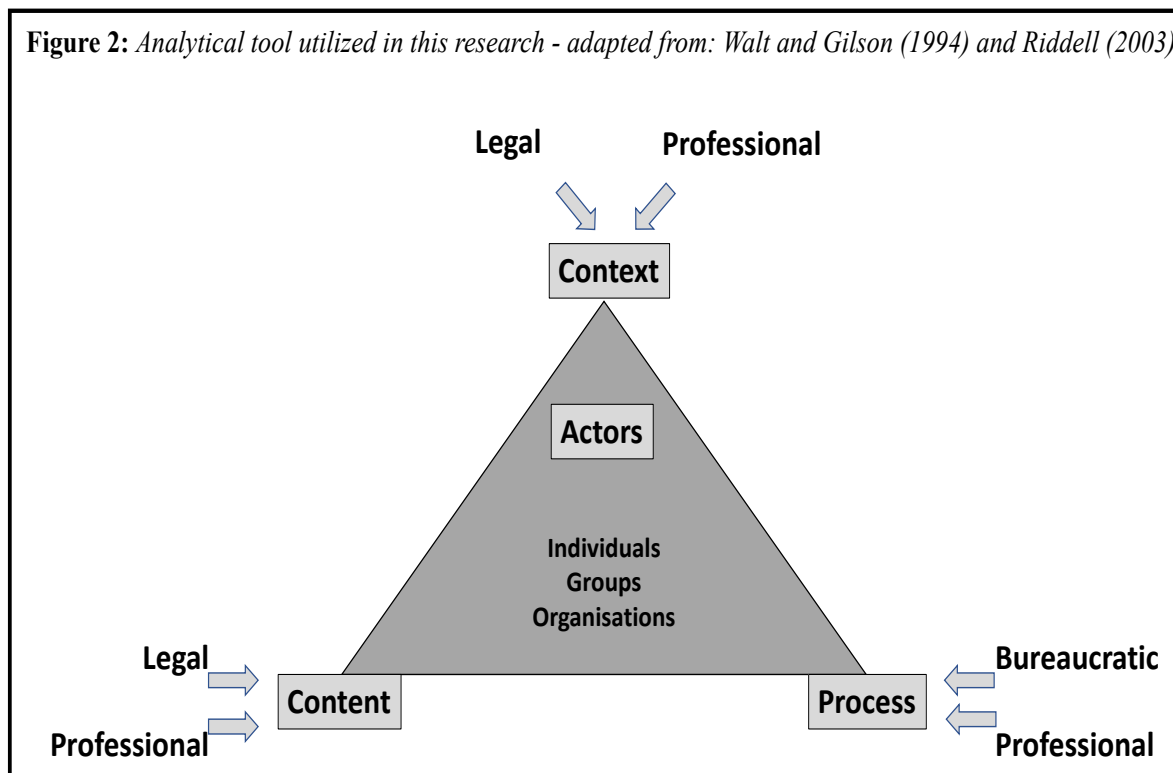


Figure 2: Analytical tool utilized in this research - adapted from: Walt and Gilson (1994) and Riddell (2003)



Policy Analysis: Application of an Analytical Framework

In this section of the article, the *Child Protection Procedures* (2017) will be analysed over four sections, by applying the hybrid analytical tool outlined in Figure 2.

1. Context for the Child Protection Procedures

An appreciation for the historical context is crucial in any attempt to analyse Ireland's current policy and procedures for safeguarding children (O'Mahony & Kilkelly, 2014, p. 321):

During the middle part of the twentieth century, the Irish education system experienced a widespread and appalling incidence of both physical and sexual abuse perpetrated on children by various authority figures, including teachers, priests, nuns and other school staff...Most significantly, and related to the outsourcing of education provision to religious organisations, a culture of inadequate state supervision and child protection was endemic in the education system as a whole, with the result that wherever abuse did occur, it went unchecked over lengthy periods.

Reports from national commissions of investigation provided an evidence base for the scale of the abuse (McGuinness, 1993; Murphy et al., 2005; Murphy et al., 2009, 2010; Ryan, 2009; Gibbons, 2010) and highlighted failures on the part of various authorities, including the State, to safeguard children from harm (Kilkelly, 2012). This precipitated a government commitment to strengthen the first iteration of the *National Guidelines for the Protection and Welfare of Children*, which were introduced in 1999. but whose implementation had been judged "inconsistent" (Government of Ireland, 2009, p. xiii).

The Legal Lens

While the State accepted that abuse survivors had been wronged, it contested the notion that it could be held vicariously liable or accountable for the abuse that occurred in schools (*Louise O'Keeffe v Leo Hickey, the Minister for Education and Science and the Attorney General*, 2006). The legal argument for this contention rested on the constitutional position that the State was not the education provider. Instead it provided "for" primary education by allocating resources to school patrons (Government of Ireland, 1937, Art. 42), the overwhelming majority of which were religious denominations (Coolahan, 1981). There was no employment relationship between the State and personnel employed by individual schools (O'Mahony, 2009) and so the Irish Supreme Court vindicated the State as an "entirely innocent party" who had engaged boards of management to provide an education "service" to citizens (*Louise O'Keeffe v Leo Hickey, the Minister for Education and Science and the Attorney General*, 2006, p. 378). The corollary of this argument would appear to suggest that, at that point, the Irish State had no legal onus to provide for the protection of children in schools.

This narrow interpretation of the State's responsibility was overturned by the European Court of Human Rights (ECHR) (*O'Keeffe v Ireland*, 2014, p. 41), which found that Ireland had, in European law, an "inherent positive obligation" to protect its children from abuse. The Court established that the State should have had a mechanism in place to assess risk, if education provision was overwhelmingly outsourced to, what were in effect, private bodies (*O'Keeffe v Ireland*, 2014). This ruling was significant because for the first time a legal responsibility was conferred on the State to protect children while they were in school. The focus now turned to how it would discharge that responsibility rather than whether it should be done at all.

The Professional Lens

The importance of professionals in identifying child abuse was not fully recognised in research literature when it was endemic in this jurisdiction. As a concept it is still evolving, although the efficacy of best practice frameworks to assist professionals in safeguarding children has now been established worldwide (Salveron et al., 2015; Gillingham et al., 2017; Kimber et al., 2019). While such frameworks have been utilised in Ireland for the last two decades (Government of Ireland, 1999, 2011), the risk that ill-intentioned professionals pose to children was not legislatively acknowledged in a broad sense until 2012 (Government of Ireland, 2012). In 2015, that risk was mitigated when Teaching Council registration was made contingent on Garda-vetting (Government of Ireland, 2015d). The timing of this introduced measure, following the above-referenced judgement (*O’Keeffe v Ireland*, 2014), was significant. While the extent to which the ECHR was responsible for it is difficult to quantify, it can legitimately be surmised that the legal jeopardy for the State of ignoring the ECHR judgement was a factor in its introduction. That the additional safeguard was noted in the Action Plan submitted by Ireland to the ECHR (Government of Ireland, 2018) in response to the judgement, gives credence to this assertion. Professional oversight and accountability for ensuring the protection of children in Ireland was slowly coming on stream, albeit aided by outside influences. This was ultimately reflected in the content of the subsequent procedures.

2. Content of the Child Protection Procedures for Primary and Post-Primary Schools

The *Child Protection Procedures for Primary and Post-Primary Schools* were introduced in 2017 and their content addresses specifically many of the contextual issues highlighted above.⁴ The *Procedures* align with Harman’s (1984) view of policy as a response to a problem – they put in place clear guidelines which were absent in the past, in order to operationalise the core value of *Children First* that the safety and protection of minors must be prioritised (Government of Ireland, 2015b). Abuse is clearly defined under four categories, and “guidance” (Government of Ireland, 2011, p. 1) is reinforced by the more definitive “actions to be taken”, if an individual or organisation has concerns in relation to the safety of a child (Government of Ireland, 2017, p. 21). The revised *Stay Safe* (2016) abuse-prevention programme is rendered mandatory in all primary schools by the *Procedures*, in line with international evidence suggesting that targeted curricular initiatives are “effective in increasing student knowledge and protective behaviours” (Brassard & Fiorvanti, 2015, p. 40).

Professional Responsibilities

The *Procedures* expand on the obligations placed on certain professionals by *Children First*. Crucially, Chapter 4 specifies that registered teachers are “mandated persons” and stemming from that have two statutory obligations (Government of Ireland, 2017, p. 25):

- i. to report any knowledge, belief or reasonable grounds to suspect that a child has been harmed, is being harmed or is at risk of being harmed to Tusla⁵, and;

⁴ This new set of procedures replaced previous iterations (Government of Ireland, 2001, 2004, 2011), in order to ensure that new statutory obligations outlined in Children First Act (2015) were understood and complied with by schools.

⁵ The role of Tusla is delineated in Section 3.2.3.

- ii. to assist Tusla in assessing a concern which has been the subject of a mandated report.

In practice, this requires a teacher to liaise with the school's Designated Liaison Person (DLP), who is generally the principal (Nohilly, 2018), and exercise their professional judgement to determine whether the defined threshold of harm has been met. If both the teacher and the DLP agree that such a threshold has been reached, then they are obliged to make a mandated report to Tusla (Government of Ireland, 2017). This explicit statutory obligation is significant given international evidence suggesting that teachers often fail to report some instances of child maltreatment (Kenny, 2001, 2004) due to lack of knowledge of its impact and the teacher's own belief system (Bourke & Maunsell, 2016). The protection afforded to the child is further enhanced by the stipulation that a teacher is still mandated to report to Tusla, even where the DLP disagrees with the teacher that the threshold of harm has been met (Government of Ireland, 2017). The likely net effect of this provision is to provide another layer of protection for the child by increasing the likelihood of a mandated report being submitted by a professional.

Nurses, psychologists and speech and language therapists are all among the eighteen persons listed in Appendix 1 who enjoy the same "mandated" status as teachers (Government of Ireland, 2017, p. 93). They are deemed "because of their qualifications, training and/or employment" to be in a key position to protect children from harm (Government of Ireland, 2015b, p. 19). Crucially, SNAs are excluded from the list. This is a curious omission given the amount of time they spend tending to children's care needs and their evolving role within the Irish education system generally (Lawlor & Cregan, 2003; Logan, 2006; Keating & O'Connor, 2012). In special schools, they are often greater in number than any other school employee, including teachers (National Council for Special Education, 2018). Their exclusion from Appendix 1 often results in more non-mandated than mandated persons working with a vulnerable group, which the *Procedures* themselves acknowledge are more susceptible to maltreatment. The Appendix 1 inclusion criteria hinge on professional status and education level, as opposed to an individual's capacity to prevent a child from being harmed. While it can be argued that those aspects impact on the competence of an individual in making a report, consideration appears not to have been given to providing SNAs with "specific programmes on child welfare and protection" (Butt & Lowe, 2012; Keating & O'Connor, 2012, p. 539) that would augment their capacity for making such reports. This bias towards the professional classes may be indicative of the influential role that they had in the design of the *Procedures* – a situation that ought to be carefully questioned given the part that those classes had in concealing child abuse in the past.

Legal Requirements

The discourse of legal accountability is strong throughout the document with the words "required" appearing 42 times, "must" 85 times and "shall" 257 times. The presence of these legalistic terms, given the meanings they carry⁶, is significant. It points to the influence of regulatory theory in the design of the compliance component of the *Procedures*. In

⁶ The word *shall* is defined as "a strong expression of assertion or intent" (Oxford, 2019). *Must* is a word of obligation (Cambridge, 2019) used to express necessity (Oxford, 2019). *Required* is the strongest of these terms and is used to define something that is "officially compulsory" (Oxford, 2019).

international child protection literature, regulatory theory postulates that, *inter alia*, “compliance is affected by a mix of sanctions...associated with particular rules” (Gallagher-Mackay, 2014, p. 256). Evidence of possible penalties for school employees, in the event of non-compliance, is clearly discernible in the *Procedures*, including the right of Tusla to make a complaint about a “registered teacher under the Fitness to Teach” mechanism (Government of Ireland, 2017, chaps 1, 4.8). Legal jeopardies such as this can narrow the “considerable gap” that sometimes exists between “prescription and action” in policy implementation (Austin, 1993; Gallagher-Mackay, 2014, p. 258) which, it can be argued from a child protection perspective, increases the likelihood of a teacher complying with the *Procedures*.

3. Actors involved in the Child Protection Procedures for Primary and Post-Primary Schools

Effective child protection is an inherently cross sectoral field (Rijbroek et al., 2017). In line with international best practice, the Irish *Procedures* were “developed following extensive consultation with the education partners” (Government of Ireland, 2015b, p. iv), although details on the nature of the consultation process and what education partners specifically were included, is noticeably absent. From evidence extrapolated from the *Procedures* and data available from international empirical research studies on child protection (Rijbroek et al., 2017, p. 337), it can be reasonably hypothesised that the most influential contributors were those from the “professional level”.

Tusla: The Child and Family Agency

Tusla is an independent state agency charged with the protection of children and has considerable power as the statutory receiver, assessor and investigator of mandated and non-mandated reports made to it by organisations and members of the public (Government of Ireland, 2013). Stemming from regulatory theory, it can be argued that *Tusla* is the body charged with creating compliance conditions which increase the probability that professionals will “obey the law” (Rijbroek, Strating & Huijsman, 2017, p. 258).

An Garda Síochána

International research has demonstrated that police vetting is essential in order to “exclude unsuitable individuals from paid and voluntary work with children” (Smith, 2014, p. 51). In the Irish context, this has been recognised with a “joint working” relationship envisaged between An Garda Síochána and *Tusla* (Government of Ireland, 2017, p. 53), with the former given statutory authority to vet all individuals working with children (Government of Ireland, 2016). Where *Tusla* or a mandated person involves An Garda Síochána in a child protection case, it is the Garda’s role “to interview and take any statements that will form part of the criminal investigation file” (Government of Ireland, 2017, p. 53). This anticipated collaboration between arms of the state attempts to instil what Salveron et al. (2015, p. 128) refer to as a “system-wide organisation-led” approach to the protection of children.

School Boards of Management (BoM)

The *Education Act* (1998) charges BoMs with ensuring good governance in schools and this extends to include an oversight role in child protection (Government of Ireland, 2015c). Their role, *inter alia*, is to ensure that the DLP undertakes his/her responsibilities in accordance with the *Procedures*. While in the majority of cases individual children are not identifiable to the Board, this does not extend to cases where an allegation has been made

against a school employee (Government of Ireland, 2017, p. 79) – this is the only circumstance in which a child's identity is disclosed to the BoM. Many ethical questions arise in relation to the appropriateness of this practice, in particular whether or not the spirit of *Children First* has been departed from. The existence of this practice may be indicative of the power that professionals have over child protection policy in Ireland, as elaborated on earlier.

Department of Education Inspectorate

The Inspectorate has been charged with monitoring schools' compliance with the *Procedures*. It has statutory authority to examine child protection practices in schools, and publish a written report following an inspection outlining each school's level of compliance (Government of Ireland, 2017). This renders the Inspectorate a powerful force in Irish child protection compliance architecture, but also a possible stimulus for "panoptic performativity" on the part of teachers who may be influenced to perform "in ways dictated by the discourse of inspection" (Perryman, 2006, p. 148) rather than what is in the best interests of children.

Teachers

While teachers have an important role in child protection, their influence in policy design and agency in enactment is very limited, with the largest teacher union criticising the *Procedures*' "bureaucratic requirements" (Irish National Teachers' Organisation, 2019).

Psychologists

Appendix 1 of the *Procedures* includes psychologists in the list of mandated persons. Psychologists play a crucial role in many schools, in particular where there is high incidence of SEN. They engage with children and families and have a particular role in supporting teachers with the design of suitable personal safety and child abuse prevention programmes for pupils (Woods et al., 2011; Brassard & Fiorvanti, 2015). This role is vital given the mandatory nature of *Stay Safe* in the Irish context (MacIntyre & Lawlor, 2016).

Collaborative Approach

While there are many organisations and individuals involved in ensuring safe school provision for children, the success of the *Procedures* depends on 'professional bricolage' created by the actors outlined above collaborating seamlessly with each other (Alberth & Bühler-Niederberger, 2015, p. 149). While it is too soon to comprehensively assess whether this collaboration is occurring in relation to the Irish *Procedures*, international evidence indicates that it is often absent in practical implementation (Alberth & Bühler-Niederberger, 2015).

4. Implementation Process for the Child Protection Procedures for Primary and Post-Primary Schools

Walt and Gilson (1994) argue that policy making is a multi-process endeavour consisting of the agenda-setting, decision-making and implementation processes. This article has already given some attention to the factors determining how the *Procedures* appeared on the agenda initially, and the various policy actors involved in the decision making. This section will explore the implementation process which in itself is a contested concept. Implementation implies that policies are designed and interpreted rationally (Bell & Stevenson, 2015). Often they are not and actors can recast, misinterpret or reconstruct policies in unintended ways, which can lead to outcomes that are often unexpected (Ball et al., 2011). The concept of

enactment as an alternative to implementation takes account of varying interpretations by actors and more accurately describes how policy interacts with practice (Bell & Stevenson, 2015).

Although the *Child Protection Procedures* are relatively new and research data on their practical enactment are almost non-existent, interesting trends and interpretations can be extrapolated. Earlier parts of this paper have demonstrated how Riddell's (2003) legal and professional policy frameworks were applicable to the context for and content of the *Procedures*. This section will show that while the professional policy framework persists in the enactment process, the influence of some actors has caused the legal framework to be replaced by a more bureaucratic "rule bound" system (Riddell, 2003, p. 203) premised on the assumption that adherence to the *Procedures* will produce the intended outcomes.

Professional Lens

There are some features of the "professional policy framework" (Riddell, 2003, p. 202) evident in the way in which the *Procedures* have been enacted. Teachers apply knowledge to individual child protection cases and can get a "second opinion" (Riddell, 2003, p. 203) or advice from Tusla in relation to a concern that they are unsure about (Government of Ireland, 2017). However, their professional discretion is significantly curtailed by the oversight arrangements in place, which means that they have to report advices received from Tusla to the Board of Management (Government of Ireland, 2017; Nohilly, 2018). While training for professionals is a key ingredient in ensuring that child protection professionals apply their knowledge correctly (Government of Ireland, 2017), there is no requirement to undertake it in practice (Nohilly, 2018). Although research indicates that the majority of DLPs avail of training and report general satisfaction with its quality, there are few opportunities for teachers to upskill in their mandated child protection duties (Nohilly, 2018). This is compounded by evidence showing that child protection input in the colleges of education is minimal (McGarry & Buckley, 2013). Training opportunities for SNAs appear very limited, which may be indicative of some level of elitism towards traditional professions.

Bureaucratic Lens

There is some evidence to support the assertion that the *Procedures* have been bureaucratically enacted (Irish National Teachers' Organisation, 2019). The *Guide to Child Protection and Safeguarding Inspections* (Government of Ireland, 2019, p. 3) identifies a list of over sixty child protection "checks" to be examined in schools by the Inspectorate. The stated purpose of these checks is to "monitor the implementation" of the *Procedures* (Government of Ireland, 2019, p. 3), as distinct from the extent to which a school is safe for children. On the basis of these checks, a school's level of compliance is assessed and reported on publicly. While it could be argued that compliance with the *Procedures* would indicate the school's safety level, the fact that this is not a specifically stated aim and has to be deduced offers an interesting insight. It could be surmised that the *Procedures* have been distilled down into a series of bureaucratic check-the-box exercises. As Perryman *et al.* (2018) note, systems such as this encourage performativity and cause teachers to focus on compliance with inspection regulations, as opposed to the reason for why each regulation was there in the first place – in this case, to protect children. There are some emerging data suggesting that this "compliance culture" is encouraging a focus on "paperwork and record keeping" in Irish schools from the point of view of school principals at the very least (Treacy & Nohilly, 2020).

The extent to which the prescribed checks during inspections, achieve optimal child protection in special education settings, is further open to question. For example, Check 10 requires all teachers to demonstrate that they are “implementing” the *Stay Safe* (2016) programme (Government of Ireland, 2019, p. 20). However, the standard nature of *Stay Safe* (2016) creates a possible conflict with the need to provide children with SEN with a custom-tailored abuse prevention programme, in order to ensure that they can access it cognitively (Lee & Tang, 1998; Mahoney & Poling, 2011; Kim, 2016). Was it the intent of policy makers to universally impose a one-size-fits-all child abuse prevention programme on children who may lack the cognitive capacity to understand it fully? Or, in line with Ball, Maguire and Braun's (2011) thinking, was this an unintended outcome caused by irrational interpretation of the *Procedures* at both design and professional practice level? Regardless of intent, it may be the case that these inspections are discouraging teachers from engaging in optimal differentiation, to the point that meaningful child protection becomes subservient to procedural compliance. These are important considerations that have not received due research attention to date and must form part of a broader discussion on the applicability of the *Procedures* for all education settings going forward.

Discussion

Child protection in Ireland is a rapidly evolving policy arena. This section will discuss some of the key issues emerging from the analysis conducted above and will highlight some anomalies and questions that would benefit from further exploration.

Legal Theory leading to Bureaucratic Practice

The analysis of the *Child Protection Procedures for Primary and Post Primary Schools*, presented above has demonstrated that while legal considerations were important contextual factors in their design, by the time those *Procedures* came to be implemented the legal framework had morphed into a series of rule-bound requirements, typical of bureaucratic organisations (Riddell, 2003). While it is difficult to establish precisely the reasons for this change, a number of possibilities can be theorised. Because of the legal jeopardy involved in all child protection matters (*O'Keeffe v Ireland*, 2014), regulatory theory was relied upon in the design phase with the objective of ensuring maximum compliance. However, when the *Procedures* were enacted, the scope of regulatory theory enabled different actors to interpret them in divergent ways. In an effort to fulfil its statutory obligation, the Inspectorate distilled the *Procedures* down into a series of easily-assessable compliance “checks” that can be examined during inspections (Government of Ireland, 2019, p. 11). While published reports from these inspections are currently very limited, evidence from other jurisdictions suggests that many teachers may simply perform for inspections in order to illustrate compliance with the rules (Perryman, 2006). There are important lessons to be taken from this for policy makers. Where legal frameworks are used in the design of national policies, there is a risk that the policy enactors will show more fidelity to their legal requirements than to the spirit of why those requirements were there in the first place.

Curricular Provision in Child Protection for Pupils with SEN

The curricular component to child protection for children with SEN is fraught with difficulty. This is due to the mandatory nature of *Stay Safe* (2016) for all primary schools –

irrespective of the ability level of pupils. Consideration appears not to have been given to providing a differentiated *Stay Safe* programme for children without the cognitive capacity to access the core programme. In theory, a school currently meets its child protection curricular obligations, if it implements the *Stay Safe* programme regardless of its suitability for a particular grouping. However, the reality is that an alternative more tailored programme may provide these children with greater opportunities to internalise the key personal safety skills that they need to protect themselves. At present, there is no onus on teachers who believe that *Stay Safe* (2016) is insufficient or suboptimal for their cohort of pupils to implement a more tailored alternative. This has significant implications because it gets to the core of whether or not schools are fully compliant with the *Child Protection Procedures* and raises a broader question on whether compliance is enough to ensure that all pupils are sufficiently protected. This point should be considered in any future review of *Stay Safe*.

Child Protection Practices in Special Schools

The volume of published scholarly data available from special schools on child protection practices generally is negligible, while research on the enactment of the new *Procedures* specifically is non-existent. Special schools in Ireland are officially designated as primary schools and as such they are fully comprehended by the *Procedures*. There are no data available on whether teachers and SNAs in these schools differentiate their roles as either mandated or non-mandated persons or whether they are carrying out those roles in accordance with the *Procedures*. Given the increased ratio of non-mandated to mandated persons in special schools compared to mainstream schools, this lack of data represents a significant blind spot in the protection of an especially vulnerable group. Would the interests of children in special schools be better served if there was no distinction in the child protection role that their teacher and SNA played? What is to be gained by the current situation where the SNA does not have the status of a mandated person? These questions urgently need to be probed and researched, in order to ensure that optimal protection is provided to children in special schools.

Conclusion

Child protection in Ireland is a sensitive area and is evolving steadily, as abuses of the past continue to be spotlighted. The *Child Protection Procedures for Primary and Post Primary Schools* are an important bulwark for ensuring that those abuses are not repeated. The analysis presented here has highlighted some important issues that have not received due research attention to date. In relation to the enactment of the curricular component to child protection, this article has questioned the appropriateness of a standard *Stay Safe* programme for special education contexts, when some children with SEN lack the capacity to internalise its key messages. There is a clear need for more data in this area and information on the levels of fidelity with which *Stay Safe* is being implemented with children with SEN. The policy inequity of SNAs being excluded from mandated personnel roles was also highlighted and the potential impact that this can have on practice in the special school arena was explored. The fact that SNAs outnumber teachers in most special schools adds to the sense that this role exclusion is in need of urgent review. The potential bureaucracy underpinning the new child protection and safeguarding inspection framework was noted and the need for further primary research to examine schools' engagement with this is clear. There are limitations with the approach adopted in this article. In particular, the article has relied on a desk-based approach

to evaluating policy documents, without collecting any primary data. In this way, it orients towards the theoretical as opposed to the empirical. However, notwithstanding this, it has provided a strong rationale for undertaking such empirical research in order to test the veracity of the key points made here. This article makes a modest but nonetheless important contribution to the overall discourse in this area and will be a useful reference point for practitioners, researchers, curriculum designers and policy makers as this policy landscape continues to develop.

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