LEABHARLANN CHOLÁISTE NA TRÍONÓIDE, BAILE ÁTHA CLIATH | TRINITY COLLEGE LIBRARY DUBLIN
Ollscoil Átha Cliath | The University of Dublin

Terms and Conditions of Use of Digitised Theses from Trinity College Library Dublin

Copyright statement

All material supplied by Trinity College Library is protected by copyright (under the Copyright and Related Rights Act, 2000 as amended) and other relevant Intellectual Property Rights. By accessing and using a Digitised Thesis from Trinity College Library you acknowledge that all Intellectual Property Rights in any Works supplied are the sole and exclusive property of the copyright and/or other IPR holder. Specific copyright holders may not be explicitly identified. Use of materials from other sources within a thesis should not be construed as a claim over them.

A non-exclusive, non-transferable licence is hereby granted to those using or reproducing, in whole or in part, the material for valid purposes, providing the copyright owners are acknowledged using the normal conventions. Where specific permission to use material is required, this is identified and such permission must be sought from the copyright holder or agency cited.

Liability statement

By using a Digitised Thesis, I accept that Trinity College Dublin bears no legal responsibility for the accuracy, legality or comprehensiveness of materials contained within the thesis, and that Trinity College Dublin accepts no liability for indirect, consequential, or incidental, damages or losses arising from use of the thesis for whatever reason. Information located in a thesis may be subject to specific use constraints, details of which may not be explicitly described. It is the responsibility of potential and actual users to be aware of such constraints and to abide by them. By making use of material from a digitised thesis, you accept these copyright and disclaimer provisions. Where it is brought to the attention of Trinity College Library that there may be a breach of copyright or other restraint, it is the policy to withdraw or take down access to a thesis while the issue is being resolved.

Access Agreement

By using a Digitised Thesis from Trinity College Library you are bound by the following Terms & Conditions. Please read them carefully.

I have read and I understand the following statement: All material supplied via a Digitised Thesis from Trinity College Library is protected by copyright and other intellectual property rights, and duplication or sale of all or part of any of a thesis is not permitted, except that material may be duplicated by you for your research use or for educational purposes in electronic or print form providing the copyright owners are acknowledged using the normal conventions. You must obtain permission for any other use. Electronic or print copies may not be offered, whether for sale or otherwise to anyone. This copy has been supplied on the understanding that it is copyright material and that no quotation from the thesis may be published without proper acknowledgement.

Child Abuse Reporting in Ireland and the Socio-legal Implications of Introducing a Mandatory Reporting Law

Roni Buckley

Submitted for the degree of Doctor of Philosophy

Supervisor: Dr. Helen Buckley

School of Social Work and Social Policy, Trinity College Dublin

2014

Declarations

I declare that this thesis has not been submitted as an exercise for a degree at this or any other university and it is entirely my own work.

I agree to deposit this thesis in the University's open access institutional repository or allow the library to do so on my behalf, subject to Irish Copyright Legislation and Trinity College Library conditions of use and acknowledgement.

Roni Buckley

TRINITY COLLEGE
0 9 JUN 2014
LIBRARY DUBLIN

Thesis 10391

Summary

This study presents a detailed exploration of Ireland's evolving child abuse reporting procedures and an examination of emergent child protection theories. Information is also drawn from a cross-jurisdictional study of countries that employ mandatory reporting laws to establish how effectively the provision operates. The key issues arising from the international research help to inform the implications of introducing a mandatory reporting law to Ireland.

Structuration theory was used to provide a theoretical approach for the analysis of this study. It aims to show how implementors reflexively draw on policy knowledge to constantly question and transform policy structures as they apply it in practice. By using a backward-mapping approach in conjunction with this, implementation was studied from the bottom-up. This methodological approach questions the ability of implementing agents to affect the behaviour which is the target of the policy, taking into consideration the resources available to them. The thesis used qualitative data from 24 focus group and 27 individual interviews across Ireland, drawn from services and professions where child protection issues are likely to be encountered. Constructivist grounded theory was then used to analyse the transcript data.

The main findings from the study showed that educational cultivation of the roles and responsibilities in respect of child protection, as well as knowledge transmission on the topic was inadequate. Reporting responsibilities and policy obligation were given a low profile within formative education, meaning that many participants were left feeling unprepared to adopt the role of reporter. When a child protection concern did arise, participants noted that they were generally of an ambiguous nature. A number of barriers were also noted as inhibiting an individual's ability to accurately detect abuse. Case-building strategies and collective processes were therefore regularly drawn on to assist detection.

The research showed that when making a decision to officially report a concern, individuals drew on personal risk assessment strategies to determine its utility. Evasive tactics, such as delayed reporting and rationalisation of abusive behaviour,

were identified as some of the main reasons for a failure to report. Opinions on the introduction of mandatory reporting varied depending on what an individual perceived or understood the law to mean. Those who viewed mandatory reporting from a micro perspective welcomed its adoption because they believed it would protect the individual child from further harm. Those who interpreted mandatory reporting from a macro perspective were fearful of its implications, anticipating that it would cause social services to be inundated with inappropriate referrals and in some cases have unintended consequences that are contrary to child protection.

Overall this study acknowledges the tenuous and sketchy nature of professional encounters with child protection concerns. It provides insight into the ideologies, constructs and discourses that shape frontline professionals' perceptions of mandatory reporting and questions the utility of applying further proceduralisation to an area so infused with uncertainty. It also shows that actions cannot be neatly dictated by rules, laws and protocols and argues that professional understanding, judgement and beliefs must be externally supported by a number of measures.

Acknowledgements

First and foremost I would like to pay special thanks to my supervisor, Helen Buckley, for her continued encouragement, advice, expertise, knowledge and feedback throughout the past three years, her input has been invaluable. I would also like to acknowledge the number of opportunities she has put my way, that have helped me develop my researching and writing skills. The School of Social Work and Social Policy also need to be recognised for the support they have provided me throughout my duration in Trinity.

The idea for this study originated from my time working with the Murphy Commission, I would therefore like to thank all those within the Commission, particularly Ita Mangan, who helped me to develop my idea and provided me with the necessary support and references to proceed.

I would like to thank the Irish Research Council for recognising the merit of my study at a very early stage and providing the necessary funding for me to undertake my doctoral research.

Many thanks to all those who volunteered their time to take part in this study and attend interview; their contribution was insightful, informative and critical to progressing my idea into a realisable doctoral study. Special thanks to all those who helped organise focus group interviews, particularly Colette McLaughlin (HSE), who provided me with a substantial number of contacts.

Finally, I need to pay thanks to my family and friends who have endured my highs and lows over the past three years. To all my dear friends who listened to me while I worried again and again, thank you for never tiring of me and continuing to encourage me. And of course, Mum, thank you always for being there and supporting me like only a mother could.

TABLE OF CONTENTS

INTRODUCTION **1**

Origins of the Thesis 2
Building the Scene: Theoretical Context 5
Setting the Scene: Backdrop for Compelling the Adoption of Mandatory Reporting 9
The Contribution to Knowledge to be made by this thesis 17
Mapping the Thesis 18
Conclusion 19

CHAPTER 1: SHIFTING PERCEPTIONS AROUND CHILD PROTECTION IDEOLOGIES **20**

Governance through the Family 20
Preventive Intervention 22
Early Awareness of Child Sexual Abuse 24
Religious Dominance 27
Emergence of Welfarist Approaches 28
Expert Discourses 30
Centralisation of Child Protection Responsibility 31
Conclusion 33

CHAPTER 2: THE CONCEPTUALISATION OF CHILD ABUSE AND CLARIFICATION OF PROFESSIONAL ROLES THROUGH IRISH CHILD PROTECTION POLICY **35**

The Dominance of Physical Abuse in Child Protection Policy 35
The Emergence of Child Sexual Abuse 38
Child Care Act 1991: Balancing Rights with Intervention 44
Conclusion 48

CHAPTER 3: RADICALISATION OF THE IRISH CHILD PROTECTION SYSTEM **49**

Emergence of a Risk Society 49
Child Abuse Inquiries and Reflexive Modernization 53
Bureaucratisation of the Irish Child Protection System 57
Conclusion 66

CHAPTER 4: MANDATORY REPORTING: AN INTERNATIONAL PERSPECTIVE **68**

Motivating factors for the introduction of Mandatory Reporting 69
Who is required to report? 74
Immunity for Reporters and Protection of Identity 78
Reportable Behaviour 79
Standard for Reporting 81
Sharing of Information 81
Training 84
Sanctions for failures to Report 84
Case-law on Failures to Report 86
Impact of Mandatory Reporting Laws 90
Conclusion 105

CHAPTER 5: METHODOLOGY **111**

Philosophical Approach 111
Structuration Theory 112
Using Structuration Theory to inform Policy Implementation Analysis 116
Summary of Theoretical Approach 122
Research Methods 122
Aims and Objectives 123

Research Method-Rationale 123
Setting up the Inquiry 126
Field Work Planning 130
Data Collection 135
DATA ANALYSIS 138
CONCLUSION 141

CHAPTER 6: PROFESSIONAL AWARENESS, ROLE DEVELOPMENT AND POLICY IMPLEMENTATION 143

INTRODUCTION 143
FORMATIVE EDUCATION AND ASSOCIATION WITH CHILD PROTECTION 144
ROLE FORMATION AND PERCEPTION 148
ABILITY TO ADOPT CHILD PROTECTION ROLES 155
CULTIVATING CHILD PROTECTION AWARENESS 158
PERCEPTIONS OF CHILD ABUSE AND SOURCES OF AWARENESS 160
CHILDREN FIRST TRAINING DELIVERY AND ADEQUACY 162
TRAINING AND POLICY IMPLEMENTATION 169
CONCLUSION 172

CHAPTER 7: DETECTION OF CHILD PROTECTION CONCERNS 175

INTRODUCTION 175
BARRIERS AND FACILITATORS TO DETECTION 176
SIGNAL DETECTION THEORY 178
COMPLEXITY OF PRESENTATION 181
DETECTION FACTORS AND PROCESSES 186
PROCESSES EMPLOYED FOR DETECTION 193
CONCLUSION 203

CHAPTER 8: REPORTING DETERMINATION AND CONSEQUENT ACTIONS 206

INTRODUCTION 206
TRANSITIONING FROM INITIAL SUSPICION TO FORMAL REPORT 207
DECISION-MAKING PROCESSES AND RISK ASSESSMENT 207
MOTIVATORS FOR REPORTING 211
DETERRENTS AGAINST REPORTING 214
REPORTING CONFLICTS 218
FAILURE TO TRANSITION 220
CONSEQUENT ACTIONS-ENGAGING WITH THE CHILD PROTECTION SYSTEM 225
PREPARING TO REPORT: BROACHING THE ISSUE 226
ENGAGING WITH CHILD PROTECTION SOCIAL WORK: "EXCHANGE THEORY" 227
CONCLUSION 237

CHAPTER 9:PERCEPTIONS OF MANDATORY REPORTING AND ANTICIPATED OUTCOMES 240

INTRODUCTION 240
INTERPRETATIONS, UNDERSTANDING AND PERCEPTIONS AROUND THE MEANING OF MANDATORY REPORTING WITHIN AN IRISH CONTEXT 241
THE SYMBOLIC VALUE OF MANDATORY REPORTING LEGISLATION 242
AUTOMATIC REPORTING 245
NORMALISING REPORTING 246
CRISIS-DRIVEN RESPONSE 249
SMOKESCREEN RESPONSE 251
PREMATURE POLICY 252
ENFORCEABILITY OF MANDATORY REPORTING 254
ANTICIPATED IMPLICATIONS ARISING FROM MANDATORY REPORTING 256
CONSEQUENT STANDPOINTS 267
CONCLUSION 268

CHAPTER 10: DISCUSSION **272**

RESEARCH OBJECTIVE, IMPETUS AND VALUE 272
THEORETICAL UNDERPINNINGS 274
INTERNATIONAL MANDATORY CHILD PROTECTION REPORTING 276
METHODOLOGY 278
REVIEW OF FIELD RESEARCH AIMS 279
DISCUSSION OF FINDINGS 292
THEORETICAL AND POLICY IMPLICATIONS 294
RECOMMENDATIONS FOR FUTURE RESEARCH 297
CONCLUSION 298

BIBLIOGRAPHY **299**

APPENDIX 1: BREAKDOWN OF INTERNATIONAL LEGISLATIVE PROVISIONS **323**

TABLE 1: USA 323
TABLE 2: AUSTRALIA 349
TABLE 3: EUROPE 359
TABLE 4: CANADA 366

APPENDIX 2: INFORMATION SHEET **381**

APPENDIX 3: INTERVIEW SCHEDULES **385**

APPENDIX 4: CONSENT FORMS **389**

LIST OF TABLES AND FIGURES

TABLE 1: REPORT SOURCES 75
TABLE 2: REFERRAL SOURCES 1998-2008 78
TABLE 3: REPORTS OF CHILD ABUSE AND NEGLECT 91
TABLE 4: SUSPECTED CASES KNOWN TO PROFESSIONALS 92
TABLE 5: SUBSTANTIATION RATES 92
TABLE 6: NUMBER OF CHILD DEATHS RELATING TO MALTREATMENT 93
TABLE 7: NOTIFICATION RATES ACROSS AUSTRALIA 2004-2011 95
TABLE 8: SUBSTANTIATION RATES ACROSS AUSTRALIA 2001-2011 96
TABLE 9: NETHERLANDS-CONSULTATIONS AND REPORTS 100
TABLE 10: ONTARIO STATISTICS 104

FIGURE 1: CHILD PROTECTION REPORTS AND CONFIRMATION RATES IRELAND 15
FIGURE 2: HEALTH BOARD REPORTING STATISTICS 59
FIGURE 3: INVESTIGATION DISPOSITIONS 2008 93
FIGURE 4: NOTIFICATION VS SUBSTANTIATION NEW SOUTH WALES 97
FIGURE 5: NOTIFICATION VS SUBSTANTIATION WESTERN AUSTRALIA 98
FIGURE 6: NOTIFICATION VS SUBSTANTIATION QUEENSLAND 98
FIGURE 7: QUEBEC FOLLOW-UP ON REPORTED CASES 103
FIGURE 8: CANADA INVESTIGATION VS SUBSTANTIATION 105
FIGURE 9: UNICEF CHILD MALTREATMENT RELATED DEATHS 1990S 109

Introduction

The study on which this thesis is based involves an investigation of frontline professional responses to the proposed adoption of child protection sanctioned reporting in Ireland. For the purposes of this study a sanctioned or 'mandatory' (as it is more commonly called) reporting law is defined as a legal obligation to report specific forms of child abuse to a government authority where that person knows or reasonably suspects that abuse has occurred. Crucially, a breach of reporting duties is, under mandatory reporting law, a criminal offence. This differs to the present regime in Ireland which relies on voluntary reporting, whereby failures to report are not criminally or civilly prosecuted.

The thesis brings together Irish and international research on child protection practice and policy. It also delves into child abuse and child protection discourses, ideologies and theories that have developed over time. The thesis is premised on the notion that these understandings will help inform and guide an exploration into ground level operation and adoption of policy as well as the expected and unexpected outcomes arising from the introduction of a mandatory reporting regime.

The study is contextualised within policy implementation analysis and simultaneously considers the issues that arise for those working at the coalface. The research firstly contemplates how reforms, programmes of change and policy development arise. It questions why reforms such as mandatory reporting result from crises. It also recognises the need for an evidence-based approach to be implemented, not just at a conceptual level, but at a service-delivery level. The thesis therefore adopted a backward-mapping approach (Elmore, 1979-1980) that concentrated on policy implementation at an individual level because "policy directed change ultimately is a problem of the smallest unit" (McLaughlin, 1987: p.171). It offers an analysis of the local issues, inter-organisational factors, information-sharing and communication processes, professional capacity and other institutional complexities which infringe upon and mould responses to policy.

Mandatory reporting is essentially a matter of rule following. This study therefore questions why failures to comply occur and explores the barriers impeding compliance, the thought processes individuals undergo when considering compliance and the repercussions arising from reporting that impact on those decisions. The ensuing analysis considers the broad variations and complexities which mandatory reporting policy tries to encompass. Child abuse as a term has multiple forms and, as this thesis will show, is an ever evolving concept. 'Ownership' of child protection has swung between the church, the voluntary sector, the medical sector and the State. Mandatory reporting represents a further step towards the delegation of responsibility outwards, across disciplines and professional sectors. The responsibility to report requires relevant personnel to identify a concept that is undeniably abstract, intangible and obscure, that involves individuals, relationships, environmental factors and social conditions.

This thesis aims to highlight the experience of the individual professional; it places that individual at the centre of the implementation process by framing implementation issues in terms of the individual's beliefs, perceptions and capacity. It tracks how professionals negotiate their response to sanctioned reporting obligations by "fitting their action to the multiple demands, priorities, and values operating in their environment and the effective authority of the policy itself" (McLaughlin, 1987: p.175).

This chapter will contextualise the study by outlining how the idea for this thesis came about. It will provide a theoretical basis for understanding the main issues examined and will also describe the environment in which mandatory reporting emerged in Ireland. It will identify the gaps in knowledge which the research aims to address and finally it will signpost the remainder of the thesis.

Origins of the Thesis

Impetus for Research

From 2007 to 2010, prior to embarking on this study, I worked as a legal researcher for the Dublin Archdiocese Commission of Investigation (The Murphy Report). This Commission was established in 2006 under the Commissions of Investigation Act

2004[1] to report on the church and State authorities' handling of allegations and suspicions of clerical child sexual abuse in the Dublin Archdiocese between 1975 and 2004 (Commission of Investigation, 2009). The terms of reference adopted by the investigation determined that an examination was to be undertaken into the response of church and State authorities to a sample of complaints or allegations made to them. In March 2009 the Government extended the Commission's terms to conduct a similar investigation into the Cloyne Diocese from 1996-2009 (Commission of Investigation, 2010).

My role in the Commission involved detailed inspections of confidential files of discovery including church and Garda records as well as reports and transcripts. I also had the task of meeting and interviewing victims of clerical child sexual abuse. Through this work it quickly became evident that the church authorities had, on many occasions, concealed clerical abuse, that allegations were not always acted upon and the church guidelines on reporting were not always adhered to. The State authorities were also implicated, at times, by their actions in facilitating the cover up and allowing the church institutions to remain outside the remit of normal law enforcement (Commission of Investigation, 2009: p. 26). My principal motivation in undertaking the study stemmed, however, from the testimonials and disclosures of victims' experiences which revealed the devastating impact of both the abuse and the church's mishandling of reports, on the victims and their families.

The failure of church officials to respond to allegations and their rejection of children's complaints as false exposed the need to consider how reports of child abuse are governed and managed in Ireland. Following consultation with my managers in the Commission, as well as my supervisor, the issue of mandatory reporting of child abuse emerged as the mechanism most regularly employed in other jurisdictions to promote official responses to child abuse. However, it was considered crucial that further investigation be carried out within an Irish and international context before endorsing its adoption.

An initial scan for research in Ireland on the topic of child abuse reporting produced scant and dated material that notably lacked supporting empirical data; this further

[1] S.I. No. 137/2006 Commission of Investigation (CSA) Order 2006.

affirmed the gap in knowledge which this thesis now attempts to address. The research did also throw up conflicting evidence around the need for mandatory reporting. On the one hand, the onset of Church inquiries indicated the need for some form of repercussion for non-reporting, while on the other-hand intra-familial inquiries highlighted that reporting was not at issue, instead it was the inadequate level of inter-service communication, fear of family intervention and lack of ownership that culminated in child protection failures. All of this information led me to ask the questions: are failures to report the key issues at the heart of child abuse prevention or, are there more deep rooted problems at play? Would a law, predominantly compelled by failures within the Church, be successfully applied to the private and public sectors? Because the adoption of mandatory reporting came about after a flurry of damning reports and inquiries, which is reflected in the majority of other jurisdictions where it has been adopted, it was arguably compelled by scandal rather than evidence-based, empirical research to inform its adoption. I therefore felt it was necessary to establish how a law, motivated by controversy, would play-out in reality amongst those it is targeted at and who will subsequently be tasked with the obligation of implementing it.

Academic Journey

Coming from a legal background and transitioning into the discipline of social policy was a challenging exercise. As a student of law I was trained to examine statutes and case-law with an objective and rigorous eye, traits that were demanded of me in the new discipline. However, legislative scrutiny focuses on examining the provisions of an Act or piece of statute which are debated purely from a theoretical perspective. The study of law requires the student to scrutinise how the piece of law will be interpreted by the courts and to a lesser extent, the public. It concentrates on what the legislator intended when drafting the law and examining that within the context of how the law could be interpreted by the judge presiding within the court. It identifies the weaknesses in how the law was worded and how this could have unintended consequences within case-law or be deemed unconstitutional/*ultra vires* because it conflicts with the intentions of well-established legal rules within the State. Unlike social policy, it fails to consider the more pragmatic questions of how a law is operated by ordinary people within their daily routines. It also fails to draw on field research in which to embed and analyse the theoretical findings.

By moving into a new discipline and examining mandatory reporting from a social policy perspective it broadened the spectrum of data from which I could draw; I was no longer solely reliant upon the literature, I was able to support and merge it with the first-hand experience of professionals operating the law being examined. By undertaking a social policy thesis I was able to consider aspects beyond the theoretical implications of mandatory reporting but also more practical issues such as resourcing, attitudes, willingness and ability; the human element of implementing a law. As a result my style of writing also evolved from being less formalised and sterile to more theoretical and analytical. I learned about different research methodologies and the theories driving them to which I was able to apply the legalistic rigour I had developed as a law student.

By the end of my research I found that many of my initial views and assumptions had been challenged during the process of writing. I discovered that policy implementation runs deeper that legalistic interpretation; just because a piece of legislation is enacted does not guarantee it will be carried out as intended. Deviations from what the law intended occur and this thesis allowed me to explore 'why' - not from an independent, assumptive stance, but by drawing from the experiences, attitudes and knowledge of those operating it.

Building the Scene: Theoretical Context

The thesis draws on a number of theories to contextualise the development and advancement of concepts around child abuse as well as the various ideologies that have grown around child protection policies and practices. It traces the different philosophical perspectives that have emerged over time and reveals how the understanding of 'child abuse' has altered. It also analyses how ownership of child protection has alternated between different sectors and disciplines while finally, examining the increasing proceduralisation of child protection responses and guidance.

Shifting Ideological Approaches

According to Donzelot (1980) early efforts to manage child abuse can be subsumed within the theory of social regulation through the family. Responding to the ills of

society was considered to be best addressed through policing of the family unit. This was most evident in the moralisation and normalisation activities advocated by the church and philanthropic groups. Direct State involvement remained minimal but the threat of a 'social contract' between State and the heads of family ensured that social behaviour and actions were controlled.

Where moralising and normalising efforts failed, new approaches developed, these were defined by Donzelot (1997) in terms of the "tutelary complex". In the event of exceptional circumstances, more preventive interventions began to be drawn on to ensure governance through the family. This approach employed the law to coerce compliance with the requirements of social order. As a result, the courts were more willing to sanction and support intervention into the familial sphere by social workers, as agents of the State, in an attempt to detect and monitor families at risk of immoral behaviour. This saw the initial, tentative steps towards limiting parental rights and setting standards for how children should be raised within the home. As Donzelot (1980) observed it also marked the beginning of the end with regard to State deference to the institution of the family and the inception of limited State regulation.

Gordon (1989) similarly argues that, the subsequent professionalisation of social work led to the secularisation of child protection work and brought to an end religiously motivated interventionist approaches. A "reinterpretation" (*ibid*, p.69) of child cruelty led social workers to concentrate on child neglect rather than child abuse, to draw on environmentalist explanations and provide professional guidance rather than criminal prosecution as a means of controlling family violence. Ferguson (1990) has characterised this as a transition from punitive ideology to moral regeneration through the promotion of rehabilitation and enabling parental responsibility. He describes how a more welfarist ideology began to permeate child protection practice which encouraged supervision and supportive programmes to facilitate parenting rather than monitoring and penalising parents.

Evolution of Child Abuse Concepts

Child abuse as a concept has notably undergone a number of transformations, mirroring the aforementioned ideological shifts. The earlier understanding of child

abuse was typified by different forms of child cruelty and neglect associated with families from lower social classes and characterised as a cultural problem limited to the poorer classes of society who were considered immoral and uneducated (Gordon, 1989).

The 'rediscovery' of child abuse by the medical profession during the mid-20th century changed how child abuse was perceived and reconceptualised as the 'battered baby syndrome' (Kempe *et al.*, 1962). Objective medical evidence was used to show that physical child trauma was linked with parental disorder. This understanding still had its limits however; Parton (1985) has argued that medical portrayals of child abuse as a disease caused other considerations such as environmental, economic and social factors to be overlooked.

Subsequent to conceptualisations of child abuse in terms of physical harm, Finkelhor (1994) traced the way in which child sexual abuse later came to be viewed as the dominant social problem. He expanded the definition of child abuse to incorporate child sexual abuse, changing family dynamics and awareness around incest. He also questioned assumptions around the nuclear family and safety within it.

Current understandings of child abuse as a concept could arguably be described as preoccupation with children's concurrent exposure to multiple forms of abuse. No one form of abuse appears to dominate the professional and public conscience; instead there is awareness that abuse can simultaneously constitute a cluster of abuses.

'Ownership' of child protection in Ireland

As concepts and ideologies around child abuse have evolved, ownership of the issue has also undergone change. Ferguson (1996) attributes professional dominion of child abuse to the voluntary sector, particularly the NSPCC[2] who originally held authority over the issue. Later on, church promotion of orthodox views on the family served to minimise State involvement. Simultaneously, the Constitution secured church authority over issues relating to the family by assigning virtually impenetrable

[2] National Society for the Prevention of Cruelty to Children.

rights on the traditional family unit, thus significantly restricting State involvement in the private domain of family life. O'Sullivan (2009b, p.38) outlines that, during this period, when intervention did occur it was motivated by efforts to protect the child's physical and moral wellbeing. The institutionalisation of children was marked by two distinct objectives: to provide appropriate skills and training and to reform the child's character on the basis that their home life had been a bad influence (*ibid*).

The adoption of the *Health Act,* 1970 established Health Boards and community care programmes in Ireland which delivered social work services to children and families. This marked the delegation of ownership by State to social workers whose role was professionalised and legitimised as a result. Increased recognition of State responsibility towards child protection was evidenced through the modernisation of legislation on the topic: namely the *Child Care Act,* 1991.

Proceduralisation of Child Protection

The first official guidance on steps and procedures for dealing with child abuse suspicions was produced in Ireland in 1976. Medical influences continued to filter through as child abuse was conveyed as a one-dimensional physical issue, materialising itself as non-accidental physical injury. However, the decline of medical dominance over the issue resulted in a new awareness as the Irish Association of Social Workers (IASW, 1982) and the Irish Council for Civil Liberties (ICCL, 1988) generated new information on the prevalence of child sexual abuse. This was reflected in the 1983 (Department of Health, 1983) and 1987 (Department of Health, 1987) guidelines and 1999 Children First document (Department of Health, 1999), all of which reflected expanding understandings of child abuse as it progressed from physical abuse to include sexual abuse and finally multiple forms of abuse.

More current responses to child abuse have witnessed the proliferation of mandatory reporting regimes at international level as European, American, Canadian and Australian jurisdictions continue to adopt the legislation. It marks the emergence of more proceduralised and punitive responses to contain, manage and prevent child abuse (Buckley, 2009).

The politicisation of child abuse becomes very evident through an examination of the different theories and movements. It is also notable that more recent political approaches aim to objectively manage and control the problem. The following section will elaborate on the recent events and scandals that have propelled this tendency towards bureaucratic reactions in Ireland, soon to result in the adoption of a mandatory child protection reporting law.

Setting the Scene: Backdrop for Compelling the Adoption of Mandatory Reporting

The issue of mandatory reporting has been raised and rejected in Ireland on a number of occasions over the past 20 years. The Law Reform Commission report on sexual offences (1990) and Kilkenny report (McGuinness, 1993) generated some of the first debates on the possibility of adopting mandatory reporting laws. However, it was abandoned after a Department of Health (1997) report expressed concern about its possible effects on particular services. The issue resurfaced in the 1997 action plan set out by the Fianna Fáil/Progressive Democrats coalition, in which mandatory reporting was promoted as one of the Government's initiatives for reform. A 2001 white paper on mandatory reporting was drafted by the Department of Health and Children along with a draft Memorandum for Government. These documents were circulated to Government Departments but on foot of the comments made and consultations with the Attorney General's office, it was decided that there were some very complex legal issues which needed further considerations. In light of the recent introduction of the Children First guidelines and the publication of the *Protection for Persons Reporting Child Abuse Act, 1998* it was felt that there was no need to pursue mandatory reporting further at that time.[3]

However, it has been in the last five years that more definitive assurances of mandatory reporting's adoption surfaced following a number of major events and scandals. State inquiries, high profile child abuse cases of intra and extra familial abuse and child deaths within the child protection system have given rise to public concern within a short period of time. Revelations of past abuse cast a bleak image over Ireland as a society and nation, and were set against a backdrop of other social transformations as they emerged during a period of economic and political instability.

[3] See: http://www.dohc.ie/press/releases/2005/childcare_developments_20051025.html.

Following a general election in 2011 a Fine Gael-Labour coalition formed and the new government expressed a commitment to address perceived child protection failings in a more authoritative manner than the previous administration.

The next section will dissect the events which can be considered as the catalysts of change. This will help to contextualise the perceived need for reform and the socio-political conditions in which sanctioned reporting has been proposed. These events will be analysed more theoretically in Chapter 3.

Institutional and Clerical Abuse Scandals

The Ryan Report

The Report of the Commission to Inquire into Child Abuse (hereafter the Ryan Report) was published in May 2009 and based on an investigation which had commenced nine years earlier. The final report detailed the results of an extensive examination of abuse of children in church run institutions throughout the State over a 60 year period, commencing in the 1930s. The impact of the report was considerable at both national and international level.[4]

In brief, the report reviewed a large number of industrial schools, reformatory schools, detention centres and residential schools for disabled children run by various religious Orders under the auspices of the Department of Education. The role of State bodies and voluntary organisations like the ISPCC[5] also came under scrutiny.

All forms of abuse: physical, sexual, emotional and neglect were found to have existed, to varying degrees, within the institutions. The report also highlighted a number of other concerning issues. It drew attention to complacency on the part of the Department of Education towards the operation by congregations of the various institutions and accordingly highlighted the Department's negligence in carrying out its statutory duty to inspect and supervise those institutions responsible for the care of the State's vulnerable children. The report also illustrated how inspections of these schools were grossly inadequate, not subject to agreed standards and generally ineffective. Perpetrators of abuse were given refuge by the institutions and

[4] The report made the news in several continents: Europe, Australia, Asia and America.

[5] Irish Society for the Prevention of Cruelty to Children.

inadvertently by the authorities' inactivity. Abuse within the institutions was documented and well known[6] yet it was insufficient at the time and change was not instigated until decades later. Finally, and most relevant to this study, it was found that complaints made by either the children or their parents were ignored, disregarded or not properly investigated by the institutions or the Department (Commission to Inquire into Child Abuse, 2009: vol. 4, chp. 6, p.453). Whether or not mandatory reporting could have ensured that allegations were investigated by public bodies and professionals, at that time, the Ryan Report provides evidence on how the lack of accountability and transparency can lead to numerous cases of abuse being disregarded. It highlights that difficulties around the issue of child protection do not all neatly fall within the reporting stage, but continue on, even after the report has been made. The report illustrates that, despite awareness of child protection concerns, proper responses and management of abuse concerns still failed to occur.

The Murphy Reports

The 2009 Murphy report into the church's mishandling of clerical child sexual abuse complaints found that there was an excessive concern with secrecy and the avoidance of scandal and consequently successive Archbishops and Bishops failed to report complaints to the Gardaí prior to 1996 (Commission of Investigation, 2009: p.9). The Gardaí were also implicated in the cover-up, to a certain extent, by reporting some complaints to the Archdiocese instead of investigating them. The report was published in late November 2009, just six months after the Ryan Report. The fallout from the report was significant, resulting in the resignation of four bishops who were implicated in it. The Cloyne Report (Commission of Investigation, 2010) provided even greater impact by highlighting that the church's failures to notify the authorities of clerical child sexual abuse occurred at a time when measures were securely in place to provide them with detailed procedures for dealing with complaints (*The Framework Document* and *Our Children Our Church*). In this instance the Commission found that while institutional structures and procedures were in place, they were not sufficiently "embedded" to ensure they survived uncommitted and ineffective personnel (*ibid*, p.20). This finding reflects the core purpose of the current study which aims to investigate if frontline workers are prepared didactically and

[6] See The Cussen Report, 1934; Raftery, M. and O'Sullivan, E. (1999), *Suffer the little children- the inside story of Ireland's industrial schools,* Dublin: New Island Books; Department of Health (1970), *Reformatory and Industrial School Systems Report* Dublin: Stationary Office.

psychologically, as well as capable of effectuating similar requirements under sanctioned reporting. It strives to establish whether those assigned with the legal obligation of reporting can effectively 'embed' the ascribed child protection structures into daily practice.

Intra-familial Child Abuse Scandals

The Roscommon Child Care Case

In August 2010 a report, known as the Roscommon Child Care Inquiry, commissioned and published by the HSE, was based on an investigation into the management of a case of severe child neglect by the Western Health Board. The Inquiry found that the Health Board and other services were involved with the family from 1989 until 2004. Interestingly the case revealed that the main problems arose *following* its notification to the authorities. The report illustrated that the case was referred at an early stage, but it was systemic problems within the Health Board that prevented effective and timely intervention. The main findings indicated that a combination of poor decision making, weak management, untrained staff, lack of staff's legislative knowledge, poor levels of inter-service communication and preference for supportive measures, rather than child protection approaches, resulted in the children's continued exposure to harm (*ibid,* p.69).

The Inquiry also noted that the concerns of relatives were not sufficiently taken on board or treated with commensurate gravity by social workers *(ibid,* p.72). The report illustrated that despite the child care legislation, international provisions, *Children First* guidelines and recommendations from cases published during the period of assessment (Keenan, 1996; North Western Health Board, 1998), ingrained practices of staff members took preference.

This case brings into question the utility of mandatory reporting because it shows that the notification of concerns was not the main issue contributing to the continued exposure of those children to abuse and neglect. Instead, it highlights how fear of familial intervention, lack of communication and inter-service collaboration, bad decision-making and uninformed staff culminated in this case being overlooked. It draws attention on our current system's inability to adequately intervene when cases are already within its focus. It highlights that more deep-seated, internal issues are at

the heart of child protection failures; something which a mandatory reporting system is unlikely to address.

Extra-familial Child Abuse Scandals

Dr A Report

The Dr A report, published in January 2008 by the HSE, examined the application of child protection policies, guidelines and procedures by the Midland Health Board personnel in relation to an incident involving a university lecturer and several young women under 18 years of age.

In 2004 Dr A was arrested and subsequently convicted by the Dutch authorities for indecent/sexual assault. The focus of the report was on the actions, or indeed inactions, taken by Irish authorities on foot of their notification. The report found that both the Midland Health Board and Garda authorities in Athlone failed to notify the relevant bodies under the requirements set out in the *Children First* guidelines. The Midland Health Board failed to report the incident to either child protection or social work staff (Devine & Rush, 2008: p.171). The Garda authorities in Athlone were also found not to have any record of formal notification or entry indicating notification to the Midland Health Board (*ibid,* p.175). The Inquiry team concluded that, had the officials in question notified the relevant authorities in accordance with the required procedures then, "*timely and clear outcomes in a child protection context could have been achieved*" (*ibid,* p.194).

Swim Ireland Scandals

In 2009 Ger Doyle (Irish Olympic coach) was convicted of 35 sex related offences against children, the third high profile Irish coach to be found guilty of child sexual abuse.[7] The abuse of children took place over approximately a 12 year period from 1981-1993 (Kane, 2009). Despite a complaint of inappropriate behaviour being made to Swim Ireland (the sport's governing body) in 2002, Mr Doyle was allowed to continue in his position as coach. In 2005 a concerned member of staff at the Kennedy Memorial Swimming Pool in New Ross reported suspicions to Swim Ireland, the Gardaí, the town council and his then employers (McCarthy, 2009). The *Children First* guidelines would have been well established at the time of the first report, thus

[7] Both George Gibney and Derry O'Rourke were convicted of child sexual abuse.

providing further evidence of organisations' failures to comply with requirements to report suspicions concerning their own members to the relevant bodies. So while notifications were being made, it was efforts to internally manage the issue by the governing body that facilitated the continuation of children's exposure to harm.

The findings arising from these various inquiries, cases and media reports demonstrate that a combination of factors, alongside failures to report, collectively contributed to children's on-going exposure to abuse. A combination of complacency, efforts to conceal and internally manage the concern, failures to embed policy requirements, ineffective and unwilling compliance of individuals, inadequate communication and collaboration between services as well as administrative failures, were found to be at the heart of these child protection cases.

Government Response

In July 2009 the Office of the Minister for Children and Youth Affairs (OMCYA) published a response to the Ryan Report, referred to as the 'Implementation Plan' (OMCYA, 2009). The plan addressed the recommendations of the Ryan Report and proposed a number of actions to address the deficits in service provision brought to light by the report (*ibid,* p.2). The plan acknowledged the system's failure towards children and emphasised the State's responsibility to ensure it was never accused again of "not responding to abuse allegations" (*ibid,* p.6).

The Implementation Plan paid particular attention to the recommendation to place the *Children First* guidelines (Department of Health and Children, 1999) on a statutory footing. It was agreed that by December 2010 legislation would be drafted to provide all staff employed by the State, and in agencies in receipt of funding, to comply with *Children First*, share relevant information and co-operate with other relevant services. However, it cautioned against *"providing cast iron assurances in the area of child welfare and protection"* (OMCYA, 2009: note 16, forward, p.xi).

Shannon (2009),[8] affirmed in his third report to the Oireachtas that the assurances outlined in the Implementation Plan did place the welfare of the child at the centre of

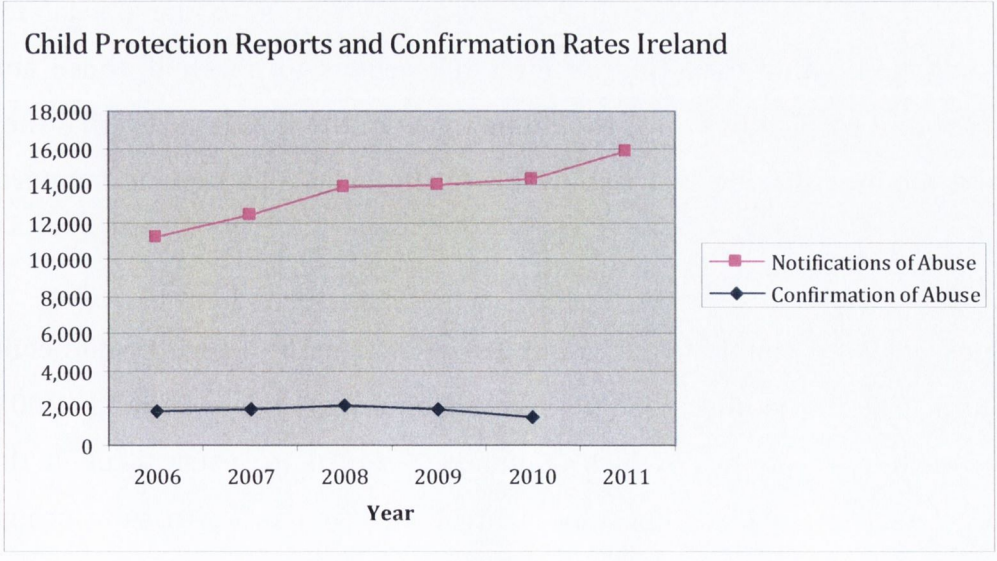
[8] Special Rapporteur on Child Protection.

actions but warned that "rhetoric seldom leads to progress" (*ibid,* p.61). He stated that child protection and welfare had lacked clarity and certainty and so to address this deficit the Government would need to deliver on its promises of accountability, provide more effective governance and greater resources to child protection and welfare (*ibid*). His report recommended that that would be best achieved by making those aspects of the Implementation Plan directly linked to child protection and welfare legally binding (*ibid,* p.62).

National Child Protection Data

Annual reviews undertaken by the HSE into the adequacy of Children and Family Services documents all reports of child abuse, neglect and welfare made to social work departments for that year. The most recent data shows that reporting rates for child protection concerns continue to be on the increase. From 2010-2011 abuse and neglect reports rose by an average of 23%. Since 2006 notifications to social work have steadily continued to grow while confirmation rates remained low and fluctuated only slightly. It should be noted from the following graph that confirmation of abuse cases in 2011 are missing, this is in accordance with revisions made to the data collection processes adopted by the Health Service Executive (the body with statutory responsibility for child protection in Ireland) which have removed the requirement to document confirmed cases:

Figure 1: Child Protection Reports and Confirmation Rates Ireland, 2006-2011



Source: HSE, *Review of Adequacy of Services for HSE Children and Family Services, 2006-2011,* [online] available at: http://www.hse.ie/eng/services/Publications/services/Children/reviewofadequacy.html.

The graph clearly indicates that, despite operating under a voluntary reporting regime, notifications rates in Ireland have continued to grow. In light of the above inquiries, cases and scandals discussed as well as policy reform, it is arguable that growing public awareness and media attention have contributed to this increase, casting doubt on the need for a mandatory reporting regime.

Current Political Position

In June 2011 the OMCYA was given departmental status and became the Department of Children and Youth Affairs. Following on from the catalogue of scandals outlined above, in April 2012 Minister Fitzgerald published the Heads of the Children First Bill which was approved by Government in July 2013. The Bill intends to place obligations on organisations working with children to provide safe services and for identified professionals and post-holders to report suspected child abuse, to share information and engage in inter-agency and multi-disciplinary work. In July 2011 the Minister for Justice, Alan Shatter published the Scheme of a Bill to create a criminal offence for withholding information relating to the commissioning of arrestable offences, including sexual offences, against a child or vulnerable adult. The Bill was signed into law in August 2012.[9] Under the new law a person will be guilty whereby they knew an arrestable offence was committed against a child/vulnerable adult but they failed, without reasonable cause, to disclose that information to the Gardaí. The main distinction between the two legal provisions is that the 2012 Withholding Information Act applies to the reporting of criminal offences to the Gardaí for criminal investigation, while the Children First Bill relates to all child abuse and neglect concerns and suspicions which should be made to the HSE in order that they can assess and monitor the level of risk posed to the child and provide supports where suitable.

Both provisions emerged simultaneously and in the aftermath of high profile child abuse exposures. These responses could be characterised as what Garland (2001, p.195) calls "reactionary politics" which demands a return to order through the imposition of extensive new disciplines and controls targeted at a particular group. Garland (*ibid*) describes it as "a return to restraint, a retrofitting of controls, an

[9] *Criminal Justice (Withholding Information on Crimes Against Children and Vulnerable Persons) Act 2012.*

attempt to put the lid back on a newly disordered world". Comparably, Minister Shatter (2012)[10] stated in Seanad Éireann debates:

> *"The Members in this House would be well aware of the content of published reports, such as the Ryan, Murphy and, more recently, Cloyne reports. These provide a litany of quite shocking revelations concerning the sexual abuse of children and failure to respond to that abuse. Members will also be aware of the further revelations over the past ten days concerning Fr. Brendan Smyth. It is clear from these revelations and the various published reports that if those who had knowledge in the past of sexual offences committed against children had informed the Garda, many children who subsequently became the victims of abuse may have been protected from clerical sexual predators. There is a compelling argument, therefore, for closing the current loophole in the law."*

Based on these developments this thesis questions whether the aspirations set out in both the 2012 Act and Children First Bill are achievable. It also sets out to establish whether reporting is really the issue at fault and investigates what impact these sanctions will really have for those implementing the legislative provisions as well as the families to whom they relate.

The Contribution to Knowledge to be made by this thesis

This thesis extends and updates available knowledge on political responses to child abuse scandals and provides insight into the current appetite for more punitive approaches to ensure reporting compliance. It also presents research that is of current relevance and of public, political and policy interest considering it coincides with the development and enactment of legislative provisions to sanction failures to report.

The study provides understanding of international reporting policies, including any changes in reporting practices following the introduction of mandatory reporting laws as well as an examination of the impact of mandatory reporting within the different cultural, political and professional contexts of those jurisdictions. It also looks at the issues and events that have triggered the adoption of mandatory reporting and provides explanation as to why it has been so universally accepted.

It is the first study to examine mandatory reporting within an Irish context while also uniquely examining the issue immediately prior to its adoption, in comparison to the

[10] Alan Shatter, *Seanad Éireann Debates vol.215, no.6, 10 May 2012.*

majority of international research which concentrates on the issue post adoption. It considers the policy from a ground level perspective and explores the experience and difficulties encountered by frontline professionals as well as the challenges and barriers that confront them during the process of reporting. It also explores how they anticipate a mandatory reporting law impacting on them, their service and the children and families involved, given their experiences of the current system.

Finally, this study aims to fill the gap on current child protection knowledge in Ireland by updating the research and examining new political responses. It does so by assessing the motivations behind reporting and non-reporting practices of those working at the frontline and questioning whether failures to report are the real issue of concern in relation to child protection.

Mapping the Thesis

The first three chapters set the scene for an analysis of this kind by discussing the available literature on child abuse and child protection ideologies and constructions. They trace the emergent voluntary, statutory and political approaches to the social problem of child abuse. They also show that, as understandings around child abuse expand, corresponding responses have become more politicised, populist and driven by efforts to manage child abuse. The fourth chapter draws on international literature, research, statistics and legislation to analyse the impact of mandatory reporting laws in jurisdictions that have already adopted the provision. This information is used to help inform the debate around adoption of sanctioned reporting in Ireland from the 1990s onwards.

The fifth chapter outlines the research methodology selected for this study. It provides an analysis of the philosophical approach used to frame the field research. It then discusses how the research design, data collection and analysis took place.

Chapter six, the first of the findings chapters, examines the extent to which professionals are ready to adopt child protection roles and duties. It assesses the level of role cultivation (effort made by educational and professional bodies to support and encourage the adoption of child protection roles and responsibilities) and awareness-raising within formative education as well as within the work environment. It also

evaluates how current child protection guidance is implemented; focusing on any challenges encountered while trying to operationalise its requirements. Chapter seven focuses on the capability of professionals to accurately detect child abuse and neglect by examining the different signs, symptoms and indicators that cause an individual's suspicion to be raised. The eighth chapter sets out to uncover the factors that influence a person's propensity to report by focusing on the decision-making process adopted by participants when trying to assess the utility of making a report. The ninth chapter reports on participants' understanding and interpretations of a law that sanctions failures to report. It aims to establish how a mandatory reporting law and its inherent obligations are perceived by those that will be applying it.

The concluding chapter provides a summary of the thesis findings and draws out its implications in theoretical and practical terms while also outlining recommendations for future research in the area.

Conclusion

This chapter has introduced the thesis by arguing that ideological constructs and current discourses help to shape the development of a child protection agenda. It points out that these processes can act as mechanisms for policy development that reflects the concerns dominating public and political consciousness. The actions emanating from that policy are therefore viewed as the prevailing cultural responses to child abuse and neglect at that time. Conceptualisations, ideologies, discourses and reactions to child abuse can therefore be seen as ever evolving and expanding in nature. The current research indicates further advancement towards proceduralisation of responses through the adoption of mandatory reporting laws. The field research sets out to investigate how these ideological approaches and consequent theoretical policies are put into practice by those directly applying its requirements. It aims to establish the realities of introducing new laws from the ground level; from the professional perspective and by those children and families at the receiving end of its requirements.

Chapter 1:

Shifting Perceptions around Child Protection Ideologies

This chapter details how approaches to child abuse and child welfare have evolved and progressed over time. It draws from some of the major theories disseminated by leading academics on the area, to provide a framework for analysing how child abuse and child protection ideologies and discourses advanced within an Irish context. The chapter traces how attitudes towards the child and family have shaped wider public and political approaches. We see how religiously dominated motives to govern the family resulted in the steadfast institutionalisation of children in Ireland. The chapter goes on to explore how welfarist approaches stimulated more supportive responses. Competing medical discourses claiming expertise over the issue suggested child abuse was the product of parental disorder and disease. However, by the end of the chapter we see how efforts were made by Government to take ownership of the issue and to try streamline its management at a statutory level.

Governance through the Family

The early stages of child protection in Ireland can be understood as an interaction of constitutional values, religious values, the institutionalisation of children and minimum State intervention. This state of affairs is best explained through the theories of Donzelot (1980), a French sociologist, who provides an analysis of the origins of social regulation, discipline and State intervention. He describes this as the 'policing' of families whereby social reform was achieved through regulation of the family unit (Donzelot, 1980). Choosing this avenue for attaining reform was considered most appropriate because it meant "regulating everything that relates to the present condition of society, in strengthening and improving it" (*ibid,* p.7). In exchange for the protection and recognition of the State, the family (namely the head of the family in the form of the husband), was accountable for its members. This contractual relationship of obedience to the sovereign State in return for the unfettered authority of the head of the family over its members was known as

government through the family (Donzelot, 1997: p.7). The family was thus identified as the medium through which State power could regulate social action. The processes of regulation at that time have been classified as 'moralisation' and 'normalisation' (*ibid*). The former involved the provision of financial and material assistance to those who found themselves in difficult circumstances that were beyond their control and whose actions were therefore considered to be the result of exterior influences, rather than inherent deviance. 'Normalisation' on the other hand was a process whereby the State prescribed the standard and acceptable norms of living through the development of legislation, education and health services. Two categories of children can be identified at this time, the 'dangerous child' (vagabonds and delinquents) who posed a threat to public order but could be both normalised and moralised through rehabilitative centres such as the Industrial and Reformatory schools and secondly the 'child in danger' (the abandoned, illegitimate child) suffering from poverty, neglect and lack of parental control, who, through no fault of its own was also placed in the industrial schools in order to maintain social order.

Governance through the Family in Ireland

In Ireland moralisation and normalisation were effectuated through the charity work of organisations and religious bodies while normalisation was evidenced in instruments such as the Poor Laws and the *Reformatory Schools Act.* The former Poor Laws were provisions which set about to regulate the destitute by appointing 'overseers of the poor'. Children, whose parents were deemed unable to keep them, were sent to the workhouses (Tuairim, 1966). The *Poor Relief (Ireland) Act 1838,* was an attempt to maintain the numerous vagrant children, particularly subsequent to the Famine, by placing them in these workhouses (Raftery & O'Sullivan, 1999: 59). Until the mid-19th century children were not regarded as a vulnerable population in need of special protection. By the 1850s however, pioneers such as Mary Carpenter were advocating against workhouses, reporting their ineffective and detrimental consequences for children (Tuairim, 1966: p.4). Consequently, strongly influenced by similar English and Scottish developments, the *Reformatory Schools (Ireland) Act 1858* established reformatory schools for juvenile offenders which removed young children from the prison environment and negative influences of adult criminals. This piece of legislation also directed that new and existing voluntary schools could be certified to receive children committed through the courts and also made them

eligible for grants to support their maintenance. By 1870 ten reformatory schools had been established and certified in Ireland and were run by religious orders. Their main function was to provide a better alternative from adult prison for children who were deemed to have broken the law. The reformatory schools offered these children an opportunity to reform their character through training and education (Buckley *et al.,* 1997: p.4). This also related to industrial schools, set up in Ireland in 1868 and modelled on schools set up in the UK to contain neglected and abandoned children (Raftery & O'Sullivan, 1999: p.63). The *Industrial Schools Act,* 1868 allowed for the establishment of a service for children, who had not committed an offence, but were at risk of committing criminal offences because of the uncontrolled lifestyle they were caught up in (*ibid).* The industrial schools received a capitation grant for each child committed to the school and so were regularly inspected. This system of industrial and reformatory schools therefore allowed the State to abdicate responsibility for the management of such children to the Catholic Church and religious orders, which was considered at that time to be the ultimate arbiter of morality in Ireland (Inglis, 1998).

Preventive Intervention

Under the circumstances described above family intervention was minimal and accepted only as a last resort. This was corroborated in an article by Reverend Cecil Barrett (1955: p.421), who wrote that at that time the official view of the Minister for Education was to rely on parents themselves to "claim out the child". Entry into the private sphere of the family setting was becoming more difficult while children from broken or bad homes, illegitimate and orphaned children were regarded as an increasing threat to the social order. Hence, a concept described by Parton (1991) as the 'tutelary complex' could be seen to emerge in the Irish context, whereby preventive interventions were used for exceptional circumstances that were beyond the scope of moralising and normalising techniques. It replaced the 'social contract' between the State and heads of family and provided a stronger legal framework through which a wider remit for intervention into family life was permitted. Thus the judiciary, through the rulings of juvenile courts, sanctioned and supported the interventive work of social workers and endorsed the surveillance of troublesome families at risk of immoral activity. A new relationship emerged between State bodies and the family whereby social workers and welfare professionals, following legal authorisation, were allowed unprecedented access to the family in the interest of

detecting, monitoring and preventing crimes against children. In cases where abuse was discovered, families were faced with the threat of the child being removed and loss of parental authority.

This tutelary approach first emerged in Ireland with the adoption of the *Children Act 1908* which began to reflect reformist views of children's vulnerability to abuse. The new, overarching 1908 Act allowed for the law to intervene in family life for the first time and remove children where deemed fit. The courts were authorised to place children in residential and industrial schools in situations where it was considered to be in the best interest of the child's physical and moral well-being (Raftery & O'Sullivan, 2009: p.38). The schools were intended to provide the children with a set of skills and to reform the bad characters they had adopted as a result of a negative home life.

The Irish Society for Prevention of Cruelty to Children (ISPCC) also played a vital role in the institutionalisation of many Irish children. While it was the courts who committed the children, applications for their admittance were generally made by local ISPCC Inspectors[11] (Raftery & O'Sullivan, 1999: p.21). It was also practice for parents themselves, relatives or at times the Gardaí and local priests to alert the inspectors of children whom they deemed to be in need of care (*ibid*). At its height the industrial schools housed children mainly on grounds of neglect, lack of guardianship and as an attempt to manage young unmarried mothers; an affront to the highly orthodox views of the Catholic Church at that time (*ibid*). The misuse and over reliance on such schools to regulate Irish children, illustrated how the church was able to exercise its power on the areas of family and welfare. It was suggested by the Committee of Inquiry into Widows' and Orphans' Pensions that in 1933 only 5.3% of children in industrial schools were actually orphans (Saorstat Eireann, 1933: p.65). The local authorities were also instrumental in advancing the prevalent culture of institutionalisation because, even though they were required by law to place these children in foster homes they opted, more often, for placing them in institutions (Raftery & O'Sullivan, 1999: p.23).

[11] Also known as the "Cruelty Men".

Early Awareness of Child Sexual Abuse

The argument that awareness around child abuse and child sexual abuse in particular is a more recent phenomenon is contradicted by clear evidence which demonstrates that governments, medics, lawyers and feminist campaign groups were debating the issue as early as the 1920s and 1930s in the UK, Scotland and Ireland. Smart (2000, p.56) examines the development of discourses on child sexual abuse in the political, medical, legal and psychoanalytic spheres between 1910 and 1960 in the UK, arguing that "the idea that agencies, professionals and government did not 'know' about sexual abuse ... does a disservice to campaigners and feminists who ... fought hard to extend the definition of adult-child sexual contact as harmful". Following the First World War in the UK, pressure was being placed on the Government to reform the law on the sexual exploitation of young girls by feminist campaigners and child protectionist groups. They did so by submitting a Private Members' Bill in 1918, however the Parliament dissolved soon after. In 1922 when the Government passed the Criminal Law Amendment Act, it resulted in renewed pressure. Subsequently the Home Office set up the Departmental Committee on Sexual Offences against Young Persons (1925). The Committee reported on the prevalence and widespread awareness of venereal diseases amongst young children, girls in particular. The report recognised the trauma experienced by a child who was sexually abused and the exacerbating pressures of undergoing trial. It therefore made a number of policy recommendations such as the use of specially trained women by the police to deal with cases of child sexual abuse, the use of female doctors and the presence of women in court when cases of this nature were being treated. The report also recognised the numerous difficulties associated with gaining a conviction in cases of incest due to the reluctance of mothers to allow the sole breadwinner of the house to be prosecuted, in addition to the father's entitlement not to be divested of his rights over the child, despite a conviction of incest. The report also highlighted, at an extremely early point, one of the difficulties faced by the medical profession when a child presented with a venereal disease. It highlighted how doctors find themselves in a situation where they must either stay quiet about the possibility of abuse or raise the suspicion and risk the child being removed from treatment.

Contrary medical discourses on child sexual abuse were also evident at the time through the examination of medical journal articles on the causes of venereal diseases amongst young children. Medics discussed the frequency with which outbreaks of venereal disease were occurring within children's homes and children's wards. However, its existence was attributed to accidental causes and bad hygiene. The medical profession relied on the idea of 'fomite' transmissions (Smart, p.57) to explain the occurrence of sexually transmitted infections amongst children; that the sources of infection were lavatory seats, slipper baths and towels. However, counter medical arguments recognised that children were the intentional subject of rape but that the sexual abuse of these children was based on the false assumption that sexual intercourse with a virgin could provide a cure from venereal diseases (Pollock, 1909: p.147).

While it is clear from Smart's writings that there were opposing and contrary opinions and discourses surrounding the nature, form and causes of child sexual abuse, the literature undeniably shows that awareness of child abuse was present at governmental, professional and public level much earlier than is generally thought. The argument that child abuse is a recent phenomenon is positively discounted. There were numerous counter arguments surrounding the criminality of sexual activity and children, as evidenced from 'accidental' transmission from unhygienic environments and "infectionist" theories, suggesting that there was conflicting understanding and different conceptualisations around what child abuse was. Despite this, the evidence does highlight that discourse around the issue was strong and at the forefront of the UK political agenda as early as the 1920s.

In Ireland, similar concerns were arising and being debated at Governmental level. In 1930 the Cosgrave-led Government appointed a Committee to consider the need to modify the Criminal Law Amendment Acts of 1880 and 1885, in addition to the consideration of new legislation to deal with juvenile prostitution. Pressure for change was also mounting as a result of the legislative changes that had taken place in England (1922), Scotland (1928) and Northern Ireland (1923) which abolished the plea of reasonable belief in carnal knowledge cases that a girl was aged 16 or over. Such changes in the law of neighbouring jurisdictions placed pressure on the Irish State to follow suit as it exposed Ireland as more lenient towards sexual offences

against young persons (Kennedy, 2000: p.354). The Carrigan Committee was charged with the task of examining the age of consent and issues concerning prostitution. The subsequent report had a distinctly 'welfarist' approach in how it dealt with the issue by considering "the protection of women, girls and children, provision for unmarried mothers and their offspring, the treatment of sexual disease, the care and reformation of offenders and kindred charitable aims" (Carrigan, 1931: p.6). The report collated evidence from a number of different sources: the registrar general, voluntary and rescue societies, social workers and submissions from the Catholic clergy; all of which documented the substantial increase in the number of illegitimate births during the 1920s. However it was the evidence produced by Garda Commissioner Eoin O'Duffy that highlighted the prevalence of sexual offences against children, which is of most relevance and interest. The statistical information gathered by O'Duffy on the policing of sexual offences in Ireland was the first systematic effort at producing accurate crime statistics since the independence of the State. O'Duffy gathered data on the prosecution of sexual offences from around the country, going back to 1924. He documented for the Committee the range of offences against women and girls, including indecent assault, carnal knowledge and rape. The data spanned a five year period from 1924-1929 and showed that, in that timeframe, there had been 125 child victims of sexual assault and indecent assault where a charge/prosecution was brought (Finnane, 2001: p.532). In 1927 a quarter of all prosecutions were of sexual offences committed against girls under the age of 10, while from 1927-1929 over one-third of prosecutions were for offences committed against girls under 13 (*ibid*). O'Duffy also estimated that most cases of underage sexual offences against girls were heard accidentally and rarely the result of a direct complaint (*ibid*, p.534):

> *"The police estimated that not 15 per cent of such cases were prosecuted, because of*
> *(1) the anxiety of parents to keep them secret in the interests of their children...*
> *(2) the reluctance of parents to subject their children to the ordeal of appearing before a public court...*
> *(3) the actual technical embarrassments in the way of a successful prosecution of such offences owing to (a) the difficulty of proof...(b) the existing law...requiring corroboration."* (Carrigan, 1931: p.14)

The Garda Commissioner's evidence established the prevalence and occurrence of child sexual abuse within the Irish State but also pointed towards the phenomenon of under-reporting and the difficulties associated with making a report to the authorities. While the Carrigan report presented a case for the tightening of the law to

protect women and children, it was only circulated amongst the Executive Council at the time. The Department of Justice warned against its publication to the wider public based on concerns for its impact on the image of a newly established free State (Finnane, 2001: p.535). This evidence clearly highlights that while sexual crime may not yet have been debated in the public sphere at that time, there certainly was awareness at governmental level of its existence, prevalence and the reluctance of people to report such offences.

Religious Dominance

The beginning of the twentieth century in Ireland saw a number of social changes, in particular the 1937 Constitution following Ireland's independence. The Constitution's ascription of 'inalienable and imprescriptible rights' to parents had an effect on how policy and practice progressed in terms of State intervention into family life. While the State was restrained from mediating family affairs by Article 42 (*Bunreacht na hÉireann*) which prescribed that the family was the "primary and fundamental unit group of society", the church successfully endorsed itself as the authority on Ireland's social issues, in particular, family life, the role of women, education and welfare (Breen *et al.*, 1990: pp.101-108).

By the time the Irish Constitution had become operational the family, defined as the family founded on marriage, was firmly commissioned as the fundamental unit group of society, safe from State attack, a view staunchly defended by the Catholic Church (Breen *et al.*, 1990: p.108). Article 41 was expressly indicative of conservative Catholic social thinking and values dominating and pervading Irish life at that time. As a result of this, the family remained chiefly outside the remit of State intervention while policy was imbued with Catholic orthodox goals (*ibid*).

While this culture of institutionalisation prevailed, the best interests of the child were primitively categorised as physical well-being and moral integrity. Consequently, as the religious Orders running the homes continued to be supported by the State financially, accordingly, the number of children committed continued to rise, with no regulation or monitoring from the State despite the fact that these schools were under the control of the Department of Education (O'Sullivan, 2009b). It was this complacency that sanctioned the growth and prosperity of industrial welfare for

children, even at a time when other jurisdictions were realising the ineffectiveness of such a system.[12] It is also worth noting that the majority of the staff in these schools were untrained. At the time there were no professional training courses in probation work, child care work or residential child care in Ireland (Tuairim, 1966: p.14-15). Some Orders financed the training of staff by sending them to England, but in general, few people were aware of the need for it (*ibid*). This, it can be argued, was indicative of the prevalent lack of understanding surrounding the need of the deprived child at that time. This notion is endorsed by Ferguson (1996, p.13) who characterises the response to child cruelty in the first half of the twentieth century in Ireland as:

> *"The institutionalisation of key system principles in child protection in terms of a minimalist, pro-family ideology on state intervention, and the sequestration of child protection work."*

Emergence of Welfarist Approaches

The first half of the twentieth century saw a major transformation in the way that abused children were viewed and responded to. Pre-modern, religiously motivated concepts that child cruelty was a natural consequence of sin and preventable through social interventions began to dissipate and were replaced with post-modern, welfarist ideologies of parental reformation (Ferguson, 1996: p.11). It was also at this time that the church's role in the provision of social services and institutional care of children was brought into question. Recognition developed that the church's governance on such matters, in a changing society, was no longer desirable, nor sustainable (Skehill, 2004: p.63).

The move towards more welfarist approaches was clearly evinced in Ireland within a number of key reports which raised awareness around the inadequacy of institutional care.[13] The Tuairim Report (1966), which examined the provisions for residential care in Ireland, recognised that the *Children's Act 1908* was outdated and that it no longer had relevance in our changing society. The report added that there was a

---

[12] In Britain the industrial/reformatory school system was coming under scrutiny and was soon after abolished as an inappropriate mechanism for meeting the welfare needs of deprived and 'at risk' children.

[13] See also CARE (1972), *Children deprived: the CARE Memorandum on deprived children and children's services in Ireland*, Dublin: CARE; Commission of Inquiry on Mental Illness (1967), *Commission of Inquiry on Mental Illness: 1966 Report,* Dublin: Stationary Office; OECD (1966), *Investment in Education,* Dublin: Stationary Office.

complete lack of understanding of the needs of the deprived child (Tuairim, 1966: p.15 & 46). For the first time the welfare of the deprived child was promoted as "everybody's business" (*ibid*, p.49) and publicised as a universal issue; responsibility for which could no longer be overlooked. The Kennedy Report (1970) was another pivotal piece of research in child care services in Ireland which instigated significant social change and reformed longstanding attitudes. The recommendations of the report were manifest of a new approach advocating caring, supportive responses and institutionalisation as a last resort. The authors recognised the need for children to be brought up in a family unit and so denounced the reformatory regime completely (Kennedy Report, 1970: p.6). The Report signified a discernible shift in emphasis from "a social risk model of childcare" to a "more developmental model of childcare" (O'Sullivan, 2009a: Chp 4, Vol. IV p. 310). It has been argued by Brennan (1994: p.92) that the report:

> *"Brought about a remarkable shift in emphasis- from reformatory/punitive to caring; from large controlling/corrective to understanding/caring; from custodial to educative."*

These reports and their findings prompted attitudes of distrust and hesitation in the merits of an institutional regime to address child welfare. Instead, they helped to refocus attention towards a new system based on supportive interventions and a transfer of child welfare responsibilities to a central government power (Tuairim, 1966: p.46).

Welfarist responses in Ireland were reflected in the development of the Community Care programmes under the *Health Act 1970,* signifying a more benevolent effort to promote social justice. The function of social services under the community care programme mirrored developments in other jurisdictions of emerging community based responses to social needs which Parton *et al.* (1997, p.21) describe as "ameliorative, integrative and redistributive" efforts, rather than control through punitive measures. The social welfare model regarded family dysfunction to be a result of social disadvantage acting upon people without the emotional, family or community strengths to overcome them (Parton, 1985: p.16). This was the first discernible effort by the State to take a much more active role in child protection policy development. It signified the transfer of administrative responsibility for child protection issues from the ISPCC to State agencies (Ferguson, 1993: p.22). It also

denoted the development of a more sophisticated child protection system, reflective of international conceptualisations which paved the way for a multi-disciplinary approach to child care. According to Ferguson (1996: p.13) the creation of health boards expanded the 'expert system' to include disciplines such as social workers, public health nurses, area medical officers as well as senior management positions like director of community care and medical officers of health. Social workers employed by the boards quickly replaced the role traditionally held by the ISPCC as the key agents responsible for placing children in care (O'Sullivan, 2009a: Chp 4, Vol. IV, p.311). As child protection social work became professionalised and secularised, it marked a corresponding shift in how responses to child protection concerns were conceptualised. Approaches that previously endorsed punitive responses were substituted with more positive responses that promoted rehabilitation of families by incentivising them to change themselves and through supportive efforts that would enable them to achieve that (Ferguson, 1996: p.134). At the same time, explanations for family violence were drawn from circumstantial and environmental factors rather than moralist explanations (Gordon, 1989).

Expert Discourses

By the 1960s, international influence and medical discoveries were beginning to reshape the approaches to child abuse. The "battered child syndrome" was first identified in an article by Dr Henry Kempe and successfully brought child abuse to wider professional attention by suggesting that some fractures amongst children were the result of traumatic origin (Kempe *et al.*, 1962). The article argued that professionals often misdiagnosed the 'syndrome' and that health practitioners should take it into consideration when presented with a child showing evidence of neglect/trauma or when the clinical findings did not reconcile with the explanation offered by the parents. While the paper only focused on physical abuse it did propose that child protection was not just the responsibility of the State but extended to the wider medical profession. Kempe's theory stimulated awareness amongst professionals and the media (Ferguson, 1996: p.15). The gradual involvement of medical professionals, psychiatry and psychology served to foster a notion that parental violence towards their children was the product of a "disorder, disease or syndrome" (*ibid*: p.15). Kempe's 'Battered Baby Syndrome' advanced this perception, portraying child abuse as a parental illness or intrinsic irrationality best explained

within medico-scientific discourse. This emerging welfarist, knowledge-based movement resulted in a system of labelling. Child abuse was seen to be the product of a labelling process based on clinical evidence regarding the condition of the child and social evidence built upon moral judgements about the character of the parents (Ferguson, 1997: p.224).

This period of regulation through empowered expert authorities has been described by Beck *et al.* (1994) as 'simple modernisation'. Within child protection, professionals relied upon their expert authority and claims of what constituted 'normal' behaviour to bring families' conduct in line with what they prescribed as the accepted norm. The professional society thus enjoyed a monopoly over the area of child protection and welfare, enabled by "powerful scientific claims to knowledge, enlightenment and progress" (Ferguson, 1997: 223). This governance through expert systems is evidenced in Ireland during the 1970s when the Department of Health relied heavily on expert groups and medical professions to overhaul children's services and guidelines for identifying abuse; most noticeable in the Task Force Report (1975) and the Memorandum on Non-Accidental Injury to Children (1977) which are discussed in more detail later in the literature review.

Centralisation of Child Protection Responsibility

Expert authorities' exclusivity over child protection issues resulted in the exclusion of others from the debate. Expert groups continued to maintain uncontested authority over knowledge about child abuse presentation and forms, but more importantly, about how to protect vulnerable children from deviant parents. However, the Task Force, set up in 1974 by the Minister for Health, was established with the objective of reforming the law and the protection and welfare services for children in Ireland and marked the beginning of Governmental efforts to centralise child protection responsibility at a statutory level. The terms of reference adopted by the Task Force required that the Committee make recommendations on services for deprived and 'at risk' children, prepare a new Children's Bill and make recommendations on possible administrative reforms (Task Force, 1980: p.26). Although set up in 1974 the Task Force did not produce its final report until 1980. The findings of the report explicitly recognised the need to streamline responsibility and ascribe clearly defined duties to the relevant personnel. The Task Force Report pointed to the fragmented and ad hoc

manner in which child care services were organised at the time; distributed in a haphazard manner across the Departments of Health, Education and Justice (Department of Health, 1980b: p.85). Influenced by past reports[14] the authors prescribed the co-ordination of services from the relevant agencies, bodies, personnel and departments to come under the aegis of the Department of Health (*ibid*: p.86). The report advocated a more holistic approach that incorporated the different services available to 'at risk' children and to deliver them cohesively from the perspective of a singular objective, namely that:

> *"Services should be unified under one government department...and that child care services should be integrated with family support services."* (*ibid*: p.88)

At a more immediate level it was envisaged that delivery of services would be concentrated and executed largely at regional and community level. This localised approach would be facilitated by a range of social services such as housing, education and health but co-ordinated at regional level through a Child Care Authority (*ibid*: p.73). While the greater responsibility for and management of services was to be attributed to the Child Care Authority, they were to be supported by key personnel who could be trained and sensitised in identifying indicators of abuse. Teachers, psychiatrists, doctors, Gardaí and public health nurses were some of the professions identified as being in a special position to aid the Child Care Authority in identifying and preventing child deprivation (*ibid*: pp.100-101). The report set about clarifying where responsibility lay as well as the duties of others to ultimately support the development and progression of a system that fostered a supportive, community based approach to families who were no longer regarded as intrinsically immoral, but rather the unfortunate victims of social deprivation (*ibid*: p.70). As Doherty (1996, p.48) indicates, the recommendations of the Task Force challenged traditional thinking on child care services, paving the way for a more institutional model of welfare that pointed the way towards a collectivist approach.

Ferguson (1996) observed that by the late 1970s the Irish State had begun to exert its interest in controlling child care policy through the Health Boards. This resulted in the role of the ISPCC in child protection intervention being phased out by health board social workers. They did, however, continue to be involved in child protection

[14] See: Tuairim Report (1966), Kennedy Report (1970), CARE Report (1972).

duties and in some areas were participating as professional social workers in the new community care teams (*ibid*: p.13). Nevertheless, a tension existed as to where responsibility lay while each agency sought to carve out its role and function in a changing social welfare sphere (Skehill, 2004: p.76). Nic Goilla Choille (1983: p.2) points out that it was during this period that the ISPCC was forced to:

> *"Re-examine its role and functions in light of the changes, which had taken place in the structure of the social services in Ireland in that decade".*

Skehill (2003: p.150) argues that by the time the role of the ISPCC was re-orientated to other projects, statutory social workers did not have to compete in order to assert social expertise or power. She attributes this to a "lack of interest...in either child welfare or professional social work" which allowed social workers to "occupy the newly emerging space in a quiet and uncontested manner" (*ibid*: p.150).

Over the course of this chapter we have seen how child protection work has transformed from early child saving endeavours to 'rescue' the child from immoral and corrupt circumstances to State regulation of parental rights through the prescription of child rearing standards (Gordon, 1989). Finally, we have witnessed how the professionalisation and secularisation of child protection work came about by way of its integration into the developing social work profession (*ibid*).

Conclusion

This chapter has provided a theoretical examination of evolving perceptions around child protection responses and placed them within an Irish context by providing specific examples to support the major trends and observations discussed. It traces how different ideologies and discourses have formed the basis for instructing child protection responses over time. We have seen how orthodox, religiously motivated views on the family promoted social reform through regulation of the family by means of a 'social contract' between the State and heads of family. This in turn occasioned a period where the institutionalisation of children dominated measures to manage concerns about children. Constitutional deference to the family maintained minimal intervention by the State while supporting the continuation of moralising and normalising activities by the church and voluntary agencies. More preventive interventions began to emerge whereby the courts endorsed the interventive

activities of social workers and sanctioned the surveillance of troublesome families. This provided for a stronger legal framework to permit intervention.

Eventually, welfarist ideologies began to govern responses to child protection concerns. Recognition that institutional care was inadequate for the needs of children, that policies failed to recognise the vulnerable position of children while also failing to recognise the changing structure of society, resulted in the adoption of supportive, caring responses. Social work was consequently professionalised and secularised while understandings around family violence evolved from moralist perceptions to, instead, consider circumstantial factors.

Welfarist ideologies soon had to contend with expert, medical discourses advancing the concept of the 'battered baby syndrome' through which child abuse came to be regarded as a product of parental disorder. By the late 1970s however, the State finally began to adopt efforts to centralise responsibility for child protection policy. Correspondingly, statutory social work began to gain a monopoly over child protection issues as it came to firmly fall within the realms of State responsibility.

This chapter has highlighted the fluctuating approaches and perceptions around child abuse, the family and the management of social issues. These changing approaches are reflected in the policies, governmental responses and development of services. It shows how the dominant ideologies and discourses of the time influenced the responses to child protection issues and also how it dictated where ownership for the issue resided. However, it is equally important to examine how child abuse evolved as a concept, how it was understood and portrayed and the significance this had on policy development. The following chapter will explore the evolving conceptualisations of child abuse and their impact on policy development.

Chapter 2:

The Conceptualisation of Child Abuse and Clarification of Professional Roles through Irish Child Protection Policy

---

The previous chapter has analysed how fluctuating ideologies around child abuse as a social problem defined child protection responses on a wider public and political level. This chapter advances understanding further by examining how child abuse conceptualisations influenced policy developments. It traces the evolution of child abuse perceptions through the progression of policy and guidance in Ireland. The chapter shows how rudimentary knowledge about the nature and manifestation of child abuse, matured over time to incorporate new understanding on the issue. It also shows how efforts to systematise child abuse management and allocate responsibility to different professionals were evidenced in the official guidance.

The Dominance of Physical Abuse in Child Protection Policy

The emergence and development of the Irish child protection system can be associated with the impact of international trends and discourses within the context of the country's own social framework. The rediscovery of child abuse as the 'battered child' by the medical profession, at a time when Government was making efforts to centralise child protection responsibilities at a statutory level, were reflected in policy efforts around the issue. As expert medical evidence emerged internationally on the prevalence of non-accidental injury, efforts to address the issue in Ireland were heavily influenced by this outlook. In 1975 the Department of Health invited a number of interested parties to a conference on the problem of non-accidental injury to children. As a result a Committee, predominantly comprised of medical personnel, was formed and a report produced in 1976 (Department of Health, 1976). The report set about to establish the extent of non-accidental injury in Ireland, establish procedures for its identification, develop co-ordination and consider how to manage and prevent such cases (*ibid*, p.7).

Already the grounds were being laid for a multi-disciplinary approach to professional identification, management and prevention of child abuse cases. The report findings recognised that non-accidental injury was a significant problem with approximately 300-400 cases occurring in Ireland each year. The authors were also concerned that children (even those being brought to hospitals) were not being identified as victims of non-accidental injury (*ibid*, p.8). The Committee members deduced that a professional responsibility to non-accidental injured children had not been considered to date and consequently established a small working group to draw up a detailed memorandum based on the matters considered above (*ibid*, pp.8-9). Subsequently the first formal guidelines for professionals on how to handle child abuse cases were developed and published the following year. Ferguson, Gilligan and Torode (1993: p.22) described this movement as a "more managerial response to policies and practices".

Questioning of medical status over child abuse issues

At the same time as the Committee on non-accidental injury published their report, the Irish Association of Social Workers (IASW) set up a community work sub-committee to address issues of child care and child protection. They argued against plans to expand medical services to address non-accidental injury and instead advocated for the expansion of the community care social work service (Skehill, 2004: p.74). Alongside the IASW, the Eastern Health Board Senior Social Workers Group (1976) also questioned the report's over-concentration on the detection of physical abuse, to the exclusion of emotional, psychological and various other social dimensions associated with child abuse. Despite these efforts, the recommendations of the Committee report formed the basis of the 1977 guidelines entitled *Memorandum on Non-Accidental Injury to Children* (Department of Health, 1977).

Within the guidelines, 'child abuse' was conceptualised in terms of non-accidental injury, which could be addressed by a clear reporting structure through medical and legal intervention. The Memorandum mainly focused on physical abuse, acknowledging that injury arising from emotional deprivation or neglect was difficult to evidence (Department of Health, 1977: p.3).

The guidelines took a clinical approach to the issue and detailed the responsibilities of certain figures, the identification and investigation of suspected cases, the management of cases, the co-ordination and exchange of information, training and prevention and the legal position, among other things (*ibid*). The requirement for inter-agency co-operation, was highlighted and the guidelines recommended that every injury should be treated suspiciously, proposing the maintenance of a list of suspected and actual cases of non-accidental injury. It also identified the need for on-going training of staff in order to further develop personal knowledge and understanding. Essentially, the document consolidated existing practices by providing clarity on the responsibilities of key personnel on how to identify and manage suspected cases, rather than devising new practices.

The 1977 Memorandum conveyed the development of a more sophisticated, clear and organised approach to child protection issues in Ireland that stretched beyond the realm of State to professional workers and relevant public groups. However, while the methods were becoming more sophisticated, crude perceptions and understandings of child abuse persisted which fixated on the physical nature of abuse.

Co-ordinating the management of Non-accidental Injury

While the Department of Health's 1980 guidelines did little to clarify the varying forms of child abuse, responsibility was firmly placed within the Health Board's jurisdiction, with the Director of Community Care (DCC) and Medical Officer of Health (MOH) having overall responsibility for the monitoring and co-ordination of cases (Department of Health, 1980a: p.3). It was also the Health Board's obligation to ensure that other agencies and health service staff were facilitated in discharging their functions and enabling co-operation and co-ordination between the different bodies (*ibid*: p.4). The 1980 guidelines also recommended that the DCC maintain a list of suspected and actual cases of non-accidental injury derived from the cases referred to him as co-ordinator (*ibid*: 7-8). Ferguson (1996: p.21) describes this latter addition as a shift from the abstract 'strict liability' to a 'policy position'; effectively a move away from a central register of all non-accidental injury cases based on clinical evidence to a register of non-accidental injury cases that were confirmed or

suspected only after they had been notified and investigated by the health boards and based on social evidence (*ibid*: pp.20-21).

The Emergence of Child Sexual Abuse

Tentative steps towards child sexual abuse recognition

As efforts were being made to clarify and develop the roles and responsibilities of professionals, provisional efforts were simultaneously being made to adopt and understand the broadening definitions of child abuse emerging at that time. The numerous revisions of the guidelines reflected this by attempting to refine the procedures for the identification, investigation and management of abuse while also incorporating newly recognised forms of abuse. The 1983 guidelines did not significantly differ from the preceding guidelines but were formulated in the aftermath of Ireland's first child abuse investigation, which impacted on their construction to a certain extent. In 1982 the Minister for Health instigated a small scale investigation into the deaths of two children who were under the care of the Eastern Health Board (Ferguson, 1996: p.22). The low key investigation identified a lack of cohesion, poor communication and inefficient co-ordination within the child protection service (Buckley *et al.,* 1997: p.13). As a result the 1983 guidelines placed greater significance on the need for inter-agency co-ordination by highlighting the requirement of the DCC to ensure and co-ordinate the involvement of other agencies and professionals (Department of Health, 1983: p.8). While the newest guidelines helped to clarify responsibilities and assign duties to specific bodies, little progress was made in providing guidance on how to respond to the different forms of abuse suffered by children.

Emergence of child sexual abuse as a new social threat

Growing Public and Political Awareness

The first incident where professional concern for child sexual abuse in Ireland was formally addressed can be traced to a multi-disciplinary seminar on incest held by the Irish Association of Social Workers (IASW) in 1983. This seminar led to the Department of Health setting up the 'Irish Council for Civil Liberties (ICCL) Working Party on Child Sexual Abuse' in order to gather more data and make recommendations on existing policies, services and legal provisions (Cooney and Torode, 1988: p.1).

The findings of the report were published in 1988, against a backdrop of censorship, limited information and debate on sexual matters (*ibid*: p.12). The authors gathered their data through questionnaires and surveys from people sexually abused as children, school counsellors, GPs, psychiatric day care centres, liaison with foreign services within Europe, Canada and America. This was in addition to reviewing statistics collected from the sexual assault treatment unit, the rape crisis centre, the Gardaí and Department of Health. The report concluded that while there was no definitive, standardised data on the current incidence of child sexual abuse, existing data suggested it was more prevalent than previously understood (*ibid*: p.9). It was also shown that intra-familial abuse was less likely to be reported during childhood as most of the cases reported to the different agencies were adult victims disclosing retrospectively (*ibid*: p.27).

The ICCL Working Party considered the data gathering methods of official and voluntary bodies to be inadequate for indicating the prevalence of child sexual abuse amongst current groups of children. It also perceived reporting methods as ad hoc and inconsistent. For these reasons the authors made one of the earliest proposals for the establishment of a mandatory reporting system to help enhance protection of the child. Adopting mandatory reporting was seen as a mechanism for increasing the number of reported cases of child sexual abuse, alleviating the concerns and doubts of professionals who may come in contact with child sexual abuse as well as sending a positive message that society had adopted a duty to protect children from risk (*ibid*: p.76).

Overall the report exposed a high level of discrepancy in how child abuse statistics were collected. It highlighted the previously unknown prevalence of child sexual abuse and the worrying probability that the majority of current child sexual abuse was going undetected. This in itself was enough to encourage reconsideration of child sexual abuse as a growing phenomenon.

Reflective of this concern the Department of Health directed the gathering of health board statistics on new cases of non-accidental injury reported on an annual basis. A sub-category of 'confirmed child sexual abuse' was included and from 1985-1986 a

new addition of 'alleged child sexual abuse' was also incorporated. The figures for that time displayed a dramatic increase in reporting and confirmation of abuse, but specifically, an acute increase in cases of child sexual abuse. For the period 1984-1987 the number of child abuse referrals rose by 244%. Correspondingly child sexual abuse referrals increased by 955%, but more strikingly the statistics indicated a percentage increase of 1,282% of confirmed child sexual abuse over the period outlined (McKeown and Gilligan, 1991: pp.105-106).

Meanwhile, the Department of Health funded the launch of two Child Sexual Abuse Assessment Units within the Eastern Health Board, one in Temple Street Hospital, the other in Our Lady's Hospital for Sick Children (Crumlin). Funding was also allocated by the Minister for Health, in 1988, to different health boards outside of Dublin to "enable them to improve their capacity for the assessment and investigation of alleged cases of child abuse including child sexual abuse" (Minister for Health, 1988). Similarly, the voluntary sector was also acknowledging heightened awareness around the area of child sexual abuse by establishing a number of services designed especially to aid victims of abuse. In 1986 the Sanctuary Trust piloted a study on the extent of childhood sexual abuse experiences within the Dublin population (Market Research Bureau of Ireland, 1987). In addition the ISPCC set up Childline, a telephone crisis line for children, with particular concern for children suffering from sexual abuse (McKeown and Gilligan, 1991: p.107). These developments marked the beginnings of an expanding knowledge base around the varying forms of child abuse, with particular emphasis being placed on the prevalence of child sexual abuse as a distinct social problem.

In response to this growing public, professional and political awareness on the subject of child sexual abuse, a fourth set of guidelines was published by the Department of Health in 1987. The title alone was indicative of evolving perceptions and expanding terminology at the time. Non-accidental injury was abandoned as the sole form of injury and replaced with the more generic and inclusive expression of 'Child Abuse' which referred to physical, sexual, emotional abuse and neglect. Child sexual abuse was distinguished within the guidelines from other forms of abuse as necessitating independent procedures for its identification and validation (Department of Health, 1987: pp.23-24). This policy confirmation of child sexual

abuse is described by Buckley (1996: p.38) as "a widening of the theoretical base and understanding of harm which is suffered by children". Under the special features of child sexual abuse, set out in the guidelines, familial child sexual abuse was described as the only form of abuse necessitating intervention (Department of Health, 1987: p.24). It therefore appeared that child sexual abuse was regarded as a much more threatening and destructive form of abuse requiring special attention and treatment beyond other forms of abuse, while also consuming scarce resources to the neglect of preventive services (Ferguson, 1995: p.27).

Ferguson (1995) also outlines how the guidelines were crucial in changing professional awareness of child abuse and establishing reporting procedures (*ibid*: p.5). This is mirrored in the statistics at that time: for the period 1982-1987 'official' sources reported 62% of child abuse cases in Ireland as opposed to other sources such as neighbours, relatives, anonymous and self-referrers who constituted 38% of referrals combined (Ferguson, 1995: p.24). Within the health sector alone hospitals, GPs, Area Medical Officers and public health nurses accounted for over half of official sources and 36% of all reported cases (*ibid*). In comparison to figures retrieved from the 1950s, which show that only 20% of cases reported to the ISPCC came from professional sources (*ibid*). It is safe to assume that the policies, procedures and guidelines which had been devised had a significant effect on shaping professional understanding of child abuse and fundamentally impacted the manner in which abuse was identified, investigated and managed.

Situating Child Sexual Abuse within the Family

By the late 1980s perceptions of child sexual abuse as a social threat were continuing to grow while evidence was emerging to show that this new threat could also be situated within the family unit. As the following sections will show, research within Ireland can be attributed to raising the profile of child sexual abuse as a social problem and establishing its existence within the family. However, it should also be noted that this awareness was emerging during a time of significant social change and development. International research shows that, around this time, concerns were beginning to emerge that the structure of the traditional, nuclear family was coming under threat because of the "decline in family values" (Sclater & Piper, 2001: p.421). The growth in women's movements and advocacy groups helped highlight the

previously taboo topic of domestic abuse. The increasing prevalence of violence in the family tarnished the idealistic image of the 'nuclear family' as the desirable, approved institution on which societal norms should be modelled. No longer was the family the safe 'haven' it once was, but a place where women and children were seen to be suffering a range of abuses at the hands of men (Parton, 2006: p.35).

In 1988 research funded by the Department of Health was carried out by McKeown and Gilligan into all confirmed child sexual abuse cases in the Eastern Health Board region. The data was collected through a census of all child sexual abuse cases known to the Community Care Team in the Eastern Health Board and open at any time in 1988 (McKeown and Gilligan, 1988: p.9). The study published a number of findings that dispelled any assumptions around child sexual abuse as only existing outside of the family. It established that intra-familial abuse constituted 60% of known child sexual abuse cases while extra-familial abuse accounted for 31% (*ibid*: pp.23-24). Children were also found to have suffered a combination of abuses which lasted over a number of years. Nearly one third were abused simultaneously by more than one abuser while half were abused in their own home (*ibid*: pp.21-23). The report helped to dispel any preconceptions that abusers were 'outsiders' and situated the risk of abuse to children closer to home. Along with the findings of the ICCL Report child sexual abuse was now conveyed to be much more prevalent and universal than would have been previously anticipated.

The findings of both reports also emphasised the unreliability of the data and the likelihood that many more cases of child sexual abuse remained undetected. McKeown and Gilligan's study showed that the rate of confirmed child sexual abuse in the Eastern Health Board region in 1988 was 1.2% per 1,000 children, indicating the possibility that many more cases were not coming to the attention of the Community Care Teams (*ibid*: p.14). Meanwhile the ICCL Working Party pointed out that there were serious limitations to statistical data from various sources which were all based on varying definitions of abuse, were not standardised and correlation with evidence from the corresponding sources was weak (ICCL Working Party, 1988: pp.20-21). The elevated awareness and concentration on child sexual abuse, dramatic increases in child sexual abuse referrals and its exposed prevalence as a predominantly intra-

familial/family acquaintance problem signified the need for an overhaul of legislative provisions as Ireland entered a new period of the 'abused child' (Buckley *et al.*, 1997).

In 1989 the Law Reform Commission published a consultation paper on sexual offences, paying particular attention to the law relating to rape and the sexual abuse of children (Law Reform Commission, 1989: p.ix). The Commission stressed that there was an urgency around the need to reform the law by restating that the level of child sexual abuse was seriously underestimated and attrition rates were extremely low (*ibid*: p.2). It stressed that the law should be used as a mechanism to express society's intolerance for the growing problem of child sexual abuse (*ibid*: p.4). The consultation paper identified a number of shortcomings in relation to reporting and investigation. Misprision of felony[15] was considered an inadequate provision because it did not extend to many of the offences relevant to child sexual abuse (indecent assault, incest, unlawful carnal knowledge of a girl aged 15-17). Professional discretion was also identified as an impediment to effective reporting while the guidelines were recognised as insufficient due to the fact they were not legally binding. The consultation paper also highlighted that reporters were at risk of liability under the tort of negligence where false reports were made (Law Reform Commission, 1989: pp.10-11).

Accordingly an emphasis was placed on the need for a mandatory reporting system, a direction that was strongly followed through in the 1990 final report. Mandatory reporting was endorsed for its ability to discover cases of child sexual abuse which would have previously gone undetected; for providing clear structure and legal authority to those submitting reports; enabling consistency in the management of disclosures while also sending a clear message that child sexual abuse is a matter of public concern (*ibid*: pp.23-24). The negative aspects of mandatory reporting were quickly dispelled by the proposal for provisions that would counteract their negative effect. For example, over-reporting was considered to be the result of overly broad reporting laws which could be avoided through clearly defined reporting elements. The Law Reform Commission therefore provided a definition of child sexual abuse for the purposes of mandatory reporting.[16] Liability was to be avoided by providing

---

[15] Punishment of failures to report actual commissions of certain serious offences.
[16] See Law Reform Commission Report, 1990: p.8.

statutory immunity from legal proceedings to persons who reported suspicion with due care (*ibid*: p.11).

***Child Care Act 1991:* Balancing Rights with Intervention**

Although the *Child Care Act* was not enacted until 1991, the Bill, *Children (Care and Protection) Bill,* was introduced in 1985, before the debate on mandatory reporting began and at a time when the offence of misprision of felony[17] still existed. The intention of the Fine Gael/Labour Party Coalition at the time was to introduce a single comprehensive Children's Bill which dealt with all the aspects of law from care and protection, adoption and juvenile justice (Buckley *et al.,* 1997: p.16). However the Bill was scraped with the change of Government in 1987 and followed by the *Child Care Bill 1988* which subsequently evolved into the *Child Care Act 1991* (Buckley & O'Nolan, 2013: p.36). The advent of the 1990s was therefore marked by the long-awaited introduction of new child care legislation. The new provision was an ambitious effort by policy makers to merge forward thinking aspirations with enduring philosophies and values about family life enmeshed in preceding legislation and the Constitution. The Act typifies the State's longstanding grapple with redeeming the rights of the child as an individual against efforts to maintain the family as one of its primary institutions. Both the Health Boards (section 3.b.i) and courts (section 24.a) were instructed to regard the welfare of the child as the first and paramount consideration when undertaking their duties. At the same time the Health Board was compelled to "have regard to the principle that it is generally in the best interests of a child to be brought up in his own family" (section 3.2.c). Case-law also shows that courts were subject to a similar proviso. In *A and B v. EHB, District Judge Mary Fahy and C*[18] Judge Geoghegan stated that while the courts must regard the welfare of the child as first and paramount under section 24 it must be considered within a constitutional framework. Fundamentally the State bodies had a dual responsibility to afford children greater protection than before, but ideally within the context of a family setting. The Health Boards were therefore required to support the role of parents rather than supplanting it through the provision of support and assistance (Ferguson, 1995: p.22).

---

[17] Formerly, a common law misdemeanour, committed by a person who knew that a felony had been committed and could give information which might lead to the felon's arrest, but omitted to report it.
[18] [1998] 1 IR 464.

While mindful of maintaining family centred ideologies, the *Child Care Act* was progressive in its approach to affording children more protection than was previously provided to them. The wording of the legislation clearly placed a positive obligation on Health Boards to "identify children who are not receiving adequate care and protection" through co-operative steps (section 3.2.a). A corresponding duty was placed on the courts to make a 'care order' where it was satisfied that the Health Boards had shown a child was being ill-treated, assaulted, neglected or sexually abused or that their "health, development or welfare was being or likely to be impaired or neglected" (section 18.1). The 1991 Act provided the Health Boards and courts with the necessary powers of intervention to obviate the risk of harm to children, or at the least, abate the level of risk by removing them from an already abusive situation. Ferguson (1994: p.592) interprets this as part of a process whereby the authority of the family has been minimised due to the role played by the State in the regulation of the family and socialisation of children. This increased access by the State to Irish children and the permissible surveillance of parenting was evidenced in the Health Board reporting trends. Initially reports received by the authorities decreased by a minimal 1.15% from 1991-1992 but from 1992-1995 the figures incrementally increased over the intervening years from 7% to 20% and then 19% respectively (Health Board Child Abuse Statistics 1987-1995).

The provisions of the Act imply that a certain cohort of children would now come within the focus of the authorities and require the protection it could provide. Section 8(2) specifies a category of particularly vulnerable children to whose needs the Health Boards should be receptive. It is probable that the legislators still conceived of child abuse as an exclusively intra-familial problem situated primarily within deprived socio-economic areas. Category *(f)* in particular has been described as pertaining to parents with chronic physical, mental health or addiction problems, marital problems, systematic social disadvantage, serious drug/alcohol addiction or disabling psychiatric illness among others (Gilligan, 1992-1993: p.352).

The *Child Care Act* was conceived in the wake of an era of considerable deliberation and growing awareness of child sexual abuse, the product of which was an overhaul of the system at that time, which encompassed past provisions and values but from a more modern perspective. There was an explicit awareness of the State's obligation

towards children and a recognition that action should only be taken with the wishes of the child in mind (section 3.2.b.ii). The legislation also incorporated a provision for the systematic review of services (section 8) that required Health Boards to annually report on the adequacy of child care and family support services in the area, acknowledging the lack of accountability in past discussions of abuse (i.e. The Kennedy Report). However, in the proceeding years after the *Child Care Act,* it was clear that the Constitution continued to pose a challenge to the protective efforts promoted in the 1991 Act. This was in line with what a British academic, Lorraine Fox-Harding (1997) would have described as a 'laissez-faire' approach, which considers that family authority should not be disturbed except in extreme cases. The 'laissez-faire' position is characterised as a patriarchal perspective, rooted in traditionalist conceptions of a society whose values, morals and traditions derive from and feed into the family institution. The revered status which the family thus holds guards it from State intrusion and ascribes the latter with a minimal role in child care while respecting the "privacy and sanctity of the parent-child relationship" (*ibid*: p.10). Such an approach only permits intervention in exceptional circumstances and this is evidenced in the high threshold for State intervention adopted by the courts when interpreting the provisions of the Constitution. The Supreme Court case *Re Article 26 and the Adoption Bill No.2*[19] provided that, in relation to the adoption of children of married couples, failure was not established by a "mere inadequacy of standard in the discharge of parental duty". Failure must therefore be total and evidenced with proof of exceptional circumstances (Shannon, undated: pp.20-21). *McK. v Information Commissioner*[20] reaffirmed this stance by outlining that the courts will not question parental conduct unless there is concrete "evidence produced that it would not serve best interests".[21] Thomas (2000: p.58) suggests that such an approach regards children as the objects of parents and not as independent subjects.

Recent efforts have been made to bring about Constitutional reform in respect of the rights of children. This resulted in the passing of the Children's Referendum in 2012 which repealed old provisions within the Constitution. Article 42(A) proposes to introduce a number of amendments which aim to ascribe children with their own individual rights, separate and distinct from those of the family and parents. In terms

[19] [1989] IR 656.
[20] [2006] 1 IR 260.
[21] *ibid*, p.268.

of child protection intervention, Article 42A.2.1 clarified when the State can step in and protect children from abusive situations:

> *"In exceptional cases, where parents, regardless of their marital status, fail in their duty towards their children to such extent that the safety or welfare of any of their children is likely to be prejudicially affected, the State as guardian of the common good shall, by proportionate means as provided by law, endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child."*

In contrast to the old provision it defines what parental failure is and introduces the proportionality test as a more balanced and incremental approach to assessing the need for intervention. It also places more emphasis on earlier intervention by the State through preventive efforts and family support in order to avoid crisis driven interventions. In addition Article 42A.4.1 requires that the Oireachtas enacts legislation to implement the 'best interests of the child' principle. In terms of s.24 of the *Child Care Act 1991,* the Constitutional provision clarifies that the courts will be required, in any proceedings concerning the care and protection of children, to consider the child's best interests as paramount. This is in contrast to the previous stance, whereby the courts had a parallel duty to have regard for the rights and duties of parents.

However, given that Article 41 and 42 of the Constitution will remain unchanged, it is questionable whether Article 42A.4.1 will make any significant change to the strength of parents' rights under s.24, *Child Care Act 1991* (Kilkelly, 2012). In addition O'Mahony (2012) argues that by preserving the existing standard for intervention as being in "exceptional cases", questions are raised over whether the excessively high threshold for State intervention will be altered in any significant way.

It is debatable, in light of the tentative Constitutional amendments, which can be described as limited and subject to qualifications, whether general accordance on how the State should approach family-child relations will continue to cause conflict in cases of child protection intervention. Carolan (2007: p.15), in reference to the Constitutional Bill, was noted as saying that the Bill "does not evince a consistent policy on the family. It strives to be all things to all people, affirming and supporting the discrete rights and interests of children, parents and the family unit". The area is plagued by a lack of certainty and conflicting consensus on how much of a role the

State should play in family life and child protection. On the one hand strong, pro-family, conservative views warn against overly interventionist measures (Iona Institute, 2008). On the other hand, academic opinion warns that the express lack of independent rights for children "has resulted in children's rights being ignored or underplayed" (Kilkelly *et al.*, 2008: p.1). At this point in time we must wait to see whether the rights afforded children in the reformed Constitution will have any significant impact on when intervention occurs and whether the 'best interests of the child' will be given supremacy in judicial proceedings.

Conclusion

This chapter illustrates the evolving and transforming conceptualisations of child abuse and how those understandings determined the nature of policy devised. It traces how child abuse, in its early conceptualisations, was regarded as physical, non-accidental injury by drawing on medical expertise. As responsibility and co-ordination around management of the issue evolved, this was reflected in official guidance. Medical authority for child abuse issues was called into question and responsibility for the issue was re-situated across a number of professional disciplines and public groups.

The emergence of child sexual abuse awareness through seminars, official statistics and reports resulted in new understanding about the threats faced by Irish children. Growing public, professional and political awareness around the new dimensions attached to the term 'child abuse' were reflected in guideline developments as it expanded in meaning beyond non-accidental injury to include child sexual abuse.

Further research and reports indicated that child sexual abuse was predominantly an intra-familial issue; thus situating the threat within the family unit. Policy developments and updating of the law therefore reflected a struggle by the legislature to strike a balance between ensuring the primacy of the family was upheld while also trying to afford greater protection to children living in abusive situations.

Chapter 3:

Radicalisation of the Irish Child Protection System

This chapter endeavours to show how the 'late-modern' (Ferguson, 1997: p.221) radicalisation of the Irish child protection system came about. It details how different social movements, child protection inquiries and media exposure of child protection abuses resulted in the materialisation of a 'risk society' (Beck, 1992). We see how these occurrences contributed to a new awareness of child protection risk, which in turn resulted in the structural transformation of the relationship between expert authority and lay persons (Ferguson, 1997). This process, known as 'reflexive modernity' (Beck *et al.*, 1994) brought into question the authority of expert groups and introduced a debate on child protection within the public domain. Increased public awareness, public scrutiny of expert authority and transformed expert-lay relations provoked demands for social justice by an empowered lay society and consequently new controlling measures.

Emergence of a Risk Society

Before examining the different catalysts which brought about significant change in child protection policy development in Ireland, it is important to set out the social context in which these scandals emerged. As was mentioned in the previous chapter a social reconstruction of the family unit was underway, shaped by a number of concurrent changes. Taboos relating to marriage, parenthood, childhood and sexuality prised open the traditional family, exposing its darkest secrets: physical abuse, emotional abuse, child sexual abuse and domestic violence against women, rendering the family open to new forms of State intervention (Ferguson, 1997: p.230).

The structure of the family was also dramatically changing as a result of more women joining the paid workforce. By 1996 there were 488,000 women at work in Ireland, an increase of 213,000 since 1971. The same year saw an increase in the number of

married women in the workforce, of more than 600% since 1971 (Horgan, 2001). In 1995 divorce was legalised after a Constitutional referendum was held on the matter and legislation passed in 1996.[22] In the same year the number of divorces in Ireland was recorded as 9,800 and by 2002 had risen to 35,000 (CSO, 2006: p.18). From 1995 it was permissible for women to obtain information about legal abortion services outside of Ireland.[23] The right to contraception, was legalised in 1979, and fully implemented in 1993.[24] These changes had considerable repercussions on the rate of childbirth and the types of families into which children were born. By 1996 the birth-rate had dropped from 22 per 1,000 in 1980 to 13.5 per 1,000 (Horgan, 2001). By 2006 single parents accounted for 36% of all lone parent families (CSO, 2006: pp.20-21). Heightened public awareness around child abuse and the questioning of expert authority by an informed public therefore occurred at a time when the traditional family unit was undergoing significant structural change, when women were rejecting more conventional roles for the workplace and liberal developments around contraception continued to progress.

By the time of late modernity in Ireland the traditional assumptions and social organisation of simple modernity, a period of regulation through empowered expert authorities (see Beck *et al.*, 1994), had broken down (Ferguson, 1997: p.224). Until this point, expert authorities' exclusivity over the administration of child protection and the information derived from it resulted in the exclusion of lay people from its debate. Experts' control over knowledge about its operation remained uncontested during this period of simple modernity, but more importantly its effectiveness at protecting vulnerable children from deviant parents also remained undisputed. According to Ferguson (1997, p.223) this "enabled experts to fudge over knowledge about agency failures" by sequestering agency mistakes and child protection risks from public attention. However, by the time of late-modernity, new global risks were introduced which previous generations did not have to face because of modern social institutions' failure to control the risks they had created (taken from, Elliott, 2002: p.295):

> *"Risk may be defined as a systematic way of dealing with hazards and insecurities induced and introduced by modernization itself. Risks, as opposed to older dangers,*

[22] *Family Law (Divorce) Act* 1996.
[23] *Regulation of Information (Services Outside the State for Termination of Pregnancies) Act* 1995.
[24] *Health (Family Planning) (Amendment) Act* 1993.

are consequences which relate to the threatening force of modernization and to its globalization of doubt. They are politically reflexive." (Beck, 1992: p.21)

Risk as constructed by the Media

Heightened public fears and insecurities around risk were clearly evident from the number of high-profile child abuse cases which came to light through the Irish media during the 1990s (Ferguson, 1997: p.227). Beck (1992, pp.22-23) identifies the mass media as a privileged site for the social construction, social contestation and social criticism of risks and risk society. He argues that the media can define risks by changing, magnifying, dramatising or minimising how they are socially constructed (*ibid*). Beck's conceptualisation of risk therefore points towards the mass media as the prime site for making risk visible to the public. Correspondingly, during the 1990s in Ireland, a succession of disturbing child abuse cases were revealed, under the media spotlight. A number of reports exposed decades of physical, sexual and emotional abuse by family members, the clergy and children's institutions, exhibiting the ubiquity of child abuse and casting serious doubt about the safety of alternative options for children removed from the home. The landmark 'Kilkenny Incest' case as well as the 'Kelly Fitzgerald' case attracted considerable media attention due to the unprecedented exposure of grievous and persistent forms of multiple abuses by the victim's father. Coverage of the latter case revealed that health and social services had had numerous contacts with a child who was known by the pseudonym of '*Mary*' during the 13 year period of her abuse. The 'X-case'[25] on the other hand drew equal media attention, not as a result of the facts of the abuse in which an underage girl became pregnant after she was raped, but as a result of an injunction obtained by the Attorney General preventing the girl from leaving the country to have an abortion. The case caused great legal debate on strongly held, divisive attitudes regarding the Constitutional interpretation of Article 40.3.3 in which:

"The State acknowledges the right to life of the unborn and, with due regard, to the equal right to life of the mother, guarantees in its laws to defend and vindicate that right."

On appeal the Supreme Court overturned the decision of the High Court to rule that where there is a real and substantial risk to the life of the mother by suicide which could only be avoided by termination of the pregnancy then it should be permitted.

[25] *Attorney General v. X and Others* [1992] 1ILRM 401.

Consequently the Irish State was forced to politicise the issue of child abuse and re-evaluate the ideological values on which State intervention of family life was based. Substantial pressure was placed on public representatives to reform the child care system, which in turn obliged those charged with the management and administration of services to initiate change (Buckley, 1996: p.41). Accountability on the part of State bodies was sought and in order to appease public concern a number of Government commissioned reports were undertaken. This topic will be developed in the following sections.

In 1994 a Norbertine priest, Fr. Brendan Smyth, pleaded guilty to 74 charges of indecent and sexual assault and was sentenced to 12 years imprisonment (Goode *et al.,* 2003: p.6). Controversy surrounded the management of the case, namely, the failure to extradite Smyth from the Republic to face similar charges in the North despite warrants issued by the RUC seven months beforehand (Brown, 2004: p.368). The case focused attention on the protection afforded the church by the State and instigated a surge in clerical abuse complaints from adults reporting retrospectively.[26] Subsequently a number of investigative documentaries and books[27] shed a light on decades of multiple forms of abuse within the church and its institutions. In addition they unveiled the church's successful efforts at concealing the abuse and protecting their members from exposure (Brown, 2004: p.371). Religious disillusionment, political breakdown, public awareness of child sexual abuse and rising reports all pointed to a child care system in crisis, the response to which was the issuing of inquiries so that accountability could be established and recommendations made.

The Irish media therefore helped to influence popular perceptions of child abuse by publishing images of 'the paedophile priest'[28] and exposing details of persistent sexual, physical and emotional abuse and neglect within the family setting. Such

---

[26] See the *Murphy Report* (2009) page 6: The 1990s is recorded as the period in which the most complaints were made in the Dublin diocese alone. During this period 135 complaints were made to the church authorities, more than double in the previous decade which recorded 64 complaints.
[27] See RTE documentaries: States of Fear (1999) and Dear Daughter (1996), See Bibliography for Chris Moore's *"Betrayal of Trust: The Father Brendan Smyth Affair and the Catholic Church"* (1995); Raftery *et al.* "Suffer Little Children" (1999) and Andrew Madden's *"Altarboy: A Story of Life after Abuse" (2003).*
[28] See: Scannal (2005), 'Only the Devil: The Story of Fr. Brendan Smyth', [online] Available at: http://www.rte.ie/tv/scannal/BrendanSmyth.html.

stories are said to "implicitly tap folk ideas about the vulnerability of collective identity" suggesting "the presence in the community of forces so malevolent as to threaten the metaphorical social fabric" (Katz, 1987: p.52). The response to child abuse was therefore a collective one as the moral integrity of community was seen to be under attack. The collective experience of child abuse reinforced and dramatised by the media resonated with the public and consequently "institutionalized" that experience (Garland, 2001: p.158).

Child Abuse Inquiries and Reflexive Modernization

Reflexive modernization is defined by Beck (1992: p.55) as a situation where "scientific civilization has entered a stage in which it no longer merely scientizes nature, people and society, but increasingly itself, its own products, effects and mistakes". It propels modern men and women into 'self-confrontation' (Elliott, 2002: p.297). In terms of child protection, Ferguson (1997, p.229) suggests that reflexive modernization leads to expert child protection systems turning their own scepticism onto themselves. Child abuse inquiries and the leaking of child abuse cases by the media uncover the 'side effects' (Beck, 1992: p.158) of agency failures that modern child protection systems have produced themselves (Ferguson, 1997: p.229).

The publication of inquiries in Ireland during the 1990s into child abuse within the family, within religious institutions and sporting organisations opened up expert authority to public scrutiny, derivative of Beck's 'reflexive modernization'. The high profile cases mentioned above initiated a series of Departmental reports commissioned by either government or health boards into our child care system, amid increasing public unease and scepticism. The first major investigation was the aforementioned *Kilkenny Incest Investigation* (McGuinness, 1993) which examined the actions, or lack thereof, taken by the health and social services in response to physical and sexual abuse of a girl by her father. No individual discipline or person was found by the inquiry to have acted negligently, instead blame was attributed to a lack of "interdisciplinary communication and co-operation" (*ibid*, p.87) thus avoiding any personal incrimination but identifying the system, as a whole, to be ill-informed and ineffective. A number of other issues were identified as contributing to *Mary*'s on-going victimisation. Deep-seated traditions of respect for family privacy and professional codes of confidentiality were seen to hinder the flow of information

between professionals (*ibid*). Social work services were considered to be under-resourced and over-stretched (*ibid*, p.88). The report noted that there was a lack of effective management by and within the community care service (*ibid*). It also identified a lack of effective probing of the nature and causes of the problem (*ibid*) and finally, there was said to be a lack of understanding about family abuse and sexual violence (*ibid*, p.89).

Three years later a report into the death of a 15 year old girl as a result of extreme physical and emotional abuse echoed the findings and themes that emerged in the Kilkenny Report. *"Kelly: A Child is Dead"* (Keenan, 1996) condemned the Western Health Board as ineffective in attempts to protect Kelly by failing to form accurate assessments of the family or devising a successful intervention strategy (*ibid*, p.196). Inter-disciplinary communication between the Health Board and the school was considered unsatisfactory (*ibid*: p.197) as well as deficits in overall case management (*ibid*: p.200). This was exacerbated by the complete absence of reporting from neighbours, extended family, the school or the Gardaí (*ibid*: p.198).

The child protection system was portrayed as inherently flawed "at every level of the system" (Ferguson, 1996: p.27) while longstanding reluctance to get involved in family life and codes of professional discretion further inhibited inter-disciplinary communications. By now attention was firmly focused on the 'system' rather that the 'abuser'. As a result the *Kilkenny Report,* in particular, elicited immediate governmental response in the form of a £35 million pledge to fast-track the implementation of the *Child Care Act 1991* by the end of 1995 (Ferguson, 1995: p.19). The problem of child abuse was now an issue for political consideration, the solution to which was sought in multi-disciplinary co-operation. Consequently the Department of Health published *Guidelines for the Notification of Child Abuse 1995* in order to promote better communication and improve working relations. Buckley (2000: p.10) stressed, however, that such protocols fail to address the complexities that underpin professional relationships in this area. It was argued that the inquiries overlooked relational and psychological processes involved in inter-professional communication (*ibid*: p.43). A study by Butler in 1996 of public health nurses' (PHNs) involvement in child protection and child welfare supported the above assertion as it found that PHNs tended to disassociate themselves from the social services system as they

feared their perceived involvement may jeopardise their traditional curative role. This reluctance was once again based on the unyielding ambivalence surrounding the parameters of State intervention in family life and the opposition towards those who must professionally regulate parenting (Butler, 1996: p.312). Further inquiries served to bolster these emerging observations.

The *Madonna House Inquiry* (Department of Health, 1996a) examined allegations of sexual abuse and misconduct in the Sisters of Charity run children's home. The report found that numerous children underwent multiple forms of abuse but were unable to disclose it because of an inadequate response system and lack of expertise (Department of Health, 1996a: p.101). In 1998 a report was commissioned by the Committee on Tourism, Sport and Recreation into allegations of child sexual abuse in swimming. The *Roderick Murphy Inquiry* was the first to deal with such allegations outside of a family or religious context. It was found that the Irish Amateur Swimming Association had no written arrangements for the detection or prevention of child abuse prior to 1995 and no allegations were recorded prior to 1992 (Murphy, 1998: p.120). Swimmers who had been abused complained that they were not made aware of what constituted inappropriate behaviour, they were unaware of a complaints procedure (*ibid*, p.129) and they alleged that when the authority did develop a complaints procedure it discouraged the reporting of allegations (*ibid*, p.120).

While inquiries rightfully identified the lack of communication and sharing of information both internally and externally as one of the contributing factors for undetected child abuse, it is possible that the over-emphasis on this issue alone resulted in the professional system coming under unprecedented public scrutiny. The new public interest demanded transparency and accountability to be practiced by State and professionals (Ferguson, 1996: p.28). Ferguson (1997: pp.227-228) outlines how this risk society has a tendency to become a 'scapegoat society', whereby a blaming system emerges (Parton, 1996) and fears and insecurities surrounding risk are diverted onto the professionals who become 'receptacles for public anger' (Ruddick, 1991).

A New Discursive Space around Child Abuse

By this stage child abuse had entered the public arena with child advocacy groups demanding governmental response to "a child care culture which identifies adults rather than children as its primary clients, a system which is still in denial operating in a defensive, ineffective and secretive way" (ISPCC, 1996: p.4). Challenges to effectiveness of the expert system to manage the perceived escalation in child abuse prevalence resulted in professionals and entire systems becoming fearful and prone to defensive practice (Ferguson, 1996: p.28). In addition, a "process of empowerment" (Ferguson, 1995: p.231) proceeded whereby survivors of abuse sensitised the public and politicians to issues of extreme child abuse, the need for accountability and justice (*ibid*). Child abuse was no longer hidden away and managed in a secretive fashion. Instead, survivor groups and campaigners helped raise its profile and construct it as a social issue requiring greater political response. Victim Support, the CARI (Children at Risk in Ireland) Foundation, the Aislinn Centre, One-in-Four and Survivors of Child Abuse Group are just some of the support and advocacy groups created that marked the undermining of expert authority over child abuse and protection issues and the increasing involvement of the public body in such matters. Demands for accountability and transparency resulted in the politicisation of child abuse and child protection and the reconfiguration of relationships between the child, family, professionals and State.

As a result of numerous inquiries and the emergence of child abuse information through the media, the lay citizen has come to possess a substantial amount of 'expert' information (Ferguson, 1997: p.229). The exposure of system failures and an informed public have given rise to a 'structural transformation' between expertise and lay people (Ferguson, 1997). This is a process whereby the dynamics between expert authority and lay people have been re-appropriated because of late-modern social developments and public scrutiny of agency failures (*ibid*). The reflexive nature of adult survivors' demands for social justice and a new risk consciousness by professional institutions created opportunity for transparency and accountability. Consequently, the knowledge gained from this period of 'reflexive modernization' was used to inform future attempts at controlling the dangers and risks of child abuse.

Bureaucratisation of the Irish Child Protection System

During this period of reflexive modernisation, child abuse crimes were transformed from individual violations dealt with exclusively by the State and its agencies to a 'social problem' that threatened the public's moral fibre and invoked widespread criticism and demands for justice and accountability. Failures by the government to effectively prevent abuse and appropriately manage complaints had the effect of violating the 'conscience collective' and undermining the collective force of social morality as well as weakening the authoritativeness of the ruling power (Garland, 1990: p.59). The exposure of years of institutional abuse and violence portrayed the governing body as unresponsive to crimes of this nature. According to Durkheim, failure to punish violations which offend the conscience collective can quickly result in the erosion of political authority and symbolises that the conventions which govern social life lack force and vitality (*ibid*). As a result approaches to child abuse risk were governed by efforts to manage and control; they were based on an 'actuarial' outlook which supposes that the future is predictable and child abuse is knowable (Ferguson, 1997: p.231). Policies and practices were developed retrospectively and governmental responses were increasingly politicised and populist. In May 1999, the then Taoiseach Bertie Ahern, made a public apology on behalf of the State to victims of abuse in State-run institutions. Following this apology the Commission to Inquire into Child Abuse was established, as was the Residential Institutions Redress Board. This essentially represented an example of political response being instigated by public outrage.[29] The political power needed to be perceived as "restoring morality, order and discipline in the face of the corrosive social changes of late modernity" (Garland, 2001: p.131). As public awareness and condemnation of child abuse grew, so too did legal and policy developments. A number of pieces of legislation and guidelines were passed in the 1990s and early 2000s which were characteristic of Packer's (1964) 'Crime Control Model'. This model requires that primary attention be paid to the efficiency with which the criminal process operates to screen suspects, determine guilt and secure conviction (*ibid*: p.10). Such a process is effective when it produces a high number of convictions on limited resources with speed and finality.

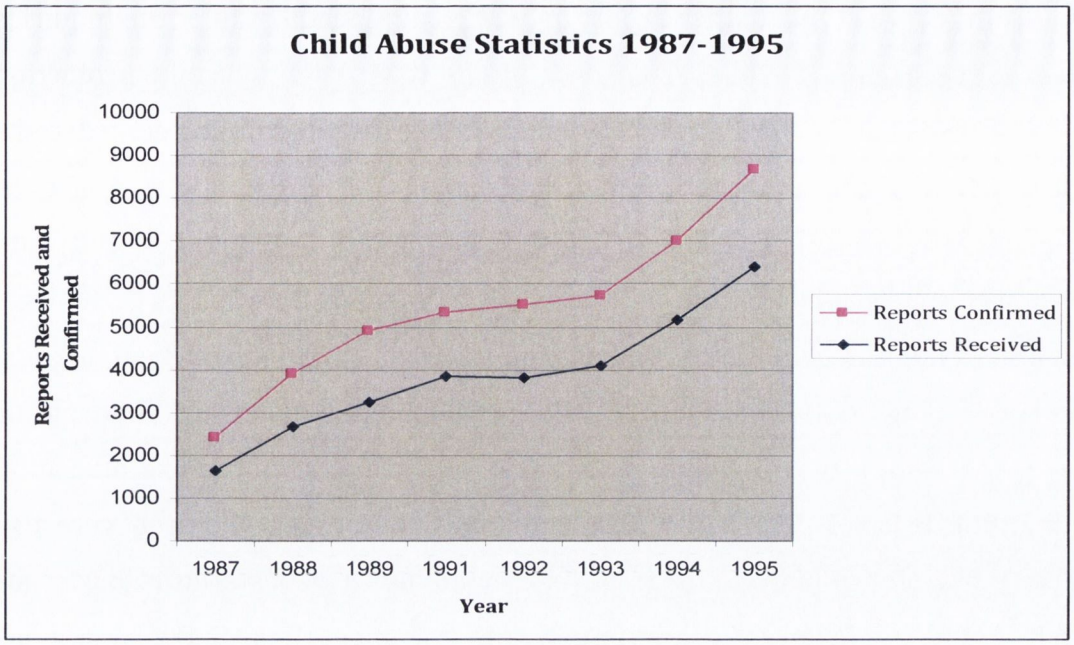
[29] Christine Buckley of the Aislinn Centre has said that Mr Ahern's contribution indicated how much victims had achieved in bringing the abuse issue to public attention, see www.rte.ie/news/2004/0705/abuse.html.

In Ireland, evidence of bureaucratising efforts were visible in a number of legislative provisions. In 2006 the *Criminal Law (Sex Offences) Act* criminalised sexual acts with children under 18 with varying degrees of severity depending on the age of the child. The *Sex Offender Act* introduced in 2001, required a person convicted of a sexual offence to be placed on the Sex Offender Register. The offender may also be subject to post-release supervision orders under the *Sex Offender Act.* The *Criminal Justice Act* (2006) provided for the offence of reckless endangerment of children. Under this legislative provision it was made an offence for any person who has authority or control over a child or abuser to intentionally or recklessly endanger the safety of that child. The *Criminal Law (Incest Proceedings) Act 1995* made sexual intercourse between a child, sibling, parent or close relative a criminal offence. Child trafficking, child pornography and meeting a child for the purpose of sexual exploitation were criminalised under the *Child Trafficking and Pornography Act 1998.* Over the space of a decade a slew of legislative provisions were introduced to tackle the emergent risk of child abuse. The re-imposition of punitive measures was designed to control future crime while reassuring a doubtful public.

By this stage harsh responses were in place to deal with child abuse offences while a 'screening process' was operating to detect as many children as possible who may have been the subject of abuse. Packer (1964) describes such processes as a series of routinised operations from which progress is gauged by the amount of cases reaching a successful conclusion. Child abuse statistics reflect the effectiveness of these measures; number of reports received by the Health Boards increased from 1,646 in 1987 to 6,415 in 1995[30], a percentage increase of 290%:

[30] Source: Department of Health, *Child Abuse Statistics 1987-1993.*

Figure 2: Health Board Reporting Statistics



Source: Department of Health, *Child Abuse Statistics 1987-1993.*

In 2006 the HSE (2007) recorded 23,268 reports of abuse and welfare were received by the Social Work Department which increased again in 2008 to 24,668, while most recent figures show 31,626[31] reports were received in 2011 (HSE, 2011); a 720% increase since 1991. Packer describes how the 'probably innocent' are screened out while the 'probably guilty' are passed quickly through the remaining stages of the process (Packer, 1964: p.11). The key to this model operating is called the "presumption of guilt" (*ibid*). The Irish child protection reporting system closely resembles Packer's model as figures show that in 2008 initial reports of child abuse recorded as 11,736 were whittled down to 7,846 which went on to initial assessment, of these only 2,409 were notified to the Child Protection Notification Management Team while only 1,397 of those were accepted to the Child Protection Notification System (HSE, 2008: pp.21-22).[32] Despite escalating concerns around child protection at this time and mounting pressure to introduce mandatory reporting, the statistics of that time indicate a growing rise in identification and subsequent referrals.

[31] Note that these report figures include welfare reports as well as physical, sexual emotional abuse and neglect reports.

[32] Note that since 2010 figures for reports that went on to initial assessment were not documented in HSE reviews because of the pending full implementation of the Standard Business Process. See: HSE (2010), *Review of Adequacy of Services for HSE Children and Families 2010,* Dublin: HSE, p.38.

The Irish Debate on Mandatory Reporting

Throughout this period, mandatory reporting was championed by all of the inquiries discussed above as one of the principal solutions to a troubled child protection system. While the reports were careful to point out that it should not be considered a panacea for all child abuse, it was argued that mandatory reporting was crucial to unveiling the true prevalence of child abuse (McGuinness, 1993: pp.99-100) and providing maximum protection for children at risk (Keenan, 1996: p.214). The legal system was deemed inadequate to regulate the issue with the judicial system being described as failing to take account of the developmental needs of children, or addressing the complexity of the circumstances of a child sexual abuse allegation (Department of Health, 1996a: p.101). The guidelines operating at the time were also considered inefficient to manage the issue as they did not have a statutory basis, nor were they being implemented uniformly within the eight Health Board regions (McGuinness, 1993: pp.96-97).

Accordingly, it was suggested that if a mandatory reporting system were to be introduced as part of a properly instituted, administered and financed framework of child care legislation and government child care strategy (Murphy, 1998: p.142) and accompanied by the development of services, processes and professional inter-agency practices (Department of Health, 1996a: p.102) then professionals could no longer turn a 'blind eye' to the unpleasant reality of child abuse (McGuinness, 1993: p.100). Mandatory reporting was also considered to be a means for resolving issues such as inconsistency and professional discretion. It was, however, stressed that reporting should not be equated with making an accusation (Murphy, 1998: p.140). This was an important distinguishing factor as it dispelled any concerns related to defamation of character and relieved the reporter of any investigative duty, as this implies that it should be confined solely to child protection services.

The focus on mandatory reporting, in particular by the Law Reform Commission (1990) and *The Kilkenny Incest Investigation* (1993), occasioned the Department of Health (1996b) to issue a discussion document - *Putting Children First*; *A Discussion Document on Mandatory Reporting,* the purpose of which was to generate a wide debate on mandatory reporting. The document described the reporting procedures of

six other countries, focusing primarily on the US. Some of the principle challenges highlighted in the document concerned the forms of abuse that should be subject to mandatory reporting, the question of whether knowledge or suspicions of abuse should be reported, the effect mandatory reporting may have on professional relationships with their client or patient, whether reporting should apply to past or current abuse and to whom reports of abuse should be made (*ibid*, pp.23-28).

In response, the ISPCC (1996: p.4) was highly critical of the discussion document describing it as "a problem centred document strongly weighted against the introduction of mandatory reporting law". It also accused the paper of containing 'disinformation' and being worded in such a manner that discouraged professional bodies from embracing mandatory reporting (*ibid*). The ISPCC document used highly accessible and emotive language while appealing to public concerns that current provisions and political responses were inadequate to resolve such an important issue of universal concern. Any concerns surrounding the negative effects of mandatory reporting were quickly dispelled as being the product of a "child protection system which is disjointed, defensive and unclear as to whose need it should serve" (*ibid*, p.17). Buckley (1996: p.7) also responded to the discussion document outlining the possible role of mandatory reporting in ensuring that a certain amount of information about abuse is reported to the child protection authorities, thus enabling more thorough assessments of concern. This was supported by the results of a study in which key stakeholders were interviewed and observations drawn from other resources. The findings showed that there was a perception that child abuse investigation was the sole responsibility of the Community Care Social Work Teams and a corresponding assumption by them that reporters were gathering information and making initial assessments (*ibid*, p.12). As a result non-social work professionals were disassociating themselves from child abuse, to the degree where concerns were passed on to Child Care Social Work Teams in a disorganised, incomplete and uncooperative fashion (*ibid*, pp.12-13). Mandatory reporting was regarded as a possible solution to these inter-agency failures.

Over 200 submissions from groups and individuals involved or interested in child protection were received in response to the discussion document. The submissions were considered and in 1997 the Department of Health published *Putting Children*

First: Promoting and Protecting the Rights of Children which revealed that a majority of 'two to one' did not agree that mandatory reporting would provide greater protection to children and were concerned with the effect it could have for their particular service (Department of Health, 1997: p.10). The Minister of State was concerned that an overly prescriptive approach might hamper child-care professionals in meeting the needs of persons in therapeutic situations (*ibid*, p.12). It is worth noting, however, that the State was already requesting such professionals to undertake these duties under the Department of Health guidelines for the previous 10 years but only had concern when it was to be put under a mandatory obligation.

Ultimately the proposal for mandatory reporting was rejected on the grounds that there was a greater need to strengthen existing child care services (*ibid*, p.11). A number of initiatives were advanced instead, including the creation of new roles and bodies such as designated officers, regional and local child protection committees and the establishment of an Ombudsman for children. Recommendations were also made for: a review of the 1987 guidelines; multi-disciplinary training; a public awareness campaign and funding of voluntary organisations. While this was not to be the final consideration of mandatory reporting at governmental level, the proposal for legislative change was dismissed as a viable political strategy. Instead further guidelines and legislative provisions were produced in an attempt to appease public concern and regenerate a child protection system that was considered to be substandard. While mandatory reporting was rejected, the provisions that followed indicated a progressive step towards a system reminiscent of a mandatory reporting regime.

Revisiting Mandatory Reporting

The 1997 change of government saw incoming Fianna Fáil/Progressive Democrats publishing an action plan document for the approaching millennium. *An Action Programme for the Millennium* outlined some of the main objectives of the new government on key areas of public life over the next five years. Among the principal priorities in the area of health provision was a commitment to the full implementation of the recommendations of the *Kilkenny Incest Report, The Kelly Fitzgerald Report* and *The Madonna House Inquiry* as well as the introduction of mandatory reporting (Department of Taoiseach, 1997: p.9). The initiatives, actions

and developments that took place in the proceeding years all laid the foundations for the adoption of key elements characteristic of mandatory reporting.

In 1998 *The Protection for Persons Reporting Child Abuse Act* was enacted, the purpose of which was to provide protection from civil liability for any person acting reasonably and in good faith, who reports that a child is being assaulted, ill-treated, neglected or sexually abused, or that their health, development and welfare are being impaired (section 3.1). Section 5(1) of the Act also created the offence of 'false reporting' where a report is made knowing that statement to be false. The legislation set out to allay the fears of those who were concerned with being identified and being held liable, should that report turn out to be unfounded. While verging closer to a system of mandatory reporting the significant difference was that the 1998 Act encouraged reporting through a protective provision rather than a criminalising one.

The following year the first national, over-arching guidelines to apply to all individuals and agencies dealing with children were issued- *Children First: National Guidelines for the Protection and Welfare of Children* (Department of Health & Children, 1999). The Working Group who devised *Children First* envisaged a comprehensive guideline that would address the "significant variation in how organisations operate child protection procedures and arrangements" (Department of Health & Children, 1999: p.12). The main objectives of the guidelines were to improve the identification, reporting, assessment, treatment and management of child abuse; to consolidate inter-agency co-operation and promote mutual understanding amongst statutory and voluntary organisations about the different contributions made to child protection. In light of the new guidelines a number of departments, bodies and organisations followed suit and developed their own set of procedures based on the provisions of *Children First.* These included the Department of Education, the church and the GAA.[33] After almost a decade of scandal and controversy a comprehensive piece of work was produced that was to pave the way for a child protection system that no longer contracted professionals to identify situations of abuse but one that promoted identifying concerns as a universal issue

[33] Child Protection Guidelines and Procedures for Primary Schools (2001); Child Protection Guidelines and Procedures for Post-Primary School (2004); Code of Good Practice: Child Protection for the Youth Work Sector (2003); Our Children Our Church (2005); Cumann Lúthcleas Gael Guidelines for Dealing with Allegations of Abuse (2005).

for every "individual, whether in an organisation or part of the community" (Department of Health & Children, 1999: p.13).

By 2001 the debate around mandatory reporting was reconsidered in light of the fact that ground work had been put in place to facilitate its introduction. Voluntary organisations continued to campaign for its adoption, convincingly demonstrating how it would tackle issues of inconsistency or under reporting, how it would protect more Irish children while also assisting those mandated to report by way of a clearer legal framework. Mandatory reporting was publicised as a means of restoring "public confidence in the child protection system" (Kenny, 2000: p.2). In the same year the Department of Health and Children drafted a White Paper on mandatory reporting of child abuse with a clear commitment to its adoption (Department of Health and Children, 2000). It was proposed that a mandatory reporting regime would be consistent with *Children First* while also adopting the definitions of abuse contained in the *Protection for Persons Reporting Child Abuse Act.* It was to be limited to cases of current abuse and the obligation would be in relation to professionals involved in child care and child protection rather than the general public (*ibid*, p.48). However, it was suggested that instead of applying a criminal sanction, alternative sanctions would be associated with mandatory reporting, such as claiming in breach of statutory duty and disciplinary action by an employer and/or professional body (*ibid*, p.49). In effect mandatory reporting was now seen as a model of reporting that would complement (*ibid*, p.10) rather than hamper existent child care services. The White Paper also outlined that prior concentration on the development of services had led to a neglect of the quality of statistical and financial information in child care services (*ibid*, p.29). Mandatory reporting was endorsed as a useful means of providing such information while measuring outcomes in relation to reports received, substantiation rates and services provided to children (*ibid*). The White Paper marked an assured and decisive approach by Government to reforming Ireland's child care structure, one that had been lacking over the previous years. However, no further action took place after this report and the surge of enthusiasm for mandatory reporting dissipated.

The Resurgence of Mandatory Reporting

It was not until 2005 that the topic of child abuse reappeared on the political agenda after a short period of dormancy. It arose again through the publication of *The Ferns*

Report and its attendant media coverage. Once again the church became the subject of criticism for concealment of child abuse by clerics. The role of the Health Board and Gardaí also came under scrutiny. One of the main observations by the Inquiry was that the guidelines had little application to a case where a person made an allegation of abuse against a person other than his or her parents or guardians (Murphy *et al.*, 2005: p.56). It was revealed that the Health Boards had no statutory powers to prevent a suspected abuser from acting in a capacity such as a teacher, sports coach or priest, which would bring them in contact with young people (*ibid*). It became apparent from the Ferns Report that the notification of third party abuse to the Health Boards was virtually purposeless as they lacked any significant powers to take action on foot of such information. In the same year, structural changes led to the establishment of the Health Service Executive (HSE) under the *Health Act 2004.* Under section 59 the HSE took over all the functions of the Health Boards. The former community care offices became Local Health Offices (LHOs) with one LHO manager in each HSE region, with lead responsibility for child care.

The preceding period could be viewed in terms of a struggle to harmonise well established loyalties to Constitutional values relating to the family, with demands for reformation of the system in light of unprecedented reports of child abuse atrocities. During this time the State came under pressure to consider mandatory reporting, a provision adopted in other jurisdictions, but not without contention. Public and media attention added greater strain and Government needed to be seen as responding to these urgencies. As outlined in the previous section, the first real consideration of mandatory reporting was by way of a public discussion document, drawing from the opinions and arguments of submissions made by key stakeholders and public bodies with an interest in child protection. Mandatory reporting was rejected at the time but not discounted as the grounds were being set for its introduction by the start of the new millennium. However, the decisive action to take a radical step in reforming Ireland's child protection strategy fell short at the last hurdle. A definitive response was badly needed at this time after a decade when inquiries and investigations had painted a very bleak picture of a system in crisis, plagued by a lack of management and inefficient communications both internally and inter-professionally. The 'system' was now the culprit but lacking authoritative direction on the boundaries of intervention. Although, Health Boards were required

to seek out children in need of protection while also being mindful that they should be kept within a family setting, their powers of intervention ceased when abuse was perpetrated by a third party, rendering them powerless unless the abuse occurred within the institution of the 'family', the very entity they were directed to uphold and support.

Mandatory Reporting – The Current Context

As the introductory chapter has outlined, a proposal to introduce mandatory reporting resurfaced in 2011 as a workable legislative response to further revelations of child protection failures, which emerged in a number of public inquiries. The publication of the 'Children First Heads of Bill' in 2012 and the signing into law of *Criminal Justice (Withholding Information on Crimes against Children and Vulnerable Persons) Act 2012* demonstrated further attempts to "colonize and control professional work" (Ferguson, 1997: p.229) through the sanctioning of failures to report.

Conclusion

This chapter has traced how the Irish child protection system was radicalised through bureaucratic responses that were instigated by a period of 'reflexive modernization'. We see how the increasing visibility of system failures through public inquiries and growing public demand for accountability and transparency helped to transform relationships of trust between expert authority and the lay community.

The emergence of a 'risk society' during a period of changing family structures and social movements in Ireland created a setting where inquiry reports and media revelations of long-term child abuse and inadequate system responses roused public sentiment. It also helped create a new discursive space around child abuse that incorporated the wider public. The effectiveness of the expert system was brought into question and demands for social justice were promoted by survivor groups, activists and campaigners.

The reflexive nature of this period galvanised government into adopting more bureaucratic responses that aimed to colonise and control professional work around child protection. Despite a cluster of legislative developments around the area of

sexual offence law, the debate on mandatory reporting continued to resurface throughout the 1990s and 2000s every time a new scandal would emerge. The prolonged debate was marked by a continual reluctance on the Government's part to commit to its adoption. However, recent assurances by present Government parties have resulted in the categorical acceptance of mandatory child protection reporting in Ireland. With the commencement of the *Withholding Information Act* in 2012 and the Children First Bill at an advanced stage (at time of writing), it is important to consider how mandatory reporting has impacted on other jurisdictions that have already adopted the measure. The following chapter provides detailed examination of mandatory reporting laws drawn from international evidence.

Chapter 4:

Mandatory Reporting: An International Perspective

Introduction

In order to understand the likely impact of a mandatory reporting law in Ireland, it is important that consideration is given to the experience of other jurisdictions that have already adopted the provision. The purpose of this chapter is to provide an overview of international child protection reporting with a primary focus on mandatory reporting legislation and structures. It provides an analysis, across a number of jurisdictions, of mandatory reporting laws, an examination of elements and criteria set out within the legislation as well as an exploration of the impact mandatory reporting has had on reporting rates and child protection systems. The chapter draws evidence from a number of countries across the USA, Australia, Europe and Canada.

Before delving into the different histories and experiences of those jurisdictions that have already adopted the legislation, it might be valuable to consider what the measure of an effective mandatory reporting system is. The purpose of this is to provide a benchmark against which evidence from the different jurisdictions discussed below can be measured. This will hopefully highlight, to some extent, how effective or ineffective its adoption has been in other countries. In an idealistic world a perfectly functioning mandatory reporting system would ensure accurate referrals of child abuse and neglect, therefore leading to increases in detection and substantiation. To break this down further an effective system would allow for serious cases of abuse to be identified and the appropriate intervention provided. It would therefore result in some families receiving the support or preventive services they need so that the concern does not escalate further and the family unit is maintained, or, in more serious cases it would lead to the child being removed from a harmful environment on a more permanent basis. Increases in referrals would

exclude inappropriate referrals; for example, accurate detection of child abuse and neglect would increase leading to greater substantiation while inaccurate, unfounded referrals would be reduced. A well-functioning system would also provide for feedback from social work to the reporting agent about the outcome of the case. It would also allow professionals to feel confident and supported throughout the reporting process; that they are clear on what their duties are, clear on where reporting thresholds lie and knowledgeable about the protections afforded to them so that they are reporting from a place of knowledge and not a place of fear. An efficient reporting system would also incorporate a social services system that is well-financed and resourced so that they can cope with the increase in reports that are likely to accompany the introduction of mandatory reporting.

Motivating factors for the introduction of Mandatory Reporting

USA

The US was the first jurisdiction to bring about mandatory reporting laws in the early 1960s. This development came about as a result of a series of clinical reports on child abuse published by paediatricians and other physicians. However it was the seminal work of Dr. Henry Kempe *et al.* (1962: pp.17-24), which conceived the medical diagnosis of the 'battered baby syndrome', that was most influential in setting in motion a number of important legislative changes including mandatory reporting. In 1963 the first three model reporting statutes were written by the Children's Bureau. In the same year mandatory reporting was adopted in 10 States and by 1967 all States had reporting legislation.

In 1974 the Child Abuse Prevention and Treatment Act (CAPTA) was passed which is a Federal Act that defined child abuse and neglect and also set the standard for State mandatory reporting laws. To obtain funding for child welfare services, States had to comply with regulations set out by the National Centre on Child Abuse and Neglect (body responsible for CAPTA administration), such as, requirements to strengthen reporting legislation and closely approximate their definitions of abuse and neglect with those set out in the Federal Act. Within a few years all States had adopted the NCCAN requirements (Myers, 2006: pp.98-99).

Australia

Similar to the US, mandatory reporting began to be adopted across Australia in the late 60s and 70s and later in the remaining States in the 80s and 90s. According to Fogarty (2008: pp.57-29) the impetus for legislative change came about as a result of both academic research and social unrest. Research by Wurfel and Maxwell (1965) on child maltreatment, Bialestock (1966) on neglected babies and Birrell (1968) on serious physical and emotional abuse all coincided with the international attention placed on Kempe's 'battered-baby syndrome'. This is said to have led to considerable public and media agitation at the time and so, soon after, mandatory reporting was introduced, firstly, in Tasmania in 1974, South Australia in 1975 and New South Wales in 1977. Later, Queensland adopted it in 1980 while Northern Territory followed suit circa 1983/1984. Victoria provides a good example of more recent reasons for the adoption of mandatory reporting.

Victoria

In Victoria the catalyst for mandatory reporting legislation was a combination of governmental restructuring and a child death scandal which occurred around the same time. In 1985 the State took over child protection from the Victorian Child Protection Society and created a 'dual-track' system whereby police responded to any cases that the statutory child protection service could not address, due to a lack of resources or after-hours service (Lamont & Bromfield, 2008). This system became unviable and was abolished in 1994 when the statutory services took full responsibility. It is worth noting that in October 1992 the Liberal-National coalition was opposed to mandatory reporting but six months later, in 1993, supported its introduction. This reversal came about after the death of two year old Daniel Valerio who suffered physical assault by his stepfather (Goddard and Saunders, 2001). At the same time as governmental structural changes were taking place, so too was the stepfather's trial and an inquiry into Daniel's death, which revealed that 20 professionals were involved in his case before his death. Goddard and Liddel (1995) argue that a media campaign was deliberately planned by the Victorian Herald-Sun, which published coverage of the trial and photos of Daniel before his death, thus garnering significant public support for government to amend the 1989 *Children and Young Person Act* so that prescribed professionals, such as teachers and police, were mandated to notify state child protection services of abuse. Daniel's death fuelled the

already shifting State tendency towards the adoption of mandatory reporting in light of the failing dual-track system and mounting media and public demand for its introduction. Mandatory reporting was seen as a "moral obligation to protect the community's young" (Sandor, 1994: p.53) and was seen as a means of redressing the comparatively lower reporting rates in relation to physical and sexual abuse in Victoria (Fogarty, 1993).

Europe

(i) Scandinavian/Nordic model: Family Services orientation

Sweden

Sweden is known for ascribing to the Scandinavian welfare model that provides universal social welfare to all its citizens. This is a model that endorses a family services orientation and perceives child maltreatment as an aspect of family conflict, dysfunction, economic struggle, psychological and marital difficulties. However by the 1980s Sweden was reported in international press as being overly interventive and was also noted for having the world record for "the numbers, more precisely the percentage of children taken into custody" (Gould, 1988: p.5). Before this, awareness around child abuse was also beginning to gain momentum. In the 1950s medical personnel were bringing the issue to general attention (Boethius & Kjellander-Ahlberg, 1982). By the 1970s physical abuse of children was receiving attention through the efforts of professionals and feminists raising awareness about domestic violence, while child sexual abuse soon gained a high profile (Hallberg & Rigné, 1994). These developments and an attempt to shed the "children's gulag scenario [which] haunted Swedish policy makers and policy implementers" (Hort, 1997: p.106) led to the introduction of the *Social Services Act* 1980, which incorporated mandatory reporting and was seen as a step towards adopting a broader and more integrative approach to child protection (Cocozza & Hort, 2011: p.92). The adoption of the 1980 Social Services Act reflected the desire to move away from the previous approach of social control in favour of an emphasis on social citizenship and individuals' social rights (Hort, 1997: p.109).

Finland

Pösö (2011: pp. 112-113) suggests that, up until the mid-90s, child protection did not figure prominently in Finnish social policy, instead attention was more focused on the

welfare of families, as is the premise of the Nordic model. The situation changed after 1992 when a prevalence study on child abuse in Finland revealed that 72% of children surveyed reported experiencing mild abuse by their parents while 8% admitted to severe violence including child sexual abuse; the study was discussed in the media with a high degree of apprehension (Sariola & Uutela, 1992). The notion of abuse is also said to have re-emerged at the same time as a result of efforts by health practitioners and nursing science (Paavilainen *et al.*, 2001). However, the Child Welfare Act that brought about mandatory reporting was first introduced in 1983, well before the concept of maltreatment became a focus in the Finnish discourse. The introduction of mandated reporting does not appear to have been driven by moral panic and extension of the law in 2007 was to help clarify for authorities and professionals, how to balance their duty to maintain client confidentiality with the duty to notify.

The Netherlands

Child protection and welfare services in the Netherlands is also said to have adopted the Family Services Model by approaching the issue as a family-related, medical or psychosocial problem (Daphne report, 2012). Although the Netherlands does not have mandatory reporting as of yet, the Ministry of Youth and Families, the Ministry of Justice and the Ministry of Health, Welfare and Sport, have together announced the intention to introduce the *Reporting code domestic violence and child abuse* law which will require every organisation and professional working with children or parents to have a reporting code (*ibid*). This is said to have been motivated by the estimation that between 40 to 80 child deaths occur in the Netherlands in any year as well as a desire to heighten awareness and decisiveness of professionals (Keesom, 2010: p.2). It is arguable that this development came about after a number of child abuse fatalities were reported in Dutch media over the past number of years. Knign and Van Nijnatten (2011: pp. 223-224) documented a number of high profile cases where young children were murdered by their parents after years of abuse and maltreatment[34], thus raising questions about the lack of intervention and acceptance of responsibility by the professionals involved. An inquiry was set up by the Dutch

[34] The 'Maas-girl', the 'Nulde girl' and Savannah were three young girls brutally murdered by their parents.

inspectorate the results of which showed lack of responsibility at managerial level and ineffective, incompetent practices between professionals (*ibid*).

(ii) Central and Eastern Europe

Cyprus

The introduction of mandatory reporting in 1998 is noted as being in response to an alarming increase in the number of domestic violence and child abuse cases reported to the police and social services departments in Cyprus (Panayiotopoulos, 2011). The intention was to introduce a system whereby anybody could report a concern of maltreatment directly to the Attorney General's office instead of having to follow the previous hierarchical and bureaucratic procedures that caused delays. Mandatory reporting was also incorporated into the new overarching framework between health, social services and education that was established in 2002 (*ibid*: p. 385).

Hungary

Child abuse and neglect did not enter Hungarian discourse or political debate until, 1997 when new legislation was passed in line with the UN Convention on the Rights of the Child (UNCRC). New developments were influenced by professionals and policy makers who started to travel abroad and learn from other jurisdictions. As a result of this a new system developed where duties and responsibilities were decentralised and more focus was placed on local, universal service provision, replacing the previous authoritarian approach to social work (Herczog, 2011). However it is noted by Herczog that the prevention and handling of child abuse and neglect in Hungary have not changed fundamentally because of a lack of public or professional debate on the issue. No prevalence studies on child abuse have been undertaken, nor is the terminology used considered to be well developed. It was not until recently, after efforts by activists and media, that the Ombudsman made a recommendation to Parliament to introduce penalties for those failing to report or intervene. Following this, the Child Protection Act was amended in 2010 to oblige employees to undertake vocational training and/or pay a fine if they are found not to meet professional reporting requirements (*ibid*).

The introduction of mandatory reporting in the above European jurisdictions is a relatively new phenomenon and the lack of literature around the adoption of the law

suggests that it came about more so as a result of broader legal systematic changes rather than as stand-alone developments. From the above examples it appears that greater awareness around levels of abuse, professional awareness and public or media campaigning, as well as international obligations such as the UNCRC were the driving forces behind bigger changes that incorporated mandatory reporting.

Who is required to report?

USA

While the initial models of mandatory reporting in the USA focused on physical abuse and the requirement for medical professionals to report, by the late 1960s and early 1970s the number of mandated professionals was increasing to include a range of health professionals as well as professionals in other disciplines, such as social workers and teachers. To date, nearly 40 different professions are specifically required to report (Kalichman, 1993: p.24).

The majority of States mandate virtually all professionals who come in contact with children through their work; these include staff in health, education, justice, social work, childcare, mental health services, counselling services, therapeutic services, crisis intervention, advocacy agencies and youth centres. Examples of some more unusual and less common categories of reporters are: photographic print processors, coroners, fire-fighters, animal control officers, vets, spiritual healers and funeral home directors.

Some States have extremely detailed lists of reporters[35] while some have general statements of who the law is considered to apply to (North Carolina's legislation outlines that reporters are: "Any person or institution that has cause to suspect abuse or neglect shall report"). In addition members of the clergy are mandated to report in 26 States.[36] Eighteen States add that "any person" who suspects abuse/neglect is required to report. Of these 18 States, 16 specify certain professionals as well as 'all persons' regardless of their profession (Child Welfare Information Gateway, 2010: p.3). Only New Jersey and Wyoming require all persons to report without specifying

[35] Arkansas, California.

[36] Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Illinois, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Vermont, West Virginia, and Wisconsin.

any professionals. In all other States "any person" is permitted to report in the legislation (allowing voluntary reporting). Across all States it is noted by Gilbert *et al.* (2011: p.18) that school teachers, police officers and social service staff made the largest number of maltreatment referrals out of all mandated reporters.

Some States allow situations where privileged communication exempts a person from their reporting obligations, while others either do not address the issue or outline relationships where privilege does not excuse failure to report. The professional relationships that are generally protected from mandatory reporting are: attorney-client, clergy-penitent and physician-patient.

Research has shown that since the introduction of mandatory reporting, mandated reporters have always constituted the highest percentage of reporters of abuse at over 50% of report sources:

Table 1: Report Sources

Source	1977	1979	1980	1995	2008
Professionals	46.8%	51.5%	52%	52.9%	57.9%
Non-professionals	38.4%	35.8%	39%	28.3%	28.5%
Other/Anonymous	14.8%	12.7%	9%	18.8%	13.8%

Source: Waldfogel (1998: p.107) & US Department of Health and Human Services (2008: p.6).

They are also noted as being the sources with the highest rate of substantiation. In 2008 over three-quarters of substantiated or indicated reports came from professionals (US Department of Health and Human Services, 2008: p.8).

Australia

Unlike the US, Australian legislation is much more disjointed, as reporting provisions are spread out over several statutes (See Table 2, Appendix 1). The categories of mandated reporters are broader in some cases (listing general areas and disciplines as opposed to specific professional individuals), but in other cases, they are more limited than their US counterparts by only requiring a small number of professionals to report. Only one Australian State/territory mandates all adults to report (Northern Territory). However, a number of general categories are identified and relate to individuals in disciplines similar to those listed in the U.S.

The most recent statistics show that across the majority of States/territories police constituted the greatest source for reporting, comprising between 20-30% of sources across Australia, apart from Australian Capital Territory, where school personnel constituted the highest rate at 20% (Australian Institute of Health and Welfare, 2012: p. 7 and Table A1.3). School personnel generally rate quite high, ranging from 12-30% of reporters while childcare have the lowest rate, ranging from 0.3-1.1% of reporters. Similar to the US, professionals make up the largest proportion of source reporters (*ibid*).

Europe

Between the different European countries examined for this chapter, it was found that there is great diversity regarding who is required to report under their respective legislation (See Table 3, Appendix 1). While Sweden and Norway outline that 'authorities' are responsible for reporting suspicions of child abuse and neglect, specific individual professions are also obligated. Sweden, for example, distinguishes between public 'authorities' and the persons employed within them as well as persons within professionally conducted 'private services'. Public authorities are listed as those whose activities affect children and young people or those within health care, medical care, other forensic psychiatric investigation services, social services, prison and probation. Those in private services are any services affecting children and young people or other professionally conducted private services in health and medical care or in the social services field as well as persons employed in couples counselling.

In the Netherlands the proposed *Reporting code domestic violence and child abuse* which was expected to come into force last year (2012), will place an obligation on every organisation and professional within it, working with children and families, to have a reporting code to which everyone adheres. The reporting code is a set of rules of conduct and instructions for professionals when they suspect or identify abuse or neglect (de Baat *et al.*, 2011: p. 21).

In both Sweden and Romania the law sets out that all citizens have a right to report child abuse but they are not subject to sanctioning. Bulgaria, Estonia and Portugal

however, do place a mandatory reporting obligation on all citizens. Cyprus and Greece require public officers and officials in relevant departments and institutions to report. In Cyprus it is those working in the ministries of health, education, justice and public order as well as social welfare services.

Finland, Hungary and Romania require individual professionals and/or professionals within institutions that have contact with children to report to the authorities. Finland, for example, outlines that individuals in a position of trust or those working in: social care, health care, education, youth, police, religious, asylum centre employees, emergency centres, evening activities for children and healthcare professionals must report. Any other person is also permitted to report under Finnish law.

Mandatory reporting legislation within the European context appears a lot less specific than in comparison to the US and there is much greater diversity in how it is outlined within the different jurisdictions. There is an apparent split between obliging individual professions and 'authorities' working in areas connected to children. Some countries place the requirement on all citizens while others distinguish the obligation as relating to officials in public ministries. Finland is the only jurisdiction to also require religious to report but there is no exemption for privileged communication in any of the countries examined.

Canada

In a large proportion of Canadian provinces/territories 'all persons' are required to report child abuse and are liable to sanctioning for failures to report, specifying that the general public are also subject to mandatory reporting obligations.[37] Quebec, Nova Scotia, Ontario and New Brunswick place an obligation on both citizens and specific individual professionals in areas such as health care, education, justice, childcare, youth and recreation, social work, mental health, mediation or any person whose employment requires them to discharge a duty of care towards a child. Ontario also places an obligation on religious, coroners and solicitors but specifically exempts volunteers working in youth and recreation from being subject to the obligation.

[37] Alberta, Yukon, Northwest Territories, British Columbia, Prince Edward Island and Manitoba.

In Manitoba, an additional element of the child protection legislation requires that where the director of Child and Family Services has reasonable grounds to believe that a person has failed to report information about a child in need of protection, the director may report the matter to the body or person that governs the professional person and require them to investigate the matter to determine whether any disciplinary actions needs to be taken (section 18.2 Manitoba Act: See Table 4, Appendix).

Most recent statistics show that professionals constitute the highest percentage of referral source in Canada. In the 2008 national incidence survey, intake professionals made up 68% of overall referral sources; more than twice the amount of referrals from non-professional sources:

Table 2: Referral Sources 1998-2008

	1998		2003		2008	
Referral Source	**No. Investigations**	**%**	**No. Investigations**	**%**	**No. Investigations**	**%**
Non-professional referrals	40,118	34%	56,254	26%	57,847	26%
Professional referrals	68,687	58%	145,411	67%	148,555	68%
Anonymous/ other	14,100	12%	21,602	10%	18,932	9%
Total	**118,552**	**100 %**	**217,319**	**100 %**	**217,960**	**100 %**

Source: Public Health Agency of Canada (2010: p. 25)

Immunity for Reporters and Protection of Identity

Immunity from civil and criminal liability is provided for in almost all American, Canadian and Australian legislation but there was no evidence or reference to such a provision in European legislation. In general immunity was provided to reporters in cases of good faith reporting and some Canadian States provided protection from dismissal, professional disciplining as well as harassment. The identity of the reporters was also protected from disclosure in the US, Canada and Australia, but again, this was not addressed in European law. In certain prescribed circumstances

the identity of the reporter may be revealed, for example, in judicial proceedings[38] and where their consent is forthcoming[39]. In the US most States also have a toll free number to which anonymous reports of child abuse and neglect can be made.

Reportable Behaviour

While there is a great amount of variation between jurisdictions on what constitutes reportable behaviour, five main categories emerge from this examination: physical abuse, neglect, sexual abuse/exploitation, emotional abuse and abandonment. It is the specifications underneath each of these categories, however, where the greatest diversity occurs. Some States have quite broad and general definitions under each category while others have narrowly defined, extensive lists of signs and symptoms (see Arkansas legislation reference, Table 1, Appendix 1). In a study by Rycraft (1990) it was found that American States with broad and non-specific definitions had the highest rates for reporting and substantiation while States with narrow, specific definitions have some of the lowest rates. Some interesting variations were of note within Australia. Both New South Wales and Northern Territory mandate the reporting of exposure to domestic violence. New South Wales also includes situations where the child does not receive medical treatment or education. Western Australia's governing law only requires sexual abuse to be reported,[40] while Victoria only requires reporting of physical and sexual abuse. Australian Capital Territory also requires prenatal reporting whereby a person should report when they have a concern that the child will be in need of care and protection after birth.

Amongst the countries examined within Europe it appears that definitions of child abuse and neglect are wide and encompassing with some countries outlining specific subtypes within the legislation. Terms of abuse are not always clearly defined within the legislation. For example, Finland's 2007 Act states that a person should report when:

> *"...in the course of their work, they discover that there is a child for whom it is necessary to investigate the need for child welfare on account of the child's need for care, circumstances endangering the child's development, or the child's behaviour."* (section 25.1)

---

[38] California, Mississippi, Tennessee, Texas.

[39] New Brunswick, Manitoba.

[40] There was intention to extend the requirement to all forms of abuse in 2012, but as of yet this has not occurred.

Norway and Portugal have more detailed examples of abuse. The latter describes abuse as situations where the child is in 'peril'. For example, some of the situations outlined in legislation are, where the child is abandoned or living on his/her own; where the child does not receive the care or affection appropriate for its age and personal situation or where the child is subjected to work or any activity that is excessive or inappropriate to its age, dignity and personal situation or that is harmful to its upbringing or development.

Norway, on the other-hand, lists specific situations where reporting is required, for example, section 4-10 of the *Child Welfare Act* outlines that reporting should occur where parents fail to ensure treatment of their child for life-threatening illness or injury.

In Canada, a number of other variations were identified within mandatory reporting legislation. Some additional and variable forms of maltreatment that require reporting are failure by parents to provide the child with medical treatment, child pornography, impairment of the child's development or circumstances where the parents or guardians have died (See Table 4, Appendix). Swift (2011: p. 42) remarks that the different jurisdictions tend to distinguish reportable behaviour in terms of either the child's needs or in terms of parental behaviour. For example, many jurisdictions include parental 'failure to protect' as a form of abuse requiring reporting, whereby the parent could have or should have known about harm to a child, but they failed to act. Quebec, however, appears more child focused in its approach, outlining that instances where the child is exhibiting serious behavioural disturbances or if there is substantial risk to the child's health as a result of substance abuse. Some jurisdictions, such as Ontario, also include situations where a child (under 12) has caused the death or serious injury of another but the parents are either unwilling or unable to access services or treatment to prevent its potential recurrence. Ontario also requires reporting of 'patterns of neglect' in order to distinguish an isolated incident from longstanding conditions impairing the child's well-being. The same legislation also outlines that on-going reports of abuse be made about the same child, even where the concern has already been notified.

Nova Scotia and Manitoba are two jurisdictions that make a distinction between the reporting of familial and extra-familial abuse. In Nova Scotia everyone is under an obligation to report third party physical, sexual and emotional harm, failure of which is subject to penalty. In Manitoba all persons are required to report third party abuse to either the Agency or the parents/guardians. Where it is suspected that the parents are responsible for the abuse the reporter should only notify the Agency.

Standard for Reporting

In addition, most mandatory reporting laws will set out the qualifying conditions for initiating a report. While the standard varies across jurisdictions the predominating benchmark is where the reporter in his/her official capacity 'suspects' or has 'reason to believe' a child has been abused or neglected; suggesting that the suspicion is in relation to an objective standard of reasoned discretion that the abuse has already occurred. Other statutes indicate the suspicion should be in relation to present abuse or neglect currently taking place.[41] Other standards set out that the reporter should have knowledge of or observe the child being subjected to conditions that would reasonably result in harm. While most statutes set out limited and general standards, Lawrence-Karski (1997: p.19) remarks that this standard has been criticised for being at odds with the standard used by child protective workers, which is much higher. A study by Kalichman and Brosig (1992) indicated that reporting law standards significantly increased reporting by a group of licensed psychologists from Colorado and Pennsylvania (U.S.), suggesting that they have the capacity to increase a person's propensity to report. For this reason, New South Wales (Australia) amended its legislation, raising the threshold for reporting from 'harm' to 'significant harm'. This was to presumably counteract the overwhelming level of reports being received by child protection services.

Sharing of Information

Sharing of information is addressed in a number of the different jurisdictions' legislative provisions but is equally provided for in governmental agreements, guidelines and protocols where this is not the case. Predominantly it is a requirement for mutual sharing of information between police and child protection services. For example, all American States have a provision outlining some form of mutual

[41] Arizona (U.S.), for example, requires reporting for both past and present abuse and neglect.

requirement between the relevant State Department responsible for child protection and the law enforcement agency (LEA) to notify each-other of certain reports. The requirement to notify is usually conditional on the form of abuse or its severity.

There are some examples of more progressive developments, such as New South Wales, in Australia where the legislation was amended in 2009 (following recommendations of the Wood Inquiry) to authorise agencies and NGOs to share information that helps deliver services and supports to promote safety. Under the new Chapter 16 (A) of the 1998 Act "prescribed bodies"[42] can exchange information on a child's welfare whether or not that child is known to Community Services (the statutory child protection service) and even without Community Service's involvement. Prior to this development the only possible way for information to be shared was when it was sent to or received by Community Services; the new provision essentially allows for direct information exchange without statutory involvement. This amendment operates in conjunction with s. 248 of the same Act which allows the Director General[43] to either furnish a prescribed body with information or alternatively request a prescribed body to furnish the Department with information.[44]

In Western Australia the Public Health Act allows professionals to seek further information from colleagues, in order to confirm there is a reasonable suspicion of harm. The same Act also places a penalty on professional reporters who fail to provide the CEO[45] with information when requested. Tasmania allows information to be shared about clients between organisations working in collaboration with Gateway Services[46] and child protection services, even where privacy legislation might otherwise prevent it. Staff from these services may also be asked by child protection workers to provide information relating to the child, guardian, resident in the home or any other significant person in the child's life. States/territories such as

---

[42] "Prescribed bodies" are generally a list of services, agencies, organisations or individuals in either human services, justice agencies or NGOs who are entitled to share information or that can be requested to share information on demand.

[43] "Director-General" means the person holding office or acting as the Director-General of the Department of Community Services.

[44] For more information see: http://www.community.nsw.gov.au/kts/guidelines/documents/info_exchange_factsheet.pdf.

[45] Chief executive officer means the chief executive officer of a local government.

[46] Connecting families with disability services.

South Australia, Victoria and Northern Territory have similar provisions outlining exchange and sharing of information along with detailed guidelines, fact sheets, and brochures.

The Netherlands is known for operating a system called the Confidential Doctor's whereby doctors could report cases of child abuse to colleagues and seek advice on a concern but without violating professional confidentiality (Doek, 1978).[47] In the 1990s this system was replaced by the AMKs (Advice and Reporting Centres on Child Abuse). These are centres situated all over the Netherlands to which anyone can anonymously report a suspicion of abuse or receive advice about a concern. The AMKs will then investigate the concern by gathering information from schools, family, family practitioners, the Infant Health Bureau and other professionals (Keesom, 2010). In addition an initiative known as the 'Reference Index for Youth at Risk' was set up and implemented throughout the jurisdiction which allows professionals working with children and young people both within and between municipalities to keep track of young people and inform their colleagues (de Baat *et al.,* 2011: p.31).

In Quebec (Canada) a multi-sectorial agreement was devised by the Department of Education in 2002 to help streamline the intervention process and avoid multiplication of procedural guidelines. The aim of the agreement was to improve transmission of information and design a global agreement between various partners. Those bound by the agreement are: Departments of Education, Justice, Public Security, Health and Social Services, Family and Children, day-care services, police Departments, community organisations and all other legally constituted provincial or regional organisations (recreational organisations and sports clubs) (Ministère de l'Éducation du Québec, 2002). The agreement requires on-going communication amongst the relevant bodies whereby they consult, plan and share relevant information that pertains to their areas of expertise. In addition each participating Department must designate a province-wide representative who will work collaboratively with representatives designated by each institution (*ibid*).

---

[47] Confidential doctors were appointed to serve as contact persons to paediatricians and other individuals who had knowledge of child abuse. Since doctors were pledged not to disclose cases of suspected abuse to the authorities, paediatricians were allowed to receive advice without violating their professional secrecy.

Training

While training was not addressed in any of the legislative provisions examined there are a number of initiatives across all areas examined to promote and endorse training of both the public and professionals. Within the US the 'National Child Protection Training Center' provides education, training, awareness, prevention and advocacy information to frontline child protection professionals, focusing on education curriculum development and training of child protection professionals.[48] The 'Canadian Centre for Child Protection' delivers education and prevention programmes to children, families, schools, child-serving organisations and communities as well as online training.[49] Within Europe there are numerous government strategies and actions to improve knowledge and skills of professionals around detection and reporting: efforts are being made to incorporate child protection into university studies, online training programmes as well as practice handbooks and educational material.[50] In Australia both national and State level training is available for both general purposes or for sector specific purposes which are modified to professional needs of that discipline. At national level the 'Child Abuse Consultancy Education and Training' programme offers awareness seminars to equip professionals and volunteers who work with children on how to respond to suspicions or disclosures of maltreatment.[51]

Sanctions for failures to Report

In the U.S. the majority of States outline criminal and civil sanctions imposed on reporters for either a failure to report or false reporting. In terms of a failure to report most States impose penalties on reporters who knowingly or wilfully fail to report when they know or suspect child abuse and neglect. The offence is generally classified as a misdemeanour and on conviction a person can face jail terms from 10 days to five years or fines ranging from $100 to $5,000. In addition, reporters can be liable for civil damages as a result of further injury caused to the victim subsequent to a failure

---

[48] See: http://www.ncptc.org/.

[49] See: https://protectchildren.ca/app/en/.

[50] Portugal developed guidance called *Child and Youngster Abuse: Practical Guide for the Approach, Diagnosis and Intervention* and also provides specific training for professionals in the 'Plan DOM' initiative (Challenges, Opportunities and Changes), which includes training for directors and for technical and educational teams of organisations; in 2011 Hungary's National Institute for Child Health launched a website on child abuse and neglect targeting professionals, parents and the public (Berg-le Clerq, 2012: p.41); in Germany university studies explicitly address the topic of early prevention.

[51] See: http://www.aifs.gov.au/cfca/training/.

to report,[52] impeding reports is classified as a misdemeanour[53] while a second time offence receives a higher sanction of felony, ranging from one to three years imprisonment or a $25,000 fine[54].

False reporting occurs when a person knowingly or wilfully makes a false report or reports when they know it lacks factual foundation. This offence is specifically provided for in the civil child protection laws of 28 U.S. States.[55] In 20 States false reporting is a misdemeanour while in Florida, Tennessee and Texas it is a felony. Penalties for false reporting can range from 30 days to five years imprisonment or a $200 to $5,000 fine. Florida has one of the toughest sanctions for false reporting: up to five years imprisonment and/or $5,000 fine, in addition to a fine of up to $10,000 that can be imposed by the Department of Children and Family Services.

The majority of Australian States/territories place only civil sanctions on mandated reporters who fail to notify the authorities of a concern. Australian Capital Territory is the only State/territory to place either monetary fines or criminal sanctions of up to 6 months on failures to report. It also imposes fines on false reporting for both mandated and voluntary reporters of up to 50 penalty units (approx. $5,500) or up to six months imprisonment.

New South Wales is the only State/territory that does not impose a penalty on those that fail to report within its legislation. In 2009 a decision was made to remove the sanction that previously existed[56] and currently no liability is set out in legislation. This amendment came as a result of the Wood Inquiry which was commissioned to determine changes needed within the child protection system (after the death of two young children) to cope with future levels of demand on the system. The report emphasised, amongst other things, the need for better interagency and collaborative approaches rather than punitive ones.

---

[52] Arkansas.
[53] California.
[54] Illinois.
[55] Arizona, Arkansas, California, Colorado, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Oklahoma, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Washington, and Wyoming.
[56] Up to 200 penalty units, approximately $22,000.

While some of the European jurisdictions examined do not address the issue of sanctioning failures to report, others provide for civil, criminal or disciplinary sanctioning of an omission. False reporting is not addressed in any of the legislation. Swedish law requires that an inquiry may be undertaken to establish if a breach of duty has occurred (Ångman & Gustafsson, 2011: p.24). Where a breach is confirmed the failure is punishable by up to two years imprisonment. The same sanction applies to those that did not realise a crime was committed but should have been aware (See Table 3, Appendix 1). In Hungary the local authorities may fine those that have not met professional requirements to report or intervene. They may also oblige them to undergo vocational training (See Table 3, Appendix 1). Cyprus imposes fines or imprisonment while Bulgaria only imposes monetary fines. Bulgaria does distinguish between fines related to citizens for failure to report (between 50-100 Lev)[57] and officials who receive a higher fine (between 100-200 Lev).[58] Romania places disciplinary sanctions on those that fail to report (Kelly *et al.*, 2011: p. 186). Other countries that impose sanctions on failures to report are: Estonia, Turkey, Czech Republic, Finland, France, Italy, Luxembourg, Latvia, Portugal, Slovenia, Slovak Republic and Spain (*ibid*).

In Canada, some States distinguish between those to whom penalties apply and either penalise professionals only or assign different levels of sanctioning to professionals and citizens. Ontario, for example, only imposes sanctions on professionals although citizens are required to report too. In 2008 the penalty was repealed and raised from a $1,000 fine to $50,000 or two years imprisonment. An additional section of the Ontario legislation outlines that where a director, officer or employer permits contravention of the duty to report then they too will be guilty of an offence.

Case-law on Failures to Report

USA

Since the introduction of mandatory reporting in the U.S. there have been a number of cases where professionals have been held responsible for failure to report suspected child abuse. Kalichman (1993: p.32) notes that the majority of cases where professionals were held accountable for not reporting involve mandated reporters

[57] Approximately €25-€50 according to most recent currency conversion.
[58] Approximately €50-€100 according to most recent currency conversion.

who had some degree of knowledge rather than a reasonable suspicion. The main difficulty identified by Giovannoni (1989) in these cases was establishing 'when' the law requires reporting rather than 'what' requires reporting.

Myers (1998: pp. 94-98) observes that, under American case-law, professionals can become civilly, criminally and administratively liable for failures to report. While lawsuits for failure to report do exist he claims that they are rare, particularly lawsuits taken by parents against a reporter for making baseless allegations. For example, *Landeros vs. Flood* [1976][59] is one of the earliest cases in the U.S. and concerned a physician who failed to diagnose and report a case of battered child syndrome. As a result the child went on to suffer further harm and so the Californian Supreme court found that the defendant was legally obligated to compensate the victim for subsequent injuries suffered. In the *Commonwealth v. Allen* [1998][60] case a teacher and school counsellor (who received disclosures from two students of child sexual abuse by another teacher) both notified the school principal who failed to notify the authorities of the abuse. The Supreme Court ruled that both the teacher and counsellor were criminally liable for failure to report directly to the proper authorities despite notifying the school principal. *People v. Gray* [1986][61] provides an interesting example of a psychologist who was aware of excessive punishment of a 13 year old boy by his adoptive parents but failed to report on the grounds that the child protective services had limited resources and it would have been averse to the family's progress. He was found guilty on one count of failure to report and received a penalty of a misdemeanour ($200 fine).

Australia

In comparison to the US very few prosecutions for failure to report child abuse and neglect have occurred in Australia. Extensive database and internet searches failed to provide any substantial evidence of prosecutions in this jurisdiction. Some media reporting does suggest that charges have been taken against some professionals and members of the clergy but it has not been possible to determine if any State prosecutions were successful. From the scant information available it was established that in 2011 Northern Territory media reported on the first prosecution case for

[59] 17 Cal. 3d 399, 551 P.2d 389 97 ALR 3d 324.
[60] 980 S.W. 2d 278 (ky. 1998).
[61] 187 Cal. App. 3d 213 [231 Cal. Rptr. 658].

failure to report child abuse. A case was taken against a youth worker who failed to report suspicions of child sexual abuse on the first instance of discovery but subsequently reported a short time after witnessing further sexualised behaviour by the same child. The case was later dismissed by the Alice Springs Magistrate.[62] In the case of *AB v. Victoria*,[63] in 2000, a student successfully sued the State for failure by a government school principal and deputy principal to report suspicions of the student's sexual abuse by her stepfather. The failure to report occurred before the introduction of mandatory reporting in Victoria in 1993 but the claimant was successful in taking a negligence action for consequential injury suffered by her as a result of the defendants' failure to report and was awarded $494,000 (Mathews and Walsh, 2004). Again, media reporting shows that in 2009 a primary school principal in Queensland became the first Australian to be charged under laws mandating the reporting to police of any suspicions of sexual abuse involving children. The principal failed to act on complaints made by parents and teachers in 2007 against one of the teachers in the school who was a Christian Brother (also acting as child protection officer in the school). The principal admitted to the failure but is noted as escaping conviction on a technicality.[64]

Canada

In terms of case-law for prosecution of failures to report in Canada there are some examples, but again, they are relatively rare and of those documented very few were successful, confirming that standards for judicial proceedings following a failure to report are extremely difficult to prove. According to Stanley *et al.* (1999: p.28) almost all reported cases in Canada of prosecutions for non-reporting involve professionals, but in particular, those professionals in health care with the most training in identification and the most education about their legal obligations. One of the few successful cases was that of: *R v. Lee* (1987)[65] in which two doctors were charged with failure to report abuse of an 18 month old baby boy who presented at the hospital on a number of occasions with bruising on his genitals, stomach and legs as well as a tearing on the penis and suspected internal injuries. Both doctors were

---

[62] See: Crawford, S. (2011), 'Youth worker case dismissed', *Northern Territory News,* (3rd May, 2011) [online] available at: http://www.ntnews.com.au/article/2011/05/03/229681_ntnews.html.

[63] Unreported, Supreme Court of Victoria, Gillard J, 15 June 2000.

[64] See: McKenna, M. (2010), 'Police warn Church on new wave of victims', *The Australian,* (15th April, 2010) [online] available at: http://www.theaustralian.com.au/news/nation/police-warn-church-on-new-wave-of-victims/story-e6frg6nf-1225853826688.

[65] April 22, 1987, Ont. Prov Ct., per Coulson J.

urged by nursing staff to report the situation to the authorities but they declined to do so. They were subsequently fined $400 each and as a result of professional disciplinary proceedings they were both suspended from practice for one month.

In Ontario, a 1984 case demonstrated how the judiciary may apply different professional standards on those required to report. In the case of *R v. Strachula*[66] a family doctor was accused of failure to report child abuse. During the trial an expert paediatrician testified that the doctor should have suspected child abuse. However, the judge acquitted the defendant on the grounds that the same universal standards of identification and detection cannot be applied across all professional standards and that while some individuals should reasonably be expected to identify child abuse by virtue of their profession (i.e. a paediatrician), other professions will not have the same level of expertise (i.e. a teacher).

Other cases show that there can be both narrow and broad interpretation of the legislation during judicial proceedings. In *R v. Rachalkar*[67] a narrow interpretation of the law meant that the professionals charged were acquitted for failing to report abuse of a young child sexually abused by her uncle because the perpetrator did not have 'charge' of the child at the time. Instead, because the mother had charge of the child when the abuse occurred and there was no evidence that she had failed to protect the child, the defendants were not prosecuted. Similarly, in *R v. Cook*[68] the mother of a 15 year old girl reported to the family doctor that the latter was being sexually abused by her stepfather. The doctor advised she confront the stepfather and the family receive counselling. Soon after the mother returned to inform the doctor that the situation had been addressed and she was monitoring the stepfather and daughter. A few months later however, the case was reported to the police and the doctor was charged with failure to report. He was acquitted on the grounds that the Crown failed to prove that he 'reasonably' believed the child 'is suffering' abuse as he was led to believe the mother had taken adequate steps to stop it. After this case the Ontario legislation was repealed and 'reasonable belief' was extended to situations where the child 'is or may be' suffering abuse. In addition there can also be broad

---

[66] (1984) 40 R.F.L. (2D) 184, AT 188 (Ont. Prov Ct.).
[67] [1995] OJ 653 (Gen. Div.).
[68] (1984), 46 R.F.L (2d) 174 (Ont. C.A.), affg. 37 R.F.L. (2d) 93 (Ont. Prov. Div.).

interpretation of the law as was the case in *R v. Kates*[69] where a day-care operator was charged with failure to report the excessive disciplining of a child by a member of staff. The judge purported that Ontario legislation did not solely apply to parents by virtue of the phrase 'having charge of a child' and that this phrase was broad enough to be extended to staff at a day-care centre. However the defendant was acquitted on appeal because the uncertainty of the statutory provision made it difficult for a lay person to interpret it.

As well as the possibility of being prosecuted under provincial reporting laws, individuals may also be exposed to civil action by the child or the child's representative for damages arising from the professional's negligence in failing to report. In *Brown v. University of Alberta Hospital*[70] a radiologist was found to be negligent for failing to report x-rays showing brain injuries inflicted on a three month old baby (by the father). Four days after the first attendance the baby re-presented with severe brain damage, this was then reported. The court concluded that the radiologist was negligent for not reporting in the first instance and was required to pay damages in the sum of $150,000.

Impact of Mandatory Reporting Laws

In trying to establish whether mandatory reporting laws have had their intended effect or any other unintended consequences, this thesis has interrogated the international data in respect of the following questions:

- Has mandatory reporting let to an increase in referrals?
- Has mandatory reporting led to over-reporting?
- Has the law provided children with better protection?[71]

USA

Increase in Reporting

A number of studies conducted in the U.S. show that when mandatory reporting laws were first introduced reporting rates still remained low. Besharov (1986) undertook

[69] [1987] O.J. 2032 (Dist. Ct.).
[70] [1997] A.J. 298 (Q.B.).
[71] It should be noted that general trends and statistics discussed below must be interpreted with caution because legislative definitions and standards for intervention can vary across each State. In addition all State statutes have been amended over time, broadening the definitions and categories of abuse, as well those mandated to report.

research in New York (1970) which showed that 13% of emergency room cases involving children with serious injuries were not reported. In 1967, after all States had adopted the law, 9,563 reports of alleged maltreatment were made (Waldfogel, 1998 & US Department of Health and Human Services, 2008). A year later this only increased to 10,931. However, by 1974, a year after the introduction of CAPTA (federal act), reports increased dramatically to 294,796 and to 669,000 in 1975. Waldfogel (1998: p.100) suggested at the time that this increase was a result of the imposition of legal requirements to report and the creation of systems that would receive those reports. Lawrence-Karski (1997: pp.27-28) added that, in California, this increase was not simply attributed to the introduction of the laws but also coincided with heightened community awareness and an increase in community related problems such as homelessness, poverty, unemployment, drug dependency and domestic violence.[72] At the same time, the rate of reporting in the U.S. has steadily and dramatically increased throughout the 80s, 90s and 00s:

Table 3: Reports of child abuse and neglect, selected years, 1967-2008

Year	No. of reports
1967	9,563
1968	10,931
1975	294,796
1976	669,000
1977	838,000
1978	836,000
1979	988,000
1980	1,154,000
1983	1,477,000
1986	2,086,000
1988	2,265,000
1990	2,559,000
1993	2,967,000
1995	3,120,000
1996	3,126,000
2007	3,200,000
2008	3,300,000

Source: Waldfogel (1998: table 1.1); Gilbert *et al.*(2011: p.19); US Department of Health and Human Services (2008: p.5).

[72] For more studies on linkages between social issues and increased child abuse rates see: Albert, V. & Barth, R. (1996), 'Predicting Growth in Child Abuse and Neglect Reports in Urban, Suburban and Rural Counties', *Social Service Review,* 70, pp.58-82.

However, while the rate of reporting has been increasing a study by Sedlak and Broadhurst (1996: table 7-5) shows that during the 1980s, 10 years after the introduction of CAPTA, the rate of cases known to professionals but not known to the child protection system remained significantly high:

Table 4: Suspected cases known to professionals but not to Child Protection System

	1980	1986	1993
Percentage of cases unknown to C.P.S.	79%	65%	79%

Source: Sedlak & Broadhurst (1996: table 7-5),

Rates of Substantiation

It is reported that substantiation rates from the late 1970s have been in the region of 40% (Waldfogel, 1998: p.104). However, tracking of substantiation rates did not begin until the 1990s and indicate a clear downward trend:

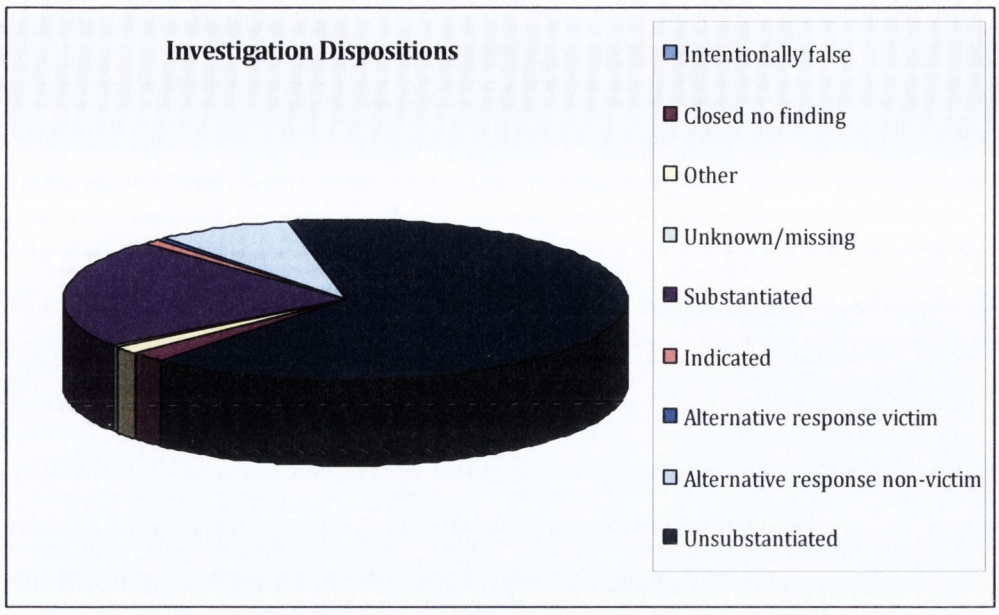
Table 5: Substantiation Rates

Year	Substantiated Reports	Unsubstantiated Reports
1990	44%	53%
1991	43%	54%
1992	43%	51%
1993	38%	54%
1994	37%	56%
1995	36%	58%
1996	34%	59%

Source: Waldfogel (1998: p.105).

In 2004 11.9 per 1,000 children reported were substantiated victims of maltreatment and in 2007 the proportion decreased again to 10.6 per 1,000 (Gilbert *et al.*, 2011: p.19). The most recent data shows that this has again decreased even further. In 2008 63% of referrals (1.5 million) were investigated or received an assessment. Of these 22.3% were substantiated, 64.7% were unsubstantiated and 1.9% were 'closed/no finding' (US Department of Health and Human Services, 2008: p.8):

Figure 3: Investigation Dispositions, 2008



Source: US Department of Health and Human Services (2008: figure 2-2).

In addition the number of child fatalities as a result of maltreatment indicates an upward trend:

Table 6: Number of Child Deaths relating to maltreatment

	1994	1997	2004	2007	2008
Number of deaths	996	1,197	1,490	1,760	1,740

Source: Gilbert et al. (2011: table 2.1) & US Department of Health and Human Services (2008: p.55).

The statistics indicate that it was both the introduction of the Federal Act and imposition of legal requirements to report as well as social conditions and problems that caused the increase in reporting of child abuse and neglect, which has continued to increase dramatically in the U.S. While the amount of reports received continue to rise it can be seen that the rate of substantiation is declining to just over 22% in 2008 while child fatalities, as a result of maltreatment, continue to increase in the interim.

Australia

It is not possible to provide a nationwide historical trend of the direct and immediate impact of mandatory reporting in Australia because, similar to the US, it was introduced into different States at various times and with different breadths and scope.

However, in 1987 a study was carried out by Lamond investigating the impact of new mandatory reporting laws introduced in New South Wales which had recently expanded the law further to require principals, teachers, school counsellors, early childhood teachers and social workers to report. The study focused on the reporting behaviour of teachers and school counsellors before and after the introduction of the law and information was drawn from the Department of Family and Community Services' database. The results showed that the overall number of children reported for abuse/neglect remained unchanged but that reporting behaviour had changed dramatically. Lamond (1989: p.474) observed that teachers reported nearly three times more children for suspected sexual abuse than in the period prior to mandatory reporting. While the reporting of suspected sexual offences by teachers increased the equivalent rate of substantiation is said to have remained unchanged. Lamond also warned that the introduction of mandatory reporting coincided with a publicity campaign by the Child Protection Council which could also have accounted for the increased reporting. He concluded that while the legislation has increased the likelihood that child victims will be identified is at the expense of an increase in the number of families inappropriately identified as abusive; for every two additional child victims of child sexual abuse identified by teachers, subsequent to the legislation's introduction, one additional family were inappropriately drawn into the system (*ibid,* p.476). So while reporting laws may influence reporting rates somewhat, they do not necessarily or correspondingly impact on rates of substantiation.

Most recent Australian data collected shows that, overall, reporting rates are continuing to increase in the majority of States/territories while substantiation rates are either decreasing or fluctuating:

Table 7: Notification rates across Australia from 2004-2011

Year	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
2004-05	133636	37523	40829	3206	17473	10788	7275	2101
2005-06	152806	37987	33612	3315	15069	13029	8064	2863
2006-07	189928	38675	28511	7700	18434	14498	8710	2992
2007-08	195599	41607	25003	8977	20847	12863	8970	3660
2008-09	213686	42851	23408	10159	23221	10345	9595	6189
2009-10	156465	48369	21885	12160	20298	9895	10780	6585
2010-11	98845	55718	21655	10976	21145	10689	11712	6533

Source: Australian Institute of Health and Welfare (2011), 'Child Protection Australia 2009-10', *Child Welfare Series*, no. 51, Cat. no. CWS 39, (AIHW, Canberra: pp. 16&19) and Australian Institute of Health and Welfare (2012), 'Child Protection Australia 2010-11', *Child Welfare Series*, no. 53, Cat. no. CWS 41, (AIHW, Canberra: p. 11). Available online: http://www.aihw.gov.au/child-protection-publications/

As can be seen from the above table the number of notifications have either steadily increased or fluctuated in recent years in the majority of States/territories with the exception of Queensland where notification rates have decreased by almost half from 40,829 (2004-05) to 21,655 (2010-11). According to a report by the Australian Institute of Health and Welfare (2012: p. 104) the Queensland Parliament passed the *Child Protection and Other Acts Amendment Act 2010* which introduced changes such as: funding for initiatives like 'Helping Out Families' whereby non-government services are set up to intervene earlier with at-risk families. In 2011 these services received 1,478 referrals and referred 322 of these families to support services. These legislative and system approach changes could account for the decrease in notifications to statutory authorities as more and more families are diverted to non-government services.

Substantiation rates appear to be much more irregular and fluctuate across most States/territories, but have decreased in Queensland and Australian Capital Territory while increasing in Western Australia and Northern Territory:

Table 8: Substantiation rates across Australia 2001-2011

Year	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
2004-05	15493	7398	17307	1104	2384	782	1213	473
2005-06	29809	7563	13184	960	1855	793	1277	480
2006-07	37094	6828	10108	1233	2242	1252	852	621
2007-08	34135	6365	8028	1464	2331	1214	827	756
2008-09	34078	6344	7315	1523	2419	1188	896	858
2009-10	26248	6603	6922	1652	1815	963	741	1243
2010-11	18596	7643	6598	1907	2220	1225	636	1641

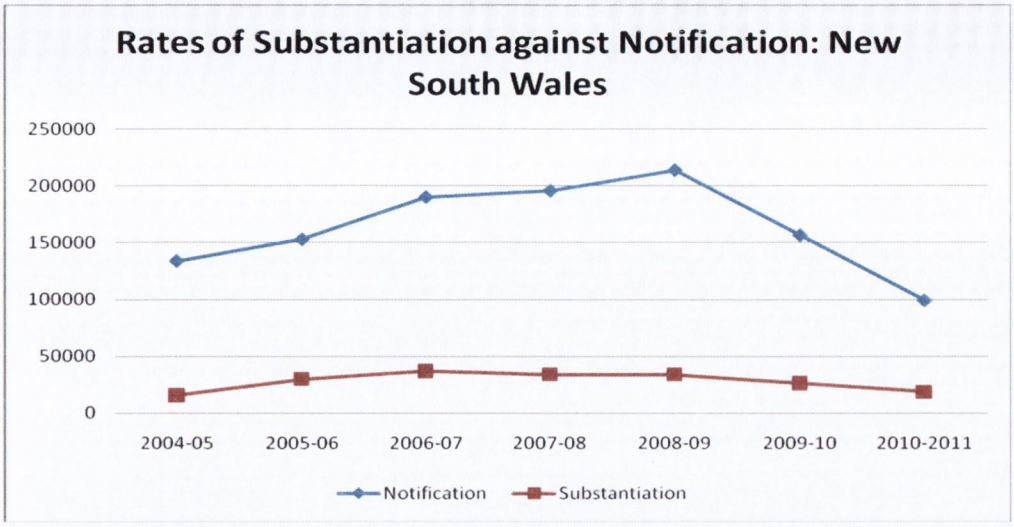
Source: Australian Institute of Health and Welfare (2011), 'Child Protection Australia 2009-10', *Child Welfare Series*, no. 51, Cat. no. CWS 39, (AIHW, Canberra: pp. 16&19) and Australian Institute of Health and Welfare (2012), 'Child Protection Australia 2010-11', *Child Welfare Series*, no. 53, Cat. no. CWS 41, (AIHW, Canberra: p. 11). Available online: http://www.aihw.gov.au/child-protection-publications/

In 2010-11 there were 237,273 notifications made across Australia relating to 163,767 children (31.9 per 1,000 children). Of these notifications 54% were investigated (127,759), and of these 41% were substantiated (40,466) (AIHW, 2012: p. 6).

Closer look at some of the individual States/territories also provides some interesting information. For the purpose of this study three examples will be drawn from, New South Wales, Western Australia and Queensland. In New South Wales we previously learned from Lamond's study that reporting laws played some part in affecting reporting behaviour. This is further acknowledged from recent trends which show that amendments made in 2010 coincided with a decrease in notification rates.[73]

[73] It should be noted that in NSW a 'notification' is an initial report that has been screened in and not diverted to another agency; they are the subset of 'reports' which have not been dealt with by differential response.

Figure 4: Notification vs. Substantiation New South Wales

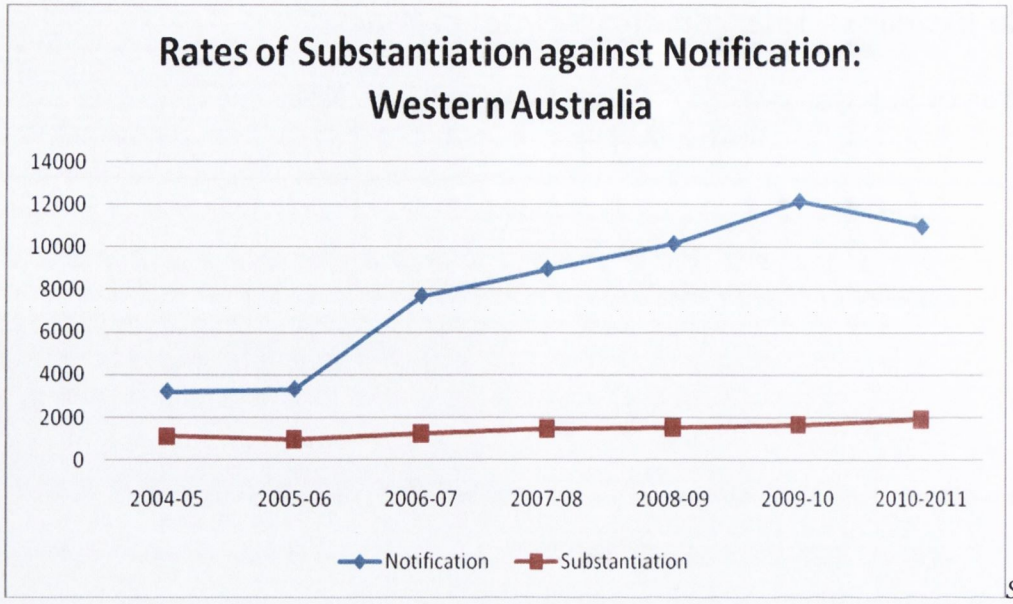


Source: Adapted from: Australian Institute of Health and Welfare (2011), 'Child Protection Australia 2009-10', *Child Welfare Series*, no. 51, Cat. no. CWS 39, (AIHW, Canberra: pp. 16&19) and Australian Institute of Health and Welfare (2012), 'Child Protection Australia 2010-11', *Child Welfare Series*, no. 53, Cat. no. CWS 41, (AIHW, Canberra: p. 11). Available online: http://www.aihw.gov.au/child-protection-publications/

Around the time that penalties were removed from the New South Wales legislation and the threshold raised from a level of 'harm' to 'significant harm' it is also observed that notifications decreased from 2009-10 to 2010-11 by 37%, indicating that legislative wording can have significant impact on reporting rates. The graph also highlights that as notifications increased and decreased so too did rates of substantiation: while notifications were at their highest in 2008-09, peaking at 213,686, substantiations were also at one of the highest (34,078). Notably the number of substantiations between 2006/07 (peak) to most recent 2010/11 show a drop of 50%.

Western Australia however does not reaffirm the above observations. Data from this State suggests that reporting was increasing despite the absence of mandatory reporting until 2009, at which time there was a decrease in the overall number of notifications made. However it should be noted that substantiation rates have been increasing there, steadily, from 2005-06 to present and most recent data shows that substantiation of child sexual abuse (Western Australia only mandates reporting of CSA) increased from 20% to 23% (AIHW, 2012: p. 8).

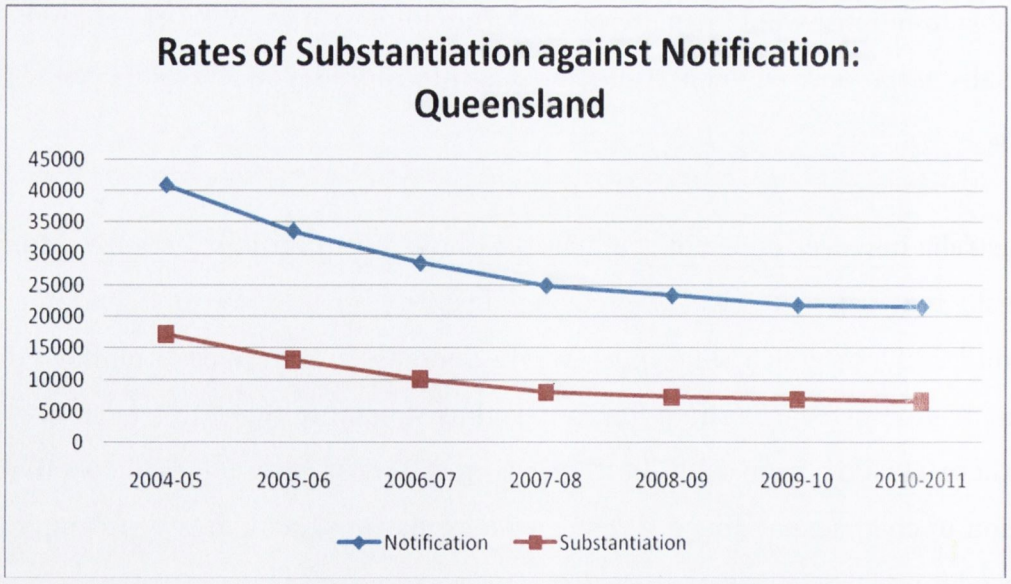
Figure 5: Notification vs. Substantiation Western Australia



Source: Adapted from: Australian Institute of Health and Welfare (2011), 'Child Protection Australia 2009-10', *Child Welfare Series*, no. 51, Cat. no. CWS 39, (AIHW, Canberra: pp. 16&19) and Australian Institute of Health and Welfare (2012), 'Child Protection Australia 2010-11', *Child Welfare Series*, no. 53, Cat. no. CWS 41, (AIHW, Canberra: p. 11). Available online: http://www.aihw.gov.au/child-protection-publications/

In Queensland there has been a steady decline in both notification and substantiation rates. This could be accounted for by new developments to link at-risk children and families with support services before their issues escalate and they become involved in the statutory child protection system. See Figure 6 below:

Figure 6: Notification vs. Substantiation Queensland



Source: Adapted from: Australian Institute of Health and Welfare (2011), 'Child Protection Australia 2009-10', *Child Welfare Series*, no. 51, Cat. no. CWS 39, (AIHW, Canberra: pp. 16&19) and Australian Institute of Health and Welfare (2012), 'Child Protection Australia 2010-11', *Child Welfare Series*, no. 53, Cat. no. CWS 41, (AIHW, Canberra: p. 11). Available online: http://www.aihw.gov.au/child-protection-publications/

Overall the data and research indicate that the introduction of mandatory reporting laws, alone, do not by themselves impact dramatically on rates and trends, as Western Australian statistics show that notification rates continue to increase despite the absence of the law until 2009. Queensland data also suggests that systematic changes can be influential while awareness raising campaigns also took place at the same time most mandatory reporting laws were introduced. Mathews (2012) adds that the phenomenon of unprecedented reporting in New South Wales can be explained by the re-reporting of the same case by multiple sources, suggesting that it is the system's failure to respond that has contributed to the increase. In 2006-07 he argues that 20% of frequently reported children accounted for more than half the total number of reports in New South Wales while in the same year 51,933 re-reports were made by any reporter about the same issue that was initially reported.

Europe

Compiling information and locating statistics or information on the direct impact of mandatory reporting within European countries proved very difficult as many of the jurisdictions examined do not collect national data on child abuse reporting or substantiation rates. Instead, available information was drawn from a number of literary sources and studies undertaken.

The Netherlands

Until 2005 no empirical evidence on child maltreatment was collected in the Netherlands. Data examined below is collated by the AMKs (Advice and Reporting Centres on Child Abuse) which receives both reports and requests for advice and consultation from professionals and the public. Most recent data shows that there has been a steady increase every year in the number of requests for advice while subsequent reports have also increased (apart from 2008, when there was a slight decrease). This trend has occurred despite the fact that mandatory reporting legislation has not yet been introduced.

Table 9: The Netherlands-Consultations and Reports

Type of Contact	2004	2005	2006	2007	2008	2009	2010
Advice	18,125	20,475	21,282	25,866	27,634	Not available	Not available
Consultations	6,116	6,237	6,647	7,777	9,156	Not available	Not available
Reports	9,820	11,340	13,815	16,932	16,156	16,574	
Total	34,061	38,052	41,744	50,575	52,946	59,439	62,001
Increase in comparison to last year		12%	10%	21%	5%	12%	4%

Source: Keesom (2010: p.8) and de Baat *et al.* (2011: p. 24).

While reporting appears to be increasing, a representative study conducted by Lamers-Winkelman *et al.* (2007) concluded that 7% of all Dutch children suffered from a combination of different kinds of maltreatment and as many as 20% of children below the age of 15 experienced at least one kind of maltreatment, while a third experienced serious physical aggression by their parents, physical violence at home, sexual abuse or serious neglect.[74] Knijn and Van Nijnatten (2011: pp. 229-230) argue that this and other studies highlight that many cases of child maltreatment are not reaching professional youth workers and are not being reported to the AMKs. The authors argue that some of the reasons for underreporting are: cutbacks in preventive childcare; the disappearance of the 'neighbourhood nurse'; school doctors have less intensive check-ups with children and 'consultation offices' for babies and young children have also suffered cutbacks.

Sweden

Sweden is another European State that has a policy of mandatory reporting but fails to collect national data on reporting statistics. It is noted, however, that in Sweden when a report of child abuse is made but consequently not investigated it is not registered (recorded). Instances where a child is reported several times may not consequently be documented. In addition the registration of social services is the responsibility of the municipalities (local authorities), therefore each municipality decides what is registered; there is no national standard for this (there are approximately 290 municipalities in Sweden, all of which organise their services

[74] This study was based on self-reporting by young people (N=1,845 high school students at 14 randomly selected schools throughout the country).

differently). Some studies and references within the literature examined indicate that underreporting is still an issue in Sweden and that the majority of reports concern teenagers at risk. Wiklund's (2006) research with social workers from 100 municipalities showed that for 0-12 year olds 24.5 out of every 1,000 were implicated in a childcare case while for 13-17 year olds 88.2 out of every 1,000 were implicated in a childcare case.

Underreporting of child abuse and neglect

A study by Sundell and Colbiörnsen (2000: p.85) found that when investigating 23 schools in Stockholm in 1995 and 1998 that 11% of incidents concerning a suspicion of maltreatment were reported in 1995 and 20% were reported in 1998.

Another study by Sundell (1997) conducted in 1997 surveyed the reporting practices of 341 childcare institutions in Sweden at which 3,737 children were attending. The research found that 3% (112) of children were suspected to have been maltreated. Of these, 19% (21) were already known to the Child Protection Agency (CPA), correspondingly 81% (91) were unknown to the CPA. Of those unknown to the CPA only 37% (34) were reported by childcare personnel to the authorities.

A follow-up study was conducted five years later which found that 43% of the suspected children were still unknown to the CPA. The findings showed that failure to report was connected to uncertainty and efforts to establish and solve the issue before referring on. The cases that were reported most were those related to parental drug abuse because they were regarded as being easier to validate. Sundell found that the low rate of reporting illustrates that knowledge of mandatory reporting is not enough to ensure reporting to the authorities.

Norway

Similar to the situation in Sweden, child welfare agencies in Norway do not keep track of their total number of referrals. Only those referrals that are investigated are included in the official statistics. In 2008 27,850 cases were reported for investigation which constitutes 25.3 per 1,000 children, this is almost twice the figure from 1994 when 13 per 1,000 children were investigated.[75] More than half those cases reported

[75] It should be noted that these numbers are uncertain as the statistics do not register how many children are included in each case, and it cannot be known whether the same child was investigated several times.

were in connection to "conditions in the child's home", 23% were in relation to maltreatment/abuse, 19% were categorised as 'other' while 16% were for behavioural problems. Half (24 per 1,000) of the cases investigated resulted in the provision of child welfare services, this has increased since 1992 when 12.2 per 1,000 received services. Of those who reported more than half came from public officials while 25% came from the child and family, 4% from day-care and 6% from public health centres (Skivenes. 2011: p.162).

Cyprus

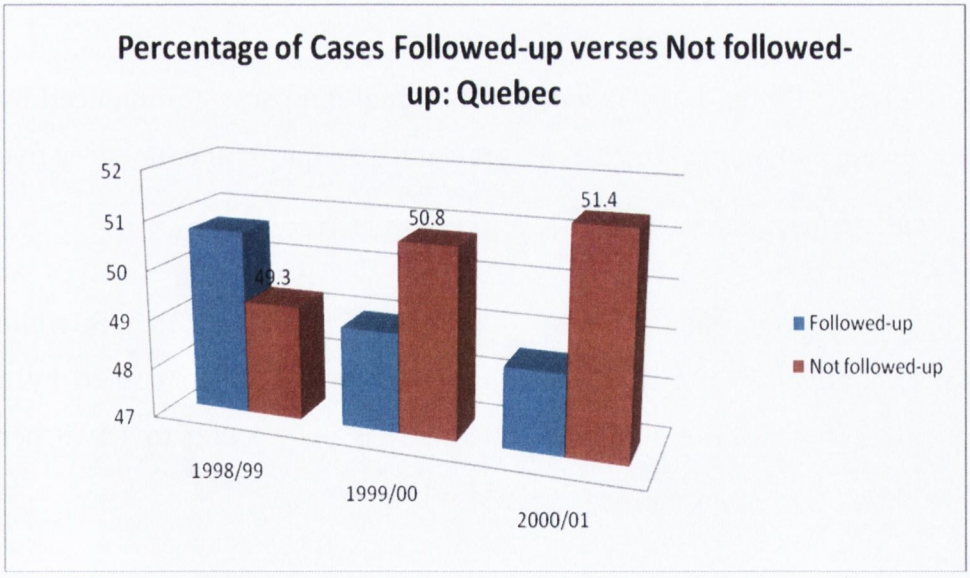
Panayiotopoulos (2011) undertook a study to examine the impact of mandatory reporting in respect of domestic violence and child abuse and neglect. The study conducted documentary analysis and qualitative interviews with key stakeholders in social, health, education and police services. It was found that professionals (teachers, educational psychologists) within the education service were failing to comply with their duty to report for the following reasons: inadequate training for teachers and other education staff; lack of interagency co-ordination and no record-keeping of violence cases reported to teachers and fear of reprisal.

In summary, information available within the European context is both scarce and inconsistent with little examination of the direct impact of mandatory reporting legislation. In many countries statistics are not even collected at national level but rather at local municipality level, where systems differ and comparison is therefore impossible. Very little is also known about rates of substantiation, which did not feature in any of the literature examined. From the above information it can be surmised that despite the introduction of the law, underreporting still exists as was seen in Cyprus and Sweden. Where the law does not exist there are still increases in reporting and requests for advice which appear to correlate more with a general awareness of the issue, as is the case in the Netherlands. Research in Sweden also shows that many of the non-investigated reports went on to become the subject of an investigation five years later, indicating that despite mandatory reporting children still remain exposed to further harm after being identified and notified to the authorities.

Canada

The Badgley Report (1984) was the first attempt in Canada to collect nationwide data on child sexual abuse[76] as child abuse statistics at national level were rare at the time, making analysis of the immediate impact of mandatory reporting difficult. However, information from Quebec indicates that both awareness levels and the introduction of mandatory reporting could potentially have contributed to an increase in reporting levels. In 1982, seven years after the adoption of mandatory reporting in the province, the collection of detailed data commenced in respect of reports received, retained, investigations pursued and cases substantiated. From 1982-1989 data indicates a sharp increase of 100% in reports, the most notable increase occurring between 1986 and 1988; shortly after the publication of the Badgley Report. During the same period the number of reports retained for investigation decreased from 68% to about 55%, even though in 1989 staff had nearly 11,000 additional investigations to conduct over the number in 1982 (Swift, 1997: p.54). However more recent figures show that in 1998/99 more reports were being followed-up than not, but from 1999/00 to 2000/01 that balance had reversed and again less reports were being followed-up.

Figure 7: Quebec follow-up on reported cases:



Source: Federal-Provincial Working Group on Child and Family Services Information (2005), *Child and Family Services Statistical Report 1998-1999 to 2000-2001,* p.47, [online] available at: http://publications.gc.ca/collections/collection_2010/rhdcc-hrsdc/HS25-4-2001-eng.pdf.

[76] The report found that one in two females and one in three males were victims of unwanted sexual acts.

The collection of data commenced in Ontario in 1993 in conjunction with the Public Health Agency of Canada's "Canadian Incidence Study of Report Child Abuse and Neglect" (CIS) to examine characteristics of children and families investigated by child welfare authorities. The data shows that from 1993-1998 estimated child maltreatment investigations increased from 44,900 to 64,800, an increase of 44%. At the same time the number of substantiations doubled from 12,300 to 24,400. In addition, the number of victims of maltreatment whose families had previous involvement with the Children's Aid Society (the statutory service) increased by 129% (from 6,200 to 14,200) (Trocmé *et al.*, 2002). Ontario was the first Canadian jurisdiction to adopt mandatory reporting in 1965 and approximately 30 years later investigations and substantiations continued to increase while more and more families were being brought into the child protection system. See below:

Table 10: Ontario statistics

	1993	**1998**
Substantiation	12,300	24,400
On-going services	5,200	10,900
Placement	1,800	2,200
Child Welfare court	2,300	2,000
Criminal charges	2,100	4,000

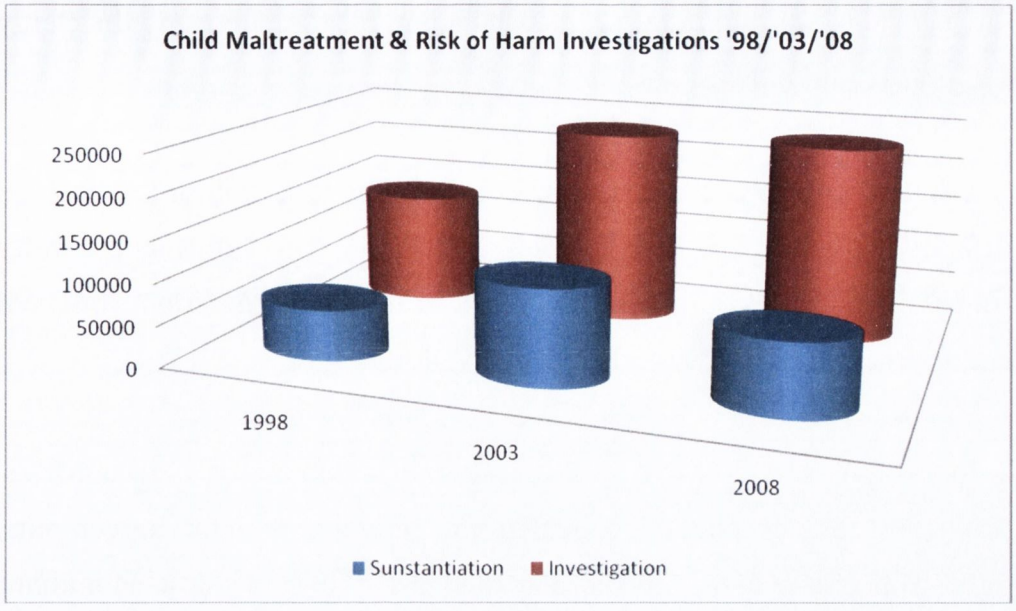
Source: Trocmé et al. (2002: pp.1-2).

It was not until the early 1990s that collection of national data was commenced by the Public Health Agency of Canada. The CIS report publishes national data every five years (1993, 1998, 2003 and 2005).[77]

From 1998-2003, investigations increased by 74% from 135,261 to 235,315, while substantiation rates doubled. From 2003-2008 investigations only increased by a fractional 0.22% and substantiations decreased from 18.67 per 1,000 to 14.19 per 1,000 (Public Health Agency of Canada, 2010: pp.23-24):

[77] It should be noted that figures presented in the CIS report are weighted estimates derived from child-maltreatment related investigations from representative samples of child welfare organisations. In addition, the national estimates do not take into account reports screened out at initial stage or not received directly by child welfare.

Figure 8: Canada Investigations vs. Substantiation



Source: Trocmé et al. (2001); Trocmé et al. (2005) and Public Health Agency of Canada (2010).

While the number of investigations continues to increase, substantiations fluctuate. At the same time Swift (2011: p. 46) notes that from 2003 to 2006 the percentage of substantiated cases which remained open for on-going services dropped from 45% to 36%. In addition, over the past 30 years, the average number of child deaths, under the age of 13, by parents, has remained at a consistent level of approximately 35 children a year, despite increases in protection activity and budget allocation (*ibid*).

Conclusion

An overview of mandatory reporting laws reveals them to be extremely varied, diverse and difficult to compare, not simply because of the disparity in content but also because of the socio-political contexts in which they exist.

Mandatory reporting is now widely adopted throughout the majority of jurisdictions within the continents examined. Most outline, at a minimum, the individuals to whom the law applies to, the types of behaviour that are reportable, and the point at which reports should be made, as well as sanctions for failure or false reporting. Predominantly the law applies to individual professions whose work is associated with children or young people or professional sectors that are inclined to encounter such issues. There is also a strong trend in Canada and parts of the U.S. to apply

mandatory reporting to all citizens and many are also subject to penalties. Throughout the U.S. a number of States place an obligation on religious and clergy but equally the law provides exemption for privileged communication between the clergy and penitent as well as the solicitor and client.

The majority of mandatory reporting laws also outline the threshold for reporting, generally setting the standard at a high level of 'significant harm'. Informant identity is usually protected from disclosure within the legislation, as is protection from civil or criminal action where a report was made in good faith.

Sharing of information is addressed in a considerable amount of the countries' legislative provisions but is equally provided for in governmental agreements, guidelines and protocols where this is not the case. There is a predominant requirement for mutual sharing of information between police and child protection services but there are some examples of more progressive developments such as New South Wales, where prescribed bodies can share information on a child protection issue without statutory involvement or the Netherlands' longstanding AMKs (formerly the Confidential Doctors) or Quebec's multi-sectorial agreement to ensure on-going communication. In a substantial amount of jurisdictions there is indication within the laws that child protection information sharing overrides any national data protection laws or various confidentiality clauses.

The sanctions imposed are also quite varied in severity and in terms of their application. While in some jurisdictions they only apply to professionals, in others all citizens are liable for failures to report. Case-law indicates that the penalties generally consist of monetary fines where a case is successfully prosecuted which can range from anywhere between $100-$5,000 in the U.S. or $2,000-$50,000 in Canada for a first time offence (See Appendix 1). American case-law also indicates that professionals can be susceptible to civil actions by the victim where a failure to report resulted in further abuse of that person; where a report could have, reasonably, prevented its recurrence.

Legislative provisions have expanded greatly in the last number of decades and are considerably broader in scope. The first mandatory reporting models in the U.S.

focused primarily on non-accidental injury in response to increased awareness in relation to the 'battered baby syndrome'. Since then the legislative provisions have evolved to include a more diverse listing of professional groups and correspondingly a parallel expansion of definitions to include, for example, situations such as exposure to domestic violence, sexual exploitation and pornography or failure by parents to provide medical treatment or education. With this expansion in legislation was a correlative increase in reporting as observed by Rodriguez (2002) who argues that in 1962 there were approximately 10,000 reports of child abuse in America, compared to nearly three million in 1999. Besharov (1990) also noted that in 1987 child abuse and neglect reports were 14 times greater than when mandatory reporting was first introduced in 1963. However this causal link is not exclusive as numerous social changes and greater public awareness accompanied these changes and developments in legislation (Kalichman, 1993: p.13). In addition, jurisdictions that did not adopt mandatory reporting, such as Ireland, were also experiencing increases in reporting rates as a result of elevated social consciousness (see introduction, figure 1).

While these increases were likely to be occurring despite mandatory reporting and in conjunction with expanding social awareness, Ainsworth (2002) does note that changes to the law in New South Wales, had quite significant and detrimental effects. The decision to expand the grounds for notification to include exposure to domestic violence is said to have contributed, in part, to the significant increase in calls received by the Department of Community Services. Buckley (2009: p.28) adds that reporting rates increased exponentially in NSW to a point where the system became overwhelmed. In 1999/00 reports were at 30,398 but by 2007-08 they had increased six-fold to 195, 599,[78] while less than one-eighth of these notifications were substantiated. So while there are some clear instances where mandatory reporting has conceivably resulted in increased levels of reporting, it cannot be categorically attributed as the sole contributor, as evidenced by countries that do not have the provision in place.

In addition it is extremely difficult to analyse the direct impact of mandatory reporting legislation given the lack of empirical data from the times prior to and

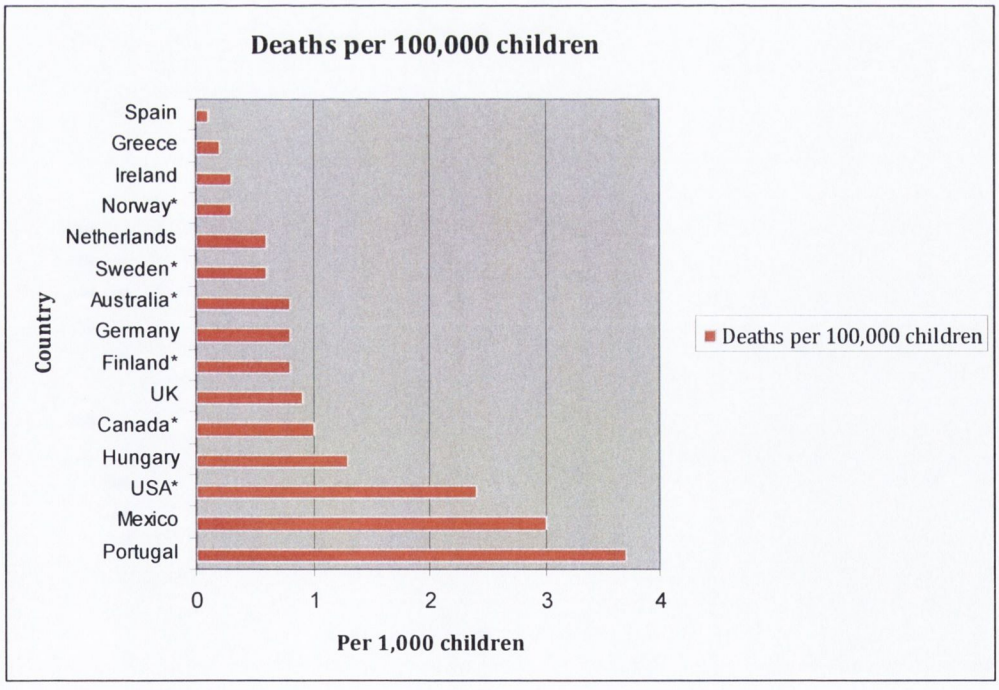
[78] Australian Institute for Health & Welfare (2009), *Child Protection Australia 2007-08*, AIHW: Canberra.

subsequent to its immediate introduction. Added to this is the fact that a considerable number of jurisdictions operate mandatory reporting within distinct social, cultural, political and financial systems as well as prescribing to different social policy contexts. The Child Protection Model (predominantly associated with U.S., Australia, English speaking Canada and parts of Europe) perceives child abuse as a problem originating from degenerative relationships that require interventive action to protect the child from further harm while the Family Services Model (generally associated with Scandinavian Europe and French speaking Canada) distinguishes child abuse as a product of family dysfunction and conflict, stemming from social and psychological difficulties that are more responsive to services and assistance (Wallace and Bunting, 2007: p. 12). Gilbert (1997) argues that reporting rates can be influenced by the model a jurisdiction adopts, suggesting that the Family Services Model is likely to have lower reporting rates as notification to the authorities is regarded as a 'last resort', when therapeutic, non-coercive interventions have been considered, exhausted or dismissed, whereas reporting within the Child Protection Model is viewed as a prompt for investigations to establish if judicial intervention is required.

Furthermore, as discussed earlier, case-law and academic studies indicate that, despite mandatory reporting, under-reporting is still an issue in some instances. Earlier discussion showed that in Sweden both teachers and childcare workers were failing to pass on all suspicions. A study by Hawkins and McCallum (2001) also showed that in South Australia educators often fail to report suspicions despite being one of the highest sources of reports. A study undertaken in Ireland (McGarry & Buckley, 2013) indicates that reporting difficulties are a universal problem, with or without the presence of mandatory reporting. Their study of newly qualified teachers' understanding of their child protection responsibilities showed that 28% of those surveyed had never heard of the child protection guidelines and only 22% had ever read them; 50% were unaware of a child protection policy within their school and 48% had never received training on the issue. The latter study identifies lack of awareness and understanding of actual responsibilities and obligations as an impediment to reporting while the other studies suggest that the presence of a mandatory reporting law will not guarantee all cases are notified.

Finally, there is no empirical evidence to either support or disprove the assertion that mandatory reporting better protects children and young people. While it is arguable that the law does accelerate an increase in reporting rates, this does not guarantee that more children are consequently safer; it is equally dependent on the quality of reports being received and the system's ability to process and respond to these reports. One method of exploring outcomes of child protection systems is to look at child abuse related deaths and in 2003 the Innocenti Research Centre published a league table of OECD countries on abuse related deaths in the 1990s (depending on availability). The table shows that the U.S., which has had mandatory reporting in place the longest, has one of the highest incidences of child maltreatment related deaths while Spain, where mandatory reporting is not in place, has the lowest. Those countries dispersed in-between (note that mandatory reporting countries, at that time, are marked with an asterisk in Figure 9), provide little indication that mandatory reporting contributes either positively or negatively to lower child abuse and neglect related deaths. See below:

Figure 9: UNICEF Child maltreatment related deaths, 1990s[79]



Source: UNICEF (2003: p.4).

[79] The table shows the annual number of deaths from maltreatment combined with those classified as 'of undetermined intent'. The data are for children under the age of 15 years averaged over five years expressed per 100,000 children in the age group. The table gives rounded rates.

In addition an American study by Sedlak and Broadhurst (1996) showed that only 28% of children categorised as being under the 'Harm Standard' were investigated by the child protection system while only 33% of those whose maltreatment was considered to be within the 'Endangerment Standard' were investigated. Since 1986 it was noted that percentages of children who receive investigation dropped from 44% to 28% for those who met the Harm Standard and from 51% to 33% for the Endangerment Standard. Overall the study shows that while the number of maltreated children has increased, a larger percentage do not have access to child protection investigations. In summary then there is no categorical evidence that mandatory reporting either improves the chances of children and young people exposed to harm nor can it be categorically claimed that it solely contributes to increases in reporting rates or eliminates failure to report.

The following chapter provides the methodological framework employed to address this knowledge gap. The remaining chapters go on to report the findings of the current study, and reveal how mandatory reporting is likely to impact at frontline level in Ireland by drawing from current reporting experience and knowledge.

Chapter 5:

Methodology

The purpose of this study is to assess how a mandatory reporting law, requiring professionals to report child protection concerns to the statutory authorities, would directly impact on Irish frontline practitioners. While the previous chapters have set the scene for the theoretical development of child protection procedures in Ireland as well as providing insight into mandatory reporting within an international context; this chapter attempts to provide a framework within which the main findings of the field research are developed.

The first section of the chapter will consider the philosophical approach used to frame the field research. The second section will provide a description of the research design, strategies employed, methods for collecting the data as well as an exploration of how the data was analysed.

Philosophical Approach

This investigation into the prospective introduction of mandatory reporting to Ireland is based on analysis of policy implementation focusing in on the relationship between policy and practice. As noted in the literature review, reporting guidelines have been repeatedly amended and expanded in scope over the years, extending in remit what professional domains and individuals they apply to. As the intention to place these guidelines on a statutory footing fast approaches, it is necessary to establish how these different professionals draw on system-specific and structural rules and resources to construct policy knowledge within their localised areas of practice. It is an attempt to understand how policy is transformed into action and appreciate why there is such divergence in the implementation of current guidelines. For this reason the study draws on Giddens (1984) 'Structuration Theory' to explain how the use of system elements (rules and resources) by agents can produce,

reproduce and transform structural features (Kirby and Krone, 2002). In terms of reporting policies: how agents responsible for policy implementation effectively construct policy knowledge by drawing on a variety of features such as previous experience, value systems, culture and environment.

Structuration Theory

Giddens theory of Structuration is a meta-theory which brings together two dichotomies in social theory: agency and structure. It proposes that agents and structures are not two separate phenomena existing independently of each-other; instead they are envisioned as presupposing each-other in a dialectical relationship. Structure is not external of individuals constraining their behaviour but both the medium and outcome as actors' instantiate these structures into their conduct. This represents the essence of structuration theory which Giddens (1984, p.25) has labelled 'duality of structure'. This proposition acknowledges that as actors draw on and objectify institutional norms and structures, which shape their action, they can also, simultaneously, modify these structures by acting contrary to their requirements, thus reifying new structures over time:

> *"One of the main propositions of structuration theory is that the rules and resources drawn upon in the production and reproduction of social action are at the same time the means of system reproduction (the duality of structure)."* (*ibid*, p.19)

Structuration theory has been applied to various fields including information systems research, organisation studies and business history research. This chapter will argue that the theory equally applies to policy implementation analysis by providing a theoretical grounding to illustrate how policy structures both shape and enable practice but at the same time policy can only materialise through individuals' enactment, or as Giddens (1984, p.xxi) asserts, "structural properties of social systems exist only in so far as forms of social conduct are reproduced chronically across time and space".

Core Features of Structuration Theory

Functionalism verses Interpretative Sociology

Structuration theory can be described as a general meta-theory on all human action which aims to bring together opposing socio-theoretical perspectives. The central theme of structuration is that human social activity is neither the product of

individual agents alone, nor is it just the result of some form of societal totality. Instead, the activities of social actors "reproduce the conditions that make these activities possible" (*ibid,* p.2). In adopting such an approach Giddens attempts to merge two dualisms of social theory: agency and structure, one strictly ontological, the other epistemological. He rejects the view that social action is purely functionalist, which constructs individuals as manipulable agents whose actions are controlled by the constraining qualities of structure. However, he also discounts an exclusively hermeneutic approach which prescribes that action is primarily dominated by individually ascribed meaning (Cohen, 1989: p.47f). Instead, Giddens conceives agency and structure as a duality, as opposed to a dualism. In effect he draws on ontological and epistemological perspectives to create a new theoretical perspective for analysing human phenomena within social settings. Structuration therefore allows for the seemingly incommensurable dichotomy between structure and agency to be reconceptualised as interrelated entities; we cannot account for one fully without invoking the other (Carlsnaes, 1992: p. 246).

Actors as Purposive Agents

One of the core elements of structuration theory is the individual agent. Giddens' typifies human beings as knowledgeable and purposive agents who carry out day-to-day activities through on-going processes of reflexive monitoring, rationalisation and motivation. This theory rejects institutional determinism (Yates, 1997; p.163) by purporting that individuals have the ability to act contrary to the social or organisational structures that are created to direct their actions:

> *"Agency concerns events of which an individual could, at any phase in a given sequence of conduct, have acted differently."* (Giddens, 1984: p.9)

For example, in the context of this study, a frontline practitioner's reporting action is not necessarily determined by the introduction of a mandatory reporting law. It is possible that the new legislation will be met with resistance and universal compliance across the different professional domains is not guaranteed should individuals disagree with the requirement. Reflexive monitoring is said to be central to the recursive ordering of social practices. By this, Giddens means that individuals are purposive agents who can discursively explain the reasons for their activities if asked. However, he also suggests that this reflexive monitoring of activities is grounded in the 'practical consciousness'; the action of individuals, others and the social, physical

contexts in which they operate, are continually monitored at a tacit level. For instance, when carrying out child protection activities, mandated reporters are not always obliviously prescribing to policy, they may be reflecting on their actions, the actions of others and the contexts in which these actions are occurring.

Rationalisation, according to Giddens (p.3), is a process linked to the competence of agents; they maintain a theoretical understanding of the grounds for their activity. Through the process of rationalisation agents can "maintain a tacit understanding of what their actions accomplish in social life" (Cohen, 1989: p.50). Action produces consequences, which either intended or unintended, feedback to inform future action in a recursive fashion. As reporters engage with families, their environment, other services and the child protection system their understanding of child protection is continually developing and informing future practice, meaning that their actions absorb external influences distinct from reporting policy.

In summary, Giddens' conceptualises the actor as a knowledgeable agent who monitors their actions within their particular setting or context. They subsequently rationalise their actions by evaluating what they accomplish through intended or unintended consequences. Agents produce structures through their actions but alter them through reflexive monitoring and rationalisation.

Structures and the Duality of Structure

Giddens advances his theory from the voluntarism of individuals' actions to incorporate structure into the agential dimensions of daily social practices. More specifically, structures are described as the "structuring properties allowing the 'binding' of time-space in social systems" (Giddens, 1984: p.17). These properties are the rules and resources habitually implicated in the reproduction of social practices.

According to structuration theory rules are more often the normative elements or informal rules of behaviour which influence individuals' social activities rather than codified laws which are the most strongly sanctioned types of social rules. For example, it is possible that normative rules of conduct, such as the perceived inappropriateness of intervening in family life by reporting child protection concerns,

may be more influential on professionals' conduct than laws sanctioning failures to report.

Resources are depicted as those modalities which give agents the transformative capacity to exert power over objects (allocative resources) or other actors (authoritative resources) (Cohen, 1989: p.28). All agents possess some level of power (Isaacs, 1987), but inequalities like gender, class and race can limit the level of power agents can exert. For example, some professionals may have less access to resources such as child protection training that will allow them to effectively engage in child protection processes. Alternatively, some families may be more likely to have power exerted over them, in the form of child protection reports, because of their socio-economic status.

Drawing from these elements Giddens conceives the "duality of structure" which claims that social structures are "inseparable from the reasons and self-understandings that agents bring to their actions" (Wendt, 1987: p. 359). Structures do not exist independently of agents but only come into existence as they are enacted by those agents. Equally, agency is not contained within the individual but, according to Giddens, refers to their capability to do things. Agency therefore allows individuals to act differently when faced with a given sequence of conduct. This is to be distinguished from the intentionality of individuals when doing things and instead refers to the continuous flow of peoples' actions in order to sustain their day-to-day lives: "I am the author of many things I do not intend to do, and may not want to bring about, but none the less do." (Giddens, 1984: p.9). Giddens brings together these reformulated interpretations of structure and agency to highlight that the properties of societies and social systems necessitate enactment to give them physical existence (Giddens and Pierson, 1998).

In summary, Giddens' theory purports that individuals are knowledgeable agents drawing on their surrounding structures to assimilate them into practice. Structures consequently become both the medium of human conduct as well as the result of that conduct. Both human agents and social structures are represented as intertwined entities under structuration theory. Giddens therefore creates a new social theory that is both anti-functionalist and anti-evolutionist by claiming that agents are both

restrained and enabled by their surrounding structures, but they also have the capacity to reproduce and transform those structures through their activities. This reformulated social theory advances that social change is a dynamic phenomenon in which both agents and structures are independent variables within an inextricably intertwined temporal process (Cerny, 1990: p.4).

Using Structuration Theory to inform Policy Implementation Analysis

This section will draw on structuration theory to develop a theoretical approach to policy implementation analysis which shows that mandated agents reflexively draw on policy knowledge, within their specific locales, to constantly question and transform policy structures as they apply it in practice. That is to say, how agents (professionals) interpret child protection reporting policy to guide and construct reporting discourse and practice. By applying structuration theory we move away from observing policy as a fixed structure dictating agents' action and move towards an approach that views policy implementation as a result of a dynamic process involving the structuring of individual action which, in turn, recursively transforms the policy that directs that action. For instance, mandatory reporting legislation does not depict an independently existing policy structure, it only exists as mandated reporters enact it and either reinforce it by acting in accordance to the law or transform it by acting in contravention to it.

According to Yates (1997: p.162), structuration is a theoretical stance for looking at human phenomena in the world; a way of understanding social action within the context of structured boundaries which delimit human activity. Yates adds that it helps us to appreciate some of the tensions that persist within business history, such as the tension between technological determinism and the social construction of technology. Applying this, the current study aims to use structuration theory to address the tension between policy determinism and policy subjects' construction of policy knowledge through practice and implementation. This is in order to establish whether or not a mandatory reporting piece of legislation will have the intended effect of eradicating the concealment of child protection concerns by compelling professionals to report through the threat of sanctions.

By using structuration theory, the study aims to analyse the agency-structure issue within policy implementation. In doing so we reject that structures, such as mandatory reporting legislation, dictate and direct policy subjects' action and instead assert that actors have the transformative power to either "reinforce or undercut existing structures" (*ibid,* p.164). Yates (*ibid*) provides the following example: a manager within an organisation cannot single-handedly change existing structures; it is dependent on the workers within that organisation enacting those new structures. In addition, an inventor does not change the standard work practice within an industry by inventing a new technical device; it is only through the collective employment of that technology by workers, customers, investors and developers that new work practices develop within the industry. Similarly, policymakers' formulation of new policy does not automatically alter frontline practice. It is only through their acceptance of, adherence to and enactment of it that the policy comes into operation and practice changes.

Yates (*ibid*) maintains that because work practices (not just single events) are important for understanding change, structuration theory requires the researcher to look at the mechanisms and other actors through which such an action may be reinforced and thus the structure may be changed. The structurational approach therefore provides a framework through which the researcher can examine the complex interrelationship between policy structures and policy implementation by policy subjects as they interact over time with unexpected consequences arising.

Backward Mapping

Before looking at how policy implementation analysis exemplifies structuration theory, this section will firstly elaborate on how policy knowledge is interpreted and constructed by adopting a backward-mapping approach (Elmore, 1979-1980).

Public policies are now prevalent features of society in the form of texts, practices and decisions instated by institutional systems to address the problems of people in society (Birkland, 2005; Smith, 2005). Policies therefore serve to bind organisational and social actors across time and space as they relate to each-other, to activities and to institutions (Canary & McPhee, 2009: p.149). Policy researchers have argued that policies are developed, interpreted and implemented in a variety of locales while

drawing from both institutional and individual factors (*ibid*). For this reason they argue that it is necessary for researchers to examine "policy texts, social context, interactions, and articulated interpretations with an approach that recognizes the contested and mutable nature of policy and knowledge processes" (*ibid*). Fittingly, backward-mapping approaches to policy implementation analysis provide the apparatus needed to bring these factors together by examining implementation from the bottom-up because "analysis of policy choices matters very little if the mechanism for implementing those choices is poorly understood" (Elmore, 1979-1980: p.605).

Backward-mapping questions policy-makers' capacity to determine what happens in the implementation process and questions whether explicit policy directives will necessarily ensure the successful and universal implementation of that policy. By adopting this approach analysis begins at the base level; the point where administrative action intersects with private choices. Backward-mapping focuses on the behaviour necessitating policy, contrary to a forward-mapping approach which concentrates on the intent of policy to cause change. It questions the ability of implementing agencies to affect the behaviour which is the target of the policy and considers the resources available to effectuate that change in behaviour. In essence then, backward-mapping does not measure the success or failure of a policy solely on its ability to influence behaviour or by implementers' level of compliance. Instead it looks towards the limited ability of actors to influence the behaviour of other actors at different levels of the implementation process, taking into consideration the resources available to them (Elmore, 1979-1980: p.604). Unlike forward-mapping, which concentrates on factors easily influenced by the policymaker such as: funding, formal organisational structures, regulations and administrative controls; backward-mapping focuses on the factors that are only indirectly affected by policymakers: knowledge and problem-solving abilities of lower-level administrators, incentive structures that operate on the subjects of policy and the strategic use of funds to affect discretionary choices. The crucial difference, according to Elmore (1979-1980: p.605) is that backward-mapping adopts an approach which centres on informal devices of delegation and discretion to disperse authority while forward-mapping focuses on the formal devices of command and control to centralise authority.

Backward-mapping and Mandatory Reporting

Implementers interpret policy by drawing on a number of factors such as their past experiences and value system. The high level of autonomy necessarily attributed to policy subjects when enacting policy has led some authors to contend that 'street-level' bureaucrats[80] are in fact the real policymakers (Elmore 1979-1980; Lipsky 1980). Thus, backward-mapping allows us to appreciate how frontline operators understand policy by drawing from their surrounding environment which in turn influences and explicates how policy is enacted differently throughout various locales. Strongly reflecting Giddens' structuration theory it shows how implementers are knowledgeable and free-willed agents drawing from both policy structures and normative rules and standards to direct how policy knowledge can reinforce existing practice or produce new standards, thus altering the pre-existing policy structure.

According to Lipsky (1980, p.*xi*), to understand why some organisations do not always follow the rules and goals governing them, it is important to firstly examine how those rules are experienced by workers in the organisation and to understand what other pressures they are subject to. Lipsky argues that the decisions of street-level bureaucrats, the routines they establish and the devices they draw on to carry out their work effectively become the public policies that direct their action. He rejects that policy is made at the top-floor ranks of the legislature's office and instead adopts a backward-mapping approach by contending that policy is made in the crowded offices and daily encounters of the street-level bureaucrats (*ibid,* p.*xii*). For such workers, personal and organisational resources are said to be "chronically and severely limited" (Weatherley & Lipsky, 1977: p.172) when trying to carry out the tasks assigned to them. Accordingly, street-level bureaucrats are observed as adapting practice to cope with the demands being placed on them as a result of resource constraints. They are noted as developing techniques such as modification of goals, rationing services, routinising procedures, asserting priorities and limiting or controlling clientele in order to achieve their best under adverse circumstances. So while street-level bureaucrats are constrained in their work, they remain inherently discretionary in their decisions, in effect making them policymakers in their respective work domains.

---

[80] According to Lipsky (1980, p.3) street-level bureaucrats are the "public servant workers who interact directly with citizens in the course of their jobs, and who have substantial discretion in the execution of their work.

Elmore (1979-1980, p.610) remarks that when solutions are developed at a great distance from the problem in question, the more unreliable they become and the less likely they can adapt to unanticipated situations encountered at ground-level. He adds that when implementation consists of controlling discretion, the effect is to reduce reliance on knowledge and skill at the delivery level and increase reliance on abstract, standardised solutions. Adaptive behaviour by street-level bureaucrats is consequently viewed as contravening policy requirements, thus removing opportunity for discretion and variance in practice. By trying to control discretion, policy neglects to take into consideration the adaptive responses workers need to employ to manage unanticipated outcomes within environments constrained by limited resources.

Backward-mapping approaches therefore emphasise that it is not the creation of policy by policymakers that solves problems but those with most immediate proximity to the problem that solve it through implementation of the policy requirements. Naturally then, this approach submits that policy formation and implementation needs to be informed by the situation at delivery level; "the process of framing questions from the top begins with an understanding of what is important at the bottom" (Elmore, 1979-1980: p.615). Consequently, focus should not be concentrated on how to make decisions consistent with a predetermined plan, but how to maximise the net effect of those decisions by directing resources on discretionary decision-making instead of trying to control behaviour.

McLaughlin: Mandating what Matters

Reflecting the traditions of structuration theory McLaughlin (1987, p.172) examines the relation between policy and practice by supporting a backward-mapping approach that contends "implementation dominates outcomes". In other-words, even the best planned policy depends on how individuals interpret and act on them.

McLaughlin's proposition that policy cannot always mandate for what matters is based on the contention that the capacity and will of the implementer to enact policy is central to successful implementation. Resistance to policy compliance can therefore be explained by a lack of faith in that policy rather than an attempt to purposefully

flout rules and regulations. Policy can therefore enable outcomes but it cannot mandate what matters to those operating at the frontline (*ibid,* p.173). Mirroring Lipsky's (1980) argument, McLaughlin restates that it is not organisations that execute change, but the individuals responsible for carrying out policy that initiate change. Individuals act both in accordance to institutional incentives as well as professional and personal motivations (Sabatier & Mazmanian, 1980). Therefore, policy implementation may not always represent what the policymaker intended but instead, represents what they need as policy is put into practice by street-level bureaucrats.

McLaughlin implicitly embraces structuration theory in his description of policy implementation as a fluid process where problems are never really solved but evolve over time as each act of implementation simultaneously changes policy problems, resources and objectives (Majone & Wildavsky, 1977) to create a new reality. As a result of these new realities unanticipated consequences can arise causing policy to be transformed and adapted to the circumstances of the implementing unit. Variation in the local manifestations of State policy can therefore occur, accounting for the deviation in implementation across a jurisdiction.

McLaughlin (1987: pp.176-177) also incorporates the discursive[81] aspect of structuration theory into his policy implementation analysis by showing that structures are dependent on the self-understanding of individuals and only achieve their power (efficacy) through the medium of practical reason and action (Wendt, 1987: p.359). In McLaughlin's (1987, p.176) argument it is important to adopt an approach which considers the supports, incentives and constraints influencing implementer capacity within their broader institutional context. In effect, it is essential for the researcher to analyse the contextual factors associated with policy activities and outcomes. By considering the broader contextual factors in which frontline individuals enact policy, the researcher can link the nominalistic world of the street-level bureaucrat with the systemic patterns that comprise the world of the policymaker (*ibid,* p.177); and so, it is argued that the quality of individual response determines the quality of policy implementation.

---

[81] The notion that social structures "are inseparable from the reasons and self-understandings that agents bring to their actions" (Wendt, 1987: p.359).

Summary of Theoretical Approach

By applying these approaches, the current study strives to look at policy within a social system that includes a variety of actors beyond the policymaker. They include the frontline workers who are subject to the policy obligations and the environments in which they operate, the child and family to whom the policy applies as well as the child protection system within which all of these actors exist. By adopting a structurational approach to policy implementation research the study acknowledges the social influences on policy implementation and policy implementation's influence on social institutions. It recognises that policy subjects are not "cogs" (Yates, 1997: p.170) in the child protection process and that during the implementation process they are free to modify how they respond to situations without thoughtlessly following procedure. Through their modification of action they create new interpretations and variations in policy construction begin to emerge. New policies can therefore be both constraining and enabling because they constrain the range of actions available to an individual but also enable them to perform actions they previously may have had difficulty in doing. In summary, structuration theory allows us to focus on how policy implementers are both shaped by and contribute to the shaping of policy structures within a specific time and place.

Research Methods

Literature Review

Before commencing the field research it was important to undertake a comprehensive review of the literature to provide historical, theoretical and comparative context in which the qualitative data could be embedded. The strategy for searching and assessing the literature involved continuous library searches for relevant academic material, deep-level excavating of legal and social policy databases and journals as well as keeping abreast of the news for any recent developments in the area. Various search combinations were used when accessing databases such as Lexis, Westlaw, Scopus, JStor, PsyArticles, ERIC[82], Springerlink and Web of Science to retrieve up to date material that would cover the issue of mandatory reporting from the perspective of different disciplines and from different jurisdictions.

[82] Education Resources Information Center.

Aims and Objectives

The overall aim of this research is to explore the experiences of frontline professionals as they implement child protection reporting obligations and to assess their opinions around the anticipated outcomes of a legal mandate to report. To achieve this I developed a paradigm which drew from structuration theory, backward-mapping and McLaughlin's 'mandating what matters' to provide a framework for conducting field research. By employing such a discursive framework to investigate the implementation of child protection reporting obligations I was able to address the primary objectives of the study:

- To discover the experience of child protection reporting through the accounts of frontline professionals;
- To establish how legislated obligations to report are understood at the micro level of practice;
- To determine the anticipated outcomes envisaged by frontline professionals, as arising from the introduction of such legislation, for themselves, children and families as well as the child protection system.

Research Method-Rationale

Structuration theory rejects both a positivistic and epistemological approach to social research. While the theory fails to provide a hypothesis which the researcher can support or refute it equally rejects a purely interpretive epistemological approach. While recognising that interpretive issues have a place in his theory Giddens warns that "concentration upon epistemological issues draws attention away from the more 'ontological' concerns of social theory, and it is these upon which structuration theory primarily concentrates" (Giddens, 1984: p.*xx*). Structuration theory also fails to provide a design for how to conduct inquiry, leaving the researcher with little direction on how to move forward with their investigation. However, authors such as Yates (1997), Canary and McPhee (2009) and Carlsnaes (1992) have explicitly drawn on structuration theory to provide a theoretical stance in their respective fields that allows them to look at human phenomena in the world (Yates, 1997: p.162). For this reason, structuration theory will be used to understand the tension between policy determinism and the social construction of policy through street-level implementation.

With this in mind a qualitative research strategy was used when conducting interviews in an attempt to understand how professionals experience implementing child protection reporting obligations. To understand their operation of reporting obligations under the current system as well as proposed legislation to compel reporting, qualitative methods were deemed the most appropriate design for attaining this information. Giddens (1984: p.*xx*) suggests that focus should be centred, not on epistemological disputes of relativism or problems of verification and falsification, but on reworking conceptions of human being and human doing, social reproduction and social transformation. In that respect, qualitative interviews were aimed at establishing how professionals understand their reporting obligations, how they inform their reporting role, how they detect and determine child protection concerns from inappropriate concerns, how they engage with the child protection system when making a report, the difficulties they encounter throughout this process, how they interpret legislated obligations to report and how these interpretations will inform their future operation of the law.

This method design was therefore guided both by the intent of structuration (as outlined in the preceding paragraph), as well as conviction that an interactive process for understanding professionals' individual experience of child protection reporting and policy knowledge construction was the most pragmatic method for attaining such information. This study therefore rejects the positivist approach which claims to obtain an objective reality. It does so based on a number of arguments put forward by Lincoln and Guba (1985) which articulate that:

i. Positivism has two consequences which are both repugnant and unfounded: determinism (because of its implications for human free will) and reductionism (because it would make all phenomena including human phenomena ultimately subject to a single set of laws);
ii. Positivism has produced research with human respondents which ignores their humanness, a fact which has both ethical and validity implications: it emphasises both 'exogenous' and 'etic research' which means that all aspects of the study are researcher-determined and carried out with an objective perspective, neglecting the 'endogenous' (research in which the respondents

have equal rights of determination) and 'emic' (research carried out with an inside perspective) elements of a study;

iii. Some of the assumptions on which positivism is based are becoming increasingly difficult to support:

- An ontological assumption that there is a single reality that can be broken up and studied independently;
- An epistemological assumption that the observer can be separated from the observed;
- An assumption that observation can remain independent of temporal and contextual factors (that the same study can be recreated at another time and place);
- An assumption of linear causality: that there are no causes without effects and no effects without causes;
- An assumption that the methodology guarantees that the results of a study will be free from bias. (Lincoln & Guba, 1985: pp.27-28).

Instead this study opts for a naturalistic approach which denies that research can capture an objective reality. Contrastingly, it endorses the "socially constructed nature of reality, the intimate relationship between the researcher and what is studied, and the situational constraints that shape inquiry" (Denzin & Lincoln 1994: p.4).

In summary, this structurational perspective on the implementation process highlights individuals rather than institutions and how these individuals fit "their action to the multiple demands, priorities, and values operating in their environment and the effective authority of the policy itself" (McLaughlin, 1987: p.175). These negotiations between implementer, environment and policy proceed over time as "policy resources, problems, and objectives evolve and are played against a dynamic institutional setting" (*ibid*). For these reasons adopting a qualitative research strategy was fundamental to attaining information under the above framework of analysis.

Setting up the Inquiry

Preliminary Steps: Refocusing the Study

Immediately prior to developing my interview schedule and entering the field, political developments around child protection reporting policy necessitated a slight change in direction for this research project. Initially the study set out to ascertain whether mandatory reporting legislation, similar to those operating in jurisdictions such as Australia, U.S.A. and Canada, would be warranted within in an Irish context. However, after a change of government in 2011 (less than one year into the doctoral research) a commitment was made by Fine Gael to address issues around failures to report child abuses in Ireland. Shortly after, Frances Fitzgerald, T.D. was appointed the first Minister for Children and Youth Affairs in Ireland. The Department of Children and Youth Affairs subsequently published the Children First Heads of Bill in 2012 which placed elements of the Children First guidelines on a statutory footing with an additional provision allowing for the penalisation of specific individuals who fail to comply with the requirement to notify the authorities of child protection concerns. At the same time, Minister for Justice and Equality, Alan Shatter, introduced the Criminal Justice (Withholding of Information on Offences Against Children and Vulnerable Persons) Bill 2012 which makes it a criminal offence to withhold information in relation to serious specified offences committed against a child or vulnerable person, such as sexual offences and offences of assault causing harm, abduction, manslaughter or murder.

As a result of this new political direction which, in effect, adopted a tailored version of mandatory reporting, adjustments were made to the nature of questions being asked of interview participants. Rather than focusing on the need for mandatory reporting in Ireland, attention was redirected towards establishing professionals' perceptions of the impending legal sanctions they could face. With this in mind interview schedules set out to establish the current experiences of frontline professionals implementing child protection reporting obligations which would accordingly inform how they interpreted the impending legislative developments.

Preparation of Research Materials

Interview Schedule

Two interview schedules (see Appendix 3) were drawn up as part of the research design. The first schedule was aimed at those operating on the frontline responsible for reporting concerns while the second schedule was directed at social workers in receipt of child protection reports.

The frontline-professionals' schedule sought to establish a number of issues based on McLaughlin's paper (1987). Predominantly, these interviews intended to ascertain whether policy success was based more on the local capacity and will of its implementers or by the imposition of sanctioned reporting through legislation (*ibid,* p.172). In an effort to understand why resistance to reporting occurs and in order to determine the variation in practice across disciplines, a detailed examination of professionals' experience of the reporting process was undertaken. This was in addition to a questioning of their beliefs, attitudes and routine practices with regards child protection reporting. McLaughlin (1987: p.173) indicates "policy at best can enable outcomes, but in the final analysis it cannot mandate what matters". With this in mind questions were developed to determine what extent policy can direct implementers' action but also how their free-will, contextual circumstances and restraints impact on compliance. Reflecting structuration theory the interview schedules examined how the structures (rules and resources) drawn upon in the production and reproduction of social action are at the same time the means of system reproduction (Giddens, 1984: p.19).

In light of this frontline professionals were asked to discuss their perceptions of the following:

- Adequacy of child protection training;
- Child protection roles and responsibilities;
- The process of detecting child abuse;
- Internal and external communication and consultation;
- Barriers to or fears around reporting;
- Engaging with social services.

The purpose of these questions was to identify the circumstances and settings in which child protection identification and reporting is supported and maintained

through policy training and role creation. An examination of current practice under the existing guidelines would also help elaborate on the pressures and restraints facing professionals when trying to implement Children First; their attitudes and beliefs towards the responsibility that cannot be influenced by policy.

The remainder of the interview schedule concentrated on knowledge construction arising from the proposed legislation. It explored how professionals interpret the legislation and what impacts they anticipate arising from it. Effectively, it set out to identify how agents will interact with this reformed policy structure and what outcomes are likely to arise to change how practice occurs. The following issues were put forward to address these questions:

- Participants' understanding of the proposed new legislation;
- How they interpret the proposed new law and how it will change practice;
- The anticipated effects it will have on them professionally, on their service, on the child and family being reported and finally on social services and their ability to process the increase in reports;
- Determine whether the new law is likely to change decision-making processes and reporting practice.

With regard to interview schedules for social work duty teams, the focus of questioning was adjusted in parts to concentrate on the receipt of child protection reports. This was done in order to confirm or deny the information provided by frontline professionals with regard to their reporting practices. The following issues were addressed with child protection social workers:

- The types of concerns being reported;
- The quality of reports received and the quality of information provided on the child protection concern;
- The quality of evidence being provided to support each report;
- Identification of those professionals who are known to be good at reporting and those who are weak;
- Observations on reporting patterns, i.e. delayed reporting, failures to report;
- The reasoning for delayed feedback on reports (restraints on social workers);

- Social workers' anticipated level of compliance by professionals with the new legislation, the resources needed to ensure the adequate implementation of mandated reporting and any fears they associate with its introduction.

Before each interview, research into the participants' profession, service or organisation was conducted and each interview schedule was slightly altered to take into consideration any factors of interest, for example, the contrast in reporting experience for those working in large organisations with internal reporting protocols and designated liaison persons in contrast to independent professionals such as GPs.

In addition consent forms (see Appendix 4) were drawn up for each participant to sign, outlining to them their rights as an interviewee. Information leaflets (see Appendix 2) were also created which outlined to participants the procedure involved, the purpose of the study, the type of questions to be expected, their rights as voluntary participants and how the information would subsequently be stored and processed after interview.

Ethical Considerations

Before entering the field I was required to seek ethical approval from the Department of Social Work and Social Policy. By applying my research design for approval it ensured that research was conducted in accordance with appropriate ethical standards. Acceptable standards of anonymity preservation and data retention were complied with and informed consent was guaranteed through the provision of information sheets, consent forms and participants being allocated sufficient time to consider their participation.

As the research participants were all adults with no special needs they were not deemed vulnerable or marginalised. However, as Denscombe (2002, p.176) outlines "each new piece of research can give rise to its own special circumstances and these can call for different solutions". In this respect consideration had to be given to the possibility that the situation may arise in interview where a participant divulged a failure to report a child protection concern in the past. As a precaution all participants were notified in the Information Sheet and before interview that these failures would be notified to the authorities.

Field Work Planning

Sampling

Due to the study's intent to examine the duality between human action and the structures that direct that action (namely, the interaction between child protection reporting policy subjects and the policy governing their action), it was considered essential that the research adopt a purposive sampling approach rather than a representative approach.

Giddens' theory avoids institutional determinism by recognising that individuals have the ability to act contrary to the existing social or organisational structure. Deviation from organisational norms or structures can result in sanctions or resistance, but one act of resistance does not in itself constitute a change to existing structures (Yates, 1997: p.164). However, if other individuals follow this course of action and begin to act outside of existing structural norms in either direct or tacit ways, then their collective actions can bring about change by reinforcing the new mode of structuring work (*ibid*). In terms of this study then, the sample would have to be purposively drawn from professionals working within the children's services arena or sectors where child protection reporting obligations apply. A structurational perspective therefore required that the study not just examine the actions of a single person or type of person but the on-going work practices of a number of actors (ibid) in order to understand actions or divergences in action under child protection policy. For this reason, the research selectively recruited a variation of professionals from a number of different disciplines rather than focusing on one profession in particular.

To summarise, the sampling strategy for this study was purposive at the initial stages of field research. It was important that groups from a number of specific fields were accessed because those participants being interviewed were required to have worked either directly with children or in a profession where child protection concerns were likely to arise. Participants were therefore sought from the following sectors:

i. Health;
ii. Education;
iii. Social work;
iv. Childcare;
v. Youth services/sporting organisations;

vi. Justice.

'Snowballing' (Atkinson & Flint, 2001) was also relied on from a top-down perspective whereby contact was made with professionals at a senior level or with access to a significant number of potential participants in their respective areas. The study details were disseminated amongst those groups which senior professionals considered most relevant to the study and from there contacts were made through different chains of referral.

According to Lincoln and Guba (1985, p.201) naturalistic investigations are intimately tied to contextual factors. The purpose of sampling is therefore to include as much information as possible, in all its various ramifications and constructions, detailing the many specifics that give the context its unique flavour (*ibid*). Maximum variation sampling is therefore drawn on regularly within naturalistic investigations as it helps research to document the variations that have emerged when adapting to different conditions (Patton, 1980) rather than focusing on the similarities that can be developed into generalisations. In terms of the current study, maximum variation sampling was drawn on because it was considered important to establish a holistic view of how reporting operates within a system and how it will affect the various services and individual professions to be affected as a consequence of legislative developments. It was also considered important not to focus on one group/profession in particular as legislated reporting is a new and impending development on which no empirical research has been conducted within an Irish perspective. Also by focusing on one profession in particular the study would not be able to establish difficulties in inter-service communication and co-operation. By conducting studies of several areas, difficulties in co-operation can be identified and verified but from varying perspectives. It also elaborates how reporting operates as a system rather than in the context of an individual profession. In addition, it not only identifies issues arising at ground level but also at the receiving end: child protection social workers and the impact on their services.

The naturalistic sampling approach adopted here is very different from traditional, randomised sampling methods used because it is driven by informational concerns

rather than statistical concerns. The purpose is to maximise information, not facilitate generalisation (Lincoln & Guba, 1985: p.202).

Access Negotiations

Accessing participants from the various sectors outlined in the above paragraph was addressed by firstly, drawing up a contact directory of relevant services and organisations through whom contact with research participants could be facilitated. Secondly, contact details for several gatekeepers were provided by my supervisor. Both sources of contact were initially contacted by email in which I outlined the purpose of the study and how I envisaged they could assist, while copies of the participant information sheet were attached for further exploration. After individuals were given enough time to process the emails, follow-up phone-calls were made. Where contact was successful negotiations were made over the phone to provide access to key personnel who would assist with the recruitment of participants. An excel spreadsheet allowed me to create a tracking system of when people were contacted, when to ring back and who had yet to reply. One particular gatekeeper was critical in providing me with a substantial number of contacts and was pivotal in allowing me access to participants across a number of sectors.

As the study progressed inductively it became apparent that a small cohort of participants, extremely relevant to the study, had been overlooked, these were professionals working in alcohol or drug addiction counselling. As a result purposive and snowball sampling were again relied on to access these individuals and the same recruitment techniques were applied to gain access.

Managing Limitations

Entering the research field I intended to explore professionals' child protection reporting practices and anticipations around the introduction of legislated reporting. As a result it was questionable whether anyone unwilling to make a child protection report would come forward and speak of their opinions on the new legislation. It was reasonable to assume that the majority of participants would only be those who were eager to speak about the issue because it was of particular interest to them or because they had an issue they wanted to raise. In order to avoid this, focus groups

were arranged whereby a range of individuals would be questioned, allowing for a variety of opinion and experience.

Throughout the recruitment process it was noted that schools, in particular, were difficult to access and there was one occasion where a school refused to partake in the study, citing privacy issues around current child protection cases as the main reason. A childcare committee contacted also refused to take part due to a lack of interest from sufficient participants and there were several occasions where services or organisations failed to reply to any of the requests put to them. Despite this, response rates and participation rates were extremely high as participants were very aware of the upcoming legislative changes and so were already considering the implications it could have for them.

In addition, because this study attempted to interview participants across several different professional disciplines a large number of participants were required to ensure each category was covered adequately. While some categories were easier to recruit from, others, such as education, were more challenging. However, this issue was considered to be adequately addressed when saturation point was reached and no new information was being received in any of the interviews, irrespective of the professional category.

The Final Sample

On completion of the field research 27 individual interviews and 24 focus group interviews were conducted with a total interview population of 156 participants. A breakdown of participants across each sector is outlined below:

CATEGORY	Focus Group	Individual	Total
Health	5 (29)	8	**26**
Education	2 (9)	2	**11**
Social Work	Statutory 3 (9) Non-Statutory 3(14)	4	**27**
Childcare	5 (30)	3	**32**
Youth services and sporting organisations	2 (14)	9	**23**
Justice & Advocacy	4 (24)	1	**25**
Total	**24 Groups (129 Individuals)**	**27**	**156**

Each sector interviewed can be broken down into a number of component professionals and services:

i. **Health:** GPs, nurses, speech and language therapists, neonatologist, public health nurses, alcohol addiction counsellors;
ii. **Education:** Teachers (primary and secondary school);
iii. **Social work:** Statutory child protection duty teams, Child Care Manager, Principal Social Workers, non-statutory housing authority social workers and medical social workers;
iv. **Childcare:** Childcare providers of crèche, Montessori or playschools operating full-day and sessional services, HSE Childcare Inspector;
v. **Youth services/sporting organisations:** Voluntary and full-time youth-reach and youth work officers, national sporting organisations;
vi. **Justice:** Young Persons' Probation service workers, members of An Garda Siochána.

In addition, 129 of the participants worked at frontline level while 27 of the participants worked at managerial/operation level or as the Designated Liaison Person. Fourteen participants worked in the private sector, 125 worked under the statutory sector while 17 worked for a non-governmental/non-profit organisation. Finally, taking into consideration the importance of geographical factors on peoples' likelihood to report (reporting child protection concerns in a small town as opposed

to reporting in a larger, more anonymous urban area) participants were drawn from eight different counties across Leinster, Munster and Ulster.

Data Collection

Instrumentation

Interviews were carried out using schedules which set out broad areas to be addressed by the participants. As already discussed the schedules adopted a structurational theory approach to policy implementation analysis (refer to beginning of chapter).

In addition all interviews were audio-recorded using a dictaphone. The recordings were then transferred to my computer and uploaded onto Express Scribe software which was used to manually transcribe the material. The transcripts were then exported onto Atlas software (discussed further below) for analysis. The computer used to store the transcripts used a security log-on password at all times to ensure the safety of the information. In addition, at transcription stage, all identifying names and locations were anonymised to guarantee further confidentiality.

Qualitative Interviewing

Pilot Interview

Before initiating the field research a trial interview was carried out with a small group of speech and language therapists to gather basic information on the issue being investigated. It also allowed opportunity to practice the role of facilitator in focus group situations. Running a pilot interview was also beneficial for refining questions, experiencing how to manage group dynamics and manage time.

Interviewing

Before initiating the interview, participants were again briefed on the nature and purpose of the study, informed of their rights to confidentiality and the voluntary nature of the interview. They were also asked to sign the consent form and return it to me after the interview was completed. Respondents were also permitted to ask any questions or have any issues clarified before commencing. When starting the interview participants were then given the opportunity to 'warm up' by being asked 'grand tour' questions (Spradley, 1979). These included introductory questions on

their professional role, the nature of their work, the location they worked in and the demographic they served. By doing this participants were eased into the interview while the study gained valuable contextual information.

Semi-structured interviews were carried out with all interview participants. According to Fielding and Thomas (2001, p.124) this is where:

> *"The interviewer asks major questions the same way each time, but is free to alter their sequence and to probe for more information. The interviewer can thus adapt the research instrument to the level of comprehension and articulacy of the respondent, and handle the fact that in responding to a question, people often also provide answers to questions we were going to ask later."*

Questions therefore remained open-ended so that respondents were encouraged to discuss their underlying attitudes, beliefs and values in a reasoned and considered manner. It was important to remain neutral and objective when posing questions that did not suggest I was either in support or objected to legislation compelling reporting. This was to ensure participants did not feel they had to provide an answer which they anticipated was the 'correct' answer or the 'appropriate' answer. To achieve this, questions remained indirect and probing techniques, which encouraged respondents to expand their answers, were also employed. Transitory questioning allowed for a sequential flow to the order of the interview whereby questions linked up each major category, allowing the interview to appear natural and progressive.

Semi-structured interviews were useful because they allow for deviations from the interview schedule and facilitated the discovery of unusual findings. It permitted for the probing of more unique points of discussion which could lead to some interesting and accidental data. At the same time, it was important for me as interviewer, to remain in control of the interview and ensure that all topics were allocated sufficient time for discussion. Participants were notified as the interview came to a close and some final wind-down questions were put to them. This allowed them time to clarify any point of significance or any issue they felt the interview failed to address.

Focus Groups

Focus groups were originally used to conduct market research but over time have been associated with more varied fields of research such as policy and electorates' views on existing and future policy. As a research tool focus groups can generate

valuable qualitative data by allowing the researcher to explore participants' views and experiences through interactive engagement. As Morgan (1988, p.12) remarks, "the hallmark of focus groups is the explicit use of the group interaction to produce data and insights that would be less accessible without the interaction found in a group".

Focus groups allow the researcher to ascertain the beliefs, attitudes, feelings, experiences and reactions of their research participants through social gathering and interaction. Under such circumstances issues may be prompted by group exchanges that would not have been stimulated in individual interview. Focus groups have the potential to progress discussion to a more advanced stage by providing a multiplicity of views on the subject. The group setting allows an exploration of solutions to a particular problem from a collective viewpoint or as a unit (Kitzinger, 1995). For those reasons focus groups were considered an ideal method for investigating structurational perspectives on policy implementation because they allow for a more discursive exchange on how agents enact structure and bring about change. Shared experiences on child protection identification and reporting practices, internal and external multi-disciplinary communication and consultation, experiences of dealing with social services and interpretations of mandatory reporting legislation could be discussed collectively revealing how norms and structures can shape action but simultaneously how individuals can modify structures by acting contrary to them.

The number of participants involved in a focus group can vary according to different authors. Stewart *et al.* (2007) recommend there should be between eight and 12 people per group while Kitzinger (1995) suggests as few as four can constitute a group. For this study focus group numbers ranged from four to 12 participants, depending on availability.

As focus group facilitator, medium-level moderation was used with participants. This means that, as group moderator, I performed a guiding role in the discussion, ready to interject, ask questions and probe for further information when necessary (Cronin, 2001: p.167). This would require me to 'step back' and let the discussion develop between participants and allow for deviations so that the data produced can be considered free of researcher influence (*ibid*).

Focus group interviews were undertaken with groups of professionals from the same working location and on-site, this allowed like-minded individuals to discuss the issue at hand in a safe and familiar environment with other participants who, generally, shared the same experiences. Where there was disjoint in opinion debate was much livelier and frank because of familiarity between group members. However, it did become apparent at certain stages that larger groups could be intimidating for those participants who were less articulate and shy. To offset the possibility of certain characters dominating the interview it was important to encourage the less expressive individuals through prompting techniques and ensuring they felt their opinion was valued.

Saturation Point

Interviewing of participants ceased once it was considered "saturation point" (Glaser & Strauss, 1967) had been reached. This occurs where the collection of new data does not shed any new light on the issue under investigation. As previously mentioned, qualitative research is concerned with meaning and not general hypotheses (Crouch & McKenzie, 2006), for this reason the study sample needed to be large enough to uncover the major opinions and perceptions of professionals spanning a number of disciplines. A significant number of participants were required to establish overarching themes and major findings. Although it was found that new data was still emerging towards the end, saturation was reached more in-line with what Strauss and Corbin (1998, p.136) purport: the longer the researcher familiarises themselves with the data then new information will continue to emerge, saturation is therefore the point where research becomes counter-productive and anything 'new' discovered does not contribute to the overall findings.

Data Analysis

The study employed Kathy Charmaz's (2006) methodology of constructivist grounded theory to code and analyse the data. The constructivist approach assumes that truth is made rather than discovered (Rorty, 1989) and so, constructivist ground theory purports that data does not just reside in the external world but also reflects the particular conditions of its production (Charmaz & Bryant, 2011: p.298). This method differs from traditional grounded theory in that it applies the strategies of

grounded theory within a constructivist paradigm; where traditional grounded theorists assert that researchers should enter the process with all professional assumptions set aside in order that the theory naturally emerges from the raw data, constructivist grounded theorists argue that findings arise from the interactive process between researcher and participant as well as their temporal, cultural and structural contexts to form a co-construction of findings. Charmaz (2006, p.10) perceives that we construct our grounded theories through our past and present involvements and interactions with people, perspectives and research practices. Rather than presenting an exact picture of the studied world, constructivist grounded theory constructs reality from participants' implicit meanings, experiential views and researchers' grounded theories.

As was mentioned, adopting a structurational perspective for this study on policy implementation analysis leads to an examination of policy subjects' lived experience of child protection identification and reporting as well as their interpretation and application of policy. However, these issues cannot be examined in isolation; it requires that other factors be taken into consideration such as the professional's work environment, their geographic location and access to resources, demographic of their clientele and relationships with the child and family, inter-service relationships and communication. Constructivist grounded theory therefore compliments and adds value to structurational analysis of policy implementation because it conceives that inquiring about a person's circumstances, views and priorities illuminates data about social locations, standpoints and situations (Charmaz, 2011: p.302). By placing data in their relevant situational and social contexts the researcher can learn how people make sense of their situations and act on them (Charmaz, 2006: p.11). When analysing the data for this study it was critical to consider the contextual situations in which child protection identification, reporting and knowledge construction around legislated reporting exist.

Coding the Data

A qualitative software tool called 'Atlas.ti' was used to analyse the interview data. The large number of interviews undertaken required a highly functional piece of software that allowed for manageable treatment of the data. Atlas.ti provided a sophisticated coding scheme including hierarchical coding; comprehensive annotation; creation of

code families; searching, retrieving and filtering functions and powerful hyper-linking around the dataset at text level. When familiarity with the software reached a proficient level, the task of coding the data began. Coding is where segments of data are categorised in an attempt to link the raw data with the researcher's concepts, enabling the researcher to think about the data *with* the data (Seidel & Kelle, 1995; Tesch, 1990). Constructivist grounded theory coding differs from other forms of coding because it codes for actions, invokes comparative methods and discerns meaning by studying actions and events (Charmaz, 2011: p.303).

Using Charmaz's approach coding took place in two phases: initial coding and focused coding. Under the initial phase, line-by-line coding, coding incident to incident using comparative methods and in-vivo coding (participant terms) helped to break up the data into components where actions were defined using gerunds, tacit assumptions were explained and data was compared with data in an iterative process using abductive and inductive reasoning. Slices of data, within a substantive research area, were coded to identify elements of interest using single words, incidents, phrases and interpretations. Open coding helped to elaborate, describe and encapsulate the experiences of participants, processes, recurring observations, system deficiencies, process barriers and frontline interaction with child protection. At the second stage of focused coding, codes and categories were continuously compared with each-other and refined to identify theoretical categories and to help group elements together into more natural and sequential order. Coding then became theoretically driven and more selective as a consequence, specifying possible relationships between categories.

The write-up

During the coding process memos were continuously drawn up. These were free-flowing passages used to capture thoughts and make comparisons and connections that crystallised participants' experiences and perceptions, transcending codes and categories into more analytical observations. Memo-writing assisted with more in-depth exploration of implicit meanings within the text and helped to develop ideas at the early stages of the analytical process. The memos also helped to advance and progress the development of more conceptual codes and so, by simultaneously coding

and memo-writing both fed into each-other in an iterative manner. Memos therefore acted as the preliminary analytical base from which the 'findings' drafts were taken.

Network view functions in Atlas.ti allowed me to link together codes, quotations and memos into visual diagrams, allowing ideas, key words, theories, observations and pieces of transcript to be tied together in one visual map. These aided with chapter drafting, providing a visual analytical frame for different sections. Atlas.ti searching, filtering and hyper-linking tools allowed me to easily sift through the transcripts, comfortably returning to the data to draw-out an idea or concept. By continuously returning to the data new codes were generated, memos refined, narrative writing progressed and theoretical analysis cultivated. Throughout the writing process I drew on Charmaz's (2003, pp.94-95) instructions, continuously asking questions of the data, such as:

- What is going on?
- What are people saying?
- What do these actions and statements take for granted?
- How do structure and context serve to support, maintain or impede these actions and statements?

By frequently returning to the data, asking questions of the data, developing codes, identifying themes, comparing and contrasting information and recording my initial analysis in memos, I was free to readily abstract core analysis and begin drafting my findings.

Conclusion

This chapter described the theoretical approaches to researching the concept, the research tools and the analytical approach to processing raw data. Structuration theory provided the lens through which the data was viewed and interpreted. By applying structuration theory to policy implementation analysis from a backward-mapping perspective, an examination of frontline workers' interaction with child protection policies was undertaken. It also directed the research to take into consideration the structures that shape and guide their actions, the contextual factors that impact on child protection decision-making and reporting, as well as the deviations in actions which transform those structures which regulate participants' behaviour in the first place.

This theoretical approach was reflected in the qualitative research design which aimed to explore individuals' experiences of child protection reporting and their interpretation of the prospective law compelling them to report. What consequently emerged was a methodological approach which was flexible for the purposes of the research while also being bounded by the paradigm of the study. A constructivist grounded theory approach to coding and analysing the data meant that actions, events, behaviours and processes were examined while also uncovering the implicit meanings underlying them. This led to a final analysis of the data which considered the actions and interactions of interview participants at a theoretical level as they engaged with child protection policy, implemented its obligations and how they anticipated adopting child protection reporting legislation in light of their contextual and situational settings.

While the limitations discussed did impact, somewhat, on the research, recognition that this naturalistic approach attempts to uncover meaning rather than provide generalisations, allowed for these limitations to be managed. Reflexive practice at each stage of data collection and analysis directed the research and ensured that findings remained grounded in the data at all times.

The following chapter will be the first of four chapters that will report on and discuss the fieldwork for the current study. The first findings chapter examines the level of professional awareness amongst practitioners and organisations providing services for children, the degree to which child protection roles have developed and the extent of policy implementation within the services.

Chapter 6:

Professional Awareness, Role Development and Policy Implementation

---

Introduction

In order to determine the implications of introducing a mandatory reporting system to Ireland the field research set out to assess current awareness levels of those who will be required to adopt the legislation. In an attempt to assess participants' preparedness for putting mandatory reporting into practice, interviews were designed to examine their exposure to the issue within formative education. The study also examined their perception of child protection roles being placed on them and their perceived ability to adopt the role. The sources of their awareness of child protection were also examined to establish whether the adoption of mandatory reporting would be natural and instinctive or an obligation to be met with resistance. To elucidate these areas, interview participants were asked to discuss the following issues:

- The catchment area in which they worked;
- Their client profile (socio-economic status);
- Their roles and professional duties;
- Their perceptions of their child protection responsibilities;
- The child protection training provided within their formative education;
- Their access to and opinion of Children First training;
- The understanding they have about the reporting process;
- Implementing child protection policies and obligations.

The first half of the chapter will consider how child protection awareness is raised and the willingness of participants to adopt child protection roles. It will consider the degree to which child protection reporting duties are integrated within the formative education programmes of the various disciplines. It will also try to ascertain the

degree to which child protection features within participants' understanding of their core professional purpose. The chapter will reflect on participants' perceptions of the support available to themselves when adopting the role of reporter. It finally examines how external sources, such as the media, can influence perceptions around child protection. The second part of the chapter evaluates participants' experience of Children First training and policy as well as the implementation of its provisions into practice.

Formative Education and Association with Child Protection

Inadequacy of Child Protection input into formative education

A considerable proportion of those interviewed indicated that the issue of child protection does not feature to any notable extent within their formative, pre-service education and professional development. Within the type of third level courses that qualify students to work with children in different services, e.g. nursing, teaching, youth work, sport and childcare there was a distinct lack of embodiment and inclusion of child protection. This is a worrying observation when research has shown that student teachers, for example, cite university study including lectures, tutorials, assignments, presentations and university library books as their primary source of information on child sexual abuse topics (Goldman & Grimbeek, 2009: p. 235; see also McGarry & Buckley, 2013).

Many of those interviewed for this study were keenly aware of an absence of discussion on child protection within their formative training and described a culture of neglected responsibility by educational bodies. There was a sense amongst some of the participants that responsibility for child protection education was being solely allocated to Children First training officers[83] and that there was a lack of willingness on the part of educational bodies to incorporate the issue into their curriculum. When asked about the quality of information provided at third level a childcare provider noted that child protection was glossed over in her FETAC training[84]:

---

[83] Children First Information and Advice Officers are employed by the HSE to support agencies working with children and young people in implementing the Children First guidelines.

[84] The Further Education and Training Awards Council (FETAC) was the statutory awarding body for further education and training in Ireland. These awards are now made by Quality and Qualifications Ireland (QQI).

*"**Interviewer:** So would you find the training then is enough...do you feel confident?*

***Childcare provider 4:** No, not at all. It's not enough, not what you get in level 5 and level 6, that's just a...glance...you know, that it's there. It doesn't give you anything to know what to do except that it tells you, to tell your... supervisor to deal with it, that's about as much as you get at that level."*

Other members of the childcare provider group expressed frustration with the childcare curriculum taught on childcare courses in various institutions, suggesting that it is misdirected and failing to focus on the more relevant and pressing issues such as child protection. There was exasperation on their part that training and education for childcare providers is over-focusing on areas which they feel have already been sufficiently covered. This was reflected by one of the sports participant's comments, whereby he recognised the importance of child protection training at primary degree level:

"We have sports courses and they're offered in UCD, there's no child protection element module in any of them. I would think, if you're going to be a manager you should be aware that this is an issue that you're going to be running a leisure centre or a community centre...and there's no training that I can see."

-Sports participant 6

Incorporation of child protection within formative education was recognised by participants as helping to prepare professionals and shape their understanding of how integral and central an element it plays in their discipline.

A similar concern was expressed by those working in the statutory authorities, as some of the social workers interviewed reported a lack of in-depth examination or instruction around reporting of child protection concerns within social work training. While the issues of child abuse, policies, procedures and legislation are touched on, it was noted that not until Children First, came about was an emphasis placed on the topic of reporting. As a consequence, they claim, most expertise and knowledge is garnered from frontline experience in the area through work placements and practical exposure.

"[There] would have been modules around...child abuse, the legislation and the policies and procedures. But because most of the modules were just a bit here and there...I think only since Children First has come out that it's really been emphasised."

-Social worker 1

Similar views and experiences were expressed by the Garda members interviewed for this study, mirroring the sentiments conveyed by other professions. The Garda focus group commented that apart from a general overview of the legislation child protection is not examined in any detail apart from the Children First training. Again, a certain level of frustration was expressed by this group at the lack of specialist professional training for guards working in dedicated child protection roles, tasked with the duty of handling and investigating criminal offences of abuse against children.

The above findings replicate those from an Australian study, (Goldman and Grimbeek 2008) which highlights the lack of formative child protection education within an Australian university's Bachelor of Education (primary school) degree. The findings from that study concluded that pre-service training for student teachers did not reach a standard that adequately prepared them to fulfil their role as mandatory reporters or engendered enough confidence in their understanding of the behavioural and legal requirements contained within the Department's policy. Similar implications apply to the participants in the current study.

Child Protection Association

The association between child protection responsibilities and the professional purpose or primary function of the research participants was examined. The question was based on the notion that occupational mind-frames are characterised and typified at an early stage in career establishment and can therefore influence the likelihood of individuals to accept child protection and assimilate it into their already pre-established roles.

Those interviewed from the health sector highlighted the low priority assigned to child protection responsibilities by the medical profession in particular, despite the medical sector being one of the leading proponents of child protection back in the 1960s with the discovery of the "battered baby syndrome" (Kempe *et al.,* 1962). It was noted by the Assistant Director of Nursing at a children's hospital that only the social work department within the hospital are clear about the centrality of child protection within their professional purpose as it is something that is incorporated into their primary training as a core duty.

GPs who were interviewed for the study exhibited a high level of unconscious lack of awareness, a finding that was supported by other interview participants who engage with GPs on a regular basis and further supported by international research showing that physicians generally have no formal, specialised training in child abuse (Flaherty *et al.,* 2000; Saulsbury & Campbell, 1985; Olsen & Kalbfleisch, 2001; Christian, 2008).

One of the GP participants commented that there was little or no in-depth discussion of child abuse or neglect during her medical training. She claimed that the topic was addressed in a cursory manner, alerting students to the possibility of its existence rather than featuring as a separate and independent component of her medical training and practice. Other GP participants indicated that their child protection training predominantly focused on the physical presentation of abuse with emphasis on the physical forms, to the exclusion of any other considerations. For example, a GP working in a central Dublin location remarked that the medical training model is a one-dimensional framework in which abuse is exhibited through clinical and observable injuries that are inconsistent with the child's age, mobility and the parental explanation offered.

Within the medical framework, it was apparent that the focus has always been concentrated on extreme physical forms of abuse and modelled on the non-accidental guidelines devised within the medical sphere. The GP interviews made it clear that this model still permeates GP perception and understanding of child protection, narrowly limiting its conceptualisation and its relevance within the medical profession:

> *"It would have been an area which would have been touched on but again, it would have been very much in terms of physical abuse, in terms of shaken baby syndrome and you know, if a child presents with bruises and the explanation doesn't really fit...and therefore non-accidental injury, more so than child sexual abuse."*
>
> ***-GP 3***

Another GP added that while physical abuse was occasionally touched on there was little if no awareness or discussion of child sexual abuse:

> *"When I was training as an undergraduate, I mean child sexual abuse was virtually, it was unheard of, I mean I'd never heard of it really. I would have heard of physical abuse, that would have been an issue, you know...physical abuse in children."*
>
> ***-GP 2***

This observation is strengthened by other interviewees' testimonies that GPs are in a particularly vulnerable position when it comes to adopting any form of child protection responsibility because of educational evasiveness on the issue. A neonatologist interviewed for the study pinpointed GPs as one of the professions with the lowest level of awareness and training in the area of child protection despite having regular contact with children. The fact that the issue is not specifically provided for in GP primary degrees means that there is a strong possibility that many will never encounter any form of child protection awareness throughout their education. The neonatologist therefore feared that many GPs will unconsciously discount the possibility of child abuse throughout their daily interaction with child patients. They were seen as a weak link with very little support and preparation around the issue:

> *"I would say that they don't get any specific training... because a lot of GPs can now do a GP training scheme without having to do any paediatrics at all. So, you can imagine, unless you get it as an undergraduate you're not necessarily going to recognise things...so I think if you got it at undergraduate that would probably cover it really."*
>
> ***-Neonatologist***

The low profile of child protection in both formative training and individual professional frameworks for practice means that, for many, adopting child protection roles and accepting the associated responsibilities will be something that many will never have considered. Amongst the participants in this study, there appeared to be little organic or instinctive appreciation that child protection is a central feature of their professional roles. The GP profession was noted as being particularly vulnerable because of their limited exposure to the issue within their medical training and their isolation once qualified and practising.

Role Formation and Perception

Throughout the field research it became apparent that participants' willingness to take ownership of child protection roles and responsibilities varied depending on a number of issues, which could potentially have significant implications for the adoption of mandatory reporting and its associated obligations. As the following sections will show, it became clear that those opposing the adoption of child protection obligations were inclined to have difficulty positioning child protection within their own professional purpose and function and so perceived it as being in

conflict with what they have been trained to do. Others were more accepting of its relevance to their discipline because of increased exposure to the issue, managerial emphasis and prioritisation of child protection as well as having strong ethical and philosophical perspectives on child protection responsibilities.

Situating Child Protection within Professional Disciplines

The data implies that a large number of professionals discount the significance of child protection in their professional function. The findings from this research show that this attitude is simultaneously created and solidified through the culture of avoidance within their training and education. The reluctance of some professionals to engage in the topic was affirmed by the fact that they do not perceive the responsibility as fitting neatly within the scope of their professional remit. For many individuals, their professional role has already been constructed at third level meaning that they are unconditioned to accept any new or additional facets to their professional duty. The findings showed that some participants disassociated and detached themselves from the obligation by displacing responsibility elsewhere and rejecting any level of professional association. Not only did they lack knowledge on the issue, but they did not prioritise it either, as this quote from a GP illustrates:

> *"I am driven to find out the latest about high cholesterol management, about angina matters but I don't feel driven to find out more about child protection, it doesn't come across to me in that sense as, gosh, you know, I'm not being a good enough doctor in this area and... I need to improve, so it doesn't hit me in that way and if it did I would actually know more about it...But everybody tells me it's fierce important, and I suppose on some level I accept it, but I don't feel it."*
>
> ***-GP 2***

Because this GP prioritised medical training over child protection training, it seems that his own perception of his role and consequent responsibilities discounts the possibility of child protection featuring in medical practice. This dismissive attitude is perpetuated by his lack of awareness on the topic; the less he knows of the issue the less important it becomes in his daily routine.

Similarly contradictory behaviour was cited by a principal social worker in the Dublin region who argued that professionals within certain disciplines have a tendency to use the child protection guidance to extricate themselves from the responsibilities

associated with it. The disciplines where children are not the primary client were observed as transferring responsibility away from themselves:

> *"They just don't see it as their role...[they say that] 'I'm a mental health professional, I'm working with the mother, I don't see myself as having a role in relation to the children and that's your responsibility'. So people use the document sometimes...as a shield...people tend to use it as kind of, a way of arguing themselves out of it, rather than, arguing themselves into it."*
>
> ***-Principal social worker 2***

A hospital based social worker confirmed this view after attending a Children First training session where she noted there was a strong assumption amongst a number of the attendees that child protection is an issue solely allocated to social work and outside the remit of what they do.

Perceived conflicts of interest

Other interview participants were accepting of the child protection obligations expected of them but struggled to marry their own views of what their professional function and core purpose is with that of child protection obligations. To them, the two were competing and opposing duties that cannot be mutually undertaken without compromising their underlying professional values, ethics and philosophical purpose. For a number of childcare workers, trying to situate child protection within their own role was considered to infringe upon them carrying out their primary function while transforming how they are perceived by their clients. It was viewed as a challenging expectation because it requires the childcare worker to balance personal loyalties to the child and family with the responsibility to notify the authorities of failures by that family to carry out their parental duties towards the child. By accepting the child protection role they are knowingly putting themselves in a compromising position and altering the trustworthy image associated with being a 'carer' to one of 'informant' or conspirator:

> *"It's a very difficult role because you're building a relationship with the parents and you're dealing with the children. Ok, I mean no child should be abused and I think we're all aware what you want to do is the best for the child, but it puts you in a very difficult situation if you are the one who's talking to the parents and then report on."*
>
> ***-Childcare provider 28***

Child protection as an 'abstracted' issue

In addition it was observed by some participants that people have a propensity to unintentionally distance themselves from the reality of child protection by failing to consider or appreciate its applicability within their area of work and by minimising its significance and relevance to them. This underlying culture of ignorance around the possibility and existence of child abuse within certain areas of practice means that child abuse and neglect become an 'abstracted' issue, situated outside the person's own reality and displaced outside of their environment to the 'elsewhere'; it becomes something that either occurred in the past or is occurring at national rather than community level:

> *"There's a culture of ignorance as well, you know...people say: ah but sure that went on in the past that wouldn't go on now."*
>
> ***-Secondary School DLP***

For some individuals there was a level of unconscious disregard that child abuse could occur within their own reality because they considered themselves to be removed from the issue. The neonatologist interviewed for this study commented that paediatric trainees have a tendency to romanticise the profession as something free from complication or sadness because it is dealing with newborn babies. This idealistic view of the profession means that those qualifying in paediatrics are unprepared and naïve about the realities entailed in the profession:

> *"What we find is that because they all [think] that paediatrics is Waltz Disney, which it is, it's lovely, but there's a lot of...really complex children who are going to have very severe outcomes and I think people find that really hard. And then to add child protection and then...us saying things that sound really cynical, I do think people find that...[they] are kind of shocked when you talk about it."*
>
> ***-Neonatologist***

The data also suggested that some individuals encounter difficulty in taking ownership of the child protection role expected of them because of a lack of clarity around professional boundaries. Inadequate levels of understanding by certain disciplines about where professional limits start and end make it difficult for some individuals to fully adopt their child protection obligation. These individuals appear to be informed and accepting of the obligation being placed on them but struggle to establish what falls within their remit of responsibility. When they are stepping outside the scope of their professional boundary they lack the certainty required to confidently adopt the role:

"Some of the nurses...know that recognition is part of the process...but they don't know the extended role of the nurse."

-Assistant Director of Nursing

Exposure to Child Protection

Analysis of the data illustrates that experience and exposure to child protection throughout an individual's profession can help determine what position and interpretation they develop in response to the obligations and responsibilities expected of them. The findings suggest that for those that encounter child protection on a regular basis there is an observed evolution in appreciation for its relevance within their service or area of practice. Fears and anxieties associated with the issue are said to be conceptualised fears emanating from a lack of understanding and awareness. Research participants suggested that experience helps to reduce the anxiety associated with the role and increase an individual's willingness to endorse their child protection obligation and to affirm its position and relevance within their discipline. A youth-reach worker explained how taking on the role of reporter was initially overwhelming and daunting, but that this fear was diluted through exposure to the case. As she pointed out:

"Initially...when you take on the role that requires...reporting of cases, that although it's quite daunting, after a while you realise that, you know, a lot of these things are not new, you know what I mean, and that people are aware of what's going on"

-Youth-reach worker 2

This finding is mirrored in Narayan's (2006: p.2220) research finding which showed that increased clinical experiences in child abuse and neglect during paediatric training were associated with improved levels of preparedness to identify and evaluate patients for child abuse and neglect.

A group of primary school teachers interviewed detailed how perceptions and awareness of child protection responsibilities have matured as a result of changes in pupil composition. The increase in ethnically diverse children within the classroom has led to the realisation that many of these pupils are coming from situations of social and political unrest and have complicated backgrounds. As a result the teaching body have been compelled into becoming more aware and sensitive to the possibility of child protection concerns as a result of increased contact with the issue:

"In the last 10 years, the population within the school has become so mixed...with...the different nationalities...so I mean we've moved into a whole new era now with children and the difficulties they encounter. But... prior to that, that never came into the teacher training."

-Primary school teacher 2

A GP described how retrospective disclosures of historical child sexual abuse by some patients have also propelled the issue to the forefront of his practice, causing him to have a greater appreciation for the relational link between medical practice and child protection:

"I started my practice in 1992 and where I became aware of its prevalence really was in terms of adult survivors and eh, sadly, my experience was, at that stage, that it was just...a lot more common than people even begun to realise...certainly it was in that context that my awareness of it increased quite dramatically and eh, now I have a very high index of suspicion for it."

-GP 3

For the GP the realisation that child abuse exists and has devastating long-term affects generated an appreciation for his potential involvement in the issue.

Where there was a lack of experience with child protection issues and little exposure to children within professional settings, participants were more inclined to strongly demarcate boundaries of responsibility and detach themselves from the topic. Those working in the non-statutory sector displayed greater tendency to observe child protection as a peripheral and marginal issue, something that is exceptional and sporadic. Those professionals appeared to assign responsibility to statutory social work and not consider it as an element of their own professional responsibility:

*"**Interviewer:** Would you ever need to...look for corroborating evidence and build up a body of evidence?*

***Youth worker 4:** No, I've never had to do that, no. Because what I do is, I'm not a social worker...I'm a youth worker...I'm meeting with the kids, maybe once maybe twice a week for an hour."*

The Welfarist Approach

While the foregoing sections have given examples of professionals who distanced themselves from the notion of child protection, other interviewees adopted a welfarist approach towards the obligation; regarding themselves as having an encompassing and holistic duty towards the family as a whole. For them, child protection was immersed in their professional function and seen as an inherent and organic element of what they do. However, the adoption of welfarist approaches was

seen to be connected, more so, with the individual's personal trait rather than a professional trait. They also tended to blur boundaries and take discretionary, independent approaches to child protection issues encountered.

Some of the interviewees considered themselves as having a preventive role in child protection; interpreting their actions as potentially contributing to the interception of any future abuse. This approach was motivated by an understanding of moral obligation and duty towards the child; the duty becomes individualised and personalised, driven by a direct responsibility to that child's well-being rather than a requirement to satisfy procedural criteria:

> *"[What] I always use,...in determining whether I need to report a case or not, is that if I leave and go home that evening and I leave with a clear conscience, knowing that the child will be safe. And if I can't? Then I'll always report it."*
>
> ***-Youth worker 1***

This attitude was associated more with professionals working closely with families and who were regularly exposed to the issue of child protection. A group of public health nurses interviewed detailed how they understand their role as being very hands-on in comparison to many of the other participants. Because of their close links with the family and level of access to the home, it was estimated that they had a greater sense of responsibility to try and preserve the family unit. As a result they engaged in more preventive practice and supportive intervention before reporting a concern or involving social services. This suggested that they saw child protection as being a fully immersed feature of their professional function, with wider remit than others:

> *"We're there to observe and see if there's anything that would be amiss. Like if...you felt somebody was being neglected or abused, it's part of your role, to help the families, if there's any way you can help them out and keep the child within the family circle. But if there's any sort of abuse at all to report it to your... line manager and then to your social worker but I mean you have to look at every child, even their background, and see where they're coming from."*
>
> ***-Public health nurse 2***

These participants' ideas around limits of responsibility and intervention varied notably to other professionals, as there was a greater sense of obligation to uphold the family unit rather than just protect the child. As a result they perceived their child protective responsibility as requiring more assistive and supportive responses than others. Child protection roles and functions are therefore absorbed and intertwined

into the public health nurse role and not considered an ancillary function as is the case with other participants.

For those that adopted the welfarist approach, there was a greater sense of civic duty towards the well-being of the child and the family, as well as greater personal attachment to the case. Views of professional responsibility were consequently widened and responses were less clinical and more personalised; incentivised by a strong moral code:

> *"But I follow it up usually, now at a personal level I follow it up because like anyone...I wouldn't think I'd be different from anyone else when I feel there's children at risk, you know, I follow it up and go as far as I can go."*
>
> ***-Alcohol Addiction Counsellor 1***

In such instances acceptance of the role was noted as being more natural and automatic, with responses being driven by intuition rather than procedure and the professional conceiving themselves as a child advocate, tasked with the duty of ensuring the child's and family's rights were protected.

Ability to Adopt Child Protection Roles

Participants' assessment of their aptitude for adopting child protection roles also varied depending on their understanding of the obligation, skills and competencies they considered were required, as well as individuals' perceived support to undertake the obligation.

Specialist Skills and Child Protection Professionalism

A number of interview participants discussed the need for specialist skills development in order to adopt child protection roles, most notably the Gardaí and school designated liaison persons (DLP).[85] The lack of provision for specialist role development was considered to place a disproportionate expectation on those required to carry out the obligation. Gardaí from a dedicated child protection unit in Dublin argued the need for selective allocation of child protection posts within the service, specialist training and assigning of supervision in order to effectively undertake what is expected of them. They also suggested the need to appoint

[85] The designated liaison person is the person assigned the responsibility for dealing with child protection concerns within an organisation or agency. They are responsible for ensuring that staff follow standard reporting procedures. The DLP must notify social work of any reports made to him/her and also liaise with them on that report.

individuals with the appropriate disposition and mentality to adopt child protection roles as it was perceived that only certain people are suited to taking on the responsibility:

> *"There mightn't be the right people for it, it's a particular kind of job, you know, you have to be in the right place to do it and I suppose there should be training, pre-selection...some sort of, like, supervision then as well... And that's in every other agency out there that deals with child abuse and there's no structures whatsoever in [the] guards or anything like that."*
>
> ***-Garda 1***

They also believed that there was a lack of universal training across the entire Garda population and criticised the inadequacy of child protection, as addressed by the training curriculum. They feared that its low profile could potentially leave a large proportion of guards unqualified and unprepared should they encounter a child protection concern. By confining Children First training to those who are assigned to designated child protection roles, they recognised that there is a considerable flaw in the system; leaving a significant number of guards in the general service exposed and vulnerable. Because interaction with children is a reality of the profession there was anxiety and fear amongst the group that many guards would lack the necessary skills to deal appropriately and sensitively with the issue if and when they encounter it:

> *"All guards are dealing with children...or if somebody comes into the counter, the Garda counter takes that case, investigates it themselves...so those guards...often end up in very eh, difficult situations because they're hot(!!) and they're fresh and you've a patrol car landing in the middle of it, you know. Like, more often than not, they probably aren't trained in anything to do with Children First, any kind of child skills or, development stuff or anything like that."*
>
> ***-Garda 1***

A preschool childcare inspector in the Dublin region also noted that varying levels of educational attainment and qualifications within the childcare sector significantly impact on individuals' perceptions and appraisal of their ability to adopt the responsibility. Those who have undertaken third level degrees seemed to take on the Children First training with greater ease and comfort than those with less formative training. Primary training, education and skills development were depicted as being critical in shaping and structuring people's perceived ability to assume child protection roles. This observation was supported by a number of intake social workers interviewed who remarked that it becomes quickly apparent to them, which reporters have not undertaken any form of training or education. Those who are unfamiliar or unqualified were noted as lacking any knowledge about the child

protection system and its protocols for reporting, being hesitant and cautious when engaging with the system and continuously seeking reassurance throughout the process. Without the appropriate acumen and understanding of child protection roles and the fundamental responsibilities associated with it, many individuals judge themselves as lacking the competence and capabilities to accept the role.

There is therefore an assumption that professionals already have the know-how and savvy to cope with the repercussions of a child protection concern when it arises.

Isolation and Lack of Support

Designated officers, within schools in particular, observed the need for support in carrying out the respective duties of a designated liaison person. Greater responsibility and accountability was associated with the role and discussion highlighted how daunting and intimidating it can be for some. A secondary school DLP commented that taking on the responsibility *"absolutely terrifies me"*, because of the expectation and accountability connected to the role. She also spoke of the dual responsibilities associated with being a DLP, in that she must ensure child protection policies are disseminated amongst staff, that there is requisite awareness amongst the teaching body and that the board of management are kept informed and up to date. She also spoke of how she must act as a resource person to all staff members while simultaneously filtering and processing reports and dealing with social services in addition to correspondingly protecting the welfare of her staff from retaliation or false accusation. The weight of responsibility and burden connected with the role has meant that, for this DLP, *"it's the one area [of] the job where I have had sleepless nights"*. She also described it as a solitary responsibility for which she receives little support or assistance, despite the weight associated with it and the expectation that she must become the focal point within that school through which all dialogue around child protection is managed and directed.

Professional Entrapment

At times, there was also an underlying sense that some participants felt entrapped once it became apparent that they would need to adopt child protection responsibilities. Awareness of the consequent obligations expected of them was conveyed as an 'interception' of their main purpose and an unforeseen expansion of

their primary focus. A group of addiction counsellors recounted that at no point were they ever explicitly instructed on what is expected of them from a child protection perspective. This has consequently led to sentiments of unjust expectation and professional ambush with little or no direction and instruction from their professional body:

> *"You don't sign up to it when you work in [an] area like this I don't think. Well I didn't anyway...you don't think of it really as part of it and then it's kind of landed on your lap as a kind...of a side-effect of working with somebody with alcohol, you know, that you have to consider the welfare of the children, so it's not an easy thing."*
>
> ***-Alcohol Addiction Counsellor 2***

Cultivating Child Protection Awareness

These findings indicate that the promotion of child protection awareness and acceptance of responsibility is heavily dependent and influenced by managerial endorsement of the issue as well as efforts to cultivate and support the professionalisation of designated child protection roles within organisations.

Managerial Conscientiousness

Where Children First training was promoted by management, there appeared to be more natural acceptance and appreciation for its place within professional roles. A group of speech therapists interviewed for the study indicated that there were inconsistent levels of emphasis around child protection within their discipline. While some members of the group commented that undertaking Children First training was made a prerequisite before commencing work, others responded that they were never instructed or requested to attend the training. For one of these participants Children First training was given primary importance and framed by management as an essential requirement. This had the consequent effect of impressing on her the paramountcy of child protection within the context of her profession and also helped foster an understanding and appreciation of its relevance to the job. Management therefore have an important role in shaping frontline professionals' perception of child protection, by actively promoting the issue and placing expectation on them to undergo the training.

There was also an apparent difference between those operating in the public and private sectors of the speech therapy discipline. The expectation of undertaking child

protection training does not appear to be emphasised as much within the private sector; some participants claimed that they were never informed of or requested to attend the information sessions: *"I work privately now and I've never had any mention of having to do Children's First"* (Speech therapist 2). However, it should be noted that this lack of promotion is not reflective of all non-statutory agencies, as one youth worker outlined how child protection was endorsed and championed from her initial inception into the job and publicised as a central and inherent feature of her work by her governing organisation:

> *"The minute I started working with young people, you nearly put on the cap that it's mandatory already...it's nearly brought around in our society, that if something happens it's mandatory...that was my belief since I started first day, that you have to report it because it's your duty of care really."*
>
> ***-Youth worker 8***

Barriers to Professionalising Practice

The findings showed that assigning child protection responsibilities to volunteers in different youth services or sports organisations was liable to introduce a number of complications because of the disproportionate burden associated with requesting them to adopt such responsibilities. A focus group of participants from different sports organisations acknowledged that the level of expertise expected of a volunteer is overwhelming, burdensome and disproportionate: *"it is too much for one person, as a volunteer to do"* (Sports participant 10). As a consequence there have been endeavours to professionalise the role of Children's Officer[86] by making it a paid position and seeking out qualified individuals to adopt the role. The focus group recognised the need for proportionality and to ensure a consistent level of professionalism and accountability within the position. Consequently, some of the members had begun to establish contractual conditions in order to legitimise the role:

> *"It's important that it's somebody at the end of a phone really, who's been paid to do the job. I think, you know, that there's accountability there apart from anything else."*
>
> ***-Sports participant 4***

According to these participants, clubs are beginning to recognise the importance of having skilled and experienced individuals taking up the position of Children's Officer; professionals such as teachers or HSE workers are being selectively recruited

[86] Name given to Designated Liaison Person within the area of sports.

to fill the role because they already have an understanding and familiarity with the issue:

> *"What we've found is clubs are actually putting a bit of thought into their appointing to those positions. So you have maybe teachers...guards... so it's as if they identify someone who's so familiar with that side of things who would then get those positions."*
>
> ***-Sports participant 5***

The interviews also illustrated the growing realisation amongst sporting bodies that assigning parents or lay individuals to these roles is no longer feasible or practical given the seriousness of the issue and the potential for negative consequences as a result of bad practice. As one participant argued: *"parents, volunteers are well meaning but it's actually, it's not good enough anymore"* (Sports participant 7). It appears that unregulated practice is no longer acceptable and instead standardisation of child protection roles is necessary amongst volunteers.

The professionalisation of child protection roles within sporting organisations is, however, challenged when it comes to assigning qualified individuals. Narrowing the type of individual that can take on the role of Children's Officer means that the ability of clubs to fill the role becomes further restricted:

> *"We would have...guided people to have somebody with a qualification...but that has been a challenge for clubs on ground level. And even at...regional level...that would be a challenge on filling those roles."*
>
> ***-Sports participant 9***

Overall the sporting participants observed that the process of trying to regulate and standardise child protection roles and procedures within clubs has been met with reluctance and complacency. They expressed the sentiment that they are fighting an uphill battle to introduce administrative changes and developments. This is partly explained by the unwillingness of individuals to voluntarily sign up to these roles: *"there are those who are running scared"* (Sports participant 2). Incentivising change was viewed as a formidable challenge because they are relying on motivation and encouragement alone to endorse change.

Perceptions of Child Abuse and Sources of Awareness

The field research has shown that a large proportion of participants' awareness around the issue of child abuse and child protection is generated from media

coverage and high profile scandals and publications rather than from professional discourse or academic attention. As a result themes of moral panic around child abuse began to emerge from the data, suggesting that, for many, their understanding of the issue was predicated on skewed perceptions and distorted information; a trend that is symptomatic of Cohen's definition of moral panic[87]. For example, a group of social workers observed how the media has shaped professionals' perceptions of them and advanced negative attitudes about what their work actually involves. They spoke of how they are viewed as *"baby-snatchers, and we go out once and take somebody's children away and then they'll never be seen again and part of the problem is that, in the media all people ever hear...about is...'social workers came and took the children into care' and you don't hear...about the number of families that we went in to and we worked really hard [with]"* (Social worker 3).

A risk society[88] therefore emerges and reactions to the phenomenon of child abuse are linked to the corrosion of the family unit, the exploitation of innocence and vulnerability as well as the premeditated concealment of child abuse which all attack core social values:

> *"I think just general awareness in the papers and the fact that so much stuff has come out, is probably the best educator of all, to be honest. You know, in terms of your awareness. And then ones awareness of the awful effects that it has, the permanent damage that it does to the individual who's abused...[gasp] it's awful, awful."*
>
> ***-GP3***

Recent publications on scandals within the church, high profile cases revealing distressing levels of abuse and neglect within the family and increased media attention have resulted in unprecedented levels of public and professional awareness. The ensuing 'moral panic' then effectively becomes an envoy for dominant ideology (McRobbie & Thornton, 1995: p.562), causing the public to view the issue as a rapidly prevalent problem throughout all sectors of society. A group of intake social workers observed that individuals' awareness levels have consequently become overly heightened and sensitised to the possibility of child abuse. They note that, at times, reporters are applying 'adult' interpretations to innocuous situations and viewing

---

[87] "A condition, episode, person or groups of persons emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned...ways of coping are evolved (or more often) resorted to" (Cohen, 1972: p.9).

[88] A term which describes the process by which modern society organises itself in response to risk. Refer back to chapter four or see Beck (1992) for further discussion.

incidents through the lens of someone who is overly attune to the existence of child abuse:

> *"In the context of all the media stuff around...child sexual abuse with the clergy, there is very heightened awareness, so any activity that happens with kids...parents or adults are looking at that and projecting adult interpretation as to what is happening, so two four year olds doing something is seen as you know, sexual abuse when it's four year olds doing what four year olds do."*
>
> ***-Social worker 1***

It is suggested, then, that recent media scandal and controversy has skewed perceptions and understandings of child abuse and child protection. The publicity surrounding recent cases of child abuse has caused it to become the 'cause célèbre' of current discourse; dominating the public conscience. By raising its profile, media and public discourse have helped to establish the issue as a central feature within professional engagement with children but with the added cost of heightened alarm, panic and anxiety.

As a result of raised consciousness through public, political and media debate child protection has come to be viewed as a longstanding and endemic concern within Irish culture, society and history. Professional awareness and understanding of the issue has been instigated and fostered by arbitrary, foreign sources that fail to provide reasoned and qualified education on the topic. According to Mendes (2000, p.54) "there is little doubt that much of the prevailing media reporting distorts the public's understanding of the causes of, and possible solutions to, child abuse".

Children First Training Delivery and Adequacy

In order to determine how well equipped and qualified individual professionals will be to undertake their reporting duties under the new Children First legislation, it was essential to establish their access to training sessions, their evaluation of the training as well as their ability to implement the training information and policy document into their everyday practice.

Training Access and Availability

A number of participants, especially those located in more rural settings, reported some difficulty in accessing the Children First training because of limited availability

and barriers to access. In certain regions outside of Dublin there appeared to be insufficient and sporadic training delivery from a very restricted number of sources.

In addition, some participants spoke of how cutbacks have impacted on their ability to ensure all staff undertake the training. A childcare provider who moved from Dublin to the Midlands region described access to training there as *"non-existent"* in comparison. An alcohol addiction counsellor, practising in the field for a significant number of years, applied for the training on three different occasions, but noted that on the first two attempts the training was cancelled and at the time of interview he was still awaiting notice on his third attempt.

There were instances in some organisations (with high staff turnover) where new staff were commencing work with children and not receiving training for a considerable time afterwards. Access to training, in some experiences, was also staggered, meaning not all staff in the same organisation had received training at the same time and so had varying levels of knowledge:

> *"It's not frequent enough...it would be maybe run twice a year...so I am in operation 6 or 7 years now and all my staff would not have done Children First because I could only send one staff at a time...But it's certainly not accessible enough to send people."*
>
> ***-Childcare provider 14***

It was also observed, within certain organisations, that access to training can be restricted to senior staff only. Qualified access to the training was particularly apparent within schools where, generally, the principal, deputy principal and possibly the guidance counsellor and religion teacher attended. While there was awareness of the guidelines amongst the teachers interviewed there was also a notable level of frustration and exasperation with the lack of universal access to training. Some classroom teachers believed there was an assumption that all teachers had undertaken the training. This misconception left some feeling confused and lacking clarity on what is expected of them in terms of knowledge and awareness:

> *"What I find confusing around it...we've, for example, been to a training course for SPHE,[89] ... it's assumed that we know and are familiar...so there's a lot of assumptions...outside of people who've been trained...at staff meetings, guidelines have been mentioned...but I'm not sure how the regular teacher on the ground is familiar."*

[89] Social, Personal and Health Education.

-Secondary School Teacher 3

Adequacy and Evaluation of Training

(i) Positive Views

A large proportion of the interviewees described the Children First training in positive terms, indicating that it provided structure, awareness, procedural clarity and opportunities for networking with other disciplines. However, its usefulness was generally limited to those seeking introductory training and awareness-raising rather than in-depth examination and more detailed application of the guidelines.

Shaping Procedure

As a foundational introduction to the issue of child protection and an overview of the system, the training was regarded as extremely beneficial for those with relatively no exposure to or experience of child protection. It was described as informative and instructive while also helping to prepare individuals encountering such issues for the first time. It was also described as something that helps to shape procedure by putting a structure and system around the reporting process; it was observed as providing the scheme for a reporter to follow and creates a framework from which the professional can operate:

> *"You're given a definite guide in terms of procedures to follow, if and when someone comes to your door and reports abuse of some nature."*
>
> ***-Secondary School Teacher 1***

Reassuring Practice

For a number of participants the policy and training *"confirms that you are doing the right thing"* (Youth worker 1). These findings reflect those of a number of studies which have significantly linked confidence and preparedness of professionals with the formal training they receive on child protection. For example, a survey based study of child abuse and neglect curricula in pediatric residency programmes in America showed that levels of confidence and readiness for child protection responsibilities were significantly associated with didactic usefulness, number of hours of didactics, total number of inpatient cases of child abuse and neglect seen, as well as the length of the mandatory child protection rotation (Narayan *et al.,* 2006). Similarly, an examination by Fraser *et al.* (2010) into nurses' recognition and

reporting of child abuse found that the training improved confidence levels at which nurses felt prepared to report cases in practice.

Inter-disciplinary Networking

Child protection training was strongly promoted for the opportunities it presented, for example, providing a platform for inter-service discussion and consultation as well as creating links and establishing connections. For some, it was viewed as the only opportunity to promote interagency networking within localised areas. For others, confidence around child protection obligations was derived from having external links and supports to fall back on which were established through the training. By building up a professional network of various disciplines and services communication and consultation on the issue was endorsed:

> *"I thought it was very, very good and it was good because it was done [with] a multi-disciplinary approach to it, it was all different disciplines which I thought was brilliant, because that's huge. You learn so much from other disciplines you know, it's very important."*
>
> ***-Public health nurse 5***

The data showed that creating personal associations and fostering familiarity between professionals helps to personalise future interaction as well as humanising the system to provide greater understanding and appreciation for the strains both social work and frontline individuals are under. A number of participants observed that while they may be operating in close contact with frontline professionals on a regular basis over the phone, they might never have had the opportunity to engage directly with them in person until the training. Without this platform professional engagement can become impersonal, faceless and clinical. Social workers in particular noted how the training helped their engagement with other frontline workers by reminding them of the challenges they encounter when engaging with child protection:

> *"... it's really good for social workers to hear the anxiety...that brings up for other professions. Because sometimes social workers...I suppose when we're doing it for a long time, sometimes they forget you know."*
>
> ***-Principal social worker 2***

(ii) Negative Views

Lack of Refresher Training

There was a general, overall view that the limited provision of refresher training was inadequate. It was argued that one-off training is not sufficient to ensure that professionals are kept aware, cognisant and alert to the issue. The lack of refreshers also fails to recognise that there are developmental changes in the area of child protection about which professionals need to be appraised of and updated. Rolling out the training on a regular basis ensures that child protection's importance is maintained on the professional agenda at all times while also renewing memory, particularly where child protection matters are not encountered on a regular basis:

> *"I think there is a huge need, as well as having the booklet available, to have the training available as a refresher. Because I remember when I did the training years ago, like I can barely remember it at this stage. So it needs [to be] on-going really. I think it's something as a team maybe we should be feeding up, so that the service sees it as essential training."*
>
> ***-Young Persons Probation Worker 3***

Participants pointed out that without continued emphasis and revision, detail on child protection identification and procedure can become dulled and murky and awareness of the information originally received can stagnate and lose prioritisation. Gardaí interviewed from the child protection unit noted that it had been approximately six to seven years since the first and only time they undertook the Children First training. This is a worrying observation when research has shown that those most recently trained would respond significantly more appropriately to a child's disclosure than those who have not been trained or were previously, but not recently trained (Hawkins & McCallum, 2001: p.1615).

For many frontline professionals the intermittent and inconsistent nature of child protection highlights even further the need for refreshing of memory on the topic. Without renewed awareness and continual addressing of the issue it is easy for some professionals to slip into a routine where child protection is forgotten:

> *"I'm noticing now that...the training and the child protection course is making me more conscious of it, and that's the thing about child protection, it does seem that you have to be reminded to look for it. Like six months ago I did the course and suddenly I...thought of three cases I'd seen the day before and I was suddenly thinking [participant gasps]...unless you're thinking about it, on your differential list of problems, you do miss it definitely."*

-Neonatologist

Multi-disciplinary format

While the majority of interviewees considered the multi-disciplinary nature of training to be beneficial, a small minority considered it to be regressive and detrimental to their experience. Some of the participants (who were less experienced in handling child protection issues) remarked that multidisciplinary training could be intimidating when more experienced attendees were discussing severe cases of child abuse. One participant described the concentration on acute cases within the training as using *"the shock factor"* (Speech therapist 2), which had the effect of minimising the significance of smaller concerns. So rather than feeling confident and reassured about the reporting system, some individuals were left overwhelmed and unsure of what symptoms required reporting:

> *"And actually the message that communicates is, coming in with no socks on isn't important because actually the only thing that is important is the Mayo [referring to Roscommon] abuse case and really significant things happening to children, you know."*

-Speech therapist 1

Some social workers also viewed it as a negative approach because it placed them in a vulnerable position, exposing them to frontline dissatisfaction and frustration with the system. They indicated that attending multidisciplinary training can sometimes expose them to negative feedback from professionals that they would be dealing with on a daily basis. They also expressed discomfort about the fact that they must attend the training with professionals who could later be reporting to them. They remarked that this could be considered incompatible with the expectation that they should have more specialised knowledge and expertise on the area. The expectation that social workers should have governance on the issue of child protection and act as a source of advice for reporters is not reflected in multi-disciplinary training and fails to provide them with 'leading' expertise in the area:

> *"If myself and the public health nurse are getting the same amount of training, well, we're meant to be the experts in it, but we're not, you know what I mean, that there should be more specific training I think for child protection."*

-Social worker 2

Lack of Developmental Training

The data also indicated a need for more developmental and progressive training on Children First rather than a generic, universal form of training that fails to

accommodate for the varying levels of expertise around child protection and the different levels of exposure to the issue. Time and resource restraints require the training to be inclusive and to accommodate for a wide range of professions. As a consequence those delivering the training must ensure that they are cautious about how they engage with the topic by taking a proportionate approach and avoiding too much detail or in-depth analysis in order to avoid overwhelming those who are less exposed to the issue. However it was recognised that there is a need for advancement from the foundational awareness training currently being delivered towards more specialised, in-depth training over time as professionals become more attune and familiar with the reporting process. Similarly, a study by Bryant and Baldwin (2010, p.180) on school counsellors' perceptions of mandatory reporting training showed that there was a saturation of requests from participants for more training on specific types of abuse that they felt were harder to identify. Comparatively, a Childcare Manager interviewed for this study described the need for more case samples and scenario training around the different challenges and difficulties individuals encounter in their daily practice:

> *"I think that there are probably two kinds of different levels, Children First is offered as a sort of generic, once-off piece and I think...that the refresher training could certainly be aimed...at more detailed discussion about people teasing out different scenarios. One of the gaps in the training, as it's presented, is that there's very little time for discussion about different issues."*
>
> ***-Childcare Manager***

The Childcare Manager suggested that, while a good grounding and introduction is needed at first, the refresher training should delve into greater examination of scenarios to help individuals grapple with more challenging presentations that do not necessarily fit the generic form set out in the introductory training.

Training Uptake

Finally there was a very small minority, most notably those within the health sector, who were reluctant to undertake the Children First training because they failed to recognise its importance or relevance. They also perceived it to be too foundational and of little assistance.

Medical staff, in particular, considered themselves *"beyond the awareness training"* (Assistant Director of Nursing); suggesting that they are overly qualified and that the

training is too elementary for them to benefit from it. Medics within hospital settings were seen to divorce themselves from the training and so *"the big issue is that they feel they're beyond that, that they need something else"* (Assistant Director of Nursing) which in turn creates division between other health staff and also contributes to the inability of some organisations to foster standardised practice and responses around child protection.

In addition, one of the GPs interviewed readily admitted that he had never attended the training or familiarised himself with the policy document because he did not identify any need to do so. Engaging with the different facets of Children First was described by him as cumbersome and time-consuming; a nuisance rather than a necessity:

> *"What happens is you're offered a two day course instead of being offered an introductory hour and a half to tell you all you need to know...and even an hour and a half seems a lot...We're given this huge big book, you know, 40 or 50 page book and you say, my God, and so you never actually get into it, as opposed to being given a one page to say this is what it's all about."*
>
> ***-GP 2***

Unwillingness to engage was therefore derived from a perception that child protection is troublesome; a multi-faceted problem that cannot be solved using clinical solutions, therefore making the training inconsequential.

Training and Policy Implementation

While a large percentage of the interview population considered the content and quality of both the training and the policy document to be helpful, there was a prevailing observation that transferring this knowledge into practice and adapting its requirements into the daily work environment was a considerable challenge. It was quickly apparent that frontline workers were desperately seeking functional and operational guidance that gives them practical and real-life support. Children First training was described as idealistic but without the operative instruction to facilitate ground level implementation:

> *"**Childcare provider 1:** There's loads of guidelines, they're all on paper...*
>
> ***Childcare provider 4:** Yeah, but there's nothing...*
>
> ***Childcare provider 5:** Practical so to speak."*

Implementation Challenges and Limitations

The Missing Link

For many of the interviewees there was a notable 'gap' or 'missing link' between receiving the training and subsequently trying to assimilate that knowledge into practice. Participants suggested that there was no tangible link that can assist professionals to integrate and absorb the information they receive into their work culture and environment. A study by Reiniger *et al.* (1995) supports this finding; the study sought to determine how new information on training courses was used by the participants surveyed. The findings showed that while professionals were knowledgeable about abuse and competent in recognising it, they did not know what to do with the information. So while training increases the likelihood that abused and neglected children are being recognised, they are not more likely to appear in child protective services' reports; awareness might be improved but a gap exists about how to go forward with that information.

The difficulty lies in applying what they know is required of them into how they operate within the confines of their profession:

> *"...like most of the policies would be Children First proofed and that but sometimes...I can't relate it back...it's...something separate to what you're doing every day, it creates a fear in practitioners."*
>
> ***-Young Persons Probation Worker 4***

Both those working at frontline and social workers therefore identified the need for 'scenario training' to help assist individuals to apply the learnt information to case-studies reflective of their practice and service. It was suggested that the current training is not robust enough to prepare and qualify frontline workers to administer or contextualise the information within their own professional environment.

Misleading Professionals

A small number of participants commented that the Children First training can be misleading, especially for the newly qualified staff that have no experience of operating the child protection system or making a report. One alcohol addiction counsellor remarked that after undertaking the training she believed that if she sent in a report, there would be an immediate response, as depicted in Children First

guidelines. However, when this did not occur she was left with a sense of disillusionment as well as distrust for the system:

> *"I didn't get the back-up there I was expecting. I thought the form I sent in was... going to have an immediate reaction and something would be done immediately and that wasn't the case. And it wasn't the case a second and third time either, so kind of, business as usual you feel."*
>
> ***-Alcohol Addiction Counsellor 4***

Second-hand transfer of knowledge

Those at management level, required to train-up their own staff following the training, expressed concern that 'second-hand' transfer of knowledge (essentially their own interpretation of the material) would dilute the information further. The transmission of second-hand information was considered inadequate to equip a professional body with the knowledge and awareness required to detect and identify child protection:

> *"Ok I can train them up to a degree, but it's a confidence level you lose then."*
>
> ***-Childcare provider 1***

The challenges and difficulties outlined by the majority of participants interviewed present real and foreseeable problems for the introduction of mandatory reporting. Before placing sanctions on failures to report, practical instruction to help professionals contextualise the information contained within reporting guidance is needed. Otherwise it is possible that mandatory reporting will become an obsolete and unworkable piece of legislation that cannot translate into frontline practice.

Conscious and Unconscious Poor Practice

The data suggests that there are two levels of what might be described as poor practice in terms of Children First policy implementation: 'unconscious' poor practice, whereby implementation is due to a lack of confidence and knowledge while 'conscious' poor practice occurs when implementation is actively avoided in an effort to disassociate from the responsibilities of child protection and minimise involvement.

Unconscious poor practice

It was suggested from the data that a lot of poor practice derives from the inadequacy of internal child protection policies, which were considered to lack clear information

on how to process a concern within the professional setting. Instances where individual policy is not reflective enough of Children First can result in poor practice and uninformed decision-making.

For example, the preschool services inspector for a region in Dublin reported that some childcare facilities are struggling to adapt Children First to their own settings and so are compensating by seeking out short-cuts and sourcing policies online to use as a template from which to develop their own policy. However, difficulty arises when these policies originate from other countries where processes and systems are very different, thus creating the risk that some professionals may be operating off incorrect information.

Conscious Poor Practice

Throughout the field research, there were a number of incidences where it became apparent that the implementation of policies and the assignment of child protection roles failed to effectively ensure the protection of children. The sporting focus group observed that some Committees' efforts to fill the role of Children's Officer represented more of an attempt to satisfy policy expectations than positive, affirmative steps to ensure the safety of children:

> *"But a lot of our side say...they feel they're working in isolation, that you know, if they go to an AGM, put their hand up and suddenly the Committee say: 'great we have this person now'...they're not really interested in him or her after that...[once] they have the title of the Children's Officer."*
>
> ***-Sports participant 9***

Conclusion

At the time of conducting research for this thesis the impending introduction of mandatory reporting to Ireland contemporised the issue of child protection and reporting for the majority of individuals interviewed; heightening the need for awareness and understanding of the issue of child abuse and the obligations that will consequently be placed on them. In order for a new provision like mandatory reporting to operate effectively it will demand acceptance of the law by those to whom it applies; clarity around where boundaries of responsibility start and finish; frontline professionals' confidence and willingness to accept the role as well as instruction on how to incorporate the details of the legislation into everyday practice.

Despite the advancement of the law and a good level of awareness around mandatory reporting amongst participants, a number of striking concerns were demonstrated which put into question the capacity of those working in children's services and organisations to accept and implement the different features of a mandatory reporting law. The research data showed that professional awareness of child abuse and child protection responsibilities varies considerably according to the professional's specific discipline and whether or not they are operating within the statutory or non-statutory sector. Those who are aware of their responsibilities appear to be either confident because they have the training, experience and internal structures to facilitate the process or else they are apprehensive because they lack a sense of being prepared or equipped to deal with it. Where the latter was the case child protection awareness and education was considered to be distinct from their formative training and an issue which they must adopt once they are qualified rather than an integral element of their primary degree. It is essential then that educational bodies begin to standardise and structure their curriculums to incorporate child protection training because "in order to protect children from maltreatment, we must ensure that those who are charged with their care develop the skills and knowledge to do so effectively" (Ward *et al.,* 2004: p. 1120). Frontline workers will therefore need to be prepared both didactically and psychologically in order to accept the role willingly as well as having the knowledge required to apply it; issues which came into question throughout the research. A study by Abrahams *et al.* (1992) supports this observation by revealing that 65% of teachers surveyed found that the most significant obstacle to reporting was the lack of sufficient knowledge or training in the detection and reporting of child abuse. However, the data showed that the absence of educational attention and focus on child protection and the paucity of material within those disciplines that do address the issue was inadequate to qualify or mobilise interview participants to adopt child protection roles. Instilling the relevance of child protection at this formative stage of professional development is considered critical in order to condition mind-sets into accepting that child protection is an inherent and central feature of what they do. Incorporating child protection into third level education helps to 'naturalise' the acceptance of the obligations and responsibilities associated with the role. By failing to create this association and

relativity at an early stage, the adoption of child protection roles and responsibilities can be met with resistance and confusion.

It is also critical that, however the legislation is worded or formulated, those to whom it directly applies have the instruction and guidance around how to adopt and adapt its contents within their specific discipline in order that the legislation can become an active, functioning piece of policy. According to the data, however, there was an overwhelming frustration and difficulty amongst the majority of participants when trying to assimilate Children First into everyday routines and professional settings. Lack of guidance on how to implement the training and guidelines as well as divergence between what policy advocates and what practice demands has led to confusion and bad practice.

The adoption of mandatory reporting is likely to be a difficult and lengthy transition in light of the above information. Until there is clarity around processes and procedures as well as natural acceptance of child protection roles, it is conceivable that the adoption of mandatory reporting will fail at the first hurdle.

The research highlights that both attention and resources need to be attributed to the promotion and championing of child protection education within third-level institutions along with greater instruction and counsel to ensure practical application of its contents. As promoted by Goldman and Grimbeek (2008), if legally binding requirements are going to be imposed on individuals, then there needs to be a corresponding requirement placed on the imposing body to fund and resource adequate training and effective fulfilment of the requirements. This is crucial in order to prevent mandatory reporting becoming a dormant, stagnant or unfunctional piece of legislation.

The next chapter will consider how concerns are detected, the inhibitors that complicate detection and the consequent processes drawn on to facilitate identification.

Chapter 7:

Detection of Child Protection Concerns

Introduction

In light of the newly proposed mandatory reporting development in Ireland it is important to consider professionals' ability and skills to accurately identify the child protection concerns that warrant reporting. In order to avoid over and under reporting it is essential that these mandated reporters are familiar with and knowledgeable of the different signs, symptoms, indicators and factors that constitute child maltreatment as well as the relevant thresholds for instigating a child protection report.

Child abuse can present itself both conspicuously and inconspicuously and so, for a reporting system to function effectively it is critical that those individuals operating it know what to look for, are able to recognise the different forms and presentations of maltreatment as well as having the confidence to move forward with a concern. In this chapter I therefore endeavour to establish the different factors influencing and shaping individual's capacities for detection; the processes and strategies they employ to progress detection and any barriers or facilitators encountered along the way.

In an effort to ascertain this information interview participants were asked:

- How child protection concerns have arisen, in their experience;
- The types of concerns encountered;
- Symptoms and behaviours that gave rise to suspicion;
- Their confidence in correctly identifying abuse or neglect;
- Strategies drawn on to help corroborate tenuous concerns (such as information sharing or investigative processes);
- The main difficulties or barriers encountered.

The data from these interviews was analysed and subsequently categorised into two main headings: "Barriers to and Facilitators for Detecting Abuse" and "Detection Factors and Processes". The first half of the chapter will probe the difficulties individuals are confronted with when trying to distinguish what concerns constitute abuses of a sufficient reporting threshold. This distinction is based on severity of the abuse, specificity of symptoms and complexity of presentation. The second half of the chapter will examine the various indicators and risk factors that are influential in triggering suspicion as well as the processes individuals use to determine the presence of an abuse.

Barriers and Facilitators to Detection

Continuums of Severity

The literature suggests that many professionals place concerns along a "continuum of severity that separates suspected abuse from reportable abuse" (Kennel & Agresti, 1995: p.612). This theory makes a distinction between 'reportable' cases which are severe and unquestionable child protection concerns and 'suspected' or 'theoretical' cases that are less likely to be reported because they are ambiguous or lack the severity needed to instigate a report (Pelcovitz, 1980; Tite, 1993).

Reportable Concerns

The reportable cases were denoted by most participants as the clear-cut, severe incidents or situations that demanded immediate response and action. These included both physical and sexual abuse. It became apparent that these forms of abuse were prioritised at the upper end of the "abuse reporting hierarchy" (Crenshaw *et al.*, 1995: p.1096), requiring automatic action by the reporter:

> *"Unless it came in screaming...physical abuse, severe trauma, it was...just left."*
>
> ***-Assistant Director of Nursing***

Under the "rules of suspicion" (*ibid*) reporters are significantly more likely to suspect and report because the signs are "highly specific" (Finlayson & Koocher, 1991: p.469) and immediately recognisable as being symptomatic of abuse. The more acute the symptoms the less room for debate around the likelihood of abuse:

> *"Certain types of abuse...you'd be like, well that's...a bruise, obviously someone's beat him or...that's a bit easier to identify rather than...emotional or neglect."*
>
> ***-Childcare provider 6***

It was also agreed amongst all participants that where a direct disclosure was made by the child it should also compel an automatic report. Physical and sexual abuse disclosures were ranked highly on the reporting hierarchy as necessitating a prompt response:

"If there's a disclosure...obviously, you'd take an extra step."

-Childcare provider 14

This finding is supported by research undertaken by Finlayson and Koocher (1991) into the detection and reporting habits of pediatric psychologists where there was variation in the level of symptom specificity of sexual abuse presentation. They found that "near complete unanimity about the meaning of symptoms was evident when a direct communication of abuse was made".

Theoretical Concerns

However, the majority of participants interviewed, across most sectors (health, education, childcare and social work), indicated that *"those very straight-forward cases are somewhat rare"* (Medical social worker 3). In fact, the most common form of child protection concerns arising for participants were 'theoretical'. These generally originated from a nucleus of complexities and social adversity within the family. The chaotic and turbulent setting in which some families exist could mean that child protection concerns are not easily detectable or clearly evident amidst the bedlam of various other co-existing dilemmas. Concerns are absorbed into and interwoven with the family's other problems. The consequently entangled nature of child protection concerns with family intricacies makes the substantiation and confirmation of suspicions extremely challenging for frontline workers; *"there would be a lot of complex cases involving complex family dynamics...where suspicion arises"* (Medical social worker 6).

On the other end of the "continuum of severity", neglect and emotional abuse cases were isolated as the forms of maltreatment that were considered most problematic in terms of identification because of the high level of ambiguity associated with them. Both forms were said to cause trouble for frontline workers because of their inevitably subjective nature and potential for variation in how they are interpreted. Degrees of suspicion and confidence in reporting correspondingly decrease as the

presentation becomes more ambiguous. Finlayson and Koocher (1991; p.469) suggest this might be so because professionals are more knowledgeable about highly explicit indicators than subtle indicators and may only suspect abuse when more dramatic symptoms are present. This is reflected in the transcripts of a youth-reach worker who noted that non-physical forms of abuse are particularly problematic because they are largely asymptomatic and lack the explicit detail needed to support a claim of abuse:

> *"Some instance has occurred and they're very black and white situations, but sometimes...particularly in situations of maybe neglect...where it's psychological abuse maybe or non-physical it can be very difficult to know the exact details and the exact facts and how to...confirm these facts."*
>
> ***-Youth-reach worker 2***

The data showed that many of the suspicions that arise in day-to-day practice are unclear and inconclusive and are often based on suspicions and gut instinct that 'something is not right'. They clearly do not hit any marked threshold along the continuum and difficulty is encountered when trying to situate them along this spectrum of appropriate and non-appropriate reporting. This problem is further complicated by the fact that "definitions-especially emotional abuse and neglect-are often ambiguous, requiring reports based on a lower quality of evidence than may be comfortable" (Crenshaw *et al.*, 1995: p.1096):

> *"How can you legislate for something [as] unclear as neglect...there would have to be volumes of every possibility...everything that you determine as neglect, like what is it?"*
>
> ***-Alcohol Addiction Counsellor 2***

These 'theoretical' concerns are consequently experienced by frontline professionals as causing the most challenge and distress because of the high level of vagueness and indeterminacy associated with them.

Signal Detection Theory

As a result of the findings just discussed it soon became evident that while participants were picking up on vague and indeterminate concerns, they were unable to distinguish symptoms of abuse from other coping strategies unconnected with abuse. This finding is reflective of 'signal detection theory' (SDT) which is used to analyse data coming from experiments where the task is to categorise ambiguous stimuli generated by a known process, called the signal (where familiarity is generated by a memorised stimulus) or obtained by chance, known as noise (a feeling

of familiarity generated by a new stimulus) (Abdi, 2007: p.1). The ability of an individual to decipher between the different stimuli is said to be dependent on two parameters. The first is the level of 'difficulty of the task': the easier the task the greater the degree of separation between the noise and the signal, and the larger the proportion of hits[90] over false alarms[91]. The second parameter is the 'strategy of the participant': a person who is more likely to say 'no' will never commit to a false alarm and is said to be conservative; while a person who always says 'yes' is guaranteed all hits and is said to be liberal.

In the context of the current study many of these findings are directly applicable and reflective of the participants' experiences. A major difficulty, identified by those within the health, education, child care and education sectors, was distinguishing between outcomes directly linked to abuse from outcomes unrelated to abuse. This was particularly evident within the medical sphere where it was recognised that, aside from child abuse, a myriad of other explanations could be attributed to signs and symptoms encountered. While abuse is accepted as one of the possibilities in certain presentations, the GPs interviewed also argued that it was just as likely that a physical abnormality could be causing the symptoms:

> *"Children shouldn't be getting urinary tract infections and I would have a low threshold for referral but I would...obviously be thinking of the possibility of it [child abuse], but I would have to make sure that I wasn't missing any physical problems such as say, duplex ureters...because the signs, the clinical signs...could be as innocuous and due to...a physical problem, rather than you know..."*
>
> ***-GP 3***

Medical testing and specialist examination of samples were drawn on regularly by the doctors interviewed to aid the process and eliminate as many competing explanations as possible and to try expand the degree of separation between the signal and the noise.

A group of speech and language therapists implied that, for them, there is a very narrow degree of separation between the noise and signal because of their limited contact with the child. The nature of their work means that they only see a *"snapshot"* (Speech therapist 4) of the child's life and they have a limited window of opportunity in which to establish the presence of abuse. As a result they have less time to tease

[90] Where a yes response is given to an old stimulus it is called a 'hit'.
[91] Where a yes response is given to a new stimulus it is a mistake or a 'false alarm'.

out suspicions and gain access to personal information that would help contextualise the concern. Consequently they see themselves as being more liable to misconstrue symptoms:

> *"We see kids...[for] half an hour for five or six weeks...so sometimes you might see something but...the family could be having [a] bad few weeks...or children could...have fallen off the bike when they come into us...so it's very hard to see."*
>
> ***-Speech therapist 4***

They recognise that there is an increased propensity for them to make a mistake and cause a 'false alarm'.

As noted earlier, the majority of concerns encountered by the participants interviewed were 'theoretical', predominantly associated with neglect and emotional abuse. These forms of maltreatment were observed as having the narrowest margin of separation between the signal and noise because of their ambiguity. Finlayson and Koocher (1991: p.469) remark that as symptoms become less specific, there are more competing explanations for the child's symptoms. Comparatively, the qualitative data highlighted that, neglect concerns in particular, caused the most difficulty for professionals because of the multiple behaviours and effects associated with it that could just as equally be the result of other, non-protective issues:

> *"You know sometimes it's that a family are going through a difficult period...there could be a concern and sometimes if you speak with the family there could be a few difficulties at home, you know a phase they're going through. Sometimes what can happen in some places, people can jump to the wrong conclusion...too quick to judge."*
>
> ***-Childcare provider 14***

The above quote indicates the tendency of some individuals to be 'liberal' in their approach and to over-attribute by incorrectly identifying 'noise' as being symptomatic of neglect.

This fear of misconstruing symptoms was not confined to non-physical forms of abuse. A youth worker delivering a sexual health initiative in the Dublin region also noted that sexualised language in young children can easily be misconceived as something sinister when in fact it could be more innocent than expected:

> *"Once or twice when a young person's used different sexual language that's way above their age, that's one concern I'd have. But then you're wondering is that*

because they have older brothers and sisters, are they watching 'American Pie'?... it's just how to distinguish it."

-Youth worker, Sexual Health Initiative

This finding is endorsed by Finlayson and Koocher (1991) who comment that "when a child exhibits sexualised behaviour there are competing explanations, including possible non-abusive exposure to sexually explicit behaviour (e.g., being a witness to adult sexual activity)".

Conversely, an Assistant Director of Nursing highlighted the tendency of some professionals to under-attribute bias and be conservative in how they interpreted behaviour and symptoms and consequently miss signals:

"We get a lot of these kids that have been labelled with...ADD[92] and actually, they're profoundly dysfunctional children because of something else that doesn't actually relate to ADD at all. So through the CAMHS[93] service and child and adolescent psychiatry we're seeing a huge increase in...I suppose, children who are crying out for some kind of support."

-Assistant Director of Nursing

Complexity of Presentation

Disclosures of Abuse

Direct disclosures by the child were reported as being occasional in occurrence and limited to adolescents. Younger children were noted as being more accepting and tolerant of negative situations because they do not necessarily have the understanding to question it, while adolescents are more socialised to comprehend such issues. A study by Biron-Campis *et al.* (1993) examined the role of developmental differences in the detection and disclosure of child sexual abuse. Applying Piagetian concepts of cognitive development[94] the research found that pre-operational stage children were significantly more likely to exhibit behavioural or physical symptomology as well as accidental disclosure while concrete and formal operational stages were more likely to purposefully disclose abuse. This echoes findings arising from the field research which highlight that detection amongst young

---

[92] Attention deficit disorder.

[93] Child and Adolescent Mental Health Service.

[94] Piaget (1952) identifies four stages in cognitive development: 1) Sensorimotor stage (infancy); 2) Pre-operations stage (toddler and early childhood); 3) Concrete operational stage (elementary and early adolescence); 4) Formal operational stage (adolescence and adulthood).

children was more reliant on the observational skills of the professional to identify abuse:

> *"I mean some of the children would be too young to verbalise, but a nurse might spot something...the child seems very nervous you know...saying that's not quite right."*
>
> ***-Assistant Director of Nursing***

Younger children were said to lack the articulation and comprehension needed for a disclosure and so signs and symptoms of abuse tend to manifest themselves through "behavioural re-enactment" and "transductive reasoning"[95] (Biron-Campis et al, 1993: p. 923). One of the participants, a vice-co-ordinator at a youth-reach centre, spoke of how a young traveller girl's unusual behaviour later emerged to be indicative of challenging and chaotic circumstances at home:

> *"There was a little girl and...she got very attached to me. You know the way they'll latch on...But what I didn't realise at the time was, she...knew every move I was making at the weekend. She knew I went to the hairdressers at such a time...she used to follow me around on a bicycle...But that poor little one was in...a caravan sleeping on sacks, when I...investigate[d] it a bit."*
>
> ***-Youth-reach worker 1***

Biron-Campis *et al.* (1993) add that the cognitive development of adolescents is much more advanced; allowing for a greater degree of awareness, meaning that teenagers are more likely to be prompted to speak-out. Disclosures by adolescents are therefore said to be "purposeful" and consciously revealed (*ibid,* p.923). A youth worker observed that when a young person comes to her with a concern they are generally in desperate need of help because things have reached a crisis point in their life and they need immediate intervention and action:

> *"I think younger kids are...more accepting of where they are. And then when they get older, when they get to the adolescent stage they start realising that things aren't actually normal...They normally are crying out for help and they really want you to help them to escape the situation they're in."*
>
> ***-Youth worker 3***

While adolescents are more likely to disclose because of their maturity and development, for the same reasons they can equally be less likely to divulge information. Adolescents were portrayed by participants as having much more awareness of the child protection system than is realised and intuitive of the

---

[95] Transductive reasoning is where young children reason from one 'particular' to another without logically connecting them, resulting in a vague, free associative style of communication (Rosen, 1985).

repercussions that a disclosure could have, causing them to be deceptive and secretive. A group of Young Persons' Probation workers noted that, where adolescents have been subject to long-term maltreatment, their repressive behaviour becomes entrenched and they can become distrustful of services. Consequently they were described as defensive, uncommunicative and withdrawn when interacting with outside agencies:

> *"Sometimes you see there can be an investment in keeping a lid on it as well, because they're concern[ed] about the consequences for the family, if they reveal the information...so they're sometimes trying to protect the mother as well or the father...because they know what's going on."*
>
> ***-Young Person Probation Worker 3***

Biron-Campis *et al.* (1993: p.923) concede that older children have a better understanding of their negative experiences and awareness of the potential consequences of disclosure. However, these authors attribute purposeful concealment to the adolescent's perceived need to hide their responsibility for the abuse as well as an effort to repress any conscious awareness of its existence. The latter finding was reflected in one of the youth worker's transcripts when she commented that *"often a young person will go into drinking, drugs rather than face up to the concerns"* (Youth-reach worker 3). Sometimes then, it is not until a situation reaches a critical mass in an adolescent's life that information is revealed, because the young person has been trying to conceal the difficulties in their life for so long:

> *"There was one case and it was very, very concerning...a young boy, he only turned 14...seemed to be bottling up more and more and...eventually...he took a lot of pills and attempted suicide and as a result of that a lot came out of what had been happening in the house...things come out in crisis situation and it's all guns blazing."*
>
> ***-Youth worker 3***

Indirect Disclosures

Indirect disclosures were also cited by a number of participants in health, youth-reach and family support services as arising on occasions where families or adolescents allude to something being amiss. They were said to hint towards the possibility of a child protection concern but without categorically stating what is going on by avoiding detail or specifics. While alerted to the possibility of maltreatment, the professional was left in a compromising position whereby they have little more than inconsequential, suggestive pieces of information that lack the substantive quality needed to make a report:

"You would have...family members who are telling you something and not telling you something at the same time. You know...they won't say something but you know they have something else to say but...you can't report it in or you can't put your finger on it because there's nothing substantial."

-Family Welfare Conference worker, NGO

Concerns were also said to arise inadvertently through the actions of the child/young person, for example, situations where they attempt suicide. Detection was consequently described as arbitrary in nature because of the varying means by which the indicators become visible. In effect, detection was described as something that cannot easily be prescribed for because of the unpredictability in presentation.

A group of hospital social workers remarked on the accidental uncovering of concerns within the hospital setting, brought about by the highly pressurised situations in which some families find themselves. Many families in this situation are being observed at a time when they are most vulnerable and fraught with anxiety, allowing the hospital social worker to formulate a very real picture of how they manage under pressure. As a result, the participants spoke of how they witnessed scenes of domestic violence and mental health issues emerge within the hospital setting. Concerns were said to arise more organically and incidentally because of the social workers' impromptu observation of the family:

*"**Hospital social worker 1:** Issues can come up...we see these things develop as well...*
***Hospital social Worker 5:** It can expose certain situations when people are under stress over a prolonged period."*

Service Evasion

Another issue recognised by a number of participants (predominantly those within the health sector) as impeding detection was the practice of location hopping and service evasion by clients actively trying to avoid identification. For many participants, the ability to confirm a suspicion to the point of being 'reportable' was considered to be reliant upon the maintenance of a professional relationship with the child/family and the continual presentation of the child at that service/practice. Having the time and opportunity to build up evidence was seen as critical to convert initial, theoretical suspicions into reportable concerns. It was noted by some of the GPs, public health nurses and a neonatologist that those children who are most

vulnerable are the ones that do not regularly attend check-ups or appointments and remain outside the system:

> *"I would say that we mustn't be picking up on cases...because in Ireland...we don't have routine clinical examinations of children throughout childhood, the way they do in Europe, so...unless they present themselves, you're not going to pick it up because there's no-one to check the child."*
>
> ***-Neonatologist***

The data showed that those families where children are being abused or maltreated are more likely to be invisible and lost within the system because they have something to hide. It is probable then that the most at-risk children are the ones who are infrequent attenders and present sporadically because they are not strongly linked to any service and the professional is unable to situate the suspicion within any context. One of the GPs interviewed remarked that, in her 20 years of practice, she recalled encountering five possible cases of child protection. Of these five, only one family were said to be frequent attenders. This suggests that where child protection concerns exist families are more likely to engage in deceptive practice and endeavour to remain untraceable within the system.

Another weakness identified by participants was the practice of service hopping; where a child is moved from one service to another, using different names in order to avoid detection. A neonatologist remarked that without the presence of a central tracking system, the transient and fleeting nature of hospitals and emergency departments means that identification is further compromised and the obligation on the health professional to pick-up on triggers is also challenged:

> *"It's not that we're not aware...little flags are passing us by...because someone could go to five A&E departments and no-one's ever going to know it's the same child, or if they changed name."*
>
> ***-Neonatologist***

A public health nurse also noted that, on occasion, she has encountered both conscious and unconscious withdrawal of families in and out of her region of work. The former relates to the intentional practice of location hopping already discussed. The latter refers to family re-location and transference in and out of areas by the housing authorities. This was said to problematise observation and detection because client emigration and immigration within certain regions can be carried out even when local authority housing is involved, without the knowledge of the relevant

professionals in the area. The lack of communication between services and agencies was said to cause difficulty and complicate detection further:

> *"You have families coming in from other areas and you know the housing authority organise the transfer of all these families, so...they didn't realise to inform the public health nurse or the social work department. A lot of these families are child protection cases, so...that would be [a] huge problem."*
>
> ***-Public health nurse 1***

Even though public health nurses are generally in the privileged position of having access to the family home through unannounced visits, they are still reliant on the willingness of the parents to allow them that access as well as the family's willingness to engage with the public health nurse on a professional level. When it is a case that the clients *"just wont engage"* (Public health nurse 1), then the professional is left in a powerless position. Child protection detection is therefore reliant on the clients' consent and compliance with service professionals; something that appears anti-logical and counter to the behaviour of abusive families who would instinctively try to conceal and hide.

Orchestrating Behaviour

Other families were noted as engaging in the practice of orchestration, whereby the child is presented in a certain way or conditioned to behave in a certain manner in order to distract attention and minimise suspicion. There is a certain amount of calculated deceit and concealment being acted out by parents in such situations, complicating the detection process even further:

> *"They come up to you in the health centre and the children are totally groomed."*
>
> ***-Public health nurse 1***

Detection Factors and Processes

Indicators, Risk Factors and Determinants

Following on from the previous section the second half of the chapter focuses on factors that make a difference to an individual's capacity to discern abuse. For some of the individuals interviewed child protection concerns arose on a regular basis, while for others their presentation was more infrequent and exceptional. This suggested that either some professions were more likely to encounter these issues by virtue of the nature of their work or that certain factors/frameworks were in operation that influence the perceptiveness of individuals to detect its presence, or

both. By examining how concerns emerged in the course of different professionals' work it became apparent that certain characteristics, behaviours and conditions determined whether individuals suspected the presence of child maltreatment. In addition, discipline frameworks and professional vantage points were identified as influential factors that determined what forms of maltreatment were recognised or if they were recognised. Indicators, risk factors and determinants were evaluated at four distinct ecological levels: the individual child, the family, social environment and the professional environment.

Base-level indicators of abuse

Indicators of abuse were defined by the participants as the initial clues that prompt feelings of unease in the professional; the elements that cause a person's antennae to be raised and for their gut instincts to kick in. The most prominent indicators identified by participants were changes in the child's behavioural patterns, demeanour or disposition. Consequently these indicators were recognised as arising from the 'base level', the child.

Behavioural problems were generally attributed to younger children by professions such as childcare workers or teachers who are generally in close proximity to the child and in a position to observe their behavioural patterns over a consistent period of time. By themselves, these indicators did not signify child protection, but instead, prompted an impulse or intuition in the person that caused them to monitor its development. They were generally more subtle in presentation and symptomatic of an underlying problem, issue or difficulty in the child's life. Gracia's (1995, p.1089) study of the psychosocial characteristics of child maltreatment cases shows that children suspected of maltreatment manifest significantly more behavioural problems, expressed in an 'externalizing fashion' (being aggressive, hyperactive, disobedient, overactive and destructive) as well as an 'internalizing fashion' (being anxious, uncommunicative, immature, submissive and withdrawn). This finding was reflected in the data where participants spoke of behaviours that were both explicit and sensory as opposed to behaviours that presented as implicit and latent. Explicit, externalising behaviours were discussed in terms of variations in babies' crying patterns or age-inappropriate behaviour. Two childcare providers spoke of 'acting-

out', inappropriate play with dolls and toys and sexualised talk or discussion around inappropriate issues:

> *"**Childcare provider 29:** They may be in the home corner and playing things out...with the Barbie dolls...*
>
> ***Childcare provider 25:** Or...you can see them acting out some scenario, maybe it could be domestic violence."*

While on the other-hand a group of primary school teachers spoke of internalised behaviour whereby children appear withdrawn and introvert:

> *"You know some children would...strike me as being so reserved and so quiet that I say what is going on?...Because they are natural, I think, inclinations to play around with...but it's the ones that nearly have a little screen around them."*
>
> ***-Primary School Teacher 1***

Risk Factors: second level indicators of abuse

Risk factors are distinguished as the circumstantial elements that heighten the professional's suspicion index or those ancillary factors that are drawn on to help ground the initial instinct on a more informed basis. It was observed that risk factors predominantly derive from secondary level sources such as family stressors as well as tertiary sources like the current social and economic climate. Risk factors were also seen to compel the assumption of child maltreatment in the professional, motivating them to actively look out for it or pre-empt its existence.

In the context of this research, risk factors were recognised as having evidential value because they helped situate a concern in more substantive contexts or they acted as the external trigger that redirected the professional's attention towards the child. The interviewees observed risk factors as "intra-family sources of stress" (Gracia, 1995: p.1086). These were identified as difficulties that naturally infringe on parenting capacity or predictors that suggest parents are compromised in their ability to perform parental duties which can subsequently be linked to the child's behavioural issues. Specifically they were listed as: mental health problems, addiction and substance abuse, domestic violence and chaotic lifestyles. One GP spoke of how parents entering his surgery automatically trigger child protection concerns by virtue of the fact that addiction naturally insinuates compromised ability to function effectively:

"I'm seeing patients and...they've got major alcohol problems...they're on drugs, they're on drug treatment, they might not be on drug treatment, they're not doing well...and I know they've got kids and I'm wondering you know, how well are they able to look after them."

-GP 2

The weight given to risk factors as evidence of abuse is echoed in international literature. A new policy introduced in the Netherlands requires automatic referral to the Advisory and Reporting Centre Child Abuse (Advies-en Meldpunt Kindermishandeling, AMK) where a parent presents at the ER with injuries related to intimate partner violence, alcohol or drug intoxication or with a severe psychiatric disorder (Teeuw *et al.*, 2012: p.881).

Equally, while risk factors can act as predictors of maltreatment, they can also help contextualise a concern and support a suspicion. Being able to identify risk factors therefore helps the professional to build up a profile on the child and view the concern holistically within the family environment. Participants reported that where multiplicities of circumstantial difficulties co-exist, the concern (particularly in terms of neglect) would become much more apparent to the professional. Manifest family stressors therefore provide the evidential support that advance an initial suspicion from a gut instinct to a more reportable concern. As one of the participants outlined, gaining insight into the child's home life helped to situate the child's concerning presentation within a child protection context and also provided her with the confidence to move forward with a report:

"At the time I was a teacher and this child had head lice, you know every day of the school year...he was filthy, no lunch...he'd have...summery clothes on in the winter...and there was an element of poverty...Mum had a substance abuse...I felt a lot more comfortable reporting that because I could actually plainly see, there was evidence of it."

-Speech therapist 3

External risk factors or "extra-family sources of stress" (Gracia, 1995: p.1087) identified throughout the field research included socio-economic factors linked with the economic downturn. Increases in the presentation of neglect cases were said to be reflective of the growing monetary struggles associated with recessionary times. *"I think...we're beginning to see a little bit more of neglect again now...I suppose that's a sign of the times"* (Assistant Director of Nursing). Participants reported a noticeable increase in the number of comparatively better-off families being identified for

neglect, suggesting that the net has widened and the issue of neglect has become more pervasive. *"There's more middle class families. I think it's probably to do with the recession"* (Family Welfare Conference worker, non-governmental organisation). Consequently social difficulties are no longer affecting a small, confined socio-demographic sector but instead extending beyond the customary social groups into more middle-class families. It is important to distinguish however that the link being made by professionals between increased neglect and the wider economic situation was not regarded as an 'excuse' for non-reporting. The connection did not lend itself to greater tolerance of signs of neglect, but rather allowed the professional to embed the suspicion in something more concrete; it provided the evidential component that explained and supported the suspicion.

Social and Professional Determinants of Abuse

Determinants are the different factors or agents that fix or condition an outcome. Within the context of this study 'social determinants' were understood as the environmental and individual variables which determined the likelihood of detection, what is detected and how it is detected. In addition, professional determinants were also identified as affecting the detection of concerns. These were the settings in which a professional undertakes their work as well as the different discipline frameworks and vantage points which shape what is seen and how it is seen by that professional. The interplay of social and professional determinants was seen to promote detection but equally undermine it.

Social Determinants:

- **Environmental Factors:** Environmental factors relate to the geographical location in which a family lives or service operates that help/inhibit detection of child protection concerns due to visibility of that family within the community. Participants from rural settings highlighted the advantages associated with living and working within small communities when it came to identifying concerns about children. Rural areas were distinguished from urban settings because there is a greater sense of association, proximity and familiarity between individuals living within the area. Professionals were seen to have better access and insight into the child's home environment and family circumstances through personal connections:

"We know all the parents, we know their neighbours...If you're...in Dublin nobody knows anybody."

Childcare provider 4

At the same time, families living in areas recognised for deprivation were said to be more visible than others and predisposed to greater scrutiny for child protection concerns because of the consequent association of social problems. International research supports this by arguing that families living within certain social pockets associated with deprivation are more readily identifiable because "detection is focused on a particular subpopulation of abused children, while a large majority remains undetected" (Teeuw *et al.,* 2012; p. 880). Within the context of the current study this finding was reflected in a comment made by one of the Public health nurses who discussed the concentration of family support services and prevention programmes within certain socio-economic regions:

"It can happen at any class. But it's hidden in the...upper class ... And you know I have to literally write letter after letter and fight for services in my area because it's...affluent."

-Public health Nurse 5

- **Child protection history:** On another level it is also more probable that a child or family will be detected where there is a history of involvement with child protection services because they are already visible. A Canadian study based on children investigated for any type of child abuse or neglect by social services found that 42% had been previously investigated by social services (Trocmé *et al.*, 2003). Another Italian study based on data from 19 emergency rooms confirmed this finding by showing that children at high risk of abuse were four times more likely to have had previous contact with social services or mental health services than low-risk children (Palazzi *et al.*, 2005). One of the Guards interviewed for this study substantiated this finding through the following comment:

"It wasn't until everybody sat down and kind of put their heads together and looked at the history. All the different agencies, Barnardos, the public health nurse, the schools... and went, actually yeah, there is something wrong here."

-Garda 6

Professional Determinants:

- **Professional Environment:** In settings where the professional/child ratio was small, detection was said to be easier. Smaller facilities allow for more concentrated interaction with the same child, consequently facilitating observation and allowing for greater familiarity with the child's personality, traits and characteristics. Where this was not the case it was argued that detection became compromised, as observed by one of the secondary school teachers interviewed:

> *"With cut-backs and classes getting much bigger...it's going to be much more difficult...to pin a problem than it was before...You're talking about bigger numbers, faster movement...because we're going from a class of 28/30 into another class of 28/30...so...it's growing apart really, rather than closer together."*
>
> ***-Secondary School Teacher 6***

- **Frameworks and Vantage Points:** Disciplinary frameworks were also recognised as determining the type of concerns detected because different professionals are conditioned to see different forms of abuse. This was most evident within the medical profession where the language and terminology used around child protection was narrowly defined in terms of clinical symptoms, medical ailments or problematic health issues. Throughout the interviews two of the GPs spoke of *"unexplained bruising", "warts"* around the buttock area (GP 1), *"urinary tract infections"* and *"constipation"* (GP 2) as some of the more common presentations of child abuse. This suggests that, sometimes, professional frameworks can insulate and confine how child abuse is understood and cause the individual to only see it within limited scenarios.

Giovannoni (1995) has pointed out the likelihood of reporters observing families from different 'vantage points', which in turn influence the allegations they report. By applying this concept to the current research I argue that certain professional disciplines have different vantage points which dictate the forms of abuse that reporters pick-up on. This distinction was most noticeable between medical, childcare and teaching disciplines. One childcare provider, for instance, spoke of how her role involved taking on parental duties such as accompanying the child to the toilet, changing their nappy or changing wet clothes. In such circumstances it is perfectly acceptable for childcare providers to observe the child on an intimately physical basis and be privy to information that many other professionals are not.

However as the child matures the opportunity for observing physical forms of abuse are greatly reduced because there is no longer a legitimate reason as to why they would encounter such information:

> *"You see bruising or something like that and then the children are older and they're not in nappies...you may not be changing them or you may not see if they have long trousers on."*
>
> ***-Childcare provider 28***

In comparison, the teachers interviewed spoke more of detecting signs and symptoms associated with neglect and emotional abuse rather than physical or sexual abuse. Their continual observation and interaction with the child on a daily basis places them in a more ideal position to notice subtle changes in behaviour and appearance as opposed to physical presentations which can be concealed. They spoke of children being *"withdrawn"*, or attending school without lunch (Primary school teacher focus group) or *"acting out"* and *"being aggressive"* (Primary School DLP). These are visible symptoms that can be discreetly spotted without having to employ intrusive or intimate inspections of the child because, as one primary school teacher commented, *"you don't want to pry, you know, that's the danger"* (Primary school teacher 2). It therefore became apparent from the data that some disciplines were more disposed to seeing specific forms of abuse because of the nature of their work and the boundaries of acceptable interaction inherent in that profession. So while it may be perfectly normal for a GP or medic to undertake physical examinations of a child, the same can not be said for teachers. It is therefore arguable that certain professionals are either more or less likely to detect certain forms of abuse because of their work. McDaniel (2006, p.309) supports this observation by indicating that "a family's risk of having an investigation may depend on who witnesses and interprets the act or incident...within what context the reporter sees or knows the family, and how that person defines child maltreatment."

Processes Employed for Detection

Individual Processes:

(i) Investigation and Case Building Strategies

Exploratory, preliminary investigations and case building strategies were identified as the main tools employed by participants in this study to help elevate initial suspicions from tentative instincts to more substantial, evidenced based concerns.

Investigative strategies involved informal probing for "some sort of unofficial proof" (Tite, 1994: p.9) while the case building processes involved what has been referred to as the "jigsaw metaphor" (Thompson, 2011) or the "putting together" (Frothingham *et al.*, 1993) of key pieces of information to create a full picture of the child's life.

From the data it became apparent that, where concerns were vague and indeterminate, most professionals were strongly motivated and compelled to undertake a certain amount of preliminary investigative work in order to establish the nature of the concern. However, there was also awareness of the need to avoid over-stepping professional boundaries by abstaining from work confined to social work assessments:

> *"But there's two sides to that as well...the other side is it really isn't...your remit to investigate, it's balancing the two things."*
>
> ***-Childcare provider 13***

Investigative strategies consequently become a balancing act between gathering sufficient evidence to instigate an assessment while on the other hand, refraining from violating professional boundaries of authority.

Exploratory probing was generally observed as a non-intrusive and non-invasive method of information gathering to help situate and contextualise a concern. A housing authority social worker spoke of undertaking *"an internal trawl initially"* of their own records and files regarding the family in question. A primary school teacher described how she refers to the *"enrolment form"* (Primary School teacher 2) in order to obtain information on the family's background, evidence of regular relocation or to assess the parents' economic status. However, one of the GPs spoke of more overt and intrusive methods such as medical testing of samples:

> *"The usual thing would be...you'd...get... a urine [specimen], send it off to see if there's anything...that'd be a bog standard investigation, to see if there's any evidence."*
>
> ***-GP 3***

While the majority of participants recognised the need to undertake a certain level of preliminary probing, the HSE child protection social workers and housing authority social workers who were interviewed observed a tendency by some professionals and services to forward on inconsequential and insubstantial information. This was

said to be because they were refraining from carrying out any level of investigation despite the Children First guidelines instruction that "concerns should be supported by evidence that indicates the possibility of abuse or neglect"[96]. It appeared that the uncertainty around how much investigation is permitted within their professional boundaries has resulted in some professionals reporting tenuous, flimsy information with very little detail to assist the social worker in their assessment:

> *"Sometimes you get a report in and it's: 'well it's a brown house at the end of such-and-such...street, but I don't know the name of the family'...and so obviously there's all sorts of practical difficulties in relation to that. "*
>
> ***-Social worker 3***

Consequently, even though social workers acknowledged they were being notified of issues and concerns, sometimes the inadequate level of detail suggests to them that individuals are information-dumping or unloading a concern onto social work:

> *"We would get some referrals...[from] other professionals who are actually parking or getting rid of whatever they observe and passing them on."*
>
> ***-Social worker 1***

Rather than failing to report, social workers' experience indicated that certain professionals were taking the step to make a referral but the poor content and scant detail provided in the referral suggested to them that many professionals were passing the responsibility onto social work. In light of this information it becomes clear that it is not necessarily the lack of reporting that is at issue but, from the social worker's perspective, it is more the poor quality of the reports being received that indicates a lack of willingness by professionals to engage and invest themselves in the child protection concern.

In addition to investigative probing, case building strategies were said to be employed more where concerns of neglect were in question. Determining neglect was described as one of the most complex and time-consuming processes because the very nature of neglect means that it is not obvious or blatant and emerges slowly over time:

> *"It's just very hard to find neglect...it could take a year, it could take two years to build up definite evidence, it's awful."*
>
> ***-Public health nurse 5***

---

[96] Children First guidelines (2011), s. 3.2.3.

In comparison to other forms of abuse or maltreatment, neglect was considered to cause the most difficulty and raise the most doubt because it only becomes apparent over time. It was said to require confirmation through repeated instances in order for the professional to safely judge that the child was actually at risk. Generally, this involved case building strategies of documenting key pieces of information over time to help formulate a full picture of the child's life and help establish a more evidence-based concern. This was noted as one area in which GPs are positively predisposed to detecting concerns, because they have the opportunity for continual assessment and observation which aids judgement and evaluation of the situation:

> *"You're going to just maybe build up a body of evidence over time which...as a GP, you have the opportunity...in a general practice situation you're more likely to see them over time and build up a profile of the family and have a better idea of what's going on."*
>
> ***-GP 1***

Documenting and case building allow for the continuity of assessment and establishment of patterns which in turn create more visible, tangible evidence from which to move forward:

> *"I think you'd have to see a pattern...you couldn't just report one incident. I think teachers would have to feel there's something valid."*
>
> ***-Primary School Teacher 1***

This contrasts with some of the literature research which suggests that teachers uncover concerns by way of "one sudden and shocking incident" as opposed to "becoming gradually suspicious about relatively minor incidents...accumulated over time" (Tite, 1994: pp.5-6).

(ii) Reconciling Professional, Cultural and Personal Standards

A large proportion of the participants interviewed identified the need to assess concern and risk from an objective standard that removed any potential for the professional to "draw conclusions extrapolated from their own experience" (Flaherty & Sege, 2005: p.351). Specifically, those working in health, childcare and addiction services, recognised that a child's situation must be judged objectively and assessed relative to their own home environment and overall happiness rather than a social construct envisaged by the professional. So, while some children may be living in challenging circumstances, that from a professional perspective are not ideal,

judgement should not be drawn from the individual professional's standards of care but rather the child's individual sense of well-being. It was considered crucial then that assessment of concern was done without imposing the professional's own moral perceptions and subjective interpretations of what is socially acceptable parenting:

> *"I know from working...[in] childcare the length of time I have, is that peoples' attitudes to cleanliness, they can range from being like a zero to a ten. And they...are probably still very good mothers...so...you kind of have to look at that child and their overall health and think, well they're well-looked after other than the fact that they don't have a nappy changed coming in the morning."*
>
> ***-Childcare provider 1***

It was also recognised that professional standards could impact on the assessment and distort perceptions, raising the standard even higher by imposing unrealistic expectations on parents. One of the childcare providers interviewed noted that the standards and benchmarks set out in a crèche were the ideal standards that should be achieved, but applying this standard to everyday parenting is impractical and unachievable:

> *"Being in a crèche is being in the ideal world...everyday you have your day planned, what time you changed them at, what time you do this, what time they eat at...and you do the constant hand-washing for their health and their safety and all of that. That's not done at home...and it's not done in every house."*
>
> ***-Childcare provider 1***

Within the crèche there was scope to set out daily routines, to map out plans and provide for all their nutritional and hygiene needs; a crèche is both required to provide for the ideal parenting scenario and has access to the facilities to achieve this. Using the professional standards set out within the crèche as a comparator could therefore place a burdensome expectation on parents or result in over-reporting.

There was an additional recognition by a number of participants in health, education and childcare that it was necessary to reconcile varying cultural standards around parenting. The increased exposure of some individuals to greater cultural diversity and ethnic representation within Irish society has led to an acknowledgement that norms and standards around physical reprimanding can digress from what is standard practice here. African cultures in particular were pinpointed as being *"aggressive in their manner"* and *"directive with their children"* (Speech and Language Therapist 4). Cultural deviations in parenting practice add a new dimension to the

identification dilemma whereby the professional must reconcile cultural expectations here with those of other jurisdictions:

> *"We'd have a lot of foreign nationals and their cultures are different, but...what we think is a bit cruel...to them it's not, so...how do you get around all of that?"*
>
> ***-Childcare provider 29***

The digression in acceptability around physical handling of children has meant that, for some of the participants, the detection process was further complicated and frustrated by trying to balance cultural perceptions and practice with our own norms and expectation around parental conduct.

It is arguable then that the likelihood of detection occurring has the potential to be capricious and variable in nature because it is so dependent on and subject to personal and professional opinion around standard parenting practice. It is difficult to systematise ideologies around standards of care because interpretations and values around child protection are bound to vary across professional practice, across locations and cultures and even between individual families.

Collective Processes:

Internal and External Sharing of Information

Overall there was a resounding agreement from participants across all disciplines that inter-service collaboration, information sharing and internal discussion were core processes and strategies central to facilitating the detection of child protection concerns. Where structures were in place to facilitate and foster such communication, the general consensus was that information sharing was crucial in helping to: establish a suspicion; provide for the missing links in profile creation; reduce duplication of work; alerting attention of other staff and promoting better working relationships both internally within organisations as well as externally between organisations and services.

(i) Internal Practices

From an internal perspective, information sharing was said to involve the discussion of observations and primary suspicions between staff in an effort to determine the legitimacy of an initial suspicion. By communally voicing a concern and discussing signs and symptoms that have triggered staffs' attention, a more persuasive picture

was devised and stronger evidence was accumulated that helped support a referral. While individually these pieces of information may be considered insignificant as stand-alone concerns, synthesising the collective pieces together reinforces the possibility of a child protection concern because "no individual has all the pieces, but requires the help of others to get the full picture" (Payne, 2008: p.93):

> *"I might have a concern and you might have another one and you see what's really going on then. Even though they're only 3 small things when you add them together...you can do a report on those three."*
>
> ***-Childcare provider 30***

Collective engagement within a service or organisation was said to provide for better levels of confidence and reassurance in actions taken as there was a greater sense of shared responsibility which helped to alleviate the burden associated with taking on a protection referral by oneself:

> *"It's a good approach...you don't feel like you're handling this high welfare case on your own."*
>
> ***-Housing Authority social worker 1***

Having internal information sharing processes in place can also help reduce the likelihood of erroneous reports going forward. In services/organisations where child protection committees were in place, internal social work teams existed (for example, the housing authority and hospital) or structures that ensured all concerns were passed on by a central figure such as the designated liaison person (DLP). Concerns were therefore screened and 'treated' before entering the official system. Some participants spoke of a system akin to a filtering or funnelling process whereby suspicions were passed through a senior figure or team and assessed at an intermediary level for appropriateness as a child protection concern:

> *"You can see that you're not trying to report everybody, you're just trying to sieve out the ones that really need help"*
>
> ***-Public health nurse 2***

International research by Chen *et al.* (2010, p.1668) supports this finding in a study which examined the contribution of a hospital child protection team in determining suspected child abuse and neglect. The analysis found that the "risk of erroneous reporting based on initial impressions...is dramatically reduced with the involvement of members of the CPT[97]".

---

[97] Child Protection Team.

(ii) External Practices

Both external and internal sharing of information and discussion of suspicions were seen to alert other individuals and prepare them to look out for a potential concern. In situations where a concern was foreseeable or likely, sharing this information helped to forewarn other individuals engaged with the child. It signalled others to the possibility of it and ensured a broader network was watching out for any other subtle signs or symptoms that would support the initial suspicion:

> *"What I have found is, that our suspicions of something not being right, are very often discussed at the year head meeting and sometime there-afterwards a disclosure could be made and it's kind of about adding up the pieces. Like the student's name will have been mentioned, saying there's something not quite right here and we would be...very kind of alert."*
>
> ***-Secondary School Teacher 1***

Collective processes were also observed as being beneficial because they helped avoid repetition or duplication of work by different services while also ensuring that all those involved in the child's life were kept up-to-date on any developments or changes:

> *"We...have an inter-agency meeting with all the services that are involved with the family, with the HSE as well, with the client as well, so anything that has come up is discussed and they can talk and listen to everybody, so everyone isn't doing the same work."*
>
> ***-Housing Authority social worker 2***

Where multi-agency approaches and networks of expertise did exist, they were believed to be generally dependent upon the perceptiveness and willingness of frontline professionals and operational staff to promote and maintain its existence. The lack of structures or supports in place to formally encourage the interlinking of services or multi-disciplinary platforms was noted. The development of collaborative engagement around child protection requires local personalities to foster working relationships and promote co-working on the issue within their own environment. This will only be possible though, where willingness to share information, liaise and create familiarity and promote contact is present:

> *"I feel that...guidelines are great...but...you can't beat when organisations are...afforded the opportunity to work together to actually meet you know, and sometimes that can be very tough lately because of the recession...but luckily enough like I don't mind driving out anywhere."*

-Youth worker 1

The onus appears then to be on frontline workers, organisations and services to seek out and create the necessary links and lines of communication needed to ensure multi-disciplinary work around child protection and information sharing. Frontline services are therefore required to have a certain level of enterprising skill to foster the development of networks.

(iii) Data Protection Restraints

While there was a strong sentiment expressed by the majority of participants that information sharing and inter-agency collaborative work is a critically beneficial method of establishing and confirming suspicions, there were identified drawbacks associated with the process: namely data protection restraints. On the one-hand there appeared to be flexible interpretation around the issue, particularly by public health nurses, while participants from certain non-statutory, youth work projects had very rigid, inflexible perceptions around data protection.

Public health nurses were observed to have relaxed attitudes towards the sharing of information because they regarded it as a practice that is in the best interests of the child. For them, limitations around information sharing were considered to act as an obstruction to effective practice and protection, while confidentiality was said to be incompatible with collective approaches and teamwork. Consequently liberal practice around data protection was utilised and confidentiality was perceived as a pliable issue rather than a strictly absolute one:

> *"Like if you're worried about a case, or if you just want a second opinion you don't have to mention names...so you're not really...betraying confidentiality. You know there's ways around data protection and confidentiality."*
>
> ***-Public health nurse 1***

On the other-hand, it was noted that participants working in non-statutory organisations observed very strict protocols on the sharing of information and data protection. According to one of the youth-reach participants external and internal discussion only occurs in exceptional circumstances. Professional standards around confidentiality and collaboration appear to be at odds then within different sectors and disciplines, ranging from perceptions that data protection is a tractable guideline to contrasting views that it is an unyielding protocol:

"If it's a child protection issue you don't discuss it with anybody else. You discuss it with your manager and that's it...I'd be very, very slow to share any information...I think everybody operates under the guise that...confidentiality is so massive...it's very sticky."

-Youth worker 4

The varying interpretations and understandings around the limits of information sharing highlight the lack of clarity and agreement on the issue of confidentiality within the context of child protection. In many instances then information sharing can be restricted because of fear around confidentiality breaches or a lack of understanding about what is acceptable information sharing:

"There's this whole ethos about data protection about what you can and what you can't do and different organisations...would be reluctant to give information to the Guards...The data protection Act is particularly unwieldy...it's very complicated, it's very wordy...you'd nearly have to be an academic or a lawyer to understand it, the ordinary Joe-soap really can't understand it."

-Garda Inspector

Information sharing and inter-agency working have regularly been identified as a problematic issue in child abuse and neglect inquiries. The Victoria Climbié inquiry in the UK outlined that professionals felt restricted in sharing information with each-other unless there was certainty that they were dealing with a child protection issue (Laming, 2003). In Ireland, the recent Roscommon Child Care Inquiry found that "staff worked in 'silos' sharply focused on their own piece of work and in some instances without a clear understanding of the involvement and role of other professionals with the family" (*Gibbons et al.,* 2010: p.73). From the field research it was apparent that this continues to be an enduring difficulty within child protection practice and exchange. There still appears to be prominent levels of hesitancy and reluctance to share information despite recent updating of the Children First guidelines on the issue. A group of social workers confirmed the tendency of some organisations, agencies and professionals to withhold information or only offer slivers of information:

"Medical authorities can be very difficult to get information from...specifically...doctors...sometimes...small schools...can be very sort of anxious about making reports...and sometimes we'd be looking for information from addiction services and we would find that quite difficult...to get."

-Social worker 3

As a result of deviations in understanding around confidentiality and the lack of consensus on what can and cannot be shared, only partial pictures of the child's circumstance exist and there is often limited awareness of the other agencies involved with the child. A youth worker commented that the absence of any forum to encourage inter-service engagement around individual cases has, on occasion, resulted in a barrage of different services overwhelming and bombarding families:

> *"There's a stream of people coming to the door...they might have Barnardos involved for the younger siblings, then there could be a few different agencies involved for older ones and social work coming and they don't know who's who in the end...and they just kind of go: 'oh, kind of sick of everybody, don't want anyone near me',...and the young person can be the same."*
>
> ***-Youth worker 3***

As a result it is feared that *"a child can fall between [the] cracks because no-one's sure who's working with the child"* (*ibid*) while the "number of services going into the home may [lead] to a false perception that everything possible [is] being done" (Gibbons *et al.,* 2010: p.73).

Conclusion

In consideration of the fact that legislation on child protection reporting is pending, it was important in this chapter to examine how signs and symptoms of concerns are picked-up on by those frontline workers engaging directly with children and their families. Assessing the capability of prospective mandated reporters to accurately detect abuse gives a good indication of the quality of reports social services are likely to receive. In light of the experience of other jurisdictions that have adopted mandatory reporting and experienced an increase in over-reporting of frivolous concerns, it was particularly important to establish the perceptions of frontline workers around what does and does not constitute a child protection concern. In addition it was important to outline how complex and precarious the presentation of child protection can be and to highlight the challenges encountered by frontline professionals when determining its existence. It is imperative that those mandated to report have the confidence, skills and ability to distinguish genuine cases of abuse from non-abuse related signs and symptoms. As the present chapter has just highlighted, the manifestation of abuse signs and symptoms can be speculative, ambiguous and contentious, underlining even further the need for expertise and knowledge when trying to detect the presence of abuse.

From the data it was observed that detection can be an evolutionary process that involves movement from initial suspicions to the use of processes that help probe and investigate the tentative concern further. Presentation of abuse and neglect emerge as a complex interplay of behavioural signs, familial stressors and surrounding environmental factors. Each helps to raise the suspicion index while also grounding the suspicion in more concrete circumstantial evidence that supports and reinforces the belief that maltreatment could be the root cause.

The chapter illustrated how collective processes are inconsistently employed across the sectors examined. The level of collaborative engagement was determined by the ethos of the organisation and its attitudes and interpretations towards confidentiality and data protection. Where internal and external communication was encouraged, case building strategies were considered to be strong, progressing an initial suspicion from something tenuous to something more concrete and evidence-based. On the other-hand, in organisations/services where there was strict interpretation of confidentiality communication was linear and restricted to exceptional circumstances. This suggests that, despite policy developments on the issue, practices around child protection communication and multi-agency working continue to inhibit information sharing.

A number of inhibitors and barriers were also identified from the qualitative data which indicate the predominantly insubstantial and sketchy presentation of most abuse concerns. In terms of mandatory reporting this information is important because it highlights the fact that presentation is neither straight-forward nor apparent. Instead it suggests that professionals are faced with challenging, complex and ambiguous scenarios whereby they must try to navigate their way through flimsy, inconsequential pieces of information in an effort to establish whether there is enough basis for a concern.

Overall the chapter suggests that mandating individuals to report abuse concerns will be much more problematic than anticipated. Reporting is dependent on the reporter accurately and confidently detecting the presence of abuse. From the data it appears that a substantial level of expertise, professional discretion, analysis and skill is

required to reach this stage of the reporting process. Based on the evidence exposed in both this and the previous chapter, it could be argued that a considerable proportion of those being mandated to report will not have the training, confidence or capacity to definitively establish the presence of abuse to a point where inappropriate reporting can be avoided.

The following chapter will consider how professionals arrive at a decision to make an official child protection report. It will examine the risk assessment strategies they develop when determining the utility of notifying child protection services and the difficulties encountered when engaging with social workers, that can impact on future decisions to report.

Chapter 8:

Reporting Determination and Consequent Actions

Introduction

The last stage of the reporting process identified by the frontline professionals in this study was to decide whether or not to engage in the child protection system by making an official report to social services. This transition from detection to reporting involved a complex interplay of cognitive reasoning and risk assessment by the majority of participants interviewed. The data suggested that making the decision to refer a child protection report entailed multiple considerations, challenges and appraisal by the individual reporter before engaging with the system. Upon interaction with social services, a number of further observations were identified which suggest that initial contact with the system causes additional challenges to the reporting process and can, at times, significantly impact on future reporting approaches.

When reporting is placed on a mandatory footing here in Ireland, it will be essential to understand why some individuals do or do not make a report in order to appreciate how mandatory reporting will affect current practice. This chapter attempts to gain an understanding of how decisions to report come about and what factors influence this decision. In addition it aims to shine a light on professionals' perception and experience of interacting with child protection services and how this engagement impacts on future reporting.

When conducting interviews with the participant population the following issues were put forward for discussion:

- Conflicts/challenges encountered when deciding to report;
- Types of concern most reported;

- ❖ Thresholds required to instigate a report;
- ❖ Repercussions from making a report;
- ❖ Experience of making a report: steps taken, information provided and broaching the issue with parents/adolescents;
- ❖ Experience of reporting to social work.

The findings were structured into two main headings. The first deals with "Transitioning from an initial suspicion to formal reporting"; an examination of the decision-making processes drawn on by individuals and the factors that both motivate and inhibit a referral. The second half of the chapter looks at "Consequent Actions-Engaging with the Child Protection System"; how referrals are constructed and participants' experience of their involvement with social services.

Transitioning from Initial Suspicion to Formal Report

Finlayson and Koocher's (1991) case-study of doctoral-level paediatric psychologists' reasons for reporting child abuse showed that respondents were more likely to suspect than report abuse at every level of symptom presentation. Despite a clear legal mandate, it was revealed that clinical suspicions were not always enough to spur many of the respondents into reporting those suspicions to the authorities. The current research data echoes this finding, suggesting that while signs and symptoms are being detected and recognised, they do not inevitably result in a child protection report. Examination of the subsequent treatment and management of concerns post-detection indicated that a number of cognitive reasoning and risk assessment processes were engaged in by participants in an attempt to ascertain the most appropriate action. Decision-making processes were identified as a central feature in the majority of individual's efforts to calculate the value of making a report.

Decision-making Processes and Risk Assessment

For the majority of individuals interviewed the requirement to make a child protection report was viewed, not simply as a straightforward notification to the authorities, but an obligation to make a potentially life-altering decision on a child's future:

> *"Anything that you have to report...you're going to be afraid because...it's a big step to make...once you make that call...everything changes then."*

-Childcare provider 4

The decision to make a referral was accordingly portrayed as a multi-dimensional process that involved the management of numerous considerations around anticipated outcomes and the mediation of competing issues. The presentation of concerns was viewed as precarious, unpredictable and complex meaning that the equivalent responses must be flexible, tailored and reasoned.

Risk Assessment and Reporting

This section outlines the risk assessment approaches employed by professionals to decide the utility of making a report. A number of theories exist within the academic domain of psychology to explain peoples' decision-making under risk and uncertainty. The general assumption is that decisions are based on human rationality which satisfies the basic requirements of consistency and coherence. Expected Utility Theory (EUT) purports that the utility of a risky prospect is equal to the expected utility of its outcomes (Tversky & Kahneman, 1981); in other words, when faced with a choice, rational decision-makers will choose the option that yields the highest expected utility. Under this model, losses loom larger than gains and so aversion to large scale risk is a common feature of peoples' decision making. Choice theories assert that people assess the desirability of possible outcomes of choice alternatives by integrating this information through some type of expectation-based calculus to reach a decision (Loewenstein *et al.* 2001: p.267). This is effectively a cognitive activity that employs consequentialist reasoning to consider the anticipated outcomes. Accordingly feelings triggered by the decision-making process and imminent risk are said to be epiphenomenal (feelings are not integral to the decision) (*ibid*).

However, Loewenstein *et al.* (2001) propose an alternative hypothesis of "risk as feeling" which asserts that the immediate, anticipatory emotions[98] experienced at the moment of decision-making can often drive behaviour. Individuals' emotional reactions to imminent risk can therefore diverge from their cognitive appraisal of that risk. So while the consequentialist model assumes that people attempt to predict the outcomes of alternative courses of action and subsequently choose the option that

[98] Anticipatory emotions are the immediate, visceral reactions to risks and uncertainties (Loewenstein et al., 2001).

produces the most positive result, alternatively, the risk-as-feeling model assumes that gut instincts experienced at the moment of decision-making can play a critical role in how an individual chooses. In the context of the current research it is argued that both models can be employed to help illustrate how professionals make decisions to report when faced with different child protection concerns.

Risk-as-Feeling Model

In terms of severe 'reportable'[99] concerns that are blatant and immediately recognisable it is proposed that anticipatory emotions drive responses as described under the risk-as-feeling model. Where presentations were glaring and obvious and the child was considered to be at risk, participants were noted as being driven by their immediate concern for the child's welfare, basing decisions on their 'anticipatory emotions' at that moment:

> *"I remember one case and it was so bad...my God, it was horrific. It was a young traveller. She came...into the centre that morning and...I remember her pulling up her top and showing us all these whip marks on her body...the father whipped her...we of course got the guards and the social workers and everybody in to this one. We couldn't let her go home that evening; we had to put her into care."*
>
> ***-Youth worker 1***

Situational variables such as vividness of presentation and the time interval between decision and the estimation of further harm occurring to the child have the effect of increasing such visceral responses (*ibid*). From the interview data, this reflects the type of circumstance in which explicit 'reportable' concerns emerged. The conditions were generally described as being heated or frenzied and the immediate safety of the child was in doubt:

> *"A client...who had a fierce drink problem...his wife told me he'd hit his seven year old daughter, he boxed her...I was trying to get social work during the day and I couldn't get them and I rang the guards that night...I was really worried...he was quite...obstructive and angry...I'm worried about him and his kids."*
>
> ***-Alcohol Addiction Counsellor 1***

As a result responses were observed as being instantaneous and driven by anticipatory fear for the safety of the child.

---

[99] See previous chapter for more detail.

Consequentialist Model

In relation to more tenuous, 'theoretical'[100] concerns, the consequentialist model of anticipated outcomes is more relevant. Where presentation of child abuse signs and symptoms were speculative and indefinite, participants were observed as engaging in more cognitive rationalisation processes reflective of the dominant model of expected utility. Loewenstein *et al.* (2001: p.275) use insurance purchase behaviour to illustrate how decisions are made under the consequentialist framework. They argue that insurance purchases depend on the anticipated magnitude of loss, its probability, the cost of insurance and the consumer's wealth and risk tolerance. Accordingly, in situations where symptoms were vague and the professional's suspicions were questionable, responses were more delayed and assessments more strained because of the various possible outcomes of making a report.

A number of participants, in education and health in particular, noted that where evidence of a concern was flimsy, the process of transitioning to a report became laboured and difficult because of the multiplicity of possible positive and negative outcomes that could arise as a consequence of either decision. Similar to the insurance purchase framework the participants engaged in cognitive reasoning and consequentialist appraisal. Decisions were based on the magnitude of loss: should they choose not to report they could potentially be enabling the abuse to continue:

> *"It still continues and you're in that predicament then: God, this is going on but I've known what they're going through."*
>
> ***-Childcare provider 3***

While on the other-hand, should they choose to make a report they could be exposing the child to further harm:

> *"It can be a conflict, because you think sometimes in the short term you could be doing more harm than good, particularly...when services can't...cope with the levels of cases...and...a young person could be left in danger, particularly if the parents realise that a report has gone in."*
>
> ***-Youth worker 7***

Reporting of an initial concern that lacks substantive evidence was considered a precarious move with a greater level of risk attached. A number of the GPs

---

[100] *Supra.*

interviewed described how they would hold-off on initiating a referral until more manifest evidence arose to support their concern:

> *"And you'll get cases that are more...difficult to prove...I think my suspicions would be raised, I'd be fairly on the ball but I wouldn't be that confident about going forward with it, unless I had hard evidence."*
>
> ***-GP 1***

This finding is supported in a study of psychologists' compliance with child abuse reporting laws by Kalichman and Brosig (1993: p.89) which found that 57% of those surveyed believed they had a responsibility to find supportive information about the occurrence of abuse before reporting.

The gravity and seriousness attached to making a referral can therefore cause some individuals to wrestle with the prospective consequences from a report. From the data, it was clear that reporting is certainly not an easily prescribed process. Instead responses alter because they are dictated by the nature of the concern and the quality of the evidence to support it.

While the above discussion examines the different psychological processes and risk assessment strategies involved in reaching a decision to report a number of different factors were also identified which heavily sway and influence these subjective rationalisation processes. Furthermore, several motivators and deterrents were observed as the central elements which direct these decision-making pathways.

Motivators for Reporting

Strict Interpretation

A small proportion of participant interviewees noted that they felt comfortable with making a referral. These were generally youth workers in non-profit organisations, those working in large organisations (such as hospitals) where clear internal structures were in place, and a small number of individual professionals such as public health nurses. They could be described as individuals who "consistently reported" (Kalichman & Brosig, 1993: p.90): those who were more likely to report a concern, even when based on subjective suspicion. The data demonstrated that, for some individuals, the benchmark employed was to err on the side of caution, even when it was a minimal concern:

"I always refer early, I mean even on those cases it's better to refer even if they don't meet the threshold."

-Public health nurse 5

In comparison to many of the other participants, particularly GPs, who were noted as being very reluctant to report until concrete evidence was at hand, 'consistent reporters' take a strict interpretation approach to reporting. For them, the function of a referral was not to alert social services, but instead to instigate further investigation into the severity of the concern. Narrow interpretation responses and fencing off of boundaries of responsibility helped to facilitate the decision to report and eased the burden others associated with it:

"It isn't for me to judge whether or not anything had ever happened with that child, so for that reason I made the referral."

-Youth worker 3

For 'consistent reporters' then, reporting was a non-negotiable process which pushed the concern forward in order for social services to establish whether there were grounds for greater concern.

In contrast, however, one youth worker remarked that the rigidity of limited responses equally entails the reporting of questionable suspicions that are knowingly unreliable, thus placing the reporter in a difficult and compromising position:

"But sometimes even if you know a story has no weight, you still have to go ahead and follow the procedure and make the referral."

-Youth worker 4

Confidence and Comfort in Reporting

Research has shown that decisions to report are also critically influenced by the professional's degree of comfort in the reporting process. Vulliamy and Sullivan's (2000: p.1469) study of paediatricians' experiences with the child protection system revealed that the number of reports made by physicians was higher when respondents felt comfortable reporting to the child protection system. Similarly a small proportion of participants in the current study, predominantly in youth work and nurses located in hospital settings, spoke of how clarity and simplicity on reporting structures aided confidence and willingness to report:

"It's comprehensive...the thing with [name of youth-reach organisation] is that...our line manager is the person that makes the report. So we just fill in the reports, bring

them to the manager and she forwards them. So in that sense, anything that staff might be unsure of, it goes through the manager anyway."

-Youth worker 5

In addition, co-location with social workers was seen to foster comfort with the requirement to report and provide better understanding of how social work departments process a report. A number of speech and language therapists spoke of how proximity and collegiality with the social work team encouraged open discussion and dialogue around preliminary suspicions; removing the usual formalities surrounding reporting:

"When I was working in another place...social workers were literally down the hall, so it felt a bit safer, you can just run down and talk to them."

-Speech therapist 4

Advocacy and Ethical Obligations

A small proportion of interviewees, within the justice sector in particular, spoke of having a strong sense that reporting abuse or suspicions was an ethical obligation that they were morally compelled to undertake. As Feng *et al.* (2009: p.408) outline, it is because the professional feels they have a "responsibility to protect students from harm and to advocate for their welfare". The authors' study of Taiwanese teachers' observed that interview subjects saw reporting as defending children's basic human rights and advocating on the child's behalf to ensure those rights were upheld. Similarly, one Garda participant remarked that: *"children don't have a voice; it's our responsibility to be their voice"* (Garda 4). Accordingly, a failure to report was perceived by some as enabling the continuation of the child's abuse:

"You're colluding with the person that's doing it if you're not reporting it, and so...if you ignore it...you're allowing it to happen."

-Young Person Probation Worker 8

This is reflective of 'consistent reporters' who are seen to associate reporting laws with the upholding of child protection (Kalichman & Brosig, 1993: p.90). Correspondingly, Finlayson and Koocher (1991: p.469) found that ethical and moral obligations to ensure the child's safety had an extremely strong effect on paediatric psychologists' decisions to report.

Avoiding Bad Publicity

It was occasionally observed, by a small proportion of participants in child care, education and health, that reporting can sometimes be prompted by less charitable motivators such as the preservation of their professional image. Part of the purpose for reporting was identified as removing the individual or service from any association of liability or omission on their part to take action when a child's welfare was in question. When a concern arose that suggested the child may be in a harmful situation, there was a recognised need by some individuals to be seen to take action in an attempt to avoid being viewed as negligent or partially responsible for the child's continued exposure to abuse:

> *"I need to report...look, if I'm wrong I'm wrong but...you have to understand that this is where I'm coming from, this is my career...the welfare of the child is my priority when they're with me and I have to report it."*
>
> ***-Childcare provider 7***

Reporting can therefore, in limited circumstances, be motivated by the fear of being labelled professionally incompetent. The failure to refer was associated by some as exposing oversight on their part to recognise a child's welfare was at risk while under their care. This was confirmed by a Principal social worker who encountered the defensive practice of professional preservation:

> *"A principal in the school...her attitude...was...'I'm going to report in everything'...So you can have people coming then from a very fixed position...that...'I need to cover my back...because if I don't do something and then it's found that something is wrong, I'll be held accountable for that'."*
>
> ***-Principal social worker 2***

Deterrents against Reporting

In contrast, a much larger proportion of the interview population for this study discussed having a number of reservations around various different impacts they either experienced or anticipated arising from reporting. While these factors were identified as potentially reducing the desire to report by casting doubt on its benefits, nevertheless, there was a strong sense amongst all participants that they would always report when it was in the best interests of the child. Professionals who discussed uncertainty and hesitancy around reporting could be likened to Kalichman and Brosig's (1993: p.91) "inconsistent reporters" who were less likely to report

because of an insufficient quality of evidence and the possible effects reporting might have on the family.

In terms of this study, participants' consistent compliance with reporting obligations was put into question when the different implications for the child, family, self and service were considered. A number of personal conflicts were also noted as arising for the professional when trying to weigh-up the utility of reporting.

Misjudgement

For some individuals (childcare providers, Speech therapists and a GP), the fear of making an error and mistakenly suggesting a child was being abused or neglected was considerable and, to a certain extent, was seen to impact on their willingness to refer; a finding echoed by Lazenbatt and Freeman (2006) in their examination of primary health care professionals' reporting of child physical abuse. This was because there was an estimation that false positives could set in motion a process that caused unnecessary and intrusive disruption into a family's home life. The weight associated with making an accurate judgement call is therefore a burdensome one because of the perceived detrimental implications for the family should the professional misconstrue innocuous symptoms for abuse:

> *"My fear would be getting it wrong and causing this massive hullabaloo... what happens if you're wrong?...you've put this family through [a] massive ordeal, you're getting social workers involved, but you were afraid of not reporting."*
>
> ***-Speech therapist 2***

Implications for Professional Relationships

For a large proportion of participants, especially those in health and youth work, there was a discernible fear that reporting would irreparably affect the professional relationship built-up with the child/young person and family. It was understood by those that discussed this element of reporting, that a referral could potentially change the dynamics of their relationship with the parties involved by putting into question the integrity of their working relationship. Nayda's (2002: p.173) study of Australian nurses reiterates this fear as interviewees indicated that "concerns about a report resulting in the severing or damaging of relationships with families" were "intense". Additionally, Lazenbatt and Freeman (2006: p.232) found that 21% of healthcare

professional's surveyed pinpointed "fears of a breakdown in the practitioner's relationship with their patients/clients and their families" as one of the barriers to reporting. Reflecting this, a group of hospital social workers spoke of their fear about the impact of reporting on their relationship with the family, particularly where there has been long-term engagement. There was noted concern that reporting could irreversibly jeopardise their professional relationship, dissolving the trust established over an extensive period of time:

> *"If you're a HSE social worker, you go in and you say to parents we have a concern that your child isn't doing this, this and this. They then leave the home... for the nurses here and the doctors and for ourselves, the reality is that that child might be with us...every 3 months, for the rest of their lives while they have that condition...so...you want to maintain a relationship with them, yet you have to tell them that you've got concerns."*
>
> ***-Hospital social worker 5***

Direct Implications for the Child

As a result of breakdowns in trust and the dissolution of professional relationships, a large number of interviewees commented on the fear of subsequent negative repercussions for the child. There was concern that reporting could result in the child being withdrawn from the service in response to a referral; that the child would be used as a tool by the parents in retaliation to a report being made. The potential for flight-risk as a result of reporting was considered one of the most concerning implications arising from a report to the statutory authorities because it could further isolate the child and put them in even greater danger because they are no longer receiving the support they need. Finlayson and Koocher's (1991: p.471) study affirms this fear. In their research psychologists who were noted as not reporting highly specific cases of sexual abuse attributed their refusal to refer to a fear that "premature reporting might cause the family to flee from the evaluation".

From the current data it was apparent that the professional relationship with the child was considered tentative and easily susceptible to damage in situations where their attendance is voluntary and contingent upon the parents' willingness to ensure their attendance-something that is put at risk by reporting:

> *"I would have a fear...that if I do this...it's going to result in the young person not being a part of the project anymore or, the parents withdrawing the young person*

from the project...it's a risk and that's why I think referrals are so difficult to deal with."

-Youth worker 3

Withdrawal was viewed by professionals as potentially endangering the child further by ostracising them from important services critical to their development. It was thought then that reporting could potentially have greater negative impacts for the child where they are severed from the service. Maintaining contact and access with the family was therefore highly valued by many of the participants because it ensured the on-going surveillance of the child:

"[We] worry that they wont come back to follow-up and we found that has happened with children...and then the child ends...up suffering...or else they walk out of emergency...A lot of the course we're teaching[101] *is about not letting them run, how to keep them in [the] hospital setting so we can manage the situation...[that] they don't go straight out the door and do...something to the other children."*

-Consultant Neonatologist

Implications for the Service

A large number of participants in childcare, health and youth work in particular, considered that the impact of reporting could extend to the service/organisation and its reputation within the local community. Individuals operating in close-knit communities were observed to be particularly concerned about the perception of their service within the community post-reporting. It was considered difficult to conceal referrals in smaller areas where the continuity of the service was reliant on good relations. As a result, it was feared that the image of the service could be damaged, deterring others from engaging or confiding in the professional:

"Ours is a voluntary service...other parents could be very, very put off in terms [of] their young person accessing the service. I suppose it also would have consequences for...engaging new people...that if you have been known to kind of make a report...it has implications for trust and all those kind of things."

-Youth worker 5

Fear for Personal Safety

While the majority of individuals interviewed were willing to report where it was in the child's best interests, many did express latent and underlying anxiety around the possible personal repercussions of making a report. Amongst those in childcare,

[101] Referring to the child protection training course for pediatric residents.

youth work and health there was a small but strongly felt fear that, as a reporter, the professional could potentially be susceptible to risk from familial retaliation. Either experiencing threats first-hand or witnessing other colleagues being exposed to aggressive reactions by reported families left many feeling vulnerable and apprehensive of engaging in the child protection system:

> *"There was one case...in the past that I had fears for myself and that was around my own safety because...what was in the report was quite severe...I was threatened, verbally threatened so I was very uneasy around that."*
>
> ***-Youth worker 3***

Becoming the reporter can therefore be daunting for individuals, particularly when the professional is aware the family they are reporting have a reputation for violence or aggression. By initiating a protective process, they themselves ironically become targets and are left feeling vulnerable and exposed to risk:

> *"There are a lot of child protection concerns but people are too scared to report them...So I wonder about those cases and those particular pockets around Dublin and the wider areas, where there are the gangs and there is that control and fear factor."*
>
> ***-Hospital social worker 5***

Reporting Conflicts

(i) Plea for Secrecy

Reporting conflicts were seen to arise in a number of different circumstances. One specific example was where professional obligations to report conflicted with the young person's plea for secrecy. It was observed by those in youth work and education that the young person's fear of their abuse being revealed and their appeal for secrecy can place the professional in a challenging position:

> *"I know at times it's very difficult to refer because they're saying 'please, please don't say that to anybody, please don't say that to anybody',...but you have to."*
>
> ***-Youth worker 1***

The secondary school teachers' focus group highlighted the particularly compromising situation that they can find themselves in at times: whereby efforts to encourage students to be open and honest about their experiences, could inadvertently place the teacher in an awkward position. By endorsing candour amongst the student body they are simultaneously creating a scenario where they are obliged to abuse the trusting environment in which the information was confided:

"If you have a particular subject like SPHE, if you're intending to cover various topics and you want a certain honesty from students around the area in question and a student suddenly says-'Well, you know I'm being honest here, I did such a thing at the weekend', blah blah blah...and all of a sudden you're thinking child protection! What do I do here? How do I deal [with] this?...is there an element of betrayal?"

-Secondary School Teacher 3

It was feared that reporting on foot of encouraged transparency will only serve to mar how they are perceived and diminish any level of trust established with the students. There was concern that breaching confidentiality would discourage future concerns and spread a culture of distrust and scepticism amongst the student body.

(ii) Betraying the Family

The prospect of reporting a family for child protection concerns was associated with sentiments of guilt and remorse in some of the participants' interviews (childcare workers and youth workers). The experience of reporting was sometimes accompanied by feelings of responsibility for the child being removed from the home. It was expressed as a difficult and upsetting process to have to engage in due to feelings of disloyalty:

"It's hard to work with kids and not to feel bad that they [have] been taken from the home."

-Childcare provider 9

However, these feelings of remorse were generally balanced with an assumption that their actions were in the best interests of the child; so while the act of reporting can trigger regret and blame in the professional, this may be offset by recognition that the long-term welfare of the child is being addressed.

(iii) Conflicting Standards of Acceptance

Responses to alleged abuse were noted as varying depending on the identity of the alleged perpetrator. The focus group of sports participants discussed the conflicting standards of acceptance around abusive behaviour attached to intra-familial abuse verses extra-familial abuse. While abusive behaviour is always considered unacceptable, it is the connection between the child and the alleged perpetrator that dictates the professional's response. The parental label was observed as having significantly more influence over the willingness of professionals to refer than if the accused person was a member of a sporting club:

"The difficult[y] is when it's the parent...if that had been an adult, just another adult, punching that boy in the face, I bet you...people would be: 'you cant do that', but the moment you attach this label 'parent' it becomes: 'oh well, that's between them'."

-Sports participant 5

Failure to Transition

In contrast to reporting deterrents which highlighted participants' estimation that reporting would cause more harm than good; failure to transition represented professionals' reluctance to report because of fear, uncertainty and avoidance of the process, despite reporting being in the child's best interests. The majority of factors associated with failures to transition or delayed reporting were mainly attributable to human error and individual fallibilities rather than any malicious effort to conceal the suspicion.

Psychological Barriers

A small proportion of participants in education, childcare and youth work outlined the personal conflicts encountered when faced with the possibility of a child protection concern. There was a noted propensity for some to distance and extricate themselves from both the issue of child abuse and the child protection process:

*"**Childcare provider 5:** I'm kind of in denial about it slightly...I don't want to know about it...*

***Childcare provider 8:** Who wants to deal with this kind of stuff? On a daily basis?"*

For these participants the mentality and disposition towards child protection was one of overall fear and distress. There appeared to be a pervasive sense of panic and aversion to the issue which in turn propelled some into a state of anxiety. For junior or newly qualified staff it was apparent that the issue was particularly upsetting and the occurrence of a child protection concern within their remit was portrayed as daunting and overwhelming:

"I suppose my opinion on it would be, child protection, it's a very, very stressful area when it does occur and I suppose ...if I'm totally honest with you, I think it's something that when it happens it can strike a sense of... panic."

-Youth worker, Sexual Health Initiative

One of the childcare providers interviewed suggested that these anxieties were more likely to be experienced by professionals who have the least experience reporting and

whose fears tend to be conceptualised through hearsay rather than experience. The predominant discourse around child protection is said to be negative, compelling preconceived notions about what reporting is like. Fears were said to be situated in a hypothetical construction that over-emphasises the act of reporting. These misconceived perceptions were identified as influencing the level of unease associated with the reporting process:

> *"Like sometimes that's...the whole culture of child protection...if you're so fearful of making a report, you're actually investing too much emphasis on the report...I mean...if a Doctor sends you for a blood test, you don't immediately take the hump, you know, you have an idea that this [is] something that is going to be beneficial and I think changing that culture...is a really hard thing."*
>
> ***-Childcare provider 13***

Delaying Reporting

Lack of Clarity

Delayed reporting by some participants, across the majority of sectors, was confirmed by social workers as a regular occurrence. A number of reasons were attributed for this by professionals, namely, hesitancy and uncertainty about when it was appropriate to transfer a suspicion into the official child protection system:

> *"It was...very difficult... I still felt a little bit hesitant and said: should I, should I? You know, you're always: will I? won't I?"*
>
> ***-Alcohol Addiction Counsellor 1***

Delays were repeatedly recognised as a barrier to initiating the child protection process in a timely manner. A pre-school inspector identified that some childcare services were detecting concerns but simply documenting them; overlooking the need to pass that information on. There was an unconscious failure to recognise the need to transition from information gathering to formal engagement of the child protection system. As a result, some individuals were found to be retaining possession of information that should have been referred into social work for assessment:

> *"You'd have asked them [childcare providers] what they'd do if they had a concern and [they would] say things like: 'Oh, we'd write it, we'd...put a note in the file'. But, you know, what do they do with all these notes?"*
>
> ***-Pre-school Inspector***

Internal protocol was also noted as occasionally causing delay, whereby individuals were seen to wait for their Board of management to process the concern before contacting the authorities. The bad practice of untimely reporting was attributed by the pre-school inspector to imprudent adherence to internal protocol and formality which unnecessarily obstructed the prompt reporting of concerns.

Both housing social workers and HSE social workers confirmed the propensity of some professionals to defer reporting and postpone taking action on foot of a concern. Their hesitancy was correlated with a lack of confidence about how to respond appropriately and reluctance to take ownership of the issue. Consequently many reporters were noted as waiting until *"an absolute crisis happens"* (Principal social worker 1) before notifying the authorities in an attempt to gather sufficient evidence. This was noted as significantly impacting on the social worker's ability to appropriately assess the concern and at times removing the opportunity to engage with the child or family directly after the incident occurred:

> *"Sometimes we'd get a referral in and especially if it's...[a] physical abuse referral and they're saying the child told us this a week and a half ago... obviously you've kind of missed the opportunity to meet with the child...so that doesn't help for an assessment."*
>
> ***-Social worker 1***

Age of Consent

A youth worker delivering a programme on sexual health to adolescents described how growing awareness around the issue of underage sex has caused further complication for those deciding whether or not reporting should take place. Consensual sexual activity between adolescents on the cusp of the age of consent was described as a thorny issue for frontline professionals working with young adults. Where two teenagers willingly engage in sexual activity, reporting was again met with hesitancy and uncertainty:

> *"It's complicated...in that...if there's two teenagers that are on the fringes of the ages of 17 and maybe even their parents know that the young person is on the pill, so [do] you really go and report that then? You know it's another side to it as well."*
>
> ***-Youth worker, Sexual Health Initiative***

Rationalising Abusive Behaviour

The data demonstrates that some professionals have a tendency to rationalise and excuse certain concerns as inappropriate reports. Where familial circumstantial factors were present alongside the abuse, such as mental health problems, addiction, financial difficulty or disability, professionals were occasionally observed to sympathise with the situation and make allowances. By removing the element of wilfulness from the equation, professionals were justifying the situation but equally moving focus away from the child and concentrating attention on the needs of the parents. The distinction between wilful and unintentional neglect, for example, can have a significant effect on individuals' interpretation of the concern and their willingness to report:

> *"Neglect cases...I don't think we're hearing about half of them and I think people are viewing them as child welfare or viewing them as: 'ah, sure the parents have learning disabilities or the parents have mental health problems, it's not intentional'...But we do see children who have been hugely neglected...as a result of their parents' difficulties...it's almost sort of saying: 'well, those poor parents', but sadly there's children in that as well."*
>
> ***-Principal social worker 2***

When malicious intent was eliminated from the parents' neglectful behaviour, reporting was incidentally viewed as an unfair accusation of a family simply experiencing personal difficulties.

Other professionals were observed as normalising the behaviour of the parents; overlooking concerns when they occurred within certain economic classes where standards of acceptance may be lowered because of the prevalence of abuse/neglect. Certain types of concerns were generalised and conventionalised as tolerable within specific geographic locations as being part of that environment's everyday culture and not necessarily damaging or hurtful to the child:

> *"If some of our families were to move out to Blackrock...and they were behaving as they are now behaving here, they would be escalated to a major child protection issue. But they wouldn't be doing anything different, but because the level here is of a standard- that's accepted."*
>
> ***-Public health nurse, Assistant Director***

Feng *et al.* (2012) affirm this practice in a study conducted on the challenges encountered by mandated reporters in Taiwan. The qualitative data similarly found

that professionals' sympathy for the family's hardship made the decision to report more challenging. Furthermore, Nayda (2002) details how nurses were more tolerant of emotional abuse and neglect because they were viewed as unchangeable aspects of society that parents learned as a result of intergenerational behaviour.

Safeguarding Professional Relationships

Within addiction services the defensive practice of preserving professional relationships with clients over the obligation to report was said to occur on occasion. One alcohol addiction counsellor spoke of *"counsellors being precious about their clients"* because they feared that *"if I report they mightn't come back and see me"* (Alcohol Addiction Counsellor 1). Therapeutic relationships such as this were considered to be given primacy while reporting was viewed as unethical or an attack on the core philosophy of counselling:

> *"The drugs services would be very protective of their clients, which is sometimes problematic...because they really do not divulge information when you've children at risk. You can run into a lot of difficulties with the drugs services."*
>
> ***-Public health nurse 1***

Social workers associated failures to report by counselling and mental health services with an inability by the professional to see beyond their immediate client and to associate their addiction or mental health issues with consequent repercussions for the child's welfare. They were said to have a limited perspective and to be unconscious of the connection between their profession, the client and child protection:

> *"The adult mental health services and the drugs services...come from that very traditional, medical kind of model which: 'my client is the person in front of me and that's what I'm dealing with' and they don't always view the client in a more holistic or system's perspective, where they see this client as having children...and that...their particular issue may be having an impact wider than just, what I'm dealing with."*
>
> ***-Principal social worker 2***

Second-hand Reporting

Public health nurses, housing social workers, probation workers, childcare providers and family welfare conference workers all recounted situations where concerns were transferred to them by other professionals/services in an attempt to disassociate themselves from the obligation of reporting or in an effort to avoid engaging with the

child protection system. Schools in particular were identified as regularly engaging in this practice, whereby second-hand information was passed onto another professional, such as a public health nurse. Information dumping onto other professionals was described as an attempt by some to discharge themselves of the duty and an effort to avoid accountability:

> *"I find increasingly, that schools are very unwilling to make referrals. And they are very happy for community services to make the referral and I found that to be a consistent problem and a huge problem."*
>
> ***-Childcare provider 13***

Public health nurses in particular considered themselves to be regularly used as scapegoats by other professionals trying to avoid involvement with the issue of child protection. Second-hand reporting was therefore recognised as an effort by some individuals to escape being vilified in the eyes of the family as the person who notified the authorities. In response some participants spoke of how they have begun to signpost these reporters to the appropriate authorities in order to protect themselves from information dumping:

> *"Before...they'd be jumping it over to you... whereas [not] anymore, I just say...it has been reported to you, you've witnessed it...you need to...report that allegation yourself."*
>
> ***-Public health nurse 5***

<u>Consequent Actions-Engaging with the Child Protection System</u>

Once the transition from 'suspicion' to 'decision to report' is made by the professional they must then undertake some preparatory steps before formally engaging with the child protection system. This involves broaching the issue with the parents or adolescent and informing them of the intention to report. Once this step has taken place the professional must interact with the statutory authorities, notifying them of the child protection concern. In the context of this study focus will be concentrated on professionals' exchange with social work rather than the Gardaí as this was the sole inter-organisational relationship discussed in interview. In order to illustrate the interaction that occurs when a professional makes a report to social services, this study will draw on "exchange theory" to illustrate the different dimensions to their exchange; the contingencies needed for continued exchange and an examination of the data to elaborate why the exchange between both parties is currently under threat.

Preparing to Report: Broaching the Issue

Before initiating a formal report, the majority of participants spoke of how they would inform the parents of the child or the adolescent of their intention to report. Broaching the issue with the family is stipulated in Children First as a necessary pre-condition to initiating a report. The value of transparency when reporting was underlined by the research participants for a number of reasons: firstly it helps to prepare the family and alert them to the possibility of a social work visit. Secondly, it was considered helpful when attempting to demystify some of the negative preconceptions held by some families about social services. By communicating their actions with the family, the professional had the opportunity to dispel fears and modify presumptions about the type of intervention likely to be made by social services. Thirdly, it helped to justify their own actions and redefine their intentions to report as an effort to seek out help and support for the family. Rather than being seen as criticising and condemning the family, justification of their actions allowed the professional to construct themselves as a neutral participant trying to ensure and promote the interests of the family:

> *"I'll have a chat with the young person involved and then maybe I'll ring their families and just explain what I'm going to do...usually I would try and involve them, not to be afraid of what's going to happen, that we're just trying our best to help the young person."*
>
> ***-Director Youth Service, Midlands***

Some participants noted that by framing the report as a positive step they inadvertently misled the family because the report was imprudently premised on the guarantee of help. While this will be discussed in more detail further on in the chapter, constructing reports as an application for supportive intervention can be destructive and based on false assumption:

> *"I find, in my experience that...if you get [to] that point with the person, the mother, the father, the individual, the guardian- that you raise their expectation that something's going to happen, something very positive, and that's not always the case. Filling in that report does not mean this is all going to be sorted."*
>
> ***-Alcohol Addiction Counsellor 4***

As a result, one youth worker outlined that she will not inform the parents or young person that she is making a referral to social services:

"Social [work] investigates and [they]...may or may not do anything with it. So...it wouldn't be up to me to tell the parents or child that something has gone in when nothing might come of it."

-Youth worker 5

Engaging with Child Protection Social Work: "Exchange Theory"

In order to understand the interaction that occurs between reporting professionals and social work it is necessary to frame this interaction by using exchange theory as the overarching model. The literature confirms that the dominant theoretical perspective used to explain inter-organisational relationships is exchange theory. Levine and White (1961: p.588) defined organisation exchange as "any voluntary activity between two organizations which has consequences, actual or anticipated, for the realization of their respective goals or objectives". They set out four main dimensions for an exchange situation (*ibid*: p.600):

i. **The parties to the exchange:** in terms of this study: the dyadic relationship between the reporter (professional, organisation or service) and the report recipient (child protection social work).

ii. **The kinds and quantities exchanged:** information on child abuse and neglect is reported in on the assumption that the child and family will receive intervention or supportive assistance.

iii. **The agreement underlying the exchange:** every exchange is contingent upon a prior agreement which may be explicit or implicit. Traditional approaches in exchange theory are based on the assumption that these agreements are voluntary. However Hall *et al.* (1977) extend this further to examine exchange relationships under mandated and semi-formalised agreements. It could be argued that, currently, obligations to report child protection concerns are voluntary but standardised through a formal agreement (*ibid*: p.458), namely the Children First guidelines. This child protection policy outlines, guides and structures how exchanges are to occur but the reporting of abuse is not mandated, as of yet, and based on the voluntary compliance of those professionals named within the document.

iv. **The direction of the exchange:** this refers to the direction elements flow between organisations. They can be unilateral, reciprocal or joint. In terms of child protection reporting the data indicates that the flow of elements is

experienced by reporters as unilateral, however there is a strong desire for the flow to be reciprocal.

In summary, the exchange between the reporter and child protection social work involves the transfer of information on child protection cases. This agreement is contained within the policy document 'Children First' but is based on voluntary reporting by frontline professionals. The exchange involves the transfer of knowledge from the reporter to the social worker in the aim of alerting them about possible child abuse and enabling the requisite intervention in response. However, the data shows that reporters are extremely dissatisfied with the lack of reciprocity in the exchange: despite reporting concerns to social work, nothing is happening in return: social work are not providing feedback nor are they seen to provide the interventions or supports necessary to ensure the safety of the child. Consequently, the exchange was viewed by professionals as imbalanced and the level of co-operation by social work was inadequate to consistently ensure the continuation of that exchange.

Based on the research data then, participants' believed there was insufficient domain consensus, i.e. the degree to which organisations accept each other's claims to specific goals and functions (Oliver, 1990: p.250) and reciprocity by social work to facilitate efficient inter-organisational relationships between both parties. Consequently the exchange was considered to be compromised, resulting in some professionals' unwillingness to continue engaging in the exchange because of reduced benefits arising from it. This is explained in greater detail by drawing from participants' discussion of: varying threshold standards; lack of social work feedback and lack of confidence in the child protection system.

Varying Threshold Standards

A number of participants across all disciplines noted that the thresholds they consider appropriate for intervention were at extreme odds with those of social work. Cases which some of the professionals estimated as necessitating attention were said to be disregarded by social work as not meeting their threshold, causing disagreement and concern on the part of the reporter. The lack of domain consensus on what threshold of abuse social work set out as requiring intervention was considered alarmingly high by some of the interview participants:

"Sometimes...it would have to be extremely serious, nearly life and death situation before they [HSE] will actually remove them from the homes."

-Youth worker 2

This was confirmed by a principal social worker (1) who disclosed that *"our threshold of what we actually follow-up can be very high...it is dangerously high"*. The neglect of neglect or non-physical forms of abuse was noted by the majority of participants as being a prevailing feature of social work response, unless the case had already reached crisis point. The more insidious, long-term forms of abuse were said to be effectively ignored when referred in and even the system itself was seen to be breaching minimum standards; a strong point of contention for most participants interviewed:

"It's frustrating...we were only talking this morning about how the HSE themselves are neglecting children's developmental needs in a whole range of different areas...and how's that not a child protection issue? Who do we report that to?"

-Childcare provider 25

Instead responses were seen to be crisis driven; only receiving attention when they reached a critical mass. This was described as creating difficulty for the professional who is left watching the child and family's situation disintegrate before action is taken:

"It probably...should be taken by the HSE and it's not going to be, it's not at that point, but you know it's going to get there, you've got this information and there's no intervention...to change what's happening for the family, so you know in a matter of weeks or months...that...the HSE's gonna have to get involved, it's sort of inevitable."

-Housing social worker 3

The data showed that the divergent thresholds operated by social work, left many reporters feeling that their professional opinion was being disregarded by child protection services. Housing authority and hospital based social workers especially, were left aggrieved by the lack of agreement that the concerns they reported necessitated intervention. As trained practitioners conducting comprehensive assessments that underwent rigorous internal screening of their own, these participants strongly felt that their expertise was being overlooked and their professionalism dismissed:

"The threshold bit bothers me...It has been thrashed through god knows how many hoops to be made as a referral... it seems to beggar belief really, that a referral

coming with that much weight behind it doesn't get attention, or at least deserve feedback."

-Assistant Director of Nursing

Nayda's (2002, p.175) study of nurses' reporting experiences recorded similar findings whereby the interview participants described how their assessments were discounted despite strong feelings that they had made appropriate reports: "I thought that through my professional judgement and experience, I knew sufficient to suspect that...the child was at risk...I was given a bit of a run-around actually until I dug my heels in...I have had 30 odd years of professional experience".

Lack of Feedback

For those interviewed, child protection reporting was considered to be operating on the implicit assumption of reciprocity: that frontline professionals will voluntarily report concerns and suspicions in the belief that they will be informed of the subsequent supports and interventions put in place for the child and family. Oliver's (1990: p.245) contention that inter-organisational relationships based on reciprocity need to be characterised by balance, harmony, equity and mutual support is reflective of what the majority of interview participants expected from the reporting process and helps to explain the high level of dissatisfaction with the current lack of response.

The lack of feedback from social work was one of the most resounding and overwhelmingly negative observations made by participants across all disciplines. While participants laboured over the process of detection and struggled with the decision to approach parents before making a report, the lack of response back on foot of the report left many feeling discontented and perplexed.

Feedback post-reporting was highlighted as a critical element in the reporting process for the majority of participants. Without any update many were left feeling unequipped to keep supporting the child when they did not know what, or if any, interventions had been put in place. Some participants described feeling incapacitated by the lack of feedback and subsequently restricted in their ability to provide the best support and assistance to the child and family:

"We'll have suspicions and concerns but we don't have the legal remit to push the client in certain areas, we need information...So sometimes I feel we're in a situation

and we don't really know how serious it is and we're not getting that resource to come in and explore this."

-Housing Authority social worker 1

A number of other participants in health, education and childcare also commented that the lack of feedback made them feel as though they were left *"holding the baby"* (Assistant Director of Nursing; Secondary School Teacher 3). Lack of response or perceived ineffectual responses by social work left some in a position where they felt compromised and obligated to manage the fall-out:

"You're expected to take almost...complete responsibility for a situation just because you've reported it and the next week you come in and...there's a pile of paper work...for you to follow through on with the student that's involved...It's almost as if the social workers are saying to you: 'well, look it's your baby now, it's your student'."

-Secondary School Teacher 6

In a sense then, while the participants had followed procedure and referred the concern to social services, they described feeling as though they were left to deal with the aftermath in isolation.

Public health nurses in particular expressed a high level of grievance with the lack of response from social work as it had extremely negative knock-on effects for their relationship with the family. Lack of communication or indication that the case would be followed-up was observed to complicate connections that they had built up over time, compromising future engagement with the family:

"What they'll sometimes do is go visit the family...of course we don't know...they've visited, we turn back up again to find that the family's in an uproar, they're furious and they slam the door in our face. So not only have they gone in, trampled into a situation,...the social worker has walked out and closed the door on us as well at the same time."

-Public health nurse 1

Feeling Severed from the Case

Some interviewees described feeling severed from the case as a result of no feedback. While contributing to the detection and alerting of the case, the lack of response in return caused them to feel excluded and isolated: *"we just kind of went from very involved to very outside the loop and it wasn't that nice"* (Youth worker 3). It was viewed as an unfair expectation that, despite their heavy involvement up until reporting, they should be subsequently precluded from the case:

"We...put things out there and give as much information as we would have but not necessarily get anything back...So we wouldn't know how...cases...finish off."

-Primary School Teacher 1

Lack of Reciprocity

The lack of feedback was viewed by some as social work dictating what information could and could not be shared. Response from social work was described as irregular and arbitrary, depending on the status of the case. Only where the concern had escalated and social work needed further detail or clarity was information shared. Communication back was understood by participants as being selectively shared, reliant on the individual personality of the social worker and conditional upon the return of further information from the referrer:

"We put reports in and...there's no communication back to even say they've received something, unless it's being investigated then you might receive a call...and it could take months before you get a phone call back."

-Youth worker 5

One youth worker (7) describes reporting as sending a concern off to *"never-never land"*, suggesting that some professionals perceive the referral as being swallowed up by the system. There was a sense then that many cases were being aimlessly forwarded on to the authorities while the lack of feedback only served to reinforce the fear that a large proportion of reported children were being abandoned by an inefficient system and lost in a myriad of other, equally concerning cases:

"Just report it and it would kind of disappear into this black hole and people were left with an awful lot of questions about what happened that information."

-Housing Authority social worker 3

Notably, all the social workers interviewed conceded that feedback on referrals continues to be an on-going issue for them. There was appreciation for the frustration it causes, particularly for those who might be first-time, inexperienced reporters. A number of different reasons were offered for slow or sometimes absent responses. Firstly, it was conceded that there can be a lack of clarity for social work about how much information should be shared with the reporter around case outcomes. It appeared that there was no accordance amongst social workers about when and what level of feedback is appropriate:

"That was a regular thing that social workers struggled with:...Do I give them the ins and outs of what we did?...I always say share on a need to know basis, which again is

a bit of jargon...But we don't do it all the time and we don't do it well and we need to improve it."

-Principal social worker 1

Secondly, it was put forward that responses to cases can vary depending on the social worker's caseload at that time. It confirmed what the majority of frontline participants have experienced: that social work do not have the time or resources to feed-back information. While allocated cases will generally receive a response, those placed on the waiting list were admittedly deprioritised:

"There's just not the time...I mean if you're allocated specifically to a family, you know, you're going to be in contact with all the professionals anyway. But specifically in terms of cases that are on the waiting list or being dealt with on a duty basis, it's very difficult to get the time to go back to have that conversation with the referrer."

-Social worker 12

Feedback was recognised by social work as a significant defect in the system and there was appreciation for the frustration it causes professionals. At the same time they outlined the restraints they themselves are under and the unlikelihood of how they respond to reports changing in the near future.

Jeopardising Relationships

As was mentioned earlier in the chapter, when 'broaching' the issue of a report with the parents/guardians it was predicated on the assumption that the family would receive support or intervention to help them through a difficult situation. The lack of feedback was considered to consequently invalidate the professional's attempt to frame the report in a positive light. Where social work involvement was agreed to by the family on the assurance that it would provide assistance, the lack of consequent action or feedback was considered to make the professional appear misleading or disingenuous:

"When you get to that stage where they can see a referral as being something that's going to be helpful and positive, and the danger is, that...referral is made and there isn't a response."

-Childcare provider 13

There was also concern expressed that the lack of feedback from social work would only serve to further obscure and tarnish families' perceptions of statutory services, intensifying negative views and deepening the already persistent mistrust for them

amongst the public. It was also estimated that where a referral did not result in any intervention it would compel abusive families to continue with their behaviour:

> *"If the family don't see a response from the HSE then sure it just gives them more ammunition to go and continue doing what they're [doing]...but they know the HSE are involved but aren't responding, it just...compounds the whole problem."*
>
> ***-Young Person Probation Worker 7***

Lack of Faith in Child Protection Services

As a result of the above experiences while engaging with child protection social work, the large majority of interview participants emphatically expressed a strong distrust for the service and questioned their ability to provide effective response. Many interviewees appeared disillusioned by the system and sceptical that reporting would have any significant impact on the child's situation. Overall there was a notable level of pessimism in respect of child protection social services amongst the interview population and a collective sense that the system was inherently ineffective.

Decimated Service

Social services were repeatedly described as over-stretched and under-resourced, and the few resources they did have were said to be depleted. As a result of under-funding, limited service hours and limited availability of the same social worker there was a pervasive perception of a system in a constant state of flux, unable to meet the demands being placed on it. Responses were understood by participants to be controlled by the social work department's workload at the time of referral. Depending on how inundated the service was, responses varied according to availability of staff rather than the level of concern attached to the report. In effect, reporting to the child protection system was viewed as a lottery whereby responses were unpredictable, essentially coming down to *"the luck of the draw... whether they'll get a service or not"* (Youth Person Probation worker 8).

A principal social worker interviewed corroborated this perception, confirming that social services were lacking the resources necessitated to effectively intervene and support families referred to them:

> *"There's an expectation that social workers follow up on every single one of those families and we'd all say this here, we end up going out, addressing a concern, getting a response, almost because that's our job, but actually we don't have any*

tools in the bag to give them other than that...And to me, if you follow up concerns but there isn't a back-up there to support that family afterwards... all we're doing is knocking their self-esteem more and then walking out the door."

-Principal social worker 1

However, despite a permeating sense of negativity and mistrust in social work's ability, at the same time many of the same participants surprisingly sympathised with the difficult job individual social workers must undertake. There was a simultaneously conflicting compassion for the difficult and challenging work that social workers must carry out and an understanding for the limited resources they must operate with. There was a clear separation of opinion between the professionals' perception of the child protection system as a whole and their perception of the individual social worker operating within the confines of that same system. It suggested that professionals assigned the observed difficulties and dilemmas around child protection reporting to the system itself, its structural framework and lack of resourcing rather than apportioning blame on individual social workers:

"The HSE...it's...in a complete state of flux at the moment and everybody is aware of that so it's very hard to invest a lot of confidence in how you're going to have a report received and acted upon. Having said that, individual social workers do...the very best they can in very difficult circumstances."

-Childcare provider 13

In contrast to this finding, social workers interviewed retorted that reporters were placing an unfair expectation on them to have reports acted upon immediately. Individual standards around levels of risk were said to be at odds with those of social work, which in turn, unfairly leads to frustration and dissatisfaction with the service. A principal social worker argued that a lack of appreciation for the severity of cases they are dealing with have given rise to grievance and exasperation with the system:

"I think when people refer something in there's an expectation they'll get a very quick, immediate response...and certainly...they don't always understand then how prioritisation happens within that. So something that they feel is very, very urgent, in comparison to what we're looking at, is actually not as urgent as other referrals that have come in."

-Principal social worker 2

Shaping Future Practice

While the majority of participants indicated that a lack of feedback and a lack of confidence in the child protection system would not discourage them from reporting again in the future, some questioned the purpose and utility of referring in. Continued experience of a non-interventive system that provides little response or insight into the outcome of a case admittedly *"creates an apathy about sending referrals in"* (Assistant Director of Nursing). There was a noted fear amongst some of the participants that other, less experienced individuals would be deterred from reporting again and become disillusioned by the system in general:

> *"But often you'd be on the phone to psychologists or other people...[they] will say: 'oh there's no point referring it in, we know it won't get picked up'."*
>
> ***-Medical social worker 4***

Similarly, as a result of past experiences, some nurses in Nayda's (2002: p.176) study were found to have not reported all cases of suspected abuse "knowing that reporting their suspicions did not necessarily result in action".

In addition feedback was said to be essential for informing appropriateness of reporting practices. Participants in youth work, family conferencing and childcare noted that updating on the case status would advise them firstly, on the accuracy and appropriateness of their reporting while secondly, informing them of the need to re-report:

> *"There will be concerns that have been dealt with but they [social work]...forgot to tell us about it, so then you go out and meet a family member and they tell you about something and you'd have never heard it before so you'd have to report it back in and then find out social work dealt with that two years ago."*
>
> ***-Family Conference worker 1***

Reciprocity throughout the reporting process is therefore crucial for the individual referring because, as Vulliamy and Sullivan (2000: p.1468) contend, unless social workers provide feedback about the results of their investigations, professionals will "remain unaware of follow-up services...social work skills and professionalism, and the advantages of making a report". Under the exchange theory framework, reciprocity could provide the reporter with greater appreciation for how the social worker undertakes their work and guidance on the appropriateness of their

reporting practices, because, unless the system can evidence to the reporter that referring is beneficial to the child and family, the pragmatics of reporting are lost.

Conclusion

By examining the factors that influence professionals' decision-making processes this chapter has provided insight into the cognitive reasoning and rationalisation strategies employed by professionals that sway their propensity to initiate an official report. This chapter highlighted that decisions to report are both guided and inhibited by a number of different determinants. Participants outlined that they can be motivated to report because of certain considerations while equally discouraged because of competing factors. From the data it therefore emerges that failures to report are not necessarily caused by motives to cover-up abuse but instead provoked by fear of getting it wrong, fear of causing more harm than good, fear of betraying professional relationships, unwillingness to take responsibility for the report and lack of faith in the child protection system's ability to address the problem.

The data highlights that the transition to making a report is achieved through a process of cognitive reasoning and weighing-up of the advantages associated with making a report. The participants were observed as engaging in risk assessment strategies when making the decision to refer and the timeframe in which a report was made was generally determined by the immediacy of the concern. Physical and sexual abuse cases were acted upon promptly, driven by concern for the immediate safety of the child. Non-physical forms of abuse such as neglect and emotional abuse were acted on more slowly, employing consequentialist strategies to establish the likelihood of abuse being at a significant threshold to warrant a report.

Participants who were more likely to be motivated to report were low-grade professionals working in larger non-statutory organisations with clear internal reporting structures and filtering systems that processed a concern through hierarchical chains of authority. These participants were generally comfortable with reporting and obliged to adhere to strict company policy. Other participants who had a strong tendency to always report were motivated by factors related to fear: fear of missing abuse, fear of enabling the continuation of that abuse or fear for their business being regarded negligent by letting abuse go undetected.

The data showed that those who were more likely to be deterred from reporting were sceptical and distrusting of both the child protection system and the benefits that arose from reporting. For these participants, examination of the possible outcomes was considered to generate more harm than good. Reporting was believed to possibly put the child in greater danger, put the safety of the reporter at risk, expose the family to unnecessary intrusion where the report was misjudged, jeopardise professional relationships built up with clients as well as discrediting the good name of the service within the community.

Other participants were categorised as failing to transition to the reporting stage. This was where individuals had a compelling suspicion but were unable to make an official report directly to the authorities. Failure to transition was attributed to a number of evasive tactics employed by individuals, such as delaying the report, justifying parental behaviour because of relative deprivation, safeguarding therapeutic relationships as well as second-hand reporting. The inability of some professionals to initiate a formal report was dominated by fear and discomfort of engaging with the process.

When reports to social work were made, interaction with the service was vigorously described as elusive while feedback was unforthcoming. Lack of response generated a pervasively negative opinion of child protection social work, leaving the vast majority of participants feeling abandoned after referring a child for investigation. As a consequence they felt that they were left to manage the fall-out from a report with little support or guidance from the authorities and inhibited in their ability to continue supporting the child and family appropriately. Correspondingly, the pervading dissatisfaction with social work and awareness that the service is already decimated because of lack of resources fomented a deep undercurrent of apprehension amongst the participants for the service's ability to address the existent level of child protection concern within society. The utility and purpose of reporting was put into question when, the service mandated to address child protection, was perceived to be weakened by the current economic climate.

In light of the intention to introduce mandatory reporting it is important to understand the reason why some individuals feel compelled to report and why they sometimes fail to report; the driving forces behind making a report and the unseen elements that complicate the transition from having a suspicion to engaging with the child protection system. Exchange theory illustrates reporters' assumption that engagement with the child protection system should be based on reciprocity. Without mutual interchange between the two parties and faith in the system to address the concerns being referred, mandating professionals to report will arguably have little effect on how they perceive the utility of reporting. In light of the above findings it is more likely that the factors already mentioned will determine the propensity to report, rather than mandatory reporting. Unless confidence is restored in child protection social work and reporting begins to be viewed by professionals as beneficial to the welfare of the child, then the only addition mandatory reporting will bring is a legal obligation to report, not a moral or pragmatic one (Sundell, 1997: p.103).

The following chapter, the final findings chapter, will examine what participants' understandings of mandatory reporting were. It will then consider how these understandings informed perceptions and opinions around its introduction.

Chapter 9:

Perceptions of Mandatory Reporting and Anticipated Outcomes

Introduction

This final findings chapter makes an original contribution to the knowledge base on mandatory reporting by providing insights on the impact of the introduction of mandatory reporting within an Irish context. Going further than current research, which examines mandatory reporting post-adoption, this chapter outlines both the personal positions held regarding the prospective adoption of the law, as well as individuals' understanding of the anticipated implications that will arise from it.

The data indicated that there were four distinct mind-sets when it came to how mandatory reporting was perceived. Participants fell into one of the following positions in response to the proposed law:

- Supportive;
- Oppositional;
- Ambivalent;
- Indifferent.

These perspectives were formed either by their personal interpretation of what mandatory reporting means to them or by the anticipated impacts it would have for them professionally, for the child protection system or for the child and family.

The data indicated a surprisingly equal split between those in favour of mandatory reporting and those in opposition to it. The division was attributed to varying interpretations about mandatory reporting, different conceptual ideas around the rationales behind its introduction and contrasting views on whether it will bring about positive or negative repercussions for the different parties involved in the child protection process.

During interviews, the participants were asked to discuss the following issues,

- The need for mandatory reporting;
- Understanding of the rationale behind its introduction;
- Views on the introduction of a penalty for failures to report;
- Perceptions around how to implement the law within their practice;
- What resources will be needed to ensure its implementation;
- Perceived impact of mandatory reporting-
    a) On them professionally and their service,
    b) On the child protection system,
    c) On the child and family.

Arising from the interview data, two main thematic headings emerged under which the findings will be discussed. The first section of the final chapter deals with "Interpretations, Understanding and Perceptions around the meaning of Mandatory Reporting within an Irish Context": it draws on Compliance Theory (Etienne, 2011) to explicate why some individuals are in support and why others are opposed to its introduction. The second half of the chapter examines "Anticipated Implications arising from Mandatory Reporting": participants understanding of how the legislative requirement will change the duty to report, how the child protection system will be affected and the consequent ramifications for children and families in need of support.

Interpretations, Understanding and Perceptions around the meaning of Mandatory Reporting within an Irish Context

Participants' support for or opposition against the introduction of mandatory reporting can be framed using different models of compliance theory. Drawing from a number of authors, (Jackson *et al.* (2012); Etienne (2011); Papachristos *et al.* (2012) and Garland (2001)) 'normative control models' are used to illustrate that those participants who display willingness to conform with mandatory reporting requirements do so for reasons of legitimacy and procedural fairness while those who view mandatory reporting as a 'social control model', through the threat of negative sanctions, are more hesitant about its introduction.

✦ Normative Control Model-Supporting Mandatory Reporting

The normative control model posits that institutions can secure compliance by developing policies that generate legitimacy and procedural fairness. Both are predicated on the sharing of collective norms and values between those who have the right to rule and those who are being ruled (Jackson *et al.,* 2012: p. 1051); people comply with the law, not just because they are obliged to, but because they believe the law is appropriate and justifiable. Individuals prescribing to a normative goal-frame are less likely to be swayed by the severity of sanctions and more inclined to comply because of *social conformity* and *internalisation* (Andrighetto & Conte, 2012: p. 361). These "pathways to compliance" (Jackson *et al.*, 2012: p. 1055) are driven by the individual's prescription to convention and expectation that the law ought to be adhered to (*social conformity*). On the other-hand *internalisation* occurs where the person believes in compliance simply because of the morality of the law; individuals internalise norms and obey the law simply because it is the law.

The Symbolic Value of Mandatory Reporting legislation

In terms of the current study, those who approved of mandatory reporting did so because of its perceived legitimacy. A large number of participants across all disciplines maintained that the proposed new law was based on ethically-sound motives that redressed the abuses and malpractice that occurred in the past. According to these individuals, mandatory reporting had symbolic value; expressive worth that brought about change simply because of its creation. Mandatory reporting supporters appreciated the morality and philosophy upon which the law was designed:

> *"If we have to move on in 20 years time for us not to be sitting around this table and saying the same thing, why didn't we bring it in 20 years ago...that our children won't experience what the kids before us have."*
>
> ***-Garda 6***

It was apparent from the data that pro-legislation participants viewed child protection reporting from a narrow perspective. Rather than considering its impact on a holistic level, supporters had a tendency to only view it from a micro-perspective. Focus was placed on the individual child and how the law could intervene in individual situations. By interpreting the proposed law as a fool proof

method for preventing the further abuse of children, they attributed significant value and merit to its adoption, believing it represented ethical principles:

> *"I think it says children are important and I think it says it's our job to keep them safe...and...historically in this country that hasn't been the case, constitutionally in this country it's not the case, and I think this will say our children are important to us."*
>
> ***-Medical social worker 3***

A large number of participants in justice, sport and education advocated in favour of mandatory reporting because of its ability to redress the violations that occurred in the past. These participants based the need for mandatory reporting on the recent exposure of past failures to report, particularly within the church. They spoke of Ireland having a *"dark history"* (Sports participant 5) and a tradition of cover-up with regard to child abuse. Mandatory reporting was therefore esteemed as having the ability to prevent the reoccurrence of such scandals while also being morally aligned with the values of society:

> *"As a State we have a history of not doing what we were supposed to do in relation to children...it's disgraceful. So yeah, absolutely necessary, just...read any excerpts, any of those reports...take your pick, that's why it's necessary."*
>
> ***-Garda 2***

Desire for Justice

The same participants, who recognised the necessity for mandatory reporting because of past scandals, also held a strong desire to see justice be done and have non-reporters punished for concealing abuse. Some individuals in youth work and sport in particular held a hard-line, zero-tolerance attitude towards non-reporting practices because of the immorality surrounding it:

> *"As a professional you should be reporting stuff. I mean it's just as simple as that...things should be reported full-stop, they shouldn't be any grey areas, if something is disclosed to you or...you're made aware of something and you don't act on it then there is a problem."*
>
> ***-Youth worker 4***

For them, failing to report a concern was intolerable and inexcusable, requiring sanctioning in order to achieve some level of reparation. Their strict interpretation of non-reporting as a criminal activity meant that mandatory reporting was welcomed as an essential and appropriate response to the gravity of the offence. Where blatant disregard for child protection reporting occurred it was agreed that repercussions

should follow and individuals should be made accountable for their inaction. Mandatory reporting was consequently endorsed because it penalises those who turn a blind eye, restores justice and elevates the importance of child protection by introducing sanctions:

> *"I think it's a good thing; that there be actions made and... you'd see something at the end of the day, rather than something brushed under the carpet."*
>
> ***-Youth worker 1***

Creating Cultural Change

It was believed by some participants in health, youth work, alcohol addiction services and social work that mandatory reporting has the potential to create a cultural shift around responsibilities towards children at risk as well as solidifying societal values of non-tolerance towards child abuse. They argued that its introduction may help to heighten awareness at a societal level in addition to bringing child protection to the forefront of professional duties and obligations. In response to whether or not mandatory reporting is a necessary measure, one participant commented:

> *"I suppose it's the idea to create a society where we have zero tolerance for this type of treatment of children and so if it starts with us and then...filters down... to parents who are very aware that if they're seen to be doing anything... in our society that we're creating here, we're saying no."*
>
> ***-Speech therapist 1***

One social worker remarked that mandatory reporting would have the potential to address some of the difficulties professionals encounter around reporting. She observed that the continuing apprehension around the professional duty and aversion to the responsibility could be rectified by its introduction:

> *"In general professionals are quite...fearful, wary...it's... a scary area for a lot of people...so I think if there's mandatory reporting... it'll definitely be a priority."*
>
> ***-Social worker 12***

It was estimated by others that mandatory reporting would elevate the importance of child protection within society. It was also considered to represent a strong public statement by government that child abuse will not be tolerated within Irish society:

> *"I think it addresses the seriousness of child protection...it's statutory...the government are saying this is so important...I just think there's a weight behind that, that just takes child protection in this country seriously."*
>
> ***-Medical social worker 5***

For those supporting its adoption it was clear that there was a strong appetite for change and reform around child protection and how we respond to concerns. Those in favour of the legislation were persuaded mainly by the fear of history repeating itself.

Normative conformity helps to elucidate the rationales behind those supporting mandatory reporting. These participants interpreted the law as being aligned with the principles of fairness and embodying the ethical norms and values upheld by society. Their assumptions that mandatory reporting has symbolic value to help instigate change in mentalities towards child protection while also providing the retribution needed to atone for the transgressions that occurred in the past helps to internally impose sanctions as the right thing to do rather than prescribe because of external threats. These participants would be more likely to comply with mandatory reporting because they view it through the lens of a "normative goal-frame" (Etienne, 2011).

Automatic Reporting

A small proportion of participants in sport, education, alcohol addiction, health and childcare firmly believed that mandatory reporting would result in the automatic reporting of any child protection concern; that professionals would no longer be required to make a decision about the substance of a concern and instead would automatically report any suspicion once encountered. Accordingly these individuals were strong supporters of mandatory reporting because they trusted that it would alleviate the stress associated with making the discretionary call to report. Their wilful adoption of the law could be framed as, what Andrighetto and Conte (2012: p.366) have termed, "instrumental adoption": where the subject adopts a normative goal for self-regarding reasons (they believe that adopting the goal will help them get something in return). Instrumental adoption in the context of the current study was based on the "goal-generating rule" (*ibid,* p.368): the professional will adopt mandatory reporting because he/she believes that by complying with it they no longer have to carry the burden of deciding whether a concern has reached a significant threshold to warrant reporting. Instead the responsibility to decide what requires attention and what doesn't is transferred elsewhere. These participants were under the assumption that mandatory reporting would place an invariable

obligation on personnel to report everything without employing discretion or judgement. Consequently it was welcomed as a mechanism that will help *"empower"* (Sports participant 8) people to take action:

> *"I think it takes all responsibility from you then, I have no choice. So you can't start debating it intellectually at a staff meeting...I think it's great, it's the best thing that ever could happen."*
>
> ***-Alcohol Addiction Counsellor 1***

Normalising Reporting

A large proportion of participants, across all disciplines, positively believed that mandatory reporting would help to normalise the reporting process by providing universal acceptance of professionals' duty to report as well as standardising practice and ensuring general compliance. Adoption of the law in this circumstance could arguably be described as both "cooperative adoption" and "adoption by trust" (Andrighetto and Conte, 2012: pp.369-370).

Cooperative adoption-Universal Acceptance

Cooperative adoption occurs where the subject adopts the normative goal in an effort to achieve a common goal, as opposed to an individual one. A proportion of participants believed adoption of the law would lead to universal acceptance; that awareness amongst professionals and the general public would compel a communal endorsement of the obligation to report, subsequently removing the ill-feeling and resentment that can arise between the professional and family being referred. Instead of causing conflict, the new law would result in everyone accepting the responsibility to report, thus reducing any friction or resistance previously encountered. It was seen as creating public awareness around the obligation being placed on professionals to report while equally promoting appreciation that reporting is a natural consequence of any concern detected:

> *"The public will be aware that if...certain issues are raised... that I don't have a choice...but to proceed and to report. So in that sense it'll be easier...everybody will have more awareness of policies and procedures, so... it won't be as difficult to follow them."*
>
> ***-GP 3***

It was also said to help remove any moral values or discriminations families may associate with a professional who reports them, namely, it would provide the

reporter with impartiality. Mandatory reporting was understood by a substantial proportion of interviewees in alcohol addiction, health and childcare as placing them in a neutral position when making a report as it redirects the client's disapproval away from them. Instead the professional is compelled to report by law and not by judgement, meaning they are able to rephrase and reconstruct how reporting is conveyed to the family in a way that removes any notions of prejudice against the family:

> *"It takes away the preciousness of my client and it puts it in a different category...like saying it to the client, you've told me this...I'm legally obliged to report it, I know it's not something you want me to do, but I haven't actually got a choice. So, then you're saying something different...to the clients."*
>
> ***-Alcohol Addiction Counsellor 1***

Mutual awareness of the legal obligation to report was believed to foster acceptance amongst the family being reported while equally protecting the professional from claims that they are being accusatory.

Adoption by Trust-Streamlining Responses

Adoption by trust is a form of adoption through dependence (*ibid,* p.370), whereby the subject adopts the norm on the condition that it will be adopted by other group members in order to increase efficiency. In relation to mandatory reporting a number of participants surmised that the law would help streamline and standardise responses across the board resulting in a more centralised and effective reporting system. By ensuring that everyone worked off the same standard and responded identically to the same presentations it was believed that mandatory reporting would help address some of the deviations in current practice. The current system was said to be fractured and disconnected, meaning that vital pieces of information are not being connected to create an overall profile of the child and their situation:

> *"I can see why they would want mandatory reporting, because quite often when they see most of the horrendous child cases, so many services were already involved...everybody had a little bit of something and there was nobody pulling it together, so if there was...mandatory reporting and you had that central social worker there...well then they could start to see the pieces of the puzzle that everybody had."*
>
> ***-Public health nurse 6***

Mandatory reporting was therefore endorsed as providing the structure needed to eliminate the unpredictable nature of interpretation and homogenise how concerns are responded to.

Ensuring Compliance

Those in childcare, public health nursing, justice and particularly social workers supported mandatory reporting for its ability to enforce compliance with the obligation to report. They estimated that the legal sanctioning behind the law had the power to ensure those who are ambivalent or reluctant about reporting will be compelled to take responsibility. Social workers (HSE and Housing Authority) identified a number of professionals, those working in alcohol/drug addiction services and GPs, as being the least likely to report concerns. Mandatory reporting was approved by them as the incentive needed to compel such non-reporters into action. They argued that a latent culture of fear around the issue of child protection remains, as well as a tendency by some to 'turn a blind eye'; something that the threat of sanctioning could address while inciting them to take responsibility and play their part in the process:

> *"I think from...working with professionals Children First was brought in and...we still know some services aren't making any referrals to the HSE. So if Children First guidelines wasn't enough to prompt them...does legal action need to be taken? Like with the drugs services Children First does apply to them because they're part of the HSE but they clearly don't abide by it...do they need to be legalised anyway?"*
>
> ***-Housing Authority social worker 5***

It was also suggested that mandatory reporting would help facilitate the timely reporting of concerns as they occur rather than a significant period after the incident has passed. The belief that mandatory reporting will create an accepted standard for referring concerns while also removing ambivalence around what should and should not be reported was expected to lead to more prompt responses by frontline staff and reduce the timeframe in which children are left at risk. However, it should be noted that this belief was based on the assumption that mandatory reporting transfers all responsibility for judgement away from the professional and onto the social worker:

> *"I think mandatory reporting would simplify things a lot for people...if they just felt, there's no question, we report this...it's up to somebody else then to assess...I think it would make it in fact easier, because then there wouldn't be the debates, people would just get on and do it."*
>
> ***-Pre-school Inspector***

Other participants maintained that the introduction of mandatory reporting would ensure that frontline staff would finally take ownership of their child protection responsibilities and eradicate the practice of second-hand reporting and 'information-dumping' onto other frontline staff:

> *"The schools...definitely didn't want to... be seen by the parents as the baddies. They'd tell us and they'd want us to report it, but not that they reported it...[they] don't want to upset anyone...and now it is their responsibility to report it to the social worker...which will be good."*
>
> ***-Assistant Director, Public health nursing***

✦ Social Control Model-Opposing Mandatory Reporting

Social control models impel compliance through strategies of deterrent threat. Wenzel (2004) demonstrated that legal sanctions were strongly correlated to compliance when the regulatee does not possess strong personal norms. These regulatees were more likely to prescribe to a 'gain goal-frame' than a 'normative goal-frame' and so were correspondingly more inclined to be swayed by the cost arising from sanctioning than the appropriateness of adhering to laws because of their normative value. Increasing the severity of the sanction increases the risk related to contravening the law, leading rational-choice individuals to refrain from violating it because the act is not worth the risk (Jackson *et al.,* 2012). Compliance with the law is 'forced' whereby the regulatees obey it out of fear (Papachristos *et al.,* 2012) rather than legitimacy: "Policymakers committed to this school of thought believe compliance with the law can be increased by manipulating the severity, certainty, and swiftness of formal legal sanctions" (*ibid*, p.401).

Crisis-driven Response

In relation to the current study an equally large proportion of participants strongly disapproved of the proposed mandatory reporting legislation because they viewed it as 'social control', an effort by government to stimulate people into reporting through the use of sanctioning rather than positive encouragement. According to Garland (2001, p.191) "it is value rational rather than purpose rational, expressive rather than calculating, and absolutist rather than strategic in its approach". This view was reflected in the interviewees' commentary, with many interpreting mandatory reporting as a *"crisis driven"* (Public health nurse 5) response by government. A group

of secondary school teachers believed that the new law was primarily galvanised by the recent flood of abuses exposed by the media. In particular, the law was viewed by participants in youth work, education, social work and childcare as a reaction to the scandals that occurred within the church. It was seen to be brought about as a result of misconduct within a localised and distinct section of society that is very separate and unique from general society:

> *"I've always kind of acted as if it's mandatory...and you would hope that a lot of professionals do act in that way...but I suppose...there are people that do not report real concerns and that's, I guess with the Catholic Church here, that's the big thing that...if they had been mandated to report, things might have turned out differently."*
>
> ***-Youth worker 5***

These participants feared that the new legislation was directed by extreme and severe cases that do not represent the general, everyday experience of frontline workers dealing with child protection issues. Instead it was viewed as a law "fuelled by collective outrage and a concern for symbolic statement rather than by careful calculations of cost and effect" (Garland, 2001: p.191):

> *"Bad cases doesn't make good law and bad cases can have a desperate effect on...what procedures are put in place...for dealing with it."*
>
> ***-Secondary School DLP***

It was estimated that the recent emergence of high profile child abuse cases and church cover-ups were the driving force behind political responses. However, responses to such scandal were considered an excessive means for redressing the failures of the past while neglecting to consider the dilemmas of the present.

Consequently, mandatory reporting was viewed by these individuals as a retrospective measure resulting from present fears of past failures rather than providing for future practice. They described it as disproportionate; an excessive response being applied nationally to weed-out a small minority of non-conformists:

> *"**Childcare provider 13:** I mean unfortunately I think the whole introduction of mandatory reporting is doing the usual thing of shutting the stable door after the horse has bolted, it's retrospectively looking at cases where people have turned a blind eye and saying well now... if that was law, that's the way to do [it], but one would assume then that we have moved on from that...*
>
> ***Childcare provider 11:** It's like a...sledge hammer to crack a nut."*

For these participants mandatory reporting was viewed simply as State power demonstratively clamping-down on failures to report, rather than proactively addressing the core problems of the child protection system. It was seen to be an expressive measure that serves the short-term demands of society in response to scandals that are uncharacteristic of the everyday experience.

Contrary to those who viewed mandatory reporting from a micro-level under the normative control model, participants viewing mandatory reporting as a social control measure considered the issue from a macro-perspective. Rather than narrowing their view of how it would impact on an individual case, they considered its implications from a more comprehensive perspective:

> *"I guess in the bigger picture, if reports...increase massively then even... more children... [will] not be protected adequately. But I suppose...if you don't look at the bigger picture and you just bring it down to one child then...mandatory reporting...puts a huge responsibility and onus on everybody to report something.*
>
> ***-Youth worker 5***

Smokescreen Response

A number of individuals in health, sports, education and justice judged mandatory reporting to be a *"smokescreen"* response (Sports participant 8) by government; an attempt to be seen as taking action without necessarily rectifying the crucial issues at the centre of the problem. Many of these participants debated that the new legislation was a *"political exercise"* (Medical social worker 8) to appease immediate public dissatisfaction without addressing bigger, more complex issues such as: lack of social worker resources and manpower, lack of preventive and support services within the community, confusion over appropriate thresholds for reporting and lack of feedback from social work.

This observation exemplifies what Garland (cited in Gray *et al.*, 2006: p.663) has described as sovereign State's attempt to punish through the strategy of 'denial'. This approach was said to occur where the State becomes more punitive in order to reassert power and govern by force; "public displays of the state's power that reaffirms the force of law, and also masks the failure of the state to deliver security to the population at large" (*ibid*). Instead these individuals saw mandatory reporting as being superficial in nature, an evasion of governmental responsibility by distracting

public attention away from the system's core problems and camouflaging the need for structural changes:

> *"Like, you have to look at the end product in this. Who does this serve, this mandatory reporting? It serves the legislators. It covers them in saying-look, we have it in our policy, it's ratified at government level and it's there enshrined in legislation so it covers them, so they're wiping their hands clean of it. Well, does it serve the pupil and the family of that pupil and even the school in which they're in, well I don't think so."*
>
> ***-Secondary school teacher 1***

According to these individuals mandatory reporting is a self-serving effort by the State to safeguard themselves from further public recrimination as they abdicate themselves of responsibility and, instead, displace it onto the frontline professional. It was viewed as unfairly penalising the professional through the imposition of penalties and creating an accusatory system that focuses on compliance through the use of individual threat. This was said to potentially lead to targeting of certain professions while ignoring the large-scale problems within the system:

> *"I don't think it's going to be effective actually, it's just going to be accusatory and they're going to sue a few people or throw them off the register for something they actually couldn't do anything about."*
>
> ***-Consultant Neonatologist***

Mandatory reporting was therefore seen by these individuals as making child protection the responsibility of those operating at frontline rather than a system's issue which requires overhaul and funding to function effectively. According to these participants "reactionary politics" (Garland, 2001: p.195) has led to the imposition of an overly excessive law that is "more exclusionary than solidaristic, more committed to social control than to social provision" (*ibid,* p.193). In their eyes, a desire by government to re-impose order has resulted in the retrofitting of controls on frontline professionals trying to operate within a system that is considered too crippled to have any significantly positive effect for child protection.

Premature Policy

A large number of participants across childcare, health, justice and social work were notably ambivalent towards the introduction of mandatory reporting. While in theory the legal obligation to report was accepted and endorsed, it was only on the condition that there would be access to sufficient resources to ensure its effective adoption.

However, in the current economic climate and inability of the system to process existing reports, the proposed legislation on mandatory reporting was viewed as more aspirational than practical:

> *"It does send a very clear message and it's nearly more a statement of intent...as a society we don't tolerate the abuse or neglect of children...so I think in that respect it's good, but in terms of how it translates into reality and what actually the implications are for child protection social work, I mean as it is the system's massively under resourced...I can just imagine if mandatory reporting does come in... it'll just totally cave, unless it's backed-up with some massive commitment."*
>
> ***Housing Authority social worker 2***

In a sense then, these participants were sceptical about mandatory reporting because they viewed it as a premature move by government to impose sanctions that will inevitably cause an increase in the amount of child protection concerns reported to the statutory authorities, without the necessary provisions in place to effect positive implementation.

In addition, the lack of support and preventive services was considered by the interviewees as being in need of more urgent attention. The move to penalise failures to report was considered subordinate to the need for services to aid families once a concern is substantiated. In effect, mandatory reporting was seen to increase the detection of families in need but without preparing for the consequent fall-out from it.

> *"The services are just too swamped as it is...[mandatory reporting's] a goal we should all work towards but the services don't exist, the country has no money, so these services aren't going to suddenly appear in the next couple of months so, it's really just swamping the system that's already swamped and, I think it'll have a really negative effect on our client group because the 15, 16 year olds are going to go even further down the list."*
>
> ***-Young Person Probation Worker 8***

In this instance it was not the expectation being placed on professionals to report credible concerns that was in contention, but the absence of any corresponding resources or supports to provide for the increase in families being detected for child protection concerns. This was corroborated by a HSE Childcare Manager who noted that, in order for mandatory reporting to be productive:

> *"We would need...a much better...triage system, or...assessment system around referrals and how they come in and in order to deal with any service we would have to have a range of family support services available, so that if it wasn't going to be*

dealt with through the child protection service, that families will be diverted safely to other organisations."

-Childcare Manager

A small proportion of the same participants argued that the lack of agreement on where reportable thresholds lie will cause difficulty for mandatory reporting's implementation because it does little to clarify the confusion and dissent around the issue. It was considered improbable that the already subjective interpretation of Children First guidelines would be any different as a result of them being placed on statutory footing and that the struggles around detection of appropriate concerns would continue to challenge professionals. Accordingly, these interviewees felt that the legislation was being adopted impulsively and with little clarification for frontline workers:

*"**Childcare provider 25:** It'll sneak in the back door, people won't even know that that's come about...*

***Childcare provider 29:** We're not consulted either...about the regulations [referring to mandatory reporting] that we've got to adhere to...so, if they're not going to tell us what's exactly on their mind, I'm not a mind reader. So what is? What might be serious for them mightn't be serious for me?"*

The lack of provision and available resourcing to ensure its effective implementation left many wavering about its approaching introduction. As one interviewee commented:

"It's like the scaffolding is up but there's no building there, there's nothing. They've put up the framework outside but there's nothing inside to support anybody."

-Secondary school teacher 4

Enforceability of Mandatory Reporting

A significant number of interviewees (youth work, health, social work (HSE and Housing Authority), childcare and justice) questioned whether mandatory reporting legislation was enforceable or not, on the grounds that it attempts to legislate opinion rather than practice while also placing a positive obligation on individuals as opposed to a negative one.

A study into the deterrence of sanctions on insider trading by Frijns *et al.* (2013, p.206) argued that deterrence is a function of severity of punishment (sanctions) and the probability of detection and prosecution (enforceability). When creating

legislation lawmakers must accordingly take into account both severity and enforceability of the law in order that it has the desired effect it needs. Enforceability is considered crucial by Bhattacharya and Daouk (2009) to ensure deterrence. When criminal sanctions are introduced, regulatees need to see that they will be enforced and followed through, otherwise they reduce the authority intended to control the commission of negative acts. In a similar sense, with regards to the examination of mandatory reporting and its prospective introduction, if those it applies to fail to believe that it can be enforced, it is likely to have little impact on controlling reporting practice.

Legislating Opinion

Some of these participants questioned mandatory reporting's potential potency and instead considered it to be an impractical addition to the reporting process. They saw it as an attempt to legislate individuals' opinion rather than their actions. Regulating a professional's ability to judge something as nebulous as child abuse was viewed as nonsensical because the issue is too intangible and obscure to neatly define:

> *"If you're talking about really trying to put this on a legal basis, with a legal requirement, you know, like trying to philosophise on how many angels are dancing on the head of a pin, as part of your ordinary work day...it's not very realistic."*
>
> ***-Childcare provider 13***

Evidencing Failures to Report

According to Frijns *et al.* (2013, p.206) criminal sanctions present a much stronger penalty than civil sanctions (jail-time and the stigma of a criminal conviction). However, while criminal sanctions present more severe penalties they are also more difficult to evidence because the burden of proof required is much higher than that required for a civil sanction. A significant number of these participants questioned how failures to report child protection concerns could be proved under mandatory reporting law. Doubt and scepticism dominated these professionals' opinions when asked to consider the introduction of the new law. They conceded that the ability of governing bodies to track and monitor individuals' adherence to the policy as well as tracing and evidencing failures to comply, was improbable:

> *"I mean the other aspect I wonder about it, how enforceable is it?...You say...you have to report it... well...how do you know I know anything, you know what I mean?"*
>
> ***-Housing Authority social worker 2***

When public conviction in the ability of sanctioning bodies to discharge penalties for contravention is absent, it is arguable that mandatory reporting will become an empty gesture with little value or weight.

A Garda Inspector interviewed questioned the implementability of mandatory reporting because it is a standard that will be challenging to evidence and prove within a judicial setting:

> *"Well it would be difficult to prosecute, because you'd have to have a prima face case that somebody had information that should have been reported and then...depending on the legislation...you'd have to prove that they actively withheld the information, as opposed to, they may have come into the position, they didn't associate the information that they had with the implication."*
>
> ***-Garda Inspector***

In a sense mandatory reporting places a positive obligation on individuals, compelling them to take action; as opposed to a negative obligation which contravenes certain behaviour or action. Contrary to the premise of most laws which prohibit criminal acts, mandatory reporting sanctions a *failure* to act; a much more difficult standard to evidence because it requires evidence of a failure to do something rather than proving committal of a crime.

On the basis of these findings, it is reasonable to argue that if regulatees lack confidence that mandatory reporting will be enforceable, tracked, audited and finally, evidenced in court, then the legislation will become more tokenistic than employable.

Anticipated Implications arising from Mandatory Reporting

The final section of this chapter offers a discussion on the outcomes that participants anticipate will arise from the introduction of mandatory reporting within Ireland. The majority of interviewees recognised the new legislation as having an impact at three distinct levels: on the professional and their service, on the child protection system and finally, directly on the child and family.

✦ Anticipated Outcomes

i. Professional/Service Implications

Increased Workload

A very small proportion of participants (GP and Speech therapist) speculated that the introduction of mandatory reporting would result in additional responsibilities on-top of their current workload. One GP estimated that she will need to broaden her functions by monitoring clients more closely when a question of child protection arises. She feared that mandatory reporting would require her to chase clients that are under suspicion and actively seek out the presence of child abuse and neglect. The implication for her, in a professional sense, was the belief that the practice's current workload would increase and cause child protection to be their dominant concern:

> *"I'd have to ask parents to come back more frequently...I'd have to be on their case more, I'd have to be saying I want to see you in and so it's going to increase our workload I'd say. I would have to write in my diary: 'due to see Bloggs this week', so I have to ring her, keep after her and I mean these people don't come frequently, that's been my experience."*
>
> ***GP 1***

A speech therapist spoke of how mandatory reporting could potentially elicit additional stress and responsibility for her as a manager of more junior staff. She was apprehensive about monitoring their compliance with the law and sceptical of their ability to pick-up on concerns when lacking experience and gut instinct. Managing other peoples' adherence to mandatory reporting was considered a challenging responsibility because of the uncertainty associated with junior staff's capacity to identify maltreatment and report in a timely manner. Trusting that they have the instincts to accurately detect and delicately frame responses with the parents added a new dimension of concern to the possible fall-outs arising from mandatory reporting's adoption:

> *"I feel like I could... frame a conversation with a parent...but I'm worried about being the supervisor of a more...basic grade therapist, or somebody less experienced who mightn't have that gut instinct as developed and mightn't get it...I'd be worried about how they frame that conversation."*
>
> ***-Speech therapist 1***

Increased Risk Attached to Reporting

Negativistic Reporting

The vast majority of individuals interviewed considered that mandatory reporting would increase the negative associations attached to child protection and the

reporting process by forcing compliance through the threat of sanctioning. By attaching sanctions to non-reporting these participants saw the process as now being premised on negative motivations; compelling them to refer out of fear rather than discretion. They argued that it placed further demand on the frontline by holding them accountable for the malpractice that occurred in the past. In essence, they believed the new law would create negativistic reporting: by placing additional negative implications on the professional:

> *"It's another negative about making a report in the first place."*
>
> ***-Young Person Probation Worker 4***

As a consequence of negative association it was feared that the new law would engender egocentric reporting; shifting the reporter's focus onto themselves and what the implications of a sanction could mean for them rather than keeping that focus on the child and their safety. Instead of framing reporting as a duty of care towards the child and their welfare, participants feared it deflected attention onto the punitive element of reporting:

> *"I think mandatory reporting takes the focus away from the child in a way, and away from the concern and puts it more on the reporting piece, you know what I mean. And I think people would...probably...be doing that for the wrong reasons and doing it because they're afraid."*
>
> ***-Medical social worker 9***

It was observed that many of the interviewees anticipated mandatory reporting would create a culture of negative adoption which would breed defensive attitudes. Essentially, a shift in priorities was assumed whereby professionals would place their own interests ahead of the interests of the child in an effort to self-preserve. Consequently the reporting piece becomes the focal point rather than the risk posed to the child and the central element of concern becomes the professional's well-being rather than the child's:

> *"I think it'll make staff much more defensive...you know, dotting the i's and crossing the t's and I think that that will make people much more defensive in their practice...they'll be looking more at what they're not doing than what they should be doing with their clients."*
>
> ***-Alcohol Addiction Counsellor 3***

They argued that mandatory reporting misplaced the emphasis onto the sanctioning of non-reporting and failed to foster any positive attitudes towards the child protection system; instead of alleviating fears, mandatory reporting elevates them.

According to Jacobs (2010, p.425) "the more risk sensitive the offender, the more deterrable he or she is"; in terms of mandatory reporting the interviewees feared that professionals will become so risk averse that they will be deterred from not reporting, even where it may not be in the best interests of the child. Instead of cultivating positive attitudinal changes, it was argued that mandatory reporting will only foster further defensive practice:

> *"If people only view it as being: 'I have to do it'-I don't see that as positive. But I do see that if we could introduce the much better notion, that as a society we're all responsible for the children within the area and that we need to take that and we can get that message across, that that could only be good."*
>
> ***-HSE Child Care Manager***

Some of the professionals interviewed (GP, teachers) were under the assumption that mandatory reporting demands the reporting of all concerns with no room for exception. Whether a failure to report was conscious or unconscious, appropriate or inappropriate, they were of the opinion that all failures would be subject to penalisation:

> *"I mean we all make mistakes, you know, it's the human condition. So...just having a sanction doesn't mean that you're never going to miss a thing... so I think I would reserve judgement as to whether it's a positive or negative."*
>
> ***-GP 3***

Consequently, a significant number of other participants across health, justice and particularly social work, estimated that mandatory reporting would cause risk aversion reporting; the lowering of reportable thresholds in an effort to minimise any risk of blame being attached to them. There was fear amongst these interviewees that mandatory reporting would broaden the scope of what was considered reportable to a level that would be hazardous for social services. Deterrence theory posits that the greater the severity and celerity of the sanction (Jacobs, 2010: p.149) the more deterred a person is likely to be. However, in the case of mandatory reporting the individual is being *compelled* to do something through the increased severity and celerity of sanctioning. As a result, the data showed that the greater the risk attached to reporting, the more compensative the professional's actions could potentially become:

> *"My concern [is] you get into a position where people are kind of risk averse and see every...possible concern as something that needs to be reported in and once it's reported into us I suppose, unless the system has very clear thresholds of saying: no we don't deal with that and yes we deal with this (which it doesn't)...all of those*

cases will require, certainly an intake assessment or screening and most likely an initial assessment of those issues as well... so that could dramatically increase the workload of each of the 5 patches that I would manage."

-Principal social worker 2

Accelerating Reporting

A small body of participants across health, education, youth work, family conferencing and childcare contended that, because of defensive practice, the timeframe for referring a concern into the authorities would be accelerated. Fear of penalisation could arguably lead to rash and impulsive decisions by professionals who no longer want to wait and risk a possible concern escalating before they notify social work. By waiting to refer the professional considers they are potentially placing themselves at risk of abuse emerging later:

*"**Speech therapist 1:** You'd be worried...that somebody might say:...'well why didn't you report it six weeks beforehand? If you saw something that day, why didn't you report it that day?'*

***Speech therapist 2:** Or I was gonna play the waiting game and wait another couple of weeks just to make sure that it was justified. But now I actually have to... report it by law... it would be a reflection on me...I would be legally responsible for not reporting that then, wouldn't I?"*

Consequently, some feared that situations where organisations and services try to provide support and assistance to families will cease to exist. It was estimated that mandatory reporting could abolish localised preventive work by compelling professionals to simply refer without engaging in cases at all:

"I think it would change it in that...people may document it and they might put supports in for the family and they might try...and help the family themselves...before they put in the report because they think that all the family needs is a little bit of help. Whereas now with mandatory reporting, that reporting will have to go and the social worker will have to come out to them and it could be trauma or stress to a family, that they might not necessarily need."

-Youth worker 7

Increased Reticence

As noted by some participants (education, sports, social work, health), there was an already existing reluctance on the part of some professionals to become involved in child protection issues and an unwillingness to take responsibility for it. Child protection was observed as a problem that people were alert to but once it arose and the reality of it presented itself, some professionals were described as wanting to remove themselves from the situation:

"I would have very interesting [conversations]...with principals, when you meet on an informal basis, I think many of them...deliberately make themselves aloof...some of them would say:...'sure if you didn't hear it, it didn't happen, I have enough to be doing'."

-Secondary School DLP

It was questioned then whether mandatory reporting would increase this underlying reticence and deter people further from the obligation to report because of the additional negative implications surrounding the issue. The new law was viewed as exacerbating the reluctance to become involved even further by introducing legal sanctions. It was considered to remove the element of goodwill and compassion needed to encourage people to manage risk and remain involved with a family throughout the concern. It was argued then that mandatory reporting could potentially have an adverse effect on how people engage with the reporting process: rather than eliminate inaction, it was feared that mandatory reporting could cause individuals to disassociate themselves from child protection altogether:

"I think people aren't as willing anymore to manage a risk... and I just think maybe...it['s] becoming very legalistic, that that willingness mightn't be there."

-Principal social worker 2

By elevating the risk attached to reporting, mandatory reporting intensifies the reservations people have towards the issue and increases the likelihood that they will want to *"turn a blind eye"* (Family conference worker 3):

"People are fundamentally uncomfortable with it, they will kind of take the 'hear no evil, see no evil' approach to it...It sort of runs deeper than putting a law in place, I think there's a whole culture of change that needs to happen."

Housing Authority social worker 3

Volunteering was pinpointed by a number of participants involved in voluntary organisations (separate from their profession) as potentially being one of the areas most detrimentally affected by the introduction of mandatory reporting. Placing a legal obligation on people offering their time on a voluntary basis was considered a disproportionate demand that could leave many working in scouts, GAA or Cubs feeling overwhelmed and uncomfortable with the position. One childcare provider was noted as saying:

"I'm very heavily involved in Scouts and...we're just so desperate for leaders and the minute you say to people: 'you...have to do your stage 1 and your stage 2, which is your child protection', people just...don't want to do it, it sounds so onerous and

these are the best people in the world...but...when they hear the words...people think: ah no, I couldn't be taking that on, it's just way too much hard work."

-Childcare provider 14

ii. Implications for the Child Protection System

Swamping the System

There was an overwhelming consensus amongst all participants that mandatory reporting has the capacity to swamp a *"system that's already swamped"* (Young Persons Probation Worker 8). Interviewees shared the same fear with regards the effect of the new law on our child protection system and its capacity to cope with any increases in referral numbers. The general perception was that mandatory reporting could *"dilute the already strained system"* (GP3) increasing referrals beyond what social services are able to respond to; draining scarce resources and overstretching social work personnel to a point where they are compromised in their ability to provide an effective service:

"The concern I'd have is the concern which is voiced by probably everybody that you've ever met, which is...that the system would be swamped with reports that you cannot respond to."

-HSE Childcare Manager

An Inspector also spoke of his concern about the Garda force's ability to respond to any increases in referrals. While it was estimated that areas with specialised child protection units will be able to manage any influx, it is the more remote, under-equipped districts that will potentially experience difficulty:

"It comes down to local managers, about how are they going to manage...that flow of information and those referrals. From my perspective out in [name of area] we'll be able to manage it because we have a dedicated unit...[but] not every district has a designated unit... Will that cause a problem then? It will...from a resources perspective."

-Garda Inspector

Bureaucratising the System

There was a high level of unease amongst participants in health, education, family welfare conferencing, housing and medical social work, but particularly HSE social work that mandatory reporting would result in such an increase of referrals. They feared that the majority of social work's time and resources will be concentrated on the screening, triaging and prioritising of reported cases, rather than actively engaging with and assessing them. It was strongly believed that mandatory reporting

would proceduralise the social work profession to a point where more time will be spent on administrative functions than actual interface with the child and family. Social work and frontline participants expressed a similar fear that, the former, would become *"bogged down"* (Social worker 13) and overwhelmed with so many additional referrals as a result of mandatory reporting that some children and families would lose out on the opportunity for timely support and intervention:

> *"I would be significantly concerned...I mean, we are...struggling just to meet the current demand of 1,000 plus referrals and that's families, if you average that...you're talking about...anything [between] 2 to 3,000 children referred to the service. Now you talk about that doubling, trebling, you're talking about a massive increase in workload...it would be unsustainable in that regard."*
>
> ***-Principal social worker 2***

It was estimated that mandatory reporting would simply bureaucratise one element of the child protection system; resulting in a further step towards increasing protocols and requirements around the investigative side of child protection rather than the response. It was considered that mandatory reporting will place an undue emphasis on the reporting and processing of concerns without providing for the corresponding resources needed to ensure a response:

> *"I'd be...concerned about what we do with the information...is it going to be the priority to get that up on our computer system, you know, are we going to be completely bogged down further in admin work, or are we going to use the information to go out and actually visit more families, and I don't think we will, I think it will be...another 'piece'."*
>
> ***-Social worker 12***

As a result the same participants argued that it could potentially become harder for social workers to distinguish genuine cases of concern from inappropriate referrals. Social worker's attention will be so stretched across a multiplicity of diverse referrals that their time will be limited when trying to establish the authenticity of a report. It was expected that interface with the family and child would also suffer, being replaced by administrative obligations:

> *"The HSE will be awash with pieces of paper from schools, from colleges, from you name it. And they will not be able to actually target...the children that are in crisis that do need the help, that's the...thing I would see: that mandatory reporting will be a blanket and that you won't be able to pick out the children that are in crisis."*
>
> ***-Primary school teacher 1***

Creating Further Division

Increased Distrust

A number of professionals in sports and health, but in particular social workers, were anxious that introducing mandatory reporting would create a further wedge and disconnection between social services and those reporting. There was fear that the new law would create further mistrust and scepticism around social work and their ability to process the increased level of reports coming in. As was discussed in the previous chapter the lack of feedback from social work has had the effect of leaving personnel feeling isolated, frustrated and confused. By introducing mandatory reporting it was estimated that responses will become even less frequent, alienating reporters from the system even more:

> *"I don't think we will increase interagency collaboration through mandatory reporting, I think it'll just further drive us apart because people will be referring in, we won't be responding, they'll be frustrated by that, we'll be under significant pressure to respond to those things and we won't end up seeing probably the children we do need to be seeing."*
>
> ***-Principal social worker 2***

Information Dumping

Although already addressed, the anticipated likelihood of accelerated reporting out of fear was also addressed by social workers who feared that such practice would result in a situation whereby people *"will end up ringing and giving you the information and they will definitely dump from now on, because they want nothing to do with it"* (Principal social worker 2). Many of the social workers interviewed feared that individuals would relinquish all ownership of a child protection case by deflecting onto them:

> *"I would have a worry...I mean I've seen it... the professional rings up to give you the report and then they think they're work is done. And I would have a worry that that could become more and more the case with the introduction of mandatory reporting...and I just have a worry that that...dumping on social workers, could actually increase."*
>
> ***-Principal social worker 1***

There was a worry then amongst social workers interviewed that mandatory reporting would compel people to report all levels of concern without filtering what is appropriate and inappropriate. In such circumstances mandatory reporting essentially becomes a mechanism for professionals to transfer information elsewhere

without assuming a duty of care. As a result it was feared that the core message and spirit of child protection will be lost and that people will 'dump' reports onto social services without becoming involved in the management of the case.

In order to cope with the influx of child protection concerns currently on the books, some participants (childcare and social work housing authority) observed that cases were being *"farmed out"* (Housing Authority social worker 3) as a result of social services inability to cope with the level of cases they were receiving. As a consequence there was alarm that mandatory reporting would cause social work to consign child protection cases to organisations or services that were not set-up or designed for that purpose, in an effort to counteract the fall-out from increased reporting; that some services will be expected to case-manage the less serious and less immediate concerns:

> *"If the child protection system is going to be handling mandatory reporting, what we're already talking about, which is knock-on effect, where most welfare are...handed over to other agencies to manage. I would imagine that would only increase and effectively you'd have nearly...every service that's involved with children...that's not the HSE, will suddenly just be...left case-managing far greater numbers because of a higher threshold."*
>
> ***-Housing Authority social worker 3***

iii. Implications for the Child and Family

Widening the Net

As a result of the previously discussed 'defensive reporting', a small number of interviewees across the health, youth work and social work sectors intimated that mandatory reporting could result in a *widening of the net*; even more families, than at present, being brought into the child protection system unnecessarily as a consequence of defensive practice by frontline professionals. As discussed in the second findings chapter, the majority of child protection concerns encountered have been described as "theoretical concerns", those grey-area cases that individuals struggle to distinguish. Stemming from that it is reasonable to argue that mandatory reporting will cause an increase in the reporting of "theoretical concerns" as opposed to "reportable concerns", which would explain the possibility of more families being dragged into the system than would have been previously. One GP spoke of how she feared mandatory reporting would result in *"criminalising parents unnecessarily"*

(GP1) because of a likely eruption in the reporting of unfounded concerns compelled by fear and paranoia. Participants were anxious that increased reporting would cause a negative disruption to families, causing the child more harm than good:

> *"But what happens if you're wrong...and you've put this family through [a] massive ordeal, you're getting social workers involved, but you were afraid of not reporting because it's now mandatory?"*
>
> ***-Speech therapist 2***

On the other-hand a Housing Authority social worker argued that this could conversely have positive implications. He contended that a widening of the net might divert over-bearing attention away from families already known to the system, onto families that may have managed to evade attention because they come from a more affluent environment. In other-words, by widening the net of attention, mandatory reporting could lead to equity in detection:

> *"The only good thing is it would put the spotlight on other groups of people. I think often child protection referrals are only going in on families who are kind of already under the spotlight...Other people of...different socio-economic groups...I think this would probably bring them more into the HSE system."*
>
> ***-Housing Authority social worker 1***

Ostracising the Child and Family

A small number of interviewees within youth-reach, family conferencing and health in particular, expressed concern that the child and family were being forgotten during the development of sanctioned reporting, despite being the most central elements of the child protection process. They argued that the principal individuals for whom mandatory reporting was being designed, were lost amidst the arguments for and against the new law. This was based on the expectation that mandatory reporting would remove the *"safe haven"* (Assistant Director of Nursing); families' awareness of professionals' new obligation to report concerns could potentially discourage individuals from seeking assistance from vital services in order to avoid being reported. They believed that sanctioned reporting would deter families or adolescents from disclosing any difficulties because of fear that that information could lead to a child protection referral. Participants were anxious that those in need of assistance would consequently become further marginalised because they were distrustful of support services and their obligation to report:

> *"I think it will cause more difficulties because sometimes...if a parent comes and talks to you, they might have nowhere else to go to talk to anybody, or maybe they*

didn't feel comfortable talking anywhere else...So if I go off and report them, it's leaving them... with nowhere."

-Childcare provider 29

Consequent Standpoints

Individual positions towards the law varied as a result of how participants viewed the subsequent fall-out from its introduction. Participants were either: impartial or ambivalent when they considered the possible consequences of its introduction.

Impartial towards Mandatory Reporting

A small proportion of participants from the youth work, sport and justice sectors described being undaunted by the impending adoption of sanctioned reporting because they firmly believed they were already prescribing to a culture of mandatory reporting within their working environment. For them the existence or non-existence of legislation did little to impact on their opinion because they had already adopted the obligation to report as an appropriate ethical standard. Mandatory reporting was understood by these individuals as simply reinforcing pre-existing standards and expectations around reporting practice:

"I always feel that there will be consequences if I don't refer, so I kind of feel it's not going to make much difference because I think we're all operating as if it's mandatory. Because we feel there's a requirement on us to refer any concerns of child protection."

-Medical social worker 1

This attitude was most relevant in larger organisations where strong internal protocols were already in place and there were clear lines of authority for reporting information upwards, through the hierarchical stream:

"It's probably not going to make much of a difference whether it's brought in, because...none of that's going to affect me...in terms of my own responsibilities, I would see it as mandatory anyway...that's the kind of policy that's been drawn up within [name of organisation]...that's...just the way it is."

-Youth worker 5

Thus, where it was anticipated that mandatory reporting would have little to no impact on practice, an impartial standpoint was evident.

Ambivalent towards Mandatory Reporting

In contrast to those participants who were ambivalent towards mandatory reporting because they viewed it as a premature move by government, these participants wavered between the ethical foundations upon which mandatory reporting is based and the damaging implications they associated with its implementation. They held very mixed attitudes towards its introduction, on the one-hand agreeing with the intent by government to take a stance against inaction by those privy to information, while on the other-hand, recognising the impracticality of the law and its potential to cause greater damage. A substantial number of participants in health, youth work, social work (HSE and Housing Authority), addiction and justice held a dual perception of mandatory reporting, conflicted by the positives and negatives they imagined arising from its introduction. Some were influenced by their experience of reporting into the child protection system while others were fearful because of findings from international research of jurisdictions that have already adopted mandatory reporting. As a consequence these individuals were torn between the perceived pros and cons attached to the law:

> *"I just have reservations about it...as I say, I really am in two-minds about it, I see why it needs to be brought in but also...I'd just be worried about the overall consequences of a huge volume of reports going into a service that already can't cope."*
>
> ***-Youth worker 5***

Conclusion

This final findings chapter was important from the perspective that it provided a unique exploration of professionals' interpretation of mandatory reporting and anticipated outcomes arising from its introduction, prior to its adoption. While the majority of current literature on mandated reporting examines the subsequent impacts it has had on frontline practice, the challenges arising for professionals as a consequence as well as the changes to reporting statistics, no studies have researched professional perceptions upon its imminent introduction.

This chapter was an examination of professionals' interpretation and understanding of what they believed mandatory reporting to mean. It was important to glean such information as they will be the people directly implementing the new law. It has allowed for an insight into professionals' conceptualisation of what mandatory

reporting stands for as well as highlighting how they consider it will either repair the damage of the past or exacerbate a decimated system on the brink of collapse.

The data showed that interpretations of mandatory reporting were split depending on the lens used to view it. Those in support of the legislation perceived mandatory reporting from a normative control model. They unconditionally accepted the law because they believed it to be based on legitimacy and procedural fairness. For these participants, adopting mandatory reporting was morally correct because of what it stands for. They considered it to have symbolic value: a strong expression by government that failures to report child abuse will no longer be tolerated within Irish society. Mandatory reporting was seen to feed into their zero-tolerance attitude while equally creating a culture of change. For those in support of the law, there was somewhat of a belief that mandatory reporting was a panacea for the ills of the child protection system. It was assumed that the law's adoption would normalise reporting by removing any hesitation or doubt connected with the process while also ensuring non-compliers would reassess and change their ways.

Some of those in opposition to mandatory reporting held a very different opinion and viewed the law through the lens of social control. For this portion of the interview population, mandatory reporting was regarded as an impetuous, reactive and panicked response by government to a problem that is attributable to a minor sector of society, while failing to recognise the more common difficulties encountered by the majority. It was said to be an excessive response motivated by crisis and extreme scenarios that are not representative of the common experience.

Sanctioned reporting was also considered a political exercise that provides immediate relief to an unsettled public but without addressing the system's core malfunctions. In essence, it was perceived as a band-aid for a broken leg; government were understood to be covering the problem without treating the more serious, underlying issue of a system bursting at the seams. In this regard it was a premature policy, adopted before the resources and supports are in place to aid its adoption.

In addition, those in opposition held strong reservations that mandatory reporting was enforceable. They believed it lacked the deterability needed to ensure

compliance because of the difficult evidential standard associated with proving a positive action like reporting.

In terms of how they saw the law impacting on practice, it was estimated that mandatory reporting would have implications at three distinct levels: firstly the professional and their service, secondly for the child protection system and finally for the child and family. For the professional, the greatest fear was that mandatory reporting would create negative association around the obligation to report by penalising them for something they already struggle with. They consequently contended that reporting to the authorities would be accelerated because of defensive practice: the increased risk around reporting would compel people to report out of fear for themselves rather than the welfare of the child.

For the child protection system there was an overwhelming concern and universal expectation that social services would become inundated with inappropriate reports, leading to social workers being swamped by paperwork at the expense of direct interface with the child and family.

Finally, it was anticipated that, as a result of defensive reporting, more and more families would be unnecessarily drawn into the system, causing a widening of the child protection net. As the number of families under suspicion is expected to grow, there was a corresponding fear that people would be discouraged from seeking out support services. Participants were anxious that mandatory reporting would consequently lead to the further marginalisation of families from vital services.

Overall, opinions were extremely split amongst participants for and against mandatory reporting's introduction. Equally, a large proportion of the same participants expressed a lot of ambivalence towards the law, recognising both the pros and cons connected with it. The greatest conflict arose when deciding whether the benefits arising at a micro level (individual case level) were enough to outweigh the costs mandatory reporting would have on the whole child protection system. While opposing the introduction of a law that is designed to protect children from further harm appears illogical, it was really the subsequent management of that law within an unstable framework that was the central problem for participants. Despite

the impending adoption of mandatory reporting, the data suggests that hesitations and ambivalence around child protection reporting are likely to continue or even become exacerbated should the system fail to cope with the consequent increases expected:

> *"Mandatory reporting? I'm torn...you could argue either way, is it a help or a hindrance? Is it a positive or negative? My honest answer is I don't know and I think the proof of the pudding will be in the eating, that's all I can say on that."*
>
> ***-GP 3***

Chapter 10:

Discussion

Introduction

Research Objective, Impetus and Value

The core purpose of this research has been to explore the potential impact of a mandatory reporting law on current child protection reporting practices and processes in Ireland. Throughout the thesis, an emphasis has been placed on the socio-legal ramifications of such a law at the micro and macro level. In terms of micro implications, it is very likely that such a development will change how frontline professionals engage with children and families and how they interact with the child protection system. From a macro perspective, it is probable that the child protection system will also be affected through an increase in reporting rates. For these reasons the thesis was marked by an effort to establish the impact of a mandatory reporting law at the human level as well as a practice and procedural level. Analysing current reporting practices therefore set the scene for establishing how a mandatory regime would operate. It also allowed me to penetrate the fundamental fears, inhibitions, anxieties as well as the aspirations associated with the upcoming change to reporting obligations. Finally, it exposed the various assumptions, interpretations and constructions professionals attach to a mandatory reporting requirement, illustrating how discrepancy in practice can occur.

The source of inspiration for this study pre-dated the current proposals, and came directly from my own professional involvement as a researcher on the reviews which were commissioned by the government into clerical sexual abuse in the dioceses of Dublin and Cloyne.[102] The reports re-exposed longstanding concealment of clerical child sexual abuse complaints. At the time the reports were published, the lack of

[102] Dublin Commission of Investigation (2009), *Report into the Catholic Archdiocese of Dublin,* Dublin: Government Publications; Dublin Commission of Investigation (2010), *Report into the Catholic Archdiocese of Cloyne,* Dublin: Government Publications.

legislation compelling individuals to report appeared imprudent and remiss and so the need to investigate the prospect of having sanctioned reporting in Ireland became immediately apparent. To that end, this exploration was carried out at a particularly critical juncture in Irish policy development as it coincided with the intention by government to introduce legislation in respect of the Children First guidelines, the implementation of which will allow for reporting failures to be subject to various sanctions. The study was therefore very opportune and its focus was very relevant to the proposed legislative measures.

Initially, the prospect of a mandatory reporting law appeared to address the professional failures outlined in the aforementioned reports. However, further exploration of the law from a backward-mapping approach (Elmore, 1979-1980) shed new light on a cluster of complex and unforeseen outcomes elicited by the day to day operation of mandatory reporting legislation at frontline level. Buckley (1999: p.22) pointed out that the application of technical rationality to child protection issues assumes that "abuse" is an objectively identifiable and preventable problem which can be managed through the streamlining of responses and practice. As the field work for this study progressed and deeper insights into child protection reporting practice were gained, it became quickly apparent that the introduction of mandatory reporting legislation would represent an attempt to apply technical solutions to an inconsistent, dynamic and divisive social issue. Throughout the research, reporting of concerns came to be viewed as a much more intricate, discriminating and volatile issue involving relationships with the child and the family in addition to the complications surrounding inter-service relationships. It also caused me to reconsider my initial stance on the subject of mandatory child protection reporting; casting doubt on the utility of such a law for the different individuals involved in the process.

This concluding chapter begins by briefly revisiting the theoretical underpinnings of the study, recalling the international context in which mandatory reporting law is understood, summarising the methodological approach, reviewing the main aims of the field research and then setting out a discussion of the empirical findings while demonstrating how they converge with the research question. It will then review the major issues arising from the research and consider their theoretical and policy

implications. Finally, it will seek to highlight any limitations encountered by the study as well as providing recommendations for future research.

Theoretical Underpinnings

The study relied on a number of propositions and academic theories to provide a framework through which child protection reporting could be analysed. Firstly, it drew on different perspectives of the evolution of 'child abuse' as a phenomenon throughout recent history. Chapter 1 mapped its transformation in terms of political and populist ideologies over the last two centuries (Donzelot, 1997; Parton, 1985; Ferguson, 1997). Chapter 2 demonstrated how the concept of child abuse evolved through the influence of Catholicism, expert discourses on the matter, welfarist regimes, growing awareness of social problems and the emergence of high profile abuses. Originally focusing on what Buckley *et al.* (1997) have termed the 'depraved child', in need of normalising and moralising, a social control model of intervention was promoted and championed by the Catholic Church (Keating, 2004-2006: pp.158-159). However, as numerous reports brought into question the authority of the Church and cast doubt on the approach it adopted, the 'depraved child' came to be viewed as the 'deprived child', instigating more welfarist endeavours to foster supportive, community based approaches to children and families. As a result abuse was viewed as the product of social disadvantage and family dysfunction, therefore requiring integrative and redistributive efforts to assist the family rather than punitive measures of control. However, the advent of expert medical opinion and discourse on child abuse led to a new conceptualisation around abuse, that of the 'physically abused child'. Non-accidental injury was portrayed as the product of parental illness whereby it was assumed that abusive actions towards the child were caused by the parents' disorder. Following this, the 'sexually abused child' dominated the scene following a series of seminars[103], publications[104], and statistics[105] recognising it as the new and most serious threat to children. More recently, the term 'child abuse' has matured into an amalgam of various forms. It now represents a combination of physical, sexual, emotional and neglectful actions or omissions which very often co-occur in relation to the one child. The continuous emergence in recent

[103] IASW seminar on Incest (1983).
[104] ICCL Working Party Report on child sexual abuse; Law Reform Commission report on child sexual abuse (1990).
[105] Department of Health statistics from 1985-1986 began to include the category of confirmed child sexual abuse.

years of child abuse scandals highlighting incest, rape, violence and extreme neglect informed a new conceptualisation of children being exposed to different forms of maltreatment over a number of years.

This study applied Packer's (1964) 'Crime Control Model' and Garland's (2001) theory that violations against the conscience collective serve to undermine the authority of the ruling power. This helped to advance understanding around managerial responses to contain child protection scandal. The emergence of child abuse scandals during the 1990s upset public sensibilities and produced disturbing insights into the harm to which children were being subjected. The Brendan Smyth case, the Kilkenny incest case, Kelly Fitzgerald and the 'X' case all drew considerable media attention and coverage. The Madonna House Inquiry, Roderick Murphy Inquiry, Ferns Report, Dublin and Cloyne Reports, Ryan Report and the Roscommon Child Care Case highlighted years of institutional abuse, intra-familial and extra-familial abuse. The uncovering of years of harm through the media reflects what Katz (1987, p.52) describes as an attack on the "metaphorical social fabric"; child abuse became a collective experience reinforced and dramatised by the media (Garland, 2001: p.258). Child abuse was no longer viewed as a violation against the State but as a social problem threatening the public's moral fibre, subsequently invoking demands for justice, accountability and reform. Child protection failures were perceived as undermining social morality and weakening the authoritativeness of the ruling power (Garland, 1990: p.59). As a result political responses became more populist as efforts were made to restore order and discipline (Garland, 2001: p.131), following what Packer (1964) denotes as the 'Crime Control Model'. This was exemplified in the introduction of a number of sexual offence acts[106], the production of guidelines[107] and finally the proposed adoption of reporting legislation[108]. It reflects the growth of a system which is defined by the management of child abuse through prescription and protocol. Recent efforts depict a belief that social problems like child abuse can be controlled, contained and prevented through the application of bureaucratic structures and risk management.

---

[106] Criminal Law (Sex Offences) Act 2006; Sex Offender Act 2001; Reckless Endangerment of Children under the Criminal Justice Act 2006; Criminal Law (Incest Proceedings) Act 1995; Child Trafficking and Pornography Act 1998; Protection of Persons Reporting Child Abuse Act 1998.

[107] Our Duty to Care (2002); Children First Guidelines 1999, redrafted and updated in 2011; HSE Child Protection and Welfare Practice Handbook (2011).

[108] Children First Bill (2012); Criminal Justice (Withholding Information on Offences Against Children and Vulnerable Persons) Act 2012.

International Mandatory Child Protection Reporting

Before initiating an investigation into the implications of sanctioned reporting in Ireland it was deemed necessary to undertake a review of international mandatory reporting laws, the outcome of which is detailed in Chapter 4. The review was designed to provide a better understanding of how a mandatory law operates, the criteria set out in the different legislative provisions and the motivational drives behind its adoption. This gave a greater basis and understanding for how a similar provision might operate here and act as a comparator for my own field research. It was also helpful for indicating how breaches of the law were addressed, illustrating the effectiveness or otherwise of such a provision. Finally, the international review provided insight into the impact of the law on reporting rates; demonstrating whether the law has created more benefit or caused more harm.

In summary, the review showed that in the US, Canada and Australia, the impetus for introducing mandatory reporting came from child death scandals, growing professional awareness of non-accidental injuries to children, social movements such as the feminist movement's focus on children's exposure to domestic violence, media campaigning and public unrest with State response to child protection cases at the time. Mandatory reporting was noted as a much newer phenomenon throughout Europe. Countries such as the Netherlands were driven by child abuse fatality scandals while Sweden was coerced by efforts to introduce system reform and restructuring of their child protection system, whereas Cyprus was provoked into adoption as a result of growing awareness around domestic violence. Overall, mandatory reporting can be viewed as the culmination of social, political and media movements which emanated from scandal or political pressure to restructure a system in crisis.

In terms of the criteria set out in mandatory reporting provisions, substantial variation across jurisdictions and countries were noted. However, some generalities were observed with respect to those who are mandated to report. Primarily, the majority of legislative provisions identify specifically obligated individual professionals and sectors, whose work is related to children. A large number of American and Canadian States include a provision for universal application of

mandatory reporting by compelling all citizens to report. While a small minority of American, Canadian and Australian States require religious and clergy to also report, a larger number of States provided exemption for certain privileged professional communications such as attorney-client, clergy-penitent and physician-client relationships.

Further variation was observed in relation to whom sanctions for failures to report apply. While some States impose sanctions on professionals only, others subject all citizens. Case-law on breaches of mandatory reporting illustrate that non-compliers are generally subject to monetary fines rather than imprisonment. In addition, professionals can also be exposed to civil cases by the victim where a failure to report could have prevented further harm.

Finally, the review of international policy considered the impact of mandatory reporting laws on those jurisdictions that have adopted it. It was found that while there is some evidence to suggest mandatory reporting precipitates increases in reporting (Lamond, 1987; Ainsworth, 2002; Buckley, 2009), there is no conclusive evidence to show that mandatory reporting directly leads to over-reporting. This is mainly due to a lack of empirical research immediately prior to and post the introduction of mandatory reporting laws. Increases in reporting rates could also be attributed to the ever expanding terms of mandatory reporting laws. Despite the operation of mandatory reporting in these jurisdictions, case-law evidence and research from Sweden, Cyprus and South Australia suggests that failures to report abuse persist. Data from the Innocenti Research Centre (2003) has found no correlation between child abuse related deaths and countries that have mandatory reporting laws in place; there is no causal link between having a mandatory reporting law in place and reduced child fatalities arising from child abuse or neglect.

In summary then, the international literature indicates no categorical evidence to show that mandatory reporting improves the chances of children exposed to harm, it cannot be shown to definitively be the cause for increases in reporting rates nor can it be claimed that it eliminates failures to report.

Methodology

In setting out to develop my methodological approach I concentrated on trying to understand how policy is transformed into action. The analytical method employed needed to show how implementers effectively construct policy knowledge by drawing on features such as experience, value systems, culture and environment. Giddens' (1984) Structuration Theory therefore provided the framework which directed the methodological approach to this study. Structuration is a meta-theory bringing together structure and agency, suggesting that they are not two separate entities, but that they pre-suppose each-other in a dialectical relationship. The core feature of structuration is the "duality of structure" which purports that, as actors draw on and objectify norms and structures which shape their actions, simultaneously, they can modify these structures by acting contrary to their requirements, thus reifying new structures. The current study therefore draws on structuration to develop a theoretical approach to policy implementation which shows that agents reflexively draw on policy knowledge to constantly question and transform policy structures as they apply it in practice. Using a backward-mapping approach (Elmore, 1979-1980) in conjunction with this, implementation was studied from the bottom-up. This required the methodological approach to question the ability of implementing agents to affect the behaviour which is the target of the policy, taking into consideration the resources available to them.

The setting up of the inquiry therefore drew on the above theoretical perspectives when developing questions for the interview schedule. The sampling strategy for the study was purposive, drawing from a number of disciplines relevant to child protection. Snowballing and maximum variation sampling also allowed for successful recruitment across all relevant sectors. As a result 24 focus group and 27 individual interviews were undertaken with a total of 156 participants across eight different counties. I drew on Charmaz's (2006) methodology of constructivist grounded theory to code and analyse the data. This approach argues that truth is made rather than discovered and so reality is constructed from participants' explicit meanings, experiential views and the researcher's grounded theories.

Review of Field Research Aims

In order to understand the significance of a legal requirement to report child protection concerns it was important to firstly identify the individuals to whom the obligation would apply. Following that it was considered important that these individuals' current experiences of reporting were assessed before the anticipated repercussions arising from a mandatory reporting law could be established. This meant ascertaining the various different phases throughout the reporting process that would promote a better understanding of how mandatory reporting would affect practice at each stage. It was therefore considered necessary for the thesis to contemplate child protection reporting from the initial point of role creation to the final point of making an official report.

Aim 1: To establish how well equipped frontline professionals are to adopt reporting roles and implement the provisions of reporting policy.

In anticipation of the proposed mandatory child protection reporting law this study initially set out to establish how relevant individuals will adopt the role of 'reporter' and implement the requirements of the law into practice. With this in mind qualitative interviews set out to examine current perceptions around role adoption and experiences of assimilating policy guidance into everyday activities.

To gain such understanding a number of areas were addressed with interview participants. Firstly, the study set out to appraise the provisions being made for child protection awareness raising and role development within formative education. This helped ascertain the level of association made by participants between child protection responsibilities and their own professional function. Analysis of the level of training on child protection that was available on undergraduate degree and other professional training and degree courses helped to highlight how prepared professionals were before entering the workplace. It was considered important to determine how well qualified frontline workers would be prior to assuming the responsibility. It was also pertinent that discipline specific constructions of child abuse and conceptualisations of child protection responsibility were examined. This illustrated how different areas of work can influence the way in which people see abuse, how they understand it and how their discipline supports or discourages them

from viewing child protection responsibilities as a fundamental feature of their job. The centrality of child protection duties within participants' jobs was discussed to help determine how involved they will become with the issue and how willing they are to take ownership of the obligation.

Interview questions also sought to assess the adequacy of current Children First training. Participants were asked to discuss their opinions of the training, the quality of information provided and their perceptions about how well qualified they felt subsequently. It was necessary to assess how well equipped, prepared and confident participants felt in relation to the obligation. Questions around the availability and regularity of training revealed the significance placed on maintaining child protection awareness.

Finally, an evaluation of policy implementation was undertaken to highlight the challenges encountered when frontline professionals try to translate policy into action. This was carried out to help highlight the impediments that obstruct individuals from invoking policy specifics within their daily routines. It also served to show how workable, practical and user friendly the guidelines are and the realities of trying to effectuate abstract features such as policy.

Empirical Finding 1: "Cultivating Child Protection Reporting Awareness"

Role Formation and Perception

The anticipated impact of sanctioned reporting could only be understood after current practice, and the factors that shaped it, were revealed. Uncovering these required an examination of how professional child protection roles are conceptualised and subsequently cultivated within their respective disciplines. Having achieved this, the study then revealed how these roles are constructed and the influences that drive these constructions.

The data showed that while the majority of participants were accepting of the reporting duty placed on them, as well as their obligations towards the welfare of the child, a large proportion felt unprepared didactically and psychologically. This was explained by the perceived low profile given to child protection at formative education level. As well as a lack of basic training, there was an absence of any work

culture promoting child protection responsibilities as a part of professional function. Adoption of these responsibilities was therefore compromised. This finding demonstrated a lack of willingness by educational bodies to take ownership of child protection and advocate for its assimilation into professional development. This in turn caused some individuals to feel 'ambushed' by the requirement to take on child protection obligations, post qualification.

Reflective of the literature, the above finding demonstrates the on-going confusion and lack of clarity over where responsibility for child protection lies. This was reminiscent of early 1970s Ireland where Church responsibility for child protection was brought into question and ownership oscillated between medical and social domains. As Skehill (2004) has observed, debates persisted at that time about whether statutory community care social workers or voluntary ISPCC social workers should carry the responsibility for the identification and investigation of alleged child abuse and neglect. Current attempts to bring about sanctioned reporting indicate another shift in responsibility as child protection roles are being extended to a wide number of professions across various disciplines interacting with children and families. The adoption of such a policy signifies efforts to universalise the responsibility by delegating accountability to a wider professional body. However, the current research showed that the lack of effort by educational bodies to cultivate appreciation for the responsibility during professionals' formative training has resulted in some professionals distancing themselves from child protection duties. It was consequently observed that, without clearly defined boundaries of responsibility, assumptions that child protection is the responsibility of someone else are likely to develop.

In addition, it became apparent from the data that various disciplines conceptualise child abuse differently, moulding perceptions and understanding around it, just as the literature demonstrates how the evolution of child abuse and its varying conceptualisations have depended on the ideological construct promulgated at that time.

The data also showed that perceived levels of responsibility for ensuring child welfare alter depending on the level of exposure and contact a professional has with

the child, the amount of promotion that the issue receives within the professional's organisation, and the willingness of the individual to accept responsibility. So, while efforts to streamline child protection and bring about more systematic responses to the problem have evolved, the data shows that frontline professional perceptions of child protection are made up of an amalgam of different constructs which in turn guide how they respond to suspicions of abuse. Some participants constructed child abuse under the medical model of non-accidental injury while others adopted a perspective more like the 'welfarist' approach described in Chapter 2 advocating support and preventive work. Another proportion of participants adopted a minimalist approach and regarded their obligation as being limited to notifying the authorities.

Training and Policy Implementation

The research also highlighted the challenges encountered by participants when trying to apply the specifics of Children First to practice. Interviewees revealed a lack of ground level instruction on how to implement the child protection policy within their daily activities and real-life scenarios. This will have important ramifications for how reporting legislation is set out because instruction on how to interpret, adopt and adapt mandatory reporting requirements will be critical to ensuring it becomes an active, functioning piece of legislation. This finding is inseparable from the methodological paradigm through which the field research was conducted. Here we clearly see policy implementation as a dynamic process involving the structuring of action and agents' capacity to act differently, therefore transforming the structure which directed that action. Challenges to Children First implementation (inability to apply its specifics to their real life environment) demonstrated that failure to follow guidance is less about non-compliance than the inability of policy subjects to assimilate its requirements into practice, due to a lack of practical instruction. Policy structures do not always determine action; instead, policy subjects' construction of (or in this case inability to construct policy knowledge as it applies in real life) determines implementation and explains the divergence between what policy dictates and how practice ensues.

Aim 2: Identify the capability of reporters to accurately detect child abuse and neglect.

With the impending adoption of a mandatory reporting law in mind, the study set out to establish if those to whom it will apply have the understanding and confidence to correctly identify actual cases of abuse and report appropriate concerns. When professionals are subject to a legal mandate requiring them to report, it will be essential that they have the knowledge and skills to correctly detect the presence of abuse so that over-reporting or under-reporting does not put further strain on an already pressurised system. For that reason the thesis carried out an investigation of the different factors that influence detection.

Chapter 7 reported on the way in which participants' encounter the different signs, symptoms and indicators that point towards the presence of child abuse or neglect. It revealed the different types of cases that presented to professionals, how these professionals then interpret the signs and symptoms, the tactics employed to substantiate concerns, the circumstantial evidence drawn on to support a suspicion and the collective processes of communication that assist in determining abuse.

Firstly, interviewees were asked to discuss the different factors that might prompt them to suspect that a child they were working with may be the subject of harm. The visual, non-visual and circumstantial influences that impact on a professional and colour how they perceive the presence of abuse were examined. The interview data also explored the various processes and strategies employed to aid detection; probing techniques and investigative strategies were also reviewed. In addition, collective processes that help to facilitate the evidencing of a suspicion were also investigated. Internal, external and multi-disciplinary sharing of information were interrogated to establish how interlinking between individuals and services can support the evidencing of a concern. The study aimed to unearth any barriers that impede the sharing of information or case-building efforts.

Interview questions also sought to identify the different standards by which suspicions are compared. By examining the various values, beliefs and ideologies that shape the perspectives of professionals, the study was able to uncover how they

interpret different presentations, how they understand abuse to manifest itself and what exactly different professionals are looking for when determining its presence.

The study also attempted to catalogue the multiple forms of abuse and presentations that are predominantly encountered by participants. By analysing the multiple manifestations of abuse, the study revealed how abuse is confronted in reality; the actual encountering of child abuse cases in real-life situations.

Finally, the thesis also considered how non-abusive symptoms are distinguished from real abuse cases. This revealed the different explanations and possibilities that must be explored before attributing an 'abuse' label to the behaviour or symptom in question.

Empirical Finding 2: "Determining Child Protection Concerns"

By examining how professionals actually detect child protection, the study gained insight into how well positioned professionals will be to adopt reporting requirements. More specifically, it showed how accurate their detection skills are, and has provided an understanding of why some people have a tendency to under-report while others are more prone to over-reporting. Finally, it gives an indication of the quality of information provided in reports.

Barriers and Facilitators to Detection

Findings from the field work demonstrated that potential child protection concerns that are perceived by professionals fall into one of two separate categories: "reportable" (obvious and clear-cut) or "theoretical" (inconclusive and ambiguous). It appeared that the majority of concerns fall under the latter category and were often entangled with a cluster of contextual issues and difficulties, obscuring detection further. The precarious presentation of child protection concerns implies that professionals require a high level of skill and expertise to determine its presence, an issue that comes into question after considering the inconsistent efforts to cultivate child protection roles and responsibilities during formative education.

In addition, the notion of adherence to standards in an area where cultural, environmental and socio-economic status have varying influence over parenting

practice caused complication for participants who were trying to determine the presence of child protection concerns. The data revealed that efforts to systematise perceptions around standards of care will present difficulty because beliefs, interpretations and values around what constitutes good parenting will vary across, locations, cultures and between individuals. Compelling professionals to apply technical rationality to an area so imbued with uncertainty will unquestionably cause frustration for those trying to determine an immeasurable concept.

The Evolution of Child Abuse

As this thesis has already established, child abuse is an evolving concept that has continued to expand in nature and content. The word 'abuse' has advanced from one singular concept of non-accidental injury to include child sexual abuse. It now encapsulates a multitude of forms including physical abuse, sexual abuse, emotional abuse and neglect. As Howitt (1992, pp.41-42) outlines, the "language of abuse" is not merely made up of neutral descriptions, but is so freighted with meaning and assumption that the language is strongly theory laden, providing the user with an understanding in itself. The label 'abuse' now denotes a collection of different acts which together have the effect of determining thought and perception. This was apparent within the data as participants looked for specific triggers, risk factors and determinants which situate certain presentations or behaviours within the theoretical label of abuse.

Frameworks and Vantage Points

The data also showed that certain professionals are conditioned to view child abuse through the lens constructed by their respective disciplines while the practicalities of their specific profession (for example, the level of interaction with the child) may mean that certain individuals are more predisposed to seeing certain forms of abuse. Professional discourses around child protection, discipline specific constructs of child abuse and vantage points determine what an individual is likely to see, how they will interpret it and their subsequent actions. For instance, the research showed that those who adopted 'welfarist' approaches were more likely to be liberal in response, causing them to over-attribute (over-report) (Pechtel *et al.,* 2011). While those who were fearful of unnecessarily intruding on the family unit, were more likely to be conservative in response, leading them to under-attribute (under-report) (*ibid*).

Processes for Detection

The study findings indicated that preliminary investigations, probing tactics and case-building strategies all assist participants to assemble a more 'concrete' concern that supported them in making a report. However, a lack of clarity about how far their professional authority allowed them to probe was seen to impede on their child protection duties. Uncertainty about the centrality of child protection as a core function of their professional purpose, which can be linked back to unwillingness of educational bodies to take ownership of the issue, impacted on how far a participant perceived they could inquire.

The data indicated that collective processes, internal and external communication tended to aid detection and advance an initial suspicion into something more material. However, because collective efforts were applied in an ad hoc fashion across disciplines and the data showed evidence of both strict and liberal interpretation of data protection, sharing of information was not routinely endorsed. This suggests that despite policy developments, practices around child protection communication continue to impede information sharing.

Aim 3: Uncover the factors that sway a person's propensity to report an abuse concern.

Chapter 8 addressed the question of whether current decisions to make a report are likely to be changed or influenced by the introduction of a mandatory reporting obligation. Interviews set out to examine the decision-making processes of participants as they assess the utility of making a report. This allowed the study to analyse the cognitive reasoning and risk assessment strategies used to assist an individual transition from suspicion to official referral. This involved an assessment of the level of evidence most participants were dealing with and how that quality of evidence could motivate or discourage reporting.

Further analysis attempted to establish the different individual perspectives and stances that drive an inclination to report. This was in an effort to ascertain if some individuals are more likely to report a concern than others and the factors that shaped that propensity to report. This was done by assessing how reporting was

viewed by interview participants, the utility associated with it and how that can in turn influence decision-making.

Using the interview data, the study identified the factors that deter reporting; the determinants that dissuade reporting as an inappropriate course of action in an effort to establish what failures to report can be attributed to. In doing so, the interview data explored the fears, worries and anxieties associated with reporting; the implications that making a report could have for the professionals, the service, the child and their family.

Finally, this section also examined the activities, evasive tactics and conduct that can lead professionals to delay reporting. This was done to show more clearly why reporting does not always occur and to highlight whether or not mandatory reporting will be a useful implement in such situations.

Empirical Finding 3: "The Reporting Process"

This element of the study discussed the intermediary issues and factors that come into play to influence how agents apply policy structures into practice. Examination of the cognitive processes, risk assessments, motivators and inhibitors which direct decision-making processes, reveal why non-compliance is not simply a matter of flouting the law. Instead it entails a complex interplay of professional rationalisation, the measurement of evidence and anticipation of outcomes. In addition, it highlights the fact that the reporting process does not end at the point of referral. Interaction with social services is considered part of the process and has implications for the way that the utility of reporting is perceived.

Transitioning from having suspicions to making a report

The data highlighted how the progression from having a suspicion to making an official report to the authorities was a multi-dimensional process involving the management of anticipated outcomes and the mediation of competing issues. 'Risk as feeling' and consequentialist approaches to risk assessment were employed to reach a decision on subsequent action. Intervening motivators and deterrents also resulted in two possible responses to a child protection concern. The first was adopted, most regularly, by inconsistent reporters who had a tendency to under-attribute by

adopting consequentialist approaches to assessing the level of risk associated with reporting. It generally involved theoretical concerns, the reporting of which was viewed as an intrusion into family life, reflective of the political culture of Constitutional deference to the family and reluctance to intrude into family life noted in the beginning of the thesis. On the other hand, consistent reporters were observed as having a tendency to over-attribute by adopting 'risk as feeling' responses to both theoretical and reportable concerns. They were noted to be either acting as advocates for the child's welfare or defensively reporting to self-protect from the blame of facilitating the child's continued abuse. Again, responses here were derivative of welfarist approaches to child protection or 'defensive practice' which Harris (1987, p.62) describes as a deliberate response adopted by the professional at the possible expense of the client where the ordeal of exposure influences their response. Harris (*ibid*) argues that "bureaucratic overkill" can lead to positive defensive responses whereby the following of procedure represents an effort to avoid scandal or blame rather than acting in the best interests of the child. This finding suggests that the increased bureaucratisation of child protection practice can lead to responses that are driven by fear of personal consequences and efforts to evade personal blame rather than actions which carry the best interests of the child as the primary motivation.

The reluctance, fear and hesitation that some of the participants expressed around engaging with the child protection system was manifest in their failures to transition to reporting. Evasive tactics such as deferred reporting, rationalisation of abusive behaviour, preservation of professional relationships and second-hand reporting were products of the anxieties and fears participants associated with child protection and the obligation to report. Negative defensive action (Harris, 1987: pp.65-66), or refraining from taking action, may appear to pose less risk to them professionally, but fails to consider the consequences it potentially has for the child.

Engaging with the Child Protection System

The data revealed that a professional's perception of their involvement with the child protection system does not end once they have made a referral. Instead, post-reporting, engagement and interaction with social services can shape their future understanding of the child protection system and the role they play within it.

Exchange theory illustrated how the lack of reciprocity from social work led many participants to feel severed from the case, while others felt unsupported in managing the consequences of making a child protection referral. The research showed that variance in reporting thresholds between social work and professionals also caused tension, leading the latter to assume their professional judgement was being dismissed. Overall, the lack of collaborative cooperation from social work left the majority of participants viewing the child protection system as decimated and unable to process the current influx of reports received. Many reported that they subsequently lost faith in social work and queried the utility of reporting.

The data therefore illustrated that failures to report cannot simply be categorised as "laziness, incompetence, lack of caring or any other such factors" (Howitt, 1992; p.117), but instead, often occur for laudable reasons and even, at times, for good reasons. Policy structures do not guarantee compliance; instead, drawing from the current study, compliance can be viewed as an amalgam between the requirement to follow procedure and an array of circumstantial factors.

The interplay of such factors explains that reporting compliance is a complex issue that can vary between individuals, organisations, services and locations because of reasons connected to training, child protection role perception, capacity to accurately identify, child abuse constructions, decision-making approaches and engagement with social work.

Aim 4: Examination of prospective mandated reporters' understanding and interpretation of mandatory reporting.

The final aim of the study was to explore how a mandatory reporting obligation is understood by those to whom it applies and this theme was addressed in Chapter 9. The data was also used to explore the anticipated outcomes arising from its adoption envisaged by participants. This was done to highlight the implications they predicted emerging, in light of their knowledge and experience of making reports.

Empirical Finding 4: "Sanctioned Reporting: Interpretations and Assumptions"

By examining participants' understanding of sanctioned reporting as well as anticipated repercussions of its introduction, this study was able to analyse the underlying factors behind both compliance and non-compliance. By exploring participants' current understanding of sanctioned reporting, prior to adoption, it was hoped that the preconceptions upon which that understanding is based would indicate how future implementation is likely to be carried out.

Policy Interpretation and Knowledge Construction

Interpretations of sanctioned reporting were found to be based on either normative control models or social control models. Both perspectives illustrated how the policy is likely to be constructed in different ways, subsequently shaping its likely acceptance or rejection.

The data demonstrated that normative control frameworks encouraged compliance because participants understood the law as redressing past abuses, restoring justice and providing accountability. These participants were also found to hold assumptions that sanctioned reporting would create a cultural change and acceptance around reporting obligations, help standardise practice and remove the discretionary burden associated with reporting. On the other-hand, those who perceived sanctioned reporting through a social control model were sceptical about its potential adoption because they viewed it as an attempt by Government to compel compliance through deterrent threats. They viewed it as short-sighted in nature and unfairly targeting those operating at ground-level for inadequacies throughout the system, not just at frontline. This finding therefore showed that contrasting interpretations, understandings and assumptions around sanctioned reporting are likely to undermine consistent reporting. Legislating for something heavily determined by the type of framework adopted by the individual will invariably result in conflicting and dissonant application of that law.

Anticipated and Unanticipated Outcomes of Sanctioned Reporting

As discussed earlier, Giddens' (1984) structuration theory incorporates structure into the agential dimensions of daily social practice. The theory asserts that while structures are inseparable from the understandings that agents bring to their actions,

individual's agency allows them to act differently, thus modifying the structures that directed them in the first instance. From the data it became apparent that participants are likely to be influenced into action by both policy rules such as the threat of sanctioned failures to report but equally compelled by normative obligations to ensure the welfare of the child. At the same time the data showed that "the knowledgeability of human agents" (*ibid*, p.3) meant that participants monitor their actions and take into consideration the implications of reporting a concern at both the micro and macro level. Participants' reflexive monitoring and rationalisation of anticipated repercussions arising from sanctioned reporting at a professional level, at a social work level and for the child and their family were also seen to influence action.

In conjunction with child protection obligations to report, socio-economic factors, child abuse constructions, professional frameworks and anticipated outcomes from making a referral interacted to influence an individual's subsequent action. Compliance with rules and structures is therefore explained throughout this study as more than unquestioning acquiescence with procedure. Instead, compliance should be understood as a fusion of a number of factors, including faith in the policy; resources to achieve the policy objectives, understanding of the obligations set out in the policy, possession of the skills and expertise to apply policy requirements and confidence that enactment of the policy will have beneficial outcomes for all those involved.

Legislating for child protection represents an attempt to tackle a social issue that is deeply divisive in nature. The current study highlights how difficult it will be to undertake such a commitment because, in essence, it is an effort to legislate for individual judgement, opinion, belief systems, values and morals in respect of a complex and quite private area. This final finding clearly highlights that the creation of a sanctioned reporting law which aims to standardise practice and ensure consistent reporting of child protection concerns will result in practice becoming even more inconsistent and fractured. This is because reporting habits are not just based on prescription to policy, but are simultaneously informed by policy as well as agents' rationalisation and reflexive monitoring of the situation. The remainder of this concluding chapter will consider the implications raised by the current study.

Discussion of Findings

In light of the literature and findings derived from the field research the following theoretical conclusion emerged: the dominant child protection ideologies, discourses and constructs of our time shape how we respond to the problem of child abuse and neglect but do not necessarily mandate for what matters. The literature indicates that scandal, public discontent and conceptions of a risk society have shaped how political responses address the issue of child abuse and neglect. We see how responses have evolved as understanding expands, as expert discourses contribute their professional opinion and the public becomes empowered and makes demands for greater protection and justice. Responses adjust as knowledge develops, new findings from inquiries emerge and the public become more involved. We saw how the social control model led to regulation of the family, how welfarist approaches gave way to the promotion of social justice and rehabilitation, how the dominance of physical and sexual forms of abuse resulted in self-confrontation and critique by the system itself and finally how the need for greater civil liberties led to the debate of natural rights versus natural responsibility within the *Child Care Act* and the Constitution. The dominant ideologies and discourses throughout history have influenced responses to child protection and dictated where ownership of the issue resided. At this current juncture, we are seeing a more bureaucratic response to control professional work around child protection; the focus of policy is now on the frontline professional and no longer on the family or State. The current reaction of mandatory reporting implies a child protection system radicalised through bureaucratic responses that aim to control professional action and consequently maximise detection.

But does mandatory reporting mandate for what matters? Is it compelled by the right reasons, will it achieve the purpose for which it was designed? By adopting a backward-mapping approach I was able to consider structuration theory within the context of mandatory reporting and apply the theory at the frontline level to answer the above questions. By doing so the study focused attention on the 'mechanism' that implements policy, not the policy drafters nor the issue requiring policy, but how those that are obliged to effectuate policy carry out the obligation to report and the intervening factors which impact on that enactment. The findings consequently showed that while mandatory reporting places sanctions on those that fail to report,

it fails to provide for the reasons why reporting does not always occur. It overlooks the complexities of detection and fails to provide resources at an early stage of responsibility development, for example, it places a threat of sanctioning on individuals without providing the corresponding training to prepare them to carry out the obligation. Mandatory reporting fails to recognise the barriers that inhibit or deter reporting and it fails to predict the negative fall-out from its implementation, such as over-reporting, breakdown of trust by families and unnecessarily dragging families into the child protection system. The study therefore goes beyond questioning the advantages and disadvantages of mandatory reporting at a theoretical level and examines how it is engaged with and how the interplay between agency and structure can produce different outcomes.

Structuration theory also provided clarity on why the implementation of such policies is inconsistent; the factors which cause variation in the application of legislation like mandatory reporting. The theory is premised on the argument that social structures influence agents' actions but these structures do not exist independently of those agents; in other words, structures only exist as they are enacted by agents. By applying this to the current study the following question was raised: will mandatory reporting mean that all behaviour is controlled by this new law which will dictate how professionals respond to child protection or will professionals have more influence and agency over their actions? During analysis it was clear that the 'duality of structure' is central to explaining variation in the implementation of mandatory reporting laws. Structure shapes human action which in turn constitutes the structure; mandatory reporting law dictates how professionals should respond to child protection concerns but as they engage with families, experience resourcing issues and the inadequacy of training, actions can vary from what the structure intended and the outcome is a new social structure where reporting practices are inconsistent. Structuration theory argues that agents have the power to transform that structure as they enact it and create a new pattern. This was evidenced in the research data when, according to the Children First guidelines, social workers are required to give feedback to professionals on the referrals they send in, however the norm is for them not to do so and this pattern has now become the new social structure, contrary to what Children First demands. Structuration theory therefore helps us to understand the tensions that exist between policy intent and

implementation practice. For example, the 2008 National Review of Compliance with Children First showed that difficulties with Children First were associated with local variation and infrastructural issues rather than fundamental difficulties with the guidelines themselves. Implementors therefore do not always do as they are told, they can respond to legislative obligations in ways that appear resistant. Policy success therefore depends on two factors, capacity and will. 'Will' denotes their perceived value of the policy and their motivation to comply, however, motivation is largely influenced by factors beyond the reach of policy and so, policy can influence outcomes but cannot mandate for what matter.

Theoretical and Policy Implications

This thesis presents a critical and timely engagement with the issue of child protection reporting in Ireland and has generated new data and analysis on professional reporters' attitudes, perceptions and understanding around the proposed introduction of sanctioned reporting. The study provides a unique insight into the different factors that come into play to inhibit or facilitate the decision to report. It has therefore provided the knowledge and intelligence that could help inform current policy developments and legislative directions around child protection reporting. Given that mandatory reporting is soon to be adopted in Ireland, information derived from the findings of this study could help improve the legislation as it is being developed, while also providing for surrounding issues that will advance the implementation of the legislation.

Policy makers could usefully recognise from this study the need to cultivate awareness around child protection reporting duties at an early stage in a professional's career. Reporting roles and child protection awareness need to be integrated into relevant third level and further education programmes to help prepare and qualify individuals entering disciplines where child protection is a relevant issue. Requirements need to be placed on educational bodies to incorporate child protection teaching into the curriculums of relevant disciplines; varying the level of focus according to the relevance, or likely relevance, of child protection to that area of study. Teaching should also endeavour to ensure child protection is regarded as a central element of professional development, particularly within areas such as education, medicine, health, counselling and therapy work, childcare, sports and

youth work. This should help to foster attitudes of acceptance toward future training and development.

More practical guidance, along the lines of the Child Protection and Welfare Practice Handbook (HSE, 2011), need to be developed. Handbooks should be devised which specifically focus on how different professionals, services and organisations can assimilate Children First policy requirements into everyday practice. Instruction needs to be produced to help individuals and services construct reporting plans, procedures and steps for dealing with a child protection concern. These instructions should be adaptable to different disciplines, sectors and services to assist designated officers and staff when formulating workable plans that allow for tailored implementation of the Children First obligations.

Policy development also needs to address the barriers and challenges that individuals encounter when trying to detect the presence of child abuse. Training needs to place more detailed focus on how to distinguish ambiguous child protection concerns from non-abuse, while also taking into consideration factors that can influence detection, such as socio-economic deprivation, cultural and ethnic backgrounds. Progressive, tiered training should also be rolled out to recognise that there are varying levels of exposure to child protection issues within different professions. This should allow individuals to tease out more complex issues that arise throughout their reporting experience. Consideration should also be given to developing a referral and consultation service modelled on the Netherlands' AMKs (Advice and Reporting Centres on Child Abuse). This could allow for on-hand advice to be quickly delivered to professionals encountering a child protection issue while also diverting unnecessary requests for information away from social work. It could act as a triaging service that allows professionals to identify what is an appropriate report through consultation.

The study has demonstrated the need for policy makers to place greater attention on multi-disciplinary interaction and communication around child protection concerns. Provision needs to be made that will ensure regular communication as standard practice in terms of child protection work. Platforms to ensure different agencies, services, organisations and professionals come together at a pre-reporting stage need

to be developed so that ad hoc inter-service collaboration can be reduced. The data showed that information sharing was one of the key resources drawn on by individuals to help advance an initial suspicion. Clear instruction within policy therefore needs to set out when information sharing can and cannot be permitted so that this strategy for detection can be endorsed more. Those in authority also need to consider the reasons why failures to transition into official reporting are occurring. Training also needs to address the fears and anxieties individuals associate with reporting which lead to bad practice. For example, the anxieties and fears associated with the fall-out from making a report need to be dispelled to help avoid practices such as second-hand reporting or deferred reporting.

Most importantly, confidence in the child protection system needs to be restored before reporting can instigate positive change. The data highlighted that a lack of faith in social work to cope with the demands being placed on them emerged as a consistent trend amongst interview participants. To instil a greater sense of confidence in the child protection system's ability to manage reports, increased resourcing of social work staff and preventive services needs to take place. It is arguable then that confidence in the system will encourage reporters to recognise the utility of reporting and help eliminate failures to report more so than mandatory reporting. Policy reform therefore needs to concentrate on the macro issues identified by participants in this study, by repairing how the child protection system is viewed.

Finally, this study highlights that clarification around what mandatory reporting means and how it should be interpreted needs to be established by those creating the legislation. Policy makers need to ensure that those who will be the subject of mandatory reporting legislation comprehend what the law requires them to do. The data showed that, due to mixed interpretations, mandatory reporting could potentially be construed in different ways; some may see it as requiring every concern they encounter to be notified to the authorities while others believe they can selectively report. Policy makers should therefore state that mandatory reporting does not equate with non-discretionary, automatic reporting while also outlining some form of threshold for when a report needs to take place. It was also apparent from the data that mandatory reporting is likely to cause some professionals to report

out of fear of being sanctioned, rather than concern for the child's best interests. Reporting legislation therefore needs to clearly allow for flexibility where notification is not always in the child's best interests.

Recommendations for Future Research

Throughout the field research for this study a number of issues became apparent to me as researcher which could inform and direct future research on this topic. Interview participants for this study were predominantly individuals who were very aware of the proposed introduction of sanctioned reporting. Therefore participants tended to be those who were nervous about such developments and anxious to express their sentiments. It would be interesting then to focus attention on those who are newly qualified in their profession and lacking experience, to compare with the perceptions of those exposed to the issue for a longer period of time.

Through discussion with certain services it also became obvious that the remit of relevance for child protection reporting obligations extended further than was first anticipated. For this reason it would be beneficial for future research to investigate how far the scope of child protection reporting obligations can extend out, beyond services immediately linked to children. This would also highlight the differences in practice and levels of expectation between those heavily involved with children and those who are not. Greater focus on how volunteers also interact and cope with child protection requirements would provide valuable information on the effects of such responsibilities on non-professionals. Concentrating on the reporting of isolated social groups such as travellers or ethnic minorities would also provide interesting data on how circumstantial factors can influence how abuse is constructed and perceived.

In addition, as the Children First legislation is rolled out, it is critical that its implementation is assessed and pursued and changes in practice and perception are tracked to provide a comparator to this study. Furthermore, statistical examination of reporting and substantiation rates, post-introduction would be extremely constructive, shedding light on the statistical impact of a sanctioned reporting law.

Conclusion

This study has helped highlight the different ideologies, constructs and discourses which have shaped how individuals at frontline perceive and understand child abuse. It also illustrated how role cultivation and vantage points have governed how professionals perceive their child protection responsibility and consequently guide their responses to a concern. Actions are therefore guided, not just by rules, laws and protocols, but also by individual professionals' understandings, assessments, judgements and beliefs. So while sanctioned reporting measures are likely to compel compliance through fear of personal repercussions, they cannot ensure universal compliance because external factors and internal rationalisations will inevitably intervene and dissuade in certain circumstances. This study therefore makes a case for questioning the utility of applying further procedures on an area so infused with uncertainty. Applying solutions that aim to standardise and homogenise responses are unlikely to appease the difficulties and struggles encountered by those operating at the frontline where encounters with child protection were overwhelmingly noted as being tenuous and sketchy.

Bibliography

Abdi, H. (2007), *Encyclopedia of Measurement and Statistics,* California: Sage

Abrahams, N., Casey, K. & Daro, D. (1992), 'Teacher's knowledge, attitudes, and beliefs about child abuse and its prevention' *Child Abuse and Neglect,* 16, pp.229-238.

Ainsworth, F. (2002), 'Mandatory Reporting of child abuse and neglect: does it really make a difference?', *Child Abuse and Family Social Work,* 7, pp.57-63).

All Party Oireachtas Committee on the Constitution (2006), *Tenth Report-The Family,* Dublin: Stationary Office.

Amaro, F. (2008), 'Portuguese report on National and Local policies to prevent violence against children', [Report for the Council of Europe "Building a Europe for and with Children" programme].

Amnesty International (2008), 'Submission to the Joint Committee on the Constitutional Amendment on Children' [online] Available at: http://www.oireachtas.ie/viewdoc.asp?fn=/documents/Committees30thDail/J-ConAmendChildren/Submissions/List_Of_Submissions/02AmnestyInternational.pdf. [Accessed 20 May 2011].

Anderson, D.C. (1995), 'Crime and the Politics of Hysteria: How the Willie Horton Story changed American Justice', *Journal of Contemporary Criminal Justice,* 11(4), pp. 298-300.

Andrighetto, G. & Conte, R. (2012), "Cognitive dynamics of norm compliance. From norm adoption to flexible automated conformity", *Artificial Intelligence and Law,* 20, pp.359-381.

Ångman, I. & Gustafsson, M. (2011), 'Combating Child Abuse and Neglect in Sweden', A report commissioned by Daphne III programme of the European Commission, [online] available at: http://www.youthpolicy.nl/yp/downloadsyp/Daphne-report-Sweden.pdf.

Atkinson, R., & Flint, J. (2001), "Accessing hidden and hard-to-reach populations: Snowball research strategies", *Social Research Update,* 33, [online] available at: http://www.soc.surrey.ac.uk/sru/SRU33.html.

Australian Institute of Health and Welfare (2012), 'Child Protection Australia: 2010-2011', *Child Welfare Series,* 53, [online] available at: http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=10737421014.

Australian Institute of Health and Welfare (2011), 'Child Protection Australia 2009-10', *Child Welfare Series*, no. 51, [online] available at: http://www.aihw.gov.au/WorkArea/DownloadAsset.aspx?id=10737421014.

de Baat, M., Van der Linden, P., Kooijman, K. & Vink, C. (2011), 'Combatting Child Abuse and Neglect in the Netherlands', A report commissioned by Daphne III programme of the European Commission, [online] available at: http://www.youthpolicy.nl/yp/downloadsyp/Daphne-report-The-Netherlands.pdf.

Bar Council (undated), 'Submission to the Joint Committee on the Constitutional Amendment n Children', [online] Available at: http://www.oireachtas.ie/viewdoc.asp?fn=/documents/Committees30thDail/J-ConAmendChildren/Submissions/List_Of_Submissions/45BarCouncil.pdf. [Accessed 20 May 2011].

Barrett, C.J. (1955), 'The Dependent Child', *An Irish Quarterly Review,* 44(176), pp. 419-428.

Beck, U. (1992), *Risk Society: Towards a New Modernity,* Cambridge: Polity Press.

Beck, U., Giddens, A. & Lash, S. (1994), *Reflexive Modernization: Politics, Tradition and Aesthetics in the Modern Social Order,* Cambridge: Polity Press.

Berg-le Clercq, T. (2012), 'Combatting Child Abuse and Neglect in Germany, Hungary, Portugal, Sweden and the Netherlands', Netherlands Youth Institute, A report for Daphne Project 'Prevent and Combat Child Abuse: What works? An overview of regional approaches, exchange and research', [online] available at: http://www.youthpolicy.nl/yp/downloadsyp/Publications-Combating-child-abuse-and-neglect-in-Germany,-Hungary,-Portugal,-Sweden-and-The-Netherlands.pdf.

Besharov, D. (1990), 'Unfounded Allegations-A New Child Abuse Problem', *Public Interest,* 83, pp. 18-33.

Bhattacharya, U. & Daouk, H. (2009), "When no Law is Better than a Good Law", *Review of Finance,* 13, pp.577-627.

Bialestock, D. (1966), 'Neglect Babies-A study of 289 babies admitted consecutively to a report center', *Medical Journal of Australia,* 2.

Birkland, T. (2005), *An Introduction to the Policy Process: Theories, concepts and models of public policy making,* New York: M.E. Sharpe.

Biron-Campis, L., Hebden-Curtis, J. & Demaso, D. (1993), 'Developmental Differences in Detection and Disclosure of Sexual Abuse', *Journal of the American Academy of Child and Adolescent Psychology,*

Birrell, R. & Birrell, J. (1968), 'The maltreatment syndrome in Australia: A hospital survey', *Medical Journal of Australia*, 2, pp. 1023–1029.

Boethius, M. & Kjellander-Ahlberg, B. (1982), *Barnkunskap,* Stockholm: Sparfrämjandet.

Breen, R., Hannon, D.F., Rottman, D.B., Whelan, C.T. (1990), *Understanding Contemporary Ireland: State, Class and Development in the Republic of Ireland,* Dublin: Gill and MacMillan.

Brennan, P.D. (1994), 'Ireland: Changes and New Trends in Extra familial care in the last Two Decades', In: Gottesman, M. (eds.), *Recent Changes and New Trends in Extrafamilial Child Care: An International Perspective,* London: Whiting and Birch.

Brown, T. (2004), *A Social and Cultural History 1922-2002,* London: Harper Perennial.

Buckley, H. (1996 unpublished), *Putting Children First: A Discussion Document on Mandatory Reporting- A Response by Helen Buckley,* Department of Social Studies, University of Dublin, Trinity College Dublin.

Buckley, H. (1999), "Child Protection Practice: An Ungovernable Enterprise?" *The Economic and Social Review,* 30(1), pp.21-40.

Buckley, H. (2000), 'Inter-agency Co-operation in Irish Child Protection Work', *Journal of Child Centred Practice,* 6, pp.9-17.

Buckley, H. (2009), "Reforming the Child Protection System: Why we need to be careful what we wish for", *Irish Journal of Family Law,* 2, pp.27-32.

Buckley, H. (2012), "Using Intelligence to Shape Reforms in Child Protection", *Irish Journal of Applied Social Studies,* 12(1), pp.63-73.

Buckley, H. & O'Nolan, C. (2013), *An Examination of Recommendations from Inquiries into Events in Families and their Interactions with State Services, and their Impact on Policy and Practice*, Dublin: Government Publications.

Buckley, H., Skehill, C., O'Sullivan, E. (1997), *Child Protection Practices in Ireland: A Case Study,* Dublin: Oak Tree Press.

Bunreacht na hÉireann (1937), *Ireland. Constitution,* Dublin: The Stationary Office.

Butler, S. (1996), 'Child Protection or Professional Self-Preservation by the Baby Nurses? Public Health Nurses and Child Protection in Ireland', *Social Science and Medicine,* 43(3), pp.303-314.

Carlsnaes, W. (1992), "The Agency-Structure Problem in Foreign Policy Analysis", *International Studies Quarterly,* 36(3), pp.245-270.

Carolan, E. (2007), 'The Constitutional Consequences of Reform: Best Interests after the Amendment' *Irish Journal of Family Law* 10(3), p.9.

Carrigan, W. (1931), *Report of the Committee on the Criminal Law Amendment Acts (1880-85), and Juvenile Prostitution.* The report was printed by the Stationary Office but never publicly released.

Central Statistics Office (2006), *Census 2006: Principal Demographic Results,* [online] available at: http://www.cso.ie/census/documents/Final%20Principal%20Demographic%20Results%202006.pdf. [Accessed 06 May 2011].

Cerny, P. (1990), *The Changing Architecture of Politics,* London: Sage Publications.

Charmaz, K. (2003), "Grounded Theory", in: Smith, J. (eds.), *Qualitative psychology: A practical guide to research methods,* London: Sage Publications.

Charmaz, K. (2006), *Constructing Grounded Theory: A Practical Guide Through Qualitative Analysis,* London: Sage Publications.

Charmaz, K. & Bryant, A. (2011), "Grounded Theory and Credibility", in Silverman, D. (eds.), *Qualitative Issues of Theory, Method and Practice,* London: Sage Publications.

Chen, W., Glasser, S., Benbenishty, R., Davidson-Arad, B., Tzur, S. & Lerner-Geva, L. (2010), 'The contribution of a hospital based child protection team in determining suspected child abuse and neglect: Analysis of referrals of children aged 0-9', *Children and Youth Services Review,* 32, pp.1664-1669.

Child Welfare Information Gateway (2010), 'Mandatory Reporters of Child Abuse and Neglect: Summary of State Laws', [online] available at: https://www.childwelfare.gov/responding/mandated.cfm.

Christian, C.W. (2008), 'Professional education in child abuse and neglect', *Pediatrics,* 122 (suppl. 1), pp.13-17.

Coalition of Eight Children's NGOs (2010), "Saving Childhood Ryan" [online] available at: http://www.childrensrights.ie/index.php?q=knowledgebase/child-protection/saving-childhood-ryan. [Accessed 29 November 2010].

Cocozza, M., Gustafsson, P. & Sydsjö, G. (2007), 'Who suspects and reports child maltreatment to Social Services in Sweden? Is there a reliable mandatory reporting process?', *European Journal of Social Work,* Vol. 10(2), pp. 209-223.

Cocozza, M. & Hort, S. (2011), 'The Dark side of the universal welfare state? Child abuse and protection in Sweden', in: Gilbert, N., Parton, N. & Skivenes, M. (eds.), *Child Protection Systems: International Trends and Orientations,* New York: Oxford University Press.

Cohen, I. (1989), *Structuration Theory: Anthony Giddens and the Constitution of Social Life,* St. New York: Martin's Press.

Cohen, S. (1972), *Folk Devils and Moral Panics: The Creation of the Mods and the Rockers,* London: MacGibbon and Kee.

Commission of Investigation (2009), *Report into the Catholic Archdiocese of Dublin,* Dublin: Government Publications.

Commission of Investigation (2010), *Report into the Catholic Diocese of Cloyne,* Dublin: Government Publications.

Commission to Inquire into Child Abuse (2009), *Report of the Commission to Inquire into Child Abuse, Volumes 1-5,* Dublin: Stationary Office.

Committee on Sexual Offences against Young Persons (1925), *Report of the Departmental Committee on Sexual Offences against Young Persons,* London: His Majesty's Stationary Office.

Colwell Report (1974), *Report of the Committee of Inquiry into the Care and Supervision Provided in Relation to Maria Colwell,* London: HMSO.

Cooney, T. and Torode, R. (1988), *Report of the Child Sexual Abuse Working Party,* Dublin: Irish Council for Civil Liberties.

Crenshaw, W., Crenshaw, L. & Lichtenberg, J. (1995), 'When Educators Confront Child Abuse: An Analysis of the Decision to Report', *Child Abuse and Neglect,* 19(9), pp.1095-1113.

Cronin, A., (2001), "Focus Groups", in: Gilbert, N. (eds.), *Researching Social Life,* London: Sage Publications.

Crouch, M. & McKenzie, H. (2006), "The Logic of Small Samples in Interview Based Qualitative Research", *Social Science Information,* 45(4), pp.483-499.

Dear, L. et al. (1977), *Suffer Little Children: a discussion document on Child Abuse in Ireland,* Dublin: North Dublin Social Workers.

Denscombe, M. (2002), *Good Rules for Social Research: Guidelines for Good Practice,* Berkshire: Open University Press.

Denzin, N. & Lincoln, Y. (1994), "Entering the Field of Qualitative Research", in: Denzin, N. & Lincoln, Y. (eds.), *Handbook of Qualitative Research,* London: Sage.

Department of Children and Youth Affairs (2011), *Children First: National Guidance for the Protection and Welfare of Children,* Dublin: Government Publications.

Department of Health (1970), *Reformatory and Industrial School Systems Report,* Dublin: Stationary Office.

Department of Health (1976), *Report of Committee on Non-Accidental Injury to Children,* Dublin: Stationary Office.

Department of Health (1977), *Memorandum on Non-Accidental Injury to Children,* Dublin: Department of Health.

Department of Health (1980a), *Guidelines on the Identification and Management of Non-Accidental Injury to Children,* Dublin: Department of Health.

Department of Health (1980b), *Task Force on Child Care Services,* Dublin: Stationary Office.

Department of Health (1983), *Guidelines for the Identification, Investigation and Management of Non-Accidental Injury to Children,* Dublin: Department of Health.

Department of Health (1987), *Guidelines on Procedures for the Identification, Investigation and Management of Child Abuse,* Dublin: Department of Health.

Department of Health (1996a), *Report on the Inquiry into the Operation of Madonna House,* Dublin: Government Publications.

Department of Health (1996b), *Putting Children First: A Discussion Document on Mandatory Reporting,* Dublin: Government Publications.

Department of Health (1997), *Putting Children First: Promoting and Protecting the Rights of Children,* Dublin: Stationary Office.

Department of Health (1999), *Children First: National Guidelines for the Protection and Welfare of Children,* Dublin: Government Publications.

Department of Health and Children (2000), *Draft White Paper on Mandatory Reporting of Child Abuse,* Dublin: Department of Health and Children.

Department of Health and Children (2008), *Analysis of Submissions made on a National Review of Compliance with Children First: National Guidelines for the Protection of Children and Welfare of Children,* Dublin: Stationary Office.

Department of the Taoiseach (1998), *Action Programme for the Millennium,* [online] available at: http://www.taoiseach.gov.ie/eng/Publications/Publications_Archive/Publications_2006/Publications_for_1998/actionmillennium1.pdf [Accessed 06 April 2011].

Devine, C. and Rush, E. (2008) *Review Inquiry on any matter pertaining to Child Protection Issues touching on or concerning Dr. A,* Dublin: HSE.

Dingwall, R., Eekelaar, J. & Murray, T. (1995), *The Protection of Children,* Aldershot: Avebury Publishing.

Doek, J. (1978), 'Child Abuse in the Netherlands-The Medical Referee', *Chicago-Kent Law Review,* 54, pp.785-826.

Doherty, D. (1996), 'Child Care and Protection: Protecting the Children - Supporting Their Service Providers', In: Ferguson, H. & McNamara, T. (eds.), *Protecting Irish Children: investigation, protection and welfare,* Dublin: Institute of Public Administration.

Donzelot, J. (1997), *The Policing of Families,* Baltimore and London: The Johns Hopkins University Press.

Donzelot, J. (1980), *The Policing of Families: Welfare Versus the State,* London: Hutchinson.

Dworkin, R.M. (1977), *Taking Rights Seriously,* London: Duckworth.

Eastern Health Board Senior Social Workers Group (1976), *Response to the Report of the Department of Health Committee on Non-Accidental Injury to Children,* Internal Eastern Health Board Document.

Elliott, A. (2002), "Beck's Sociology of Risk: A Critical Assessment", *Sociology,* 36. pp.293-315).

Elmore, R. (1979-1980), "Backward Mapping: Implementation Research and Policy Decisions", *Political Science Quarterly,* 94(4), pp.601-616.

Etienne, J. (2011), "Compliance Theory: A Goal Framing Approach", *Law and Policy,* 33(3), pp.305-333.

Feng, J.Y., Chen, S.J., Wilk, N., Yang, W.P. & Fetzer, S. (2009), "Kindergarten teachers' experience of reporting child abuse in Taiwan: Dancing on the edge", *Children and Youth Services Review,* 31, pp.405-409.

Feng, J.Y., Chen, Y.W., Fetzer, S., Feng, M.C. & Lin, C.L. (2012), "Ethical and legal challenges of mandated child abuse reporters", *Children and Youth Services Review,* 34, pp.276-280.

Ferguson, H. (1990), 'Rethinking Child Protection Practices: A case for history', in: The Violence Against Children Study Group (eds.), *Taking Child Abuse Seriously,* London: Unwin Hyman.

Ferguson, H. (1993), 'Surviving Irish Childhood: Child Protection and the Death of Children in Child Abuse Cases in Ireland since 1884', In: Ferguson, H. Gilligan, R. Torode, R. ed. *Surviving Childhood Adversity: Issues for Policy and Practice,* Dublin: Social Studies Press.

Ferguson, H. (1994), 'The Authority of the Family: A Critique', *Doctrine and Life,* 44(10), pp. 589-595.

Ferguson, H. (1995), 'Child Welfare, Child Protection and the Child Care Act 1991: Key Issues for Policy and Practice', In: Ferguson, H. and Kenny, P. ed. *On Behalf of the Child: Child Welfare, Child Protection and the Child Care Act 1991,* Dublin: A&A Farmar.

Ferguson, H. (1996), 'Protecting Irish Children in Time: Child Abuse as a Social Problem and the Development of the Child Protection System in the Republic of Ireland', *Administration,* 44(2), pp. 5-36.

Ferguson, H. (1997), 'Protecting Children in New Times: Child Protection and the Risk Society', *Child and Family Social Work,* 2, pp.221-234.

Ferguson, H. and O'Reilly, M. (2001), *Keeping Children Safe: Child Abuse, Child Protection and the Promotion of Welfare,* Dublin: A &A Farmer.

Fielding, N. & Thomas, H. (2001), "Qualitative Interviewing", in: Gilbert, N. (eds.), *Researching Social Life,* London: Sage Publications.

Finkelhor, D. (1994), 'The "Backlash" and the Future of Child Protection Advocacy: Insights From the Study of Social Issues', in: Myers, J. (eds.), *The Backlash: Child Protection Under Fire,* New York: Sage Publications.

Finlayson, L. & Koocher, G. (1991), "Professional Judgment and Child Abuse Reporting in Sexual Abuse Cases", *Professional Psychology: Research and Practice,* 22(6), pp.464-472.

Finnane, M. (2001), "The Carrigan Committee of 1930-31 and the 'Moral Condition of the Saorstát'", *Irish Historical Studies,* 32(128), pp.519-536.

Fitzgerald, O. (2008), 'The Constitutional Protection of Children in Ireland: Assessing

the Need for Reform and the Available Alternatives', *Human Rights Law Review,* 8(1), [online] available at: http://www.westlaw.ie/westlawie/wisearchframes?edit_doctype=all&searchFreeText=oliver+fitzgerald&db_choice=journals. [Accessed 24 May 2011].

Flaherty, E., Jones, R. & Sege, R. (2004), "Telling their stories: primary care practitioners' experience evaluating and reporting injuries caused by child abuse", *Child Abuse and Neglect,* 28, pp.939-945.

Flaherty, E. & Sege, R. (2005), 'Barriers to Physician Identification and Reporting of Child Abuse', *Pediatric Annals,* 34(5), pp.349-356.

Flaherty, E., Sege, R., Binns, H.J., Mattson, C.L. & Christoffel, K.K. (2000), 'Health care providers experience reporting child abuse in the primary care setting', *Archives of Paediatrics and Adolescent Medicine,* 154(5), pp.489-493.

Fogarty, F. (2008), 'Some aspects of the early history of child protection in Australia', *Family Matters,* 78, pp. 52-29.

Fogarty, Justice J. (1993), *Protective Services for Children in Victoria,* Melbourne: VGPS.

Fox Harding, L. (1997), *Perspectives in Child Care Policy,* England: Pearsan Education Limited.

Fraser, J., Mathews, B., Walsh, K., Chen, L. & Dunne, M. (2010), 'Factors influencing child abuse and neglect recognition and reporting by nurses: A multivariate analysis', *International Journal of Nursing Studies,* 47, pp. 146-153.

Frijns, B., Gilbert, A. & Tourani-Rad, A. (2013), "Do Criminal Sanctions Deter Insider Trading?", *The Financial Review,* 48, pp.205-232.

Frothingham, T., Barnett, R., Hobbs, C. & Wynne, J. (1993), 'Child Sexual Abuse in Leeds before and after Cleveland', *Child Abuse Review,* 2, pp.23-24.

Garland, D. (1990), *Punishment and Modern Society: A Study in Social Theory,* Oxford: Oxford University Press.

Garland, D. (2001), *The Culture of Control: Crime and Social Order in Contemporary Society,* Oxford: Oxford University Press.

Gibbons, N., Harrison, P., Lunny, L. and O'Neill, G. (2010), *Roscommon Child Care Case: Report of the Inquiry Team to the Health Service Executive,* Dublin: HSE.

Giddens, A. (1984), *The Constitution of Society: Outline of the Theory of Structuration,* Cambridge: Polity Press.

Giddens, A. (1994), *Beyond Left and Right: The Future of Radical Politics,* Cambridge: Polity Press.

Giddens, A. & Pierson, C. (1998), *Conversations with Anthony Giddens: Making Sense of Modernity,* California: Stanford University Press.

Gilbert, N. (1997), *Combating Child Abuse: International Perspectives and Trends*, New York: Oxford University Press.

Gilbert, N., Parton, N. & Skivenes, M. (2011), *Child Protection Systems: International Trends and Orientations,* New York: Oxford University Press.

Gilligan, R. (1991), *Irish Child Care Services: Policy, Practice and Provision,* Dublin: Institute of Public Administration.

Gilligan, R. (1992-1993), 'The Child Care Act 1991: An Examination of its Scope and Resource Implications', *Administration,* 40(4), pp.347-370.

Giovannoni, J. (1995), 'Reports of Child Maltreatment from mandated and non-mandated reporters', *Children and Youth Services Review,* 17(4), pp.487-501.

Glaser, B. & Strauss, A. (1967), *The Discovery of Grounded Theory: Strategies for Qualitative Research,* New York: Aldine Publishing Company.

Goddard, C. & Liddell, M. (1995), 'Child Abuse Fatalities and the Media: Lessons from a Case Study', *Child Abuse Review,* 4, pp.356-354.

Goddard, C. & Saunders, J. (2001), 'Child Abuse and the Media', *Child Abuse Prevention,* 14, [online] available at: http://www.aifs.gov.au/nch/pubs/issues/issues14/issues14.html.

Goldman, J. & Grimbeek, P. (2008), 'Student Teachers' understanding of policy behavioural directives concerning the reporting of child sexual abuse: findings from one Australian state', *Educational research,* 50(3), pp.291-305.

Goldman, J. & Grimbeek, P. (2009), 'How university student-teachers for primary school learn about Department of Education Policy on child sexual abuse and mandatory reporting: the sources of their professional information', *Higher Education,* 58, pp.221-239.

Goode, H., McGee, H., O'Boyle, C. (2003), *Time to Listen: Confronting Child Sexual Abuse by Catholic Clergy in Ireland,* Dublin: The Liffey Press.

Gordon, L. (1989), *Heroes of their own Lives: The Politics and History of Family Violence, Boston 1880-1960*, London: Virago.

Gordon, S., Hallahan, K. & Henry, H. (2002), *Putting the Picture Together: Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities,* State Law Publisher: Perth, [online] available at:

http://www.strongfamilies.wa.gov.au/UserDir/Documents/Public/Putting%20the%20Picture%20Together.pdf.

Gould, A. (1988), *Control and Conflict in Welfare Policy-The Swedish experience,* London: Longman.

Government of Western Australia (2002), 'Putting People First', (The Western Australian State Government's Action Plan for Addressing Family Violence and Child Abuse in Aboriginal Communities), [online] available at: http://www.strongfamilies.wa.gov.au/UserDir/Documents/Public/Putting%20People%20First.pdf.

Gracia, E. (1995), 'Visible but unreported: A case for the "Not serious enough" cases of Child Maltreatment', *Child Abuse and Neglect,* 19(9), pp.1083-1093.

Gray, G. & Salole, A. (2006), "The Local Culture of Punishment: An Ethnography of Criminal Justice Worker Discourse", *British Journal of Criminology,* 46, pp.661-679.

Hall, R., Clark, J., Giordano, P., Johnson, P. & Van Roekel, M. (1977), "Patterns of Interorganizational Relationships", *Administrative Science Quarterly,* 22(3), pp.457-474.

Hallberg, M. & Rigné, E.M. (1994), 'Child Sexual Abuse-A study of controversy and construction', *Acta Sociologica,* 37(2), pp. 141-163.

Harries, M. & Clare, M. (2002), 'Mandatory Reporting: Evidence and Options', (Report commissioned by the Western Australia Child Protection Council), [online] available at: http://www.celt.uwa.edu.au/__data/assets/pdf_file/0009/1102131/MRFinalReport.pdf.

Harris, N. (1987), 'Defensive Social Work', *British Journal of Social Work,* 17(1), pp.61-69.

Hawkins, R. and McCallum, C. (2001), 'Mandatory notification training for suspected child abuse and neglect in South Australian schools' *Child Abuse and Neglect,* 25, pp.1603-1625.

Health, Information and Quality Authority (2009), *National Children in Care Inspection Report,* Dublin: HIQA.

Health Service Executive (2006), *Review of Adequacy of Services for Children and Families 2006,* Dublin: HSE.

Health Service Executive (2007), *Review of Adequacy of Services for Children and Families 2007,* Dublin: HSE.

Health Service Executive (2008), *Review of Adequacy of Services for Children and Families 2008,* Dublin: HSE.

Health Service Executive (2009), *Review of Adequacy for HSE Children and Families Services 2009,* Dublin: HSE.

Health Service Executive (2010a), *Review of Adequacy for HSE Children and Families 2010,* Dublin: HSE.

Health Service Executive (2011), *Review of Adequacy for HSE Children and Family Services,* Dublin: HSE.

Health Service Executive (2010b), *Child in care death report child: young person A,* Dublin: HSE.

Health Service Executive (2010c), *Child in care death report child: young person B,* Dublin: HSE.

Horgan, G. (2001), 'Changing Women's Lives in Ireland', *International Socialism Journal,* 91, [online] available at: http://pubs.socialistreviewindex.org.uk/isj91/horgan.htm. [Accessed 06 May 2011].

Hort, S. (1997), 'Sweden: Toward a Deresidualization of Swedish Child Welfare Policy and Practice?', in: Gilbert, N. (eds.) *Combatting Child Abuse: International Perspectives and Trends,* New York: Oxford University Press.

Howitt, D. (1992), *Child Abuse Errors: When Good Intentions Go Wrong,* Harvester Wheatsheaf: Hertfordshire.

Inglis, T. (1998), *Moral Monopoly: The Rise and Fall of the Catholic Church in Modern Ireland,* Dublin: University College Dublin Press.

Iona Institute (2008), 'Submission to the Joint Oireachtas Committee on Children's Rights on the proposed Constitutional Amendment' [online] available at: http://www.oireachtas.ie/viewdoc.asp?fn=/documents/Committees30thDail/J-ConAmendChildren/Submissions/List_Of_Submissions/47Iona.pdf. [Accessed 20 May 2011].

Irish Association of Social Workers (1982), "Non-accidental Injury-Suggestions for New Guidelines", Submission from Child Care Special Interest Group to Child Care Division, Department of Health.

Irish Bishops' Advisory Committee on Child Sexual Abuse by Priests and Religious (1996), *Child Sexual Abuse: Framework for Church Response,* Dublin: Veritas.

Irish Bishops' Conference, The Conference of Religious of Ireland and The Irish Missionary Union (2005), *Our Children, Our Church: Child Protection Policies and Procedures for the Catholic Church in Ireland,* Dublin: Veritas Publications.

Irish Catholic Bishops' Advisory Committee on Child Sexual Abuse by Priests and Religious (1996), *Child Sexual Abuse: Framework for a Church Response,* Dublin: Veritas.

Irish Council for Civil Liberties (1988), *Report of the Child Sexual Abuse Working Party,* Dublin: ICCL.

Isaacs, J. (1987), *Power and Marxist Theory: A Realist View,* Berkeley: University of California Press.

ISPCC (1974), *Annual Report,* Dublin: ISPCC.

ISPCC (1991), *Annual Report,* Dublin: ISPCC.

ISPCC (1996), *Another Brick from the Wall: The Case for the Introduction of Mandatory Reporting of Child Abuse and Neglect in Ireland,* Dublin: ISPCC.

Jackson, J., Bradford, B., Hough, M., Myhill, A., Quinton, P. & Tyler, T. (2012), "Why do People Comply with the Law? Legitimacy and the Influence of Legal Institutions", *British Journal of Criminology,* 52, pp.1051-1071.

Jacobs, B. (2010), "Deterrence and Deterability", *Criminology,* 48(2), pp.417-441.

Jenkins, P. (1999), *Synthetic Panics: The Symbolic Politics of Designer Drugs,* New York: New York University Press.

Kalichman, S. (1993), *Mandated Reporting of Suspected Child Abuse: Ethics, Law and Policy,* Washington: American Psychological Association.

Kalichman, C. & Brosig, C. (1992), 'The effects of child abuse reporting laws on psychologists' reporting behaviour: A comparison of two state statutes', *American Journal of Orthopsychiatry,* 62, pp. 284-296.

Kalichman, S. & Brosig, C. (1993), "Practicing Psychologists' Interpretation of and Compliance with Child Abuse Reporting Laws", *Law and Human Behavior,* 17(1), pp.83-93.

Kane, C. (2009), Olympic swim coach abused children at pool, *The Herald,* 5 November, [online] available at: http://www.herald.ie/national-news/olympic-swim-coach-abused-children-at-pool-1934998.html.

Katz, J. (1987), 'What makes crime 'news'?', *Media, Culture and Society,* 9(1), pp.47-75.

Keating, A. (2004-2006), "Church, State, and Sexual Crime against Children in Ireland after 1922", *Radharc,* 5(7), pp.155-180.

Keesom, J. (2010), *The prevention of child abuse: Dutch policies and practice,* Netherlands Youth Institute: Utrecht, [online] available at: http://www.youthpolicy.nl/yp/downloadsyp/Publications-The-prevention-of-child-abuse.pdf.

Kelly, L., Hagemann-White, C., Meysen, T. & Römkens, R. (2011), *Realising Rights: Case studies on state responses to violence against women and children in Europe,* (Child and Women Abuse Studies Unit: London), A report commissioned by Daphne III programme of the European Commission.

Kempe, C.H., Silverman, F.N., Steele, B.F., Droegemuller, W. (1962), 'The Battered Child Syndrome', *Journal of the American Medical Association,* 181, pp.17-24.

Kennan, O. (1996), *Kelly- A Child is Dead. Interim Report of the Joint Committee on the Family,* Dublin: Houses of the Oireachtas.

Kennedy, F. (1989), *Family, Economy and Government in Ireland,* Dublin: ESRI.

Kennedy, F. (2000), "The Suppression of the Carrigan Report: A Historical Perspective on Child Abuse", *An Irish Quarterly Review,* 89(356), pp.354-363.

Kennedy Report (1970), *Reformatory and Industrial Schools Systems Report,* Dublin: Stationary Office.

Kennel, R. & Agresti, A. (1995), 'Effects of Gender and Age on Psychologists' Reporting of Child Sexual Abuse', *Professional Psychology: Research and Practice,* 26(6), pp.612-615.

Kenny, B. with the assistance of the Policy Steering Group (2000), *The Case for Mandatory Reporting of Suspected Child Abuse and Neglect,* Dublin: Barnardos.

Kilkelly, U. (1998), 'In the Best Interests of the Child? An Evaluation of Ireland's Performance before the UN Committee on the Rights of the Child', *Irish Law Times,* 16(293), [online] available at: http://www.westlaw.ie/westlawie/wisearchframes?edit_doctype=all&searchFreeText=Ursula+Kilkelly&db_choice=journals. [Accessed 24/05/2011].

Kilkelly, U. (2000), 'Child Protection and the European Convention on Human Rights', *Irish Journal of Family Law,* 3(2), [online] available at: http://www.westlaw.ie/westlawie/wisearchframes?edit_doctype=all&searchFreeText=ursula+kilkelly&db_choice=journals. [Accessed 12 May 2011].

Kilkelly, U. (2012), 'Legal Analysis of the Children's Referendum: Article 42A.4.1', [online] available at: http://humanrights.ie/children-and-the-law/legal-analysis-of-the-childrens-referendum-article-42a-4-1/. [Accessed 26 August 2013].

Kilkelly, U., O'Mahony, C. & O'Sullivan, C. (2008), 'Submission to the Joint Committee on the Constitutional Amendment on Children', [online] available at: http://www.oireachtas.ie/documents/committees30thdail/j-conamendchildren/submissions/list_of_submissions/69Kilkelly.pdf. [Accessed 20 May 2011].

Kirby, E. & Krone, K. (2002), "The policy exists but you can't really use it: Communication and the Structuration of work-family policies", *Journal of Applied Communication Research,* 16, pp.210-236.

Kitzinger, J. (1995), "Introducing Focus Groups", *British Medical Journal,* 311, pp.299-302.

Knijn, T. & Van Nijnatten, C. (2011), 'Child Welfare in the Netherlands: Between Privacy and Protection', in: Gilbert, N., Parton, N. & Skivenes, M. (eds.), *Child Protection Systems: International Trends and Orientations,* New York: Oxford University Press.

Lamers-Winkelman, F., Slot, N.W., Bijl, B. & Vijlbrief, A.C. (2007), *Pupils and maltreatment. Results of a national study on the degree of child maltreatment among pupils of secondary schools,* Amsterdam: PI Research [In Swedish].

Laming, W.H.L. (2003), *The Victoria Climbié Inquiry: Report of an Inquiry by Lord Laming,* (Cmnd 5730), London: Stationary Office.

Lamond, D. (1989), 'The Impact of Mandatory Reporting Legislation on Reporting Behaviour', *Child Abuse and Neglect,* 13, pp. 471-480.

Lamont, A. & Bromfield, L. (2010), *History of Child Protection Services*, Australian Institute of Family Studies, [online] available at: http://www.aifs.gov.au/nch/pubs/sheets/rs22/.

Lamont, A. & Bromfield, L. (2008), *History of Child Protection Services*, Australian Institute of Family Studies, [online] available at: http://www.aifs.gov.au/nch/pubs/sheets/rs22/index.html.

Lawrence-Karski, R. (1997), 'United States: California Reporting System', in: Gilbert, N. (eds.) *Combatting Child Abuse: International Perspectives and Trends,* New York: Oxford University Press.

Law Reform Commission (1989), *Consultation Paper on Child Sexual Abuse,* Dublin: The Law Reform Commission.

Law Reform Commission (1990), *Report on Child Sexual Abuse,* Dublin: Law Reform Commission.

Lazenbatt, A. & Freeman, R. (2006), "Recognizing and reporting child physical abuse: a survey of primary healthcare professionals", *Issues and Innovations in Nursing Practice,* 56(3), pp.227-236.

Levine, S. & White, P. (1961), "Exchange as a Conceptual Framework for the Study of Interorganizational Relationships", *Administrative Science Quarterly,* 5(4), pp.583-601.

Lincoln, Y. & Guba, E. (1985), *Naturalistic Inquiry,* London: Sage Publications.

Lipsky, M. (1980), *Street-level bureaucracy: Dilemmas of the individual in public services,* New York: Russell Sage Foundation.

Lowenstein, G., Weber, E., Hsee, C. & Welch, N. (2001), "Risk as Feeling", *Psychological Bulletin,* 127(2), pp.267-286.

Madden, A. (2003), *Altar Boy: A Story of Life after Abuse,* Dublin: Penguin Ireland.

Majone, G. & Wildavsky, A. (1977), "Implementation as Evolution", *Policy Studies Review Annual,* 2, pp.103-117.

Market Research Bureau of Ireland (1987), *Child Sexual Abuse in Dublin: Pilot Survey Report,* Dublin: Market Research Bureau of Ireland.

Mathews, B. (2012), 'Exploring the contested role of mandatory reporting laws in the identification of severe child abuse and neglect', in: Freeman, M. (eds.) *Law and Childhood Studies,* Oxford: Oxford University Press.

Mathews, B. & Walsh, K. (2004) 'At the Cutting Edge: Issues in Mandatory Reporting of Child Sexual Abuse by Australian Teachers', [online] available at: http://eprints.qut.edu.au/2688/1/2688_2.pdf. First published as, Mathews, B. & Walsh, K. (2004) 'Issues in mandatory reporting of child sexual abuse by Australian teachers', *Australia & New Zealand Journal of Law and Education,* 9(2):pp. 3-17.

McCarthy, J. (2009), Ger Doyle's 'improper behaviour' ignored, *The Sunday Times,* 9 November, [online] available at: http://www.timesonline.co.uk/tol/news/world/ireland/article6908001.ece.

McCoubrey, H. and White, N.D. (1999), *Textbook on: Jurisprudence,* Oxford: Oxford

University Press.

McDaniel, M. (2006), 'In the eye of the beholder: The role of reporters in bringing families to the attention of child protective services', *Children and Youth Services Review,* 28, pp.306-324.

McGarry, K. & Buckley, H. (2013), 'Lessons on child protection: a survey of newly qualified, primary level teachers in Ireland', *Child Abuse Review,* 22, pp.80-92.

McGuinness, C. (1993), *The Kilkenny Incest Inquiry Investigation: Report Presented to Mr. Brendan Howlin TD Minister for Health by South Eastern Health Board,* Dublin: Stationary Office.

McKeown, K. and Gilligan, R. (1991), 'Child Sexual Abuse in the Eastern Health Board Region of Ireland in 1988: An Analysis of 512 Confirmed Cases', *The Economic and Social Review*, 22(2), pp. 101-134.

McLaughlin, M. (1987), "Learning from Experience: Lessons from Policy Implementation", *Educational Evaluation and Policy Analysis,* 9(2), pp.171-178.

McRobbie, A. & Thornton, S. (1995), 'Rethinking 'Moral Panic' for Multi-Mediated Social Worlds', *British Journal of Sociology,* 46(4), pp.559-574.

Mendes, P. (2000), 'Social Conservatism vs Social Justice: The Portrayal of Child Abuse in the Press in Victoria, Australia', *Child Abuse Review,* 9, p.49-61.

Miller, J. & Glassner, B. (2004), "The 'Inside' and the 'Outside': Finding Realities in Interviews" in: Silverman, D. (eds.), *Qualitative Research: Theory, Method and Practice,* London: Sage Publications.

Minister for Health (1988), *Parliamentary Debates,* Dáil Éireann Debates, Vol. 382, 23 June.

Ministère de l'Éducation du Québec (2002), *Multisectoral Agreement: concerning children who are victims of sexual abuse or physical ill-treatment or whose physical health is threatened by the lack of appropriate care,* Gouvernement du Québec, [online] available at: http://www.mels.gouv.qc.ca/dgfj/csc/promotion/pdf/00-807-04a.pdf.

Moore, C. (1995), *Betrayal of Trust: The Father Brendan Smyth Affair and the Catholic Church,* Dublin: Marino Books.

Morgan, D. (1988), *Focus Groups as Qualitative Research,* London: Sage Publications.

Mr. O'Keefe (1978), *Questions- Children Act, 1908,* Dáil Éireann Debates, Vol. 307 No. 13, 28 June.

Murphy, R. (1998), *First Interim Report of the Joint Committee on Tourism, Sport and Recreation- Protection of Children in Sport,* Dublin: Government Publications.

Murphy, F. Buckley, H. and Joyce, L. (2005), *The Ferns Report,* Dublin: Stationary Office.

Myers, J. (2006), *Child Protection in America: Past, present and future,* New York: Oxford University Press.

Narayan, A.P., Socolar, R. & St Claire, K. (2006), 'Pediatric Residency Training in Child Abuse and Neglect in the United States', *Pediatrics,* 117, pp.2215-2221.

Nayda, R. (2002), "Influences on Registered Nurses' Decision-Making in Cases of Suspected Child Abuse", *Child Abuse Review,* 11, pp.168-178.

Netherlands Youth Institute (2012), 'Prevent and Combat Abuse: What works? An overview of regional approaches, exchange and research', A report commissioned by Daphne III programme of the European Commission, [online] available at: http://europa.eu/familyalliance/news/2012/20120925 international project daphne prevent and combat child abuse what works an overview of regional approaches exchange and research final report en.htm.

Nic Goilla Choille, T. (1983), *ISPCC Wexford Family Centre,* Dublin: ISPCC.

North Western Health Board (1998), *The Report of the Inquiry into the West of Ireland Farmer Case,* Manorhamilton: North Western Health Board.

O'Connor, P. (1992), 'Child Care Policy: A Provocative analysis and research agenda', *Administration,* 44(2), pp.73-101.

OECD (1966), *Investment in Education,* Dublin: Stationary Office.

Office of the Minister for Children and Youth Affairs (2009), *Report of the Commission to Inquire into Child Abuse 2009: An Implementation Plan,* Dublin: Department of Health and Children.

Oliver, C. (1990), "Determinants of Interorganizational Relationships: Integration and Future Directions", *The Academy of Management Review,* 15(2), pp.241-265.

Olsen, M.E. & Kalbfleisch, J.H. (2001), 'Sexual abuse knowledge base among residents in family practice, obstetrics, gynecology, and pediatrics', *Journal of Pediatric Adolescent Gynecology,* 14(2), pp.89-94.

O'Mahony, C. (2012), 'Having Regard for Our Children', *Irish Examiner,* 24 September, [online] available at: http://www.irishexaminer.com/analysis/having-regard-for-our-children-208565.html. [Accessed 26 August 2013].

O'Malley, T. (1996), *Sexual Offences: Law, Policy and Punishment,* Dublin: Roundhall Sweet and Maxwell.

O'Sullivan, E. (2009a), "Residential child welfare in Ireland 1965-2008: an outline of policy, legislation and practice: a paper prepared for the Commission to Inquire into Child Abuse", In: *Ryan Report, Vol. IV, Chap 4,* pp.245-430.

O'Sullivan, E. (2009b), "History of industrial schools and reformatories", In: *Ryan Report, Vol. I, Chap 2.*

Ombudsman for Children (2010), *A Report based on an Investigation into the Implementation of Children First: National Guidelines for the Protection and Welfare of Children,* Dublin: Ombudsman for Children Office.

Paavilainen, E., Åstedt-Kurki, P., Paunonen-Ilmonen, M. & Laippala, P. (2001), 'Caring for maltreated children: A challenge for health care education', *Issues and Innovations in Nursing Education,* 37(6), pp. 551-557.

Packer, H.L. (1964), 'Two Models of the Criminal Process', *University of Pennsylvania Law Review,* 113(1), pp. 1-68.

PA Consultancy Group (2009), *Inspiring Confidence in Children and Family Service: Putting Children First and Meaning it,* Dublin: HSE.

Palazzi, S., de Girolamo, G. & Liverani, T. (2005), 'Observational Study of suspected maltreatment in Italian paediatric emergency departments', *Archives of Disease in Childhood,* 90, pp.406-410.

Panayiotopoulos, C. (2011), 'Mandatory reporting of domestic violence cases in Cyprus; barriers to the effectiveness of mandatory reporting and issues for future practice', *European Journal of Social Work,* 14(3), pp. 379-402.

Papachristos, A., Meares, T. & Fagan, J., (2012), "Why do Criminals Obey the Law? The Influence of Legitimacy and Social Networks on Active Gun Offenders", *The Journal of Criminal Law and Criminology,* 102(2), pp.397-440.

Parton, N. (1985), *The Politics of Child Abuse,* London: MacMillan Press.

Parton, N. (1991), *Governing the Family: Childcare, Child Protection and the State,* Basingstoke: MacMillan.

Parton, N. (1996), 'Social work, risk and 'the blaming system'', In: Parton, N. (eds.), *Social Theory, Social Change and Social Work,* London: Routledge.

Parton, N. (2006), *Safeguarding Childhood: Early intervention and surveillance in late Modern Society,* Hampshire: Palgrave MacMillan.

Parton, N., Thorpe, D. & Wattam, C. (1997), *Child Protection Risk and the Moral Order,* London: MacMillan Press.

Patton, M. (1980), *Qualitative Evaluation Methods,* California: Sage.

Payne, H. (2008), 'The Jigsaw of Child Protection', *Journal of the Royal Society of Medicine,* 101(2), pp.93-94.

Pechtel, P., Evans, I. & Podd, J. (2011), 'Conceptualization of t he Complex Outcomes of Sexual Abuse: A Signal Detection Analysis', *Journal of Child Sexual Abuse,* 20(6), pp.677-694.

Pelcovitz, D. (1980), *Child Abuse as Viewed by Suburban Elementary School Teachers,* Century Twenty-one Publishing: Saratoga.

Petren, A. & Himes, J. (2000), *Children's Rights: turning principles into practice,* Stockholm: Save the Children/UNICEF ROSA.

Piaget, J. (1952), *The Origins of Intelligence in Children,* New York: International Universities Press.

Public Health Agency of Canada (2010), *Canadian Incidence Study of Reported Child Abuse and Neglect-2008,* National Clearinghouse on Family Violence: Ottowa, [online] available at: http://www.phac-aspc.gc.ca/ncfv-cnivf/index-eng.php.

Raftery, M. and O'Sullivan, E. (1999), *Suffer the Little Children: The Inside Story of Ireland's Industrial Schools,* Dublin: New Island.

Reiniger, A., Robison, E. & McHugh, M. (1995), 'Mandated training of professionals: a means for improving reporting of suspected child abuse", *Child Abuse and Neglect,* 19(1), pp.63-69.

Rodriguez, C.M. (2002), 'Professionals' Attitudes and Accuracy on Child Abuse Reporting Decisions in New Zealand', *Journal of Interpersonal Violence,* 17(3), pp.320-342.

Rorty, R. (1989), *Contingency, Irony, and Solidarity,* Cambridge: Cambridge University Press.

Rosen, H. (1985), *Piagetian Dimensions of Clinical Relevance,* New York: Columbia University Press.

Ruddick, M. (1991), 'A recepticle for public anger', In: Franklin, B. & Parton, N. (eds.), *Social Work, the Media and Public Relations,* London: Routledge.

Ryan Report (2009), *Report of the Commission to Inquire into Child Abuse, Volumes 1-5,* Dublin: Stationary Office.

Rycraft, J.R. (1990) 'Redefining abuse and neglect: A narrower focus could affect children at risk', *Public Welfare,* 49(1), pp. 14-21.

Sabatier, P. & Mazmanian, D. (1980), "The Implementation of Public Policy: A Framework of Analysis", *Policy Studies Journal,* 8(4), pp.538-560.

Saorstat Eireann (1933), *Committee of Inquiry into Widows' and Orphans' Pensions,* Dublin: The Stationary Office.

Sandor, D. (1994), "Mandatory Reporting of Abuse", *Youth Studies Australia,* pp.53-57.

Sariola, H. & Uutela, A. (1992), 'The prevalence and context of family violence against children in Finland', *Child Abuse and Neglect,* 16, pp. 823-832.

Saulsbury, F.T. & Campbell, R.E. (1985), 'Evaluation of child abuse reporting by physicians', *American Journal of Diseases of Children,* 26(12*),* pp.1235-1242.

Sclater, S.D. & Piper, C. (2001), 'Social Exclusion and the Welfare of the Child', *Journal of Law and Society,* 28(3), pp.409-429.

Sedlak, A. & Broadhurst, D. (1996), *Third National Incidence Study of Child Abuse and Neglect: Final Report,* Washington: US Department of Health and Human Services.

Seidel, J. & Kelle, U. (1995), "Different functions of coding in the analysis of textual data" in: Kelle, U., Prein, G. & Bird, K. (eds.), *Computer-aided qualitative data analysis: Theory, methods, and practice*, London: Sage Publications.

Shannon, G. (undated), 'The Child and the Irish Constitution", Submission to the Joint Oireachtas Committee-Referendum on Children, [online] available at: www.oireachtas.ie/documents/committees30thdail/j...of.../67**Shannon**.doc. [Accessed 20/05/2011].

Shannon, G. (2001), *Children and the Law,* Dublin: Roundhall Sweet and Maxwell.

Shannon, G. (2008), *Family Law,* 3rd ed., Oxford: Oxford University Press.

Shannon, G. (2009), *Third Report of the Special Rapporteur on Child Protection: A Report Submitted to the Oireachtas,* Dublin: Office of the Minister for Children and Youth Affairs.

Skehill, C. (2003), 'Social Work in the Republic of Ireland: A History of the Present', *Journal of Social Work,* 3(2), pp. 141–159.

Skehill, C. (2004), *History of the Present of Child Protection and Welfare Social Work in Ireland,* Ontario: Edwin Mellen Press.

Skivenes, M. (2011), 'Norway: Toward a child-centric perspective', in: Gilbert, N., Parton, N. & Skivenes, M. (eds.), *Child Protection Systems: International Trends and Orientations,* New York: Oxford University Press.

Smart, C. (2000), "Reconsidering the Recent History of Child Sexual Abuse, 1910-1960", *Journal of Social Policy,* 29(1), pp.55-71.

Smith, C. (2005), *Writing Public Policy: A practical guide to communicating in the policy-making process,* New York: Oxford University Press.

Spradley, J. (1979), *The Ethnographic Interview,* New York: Holt, Rinehart & Winston.

Stanley, K., Nicholas, M.C., Margaret, E. & Joseph, P. (1999), 'Child abuse: Reporting and Classification in Health Care Settings', Report for the Minister of Public Works and Government Services, Canada, [online] available at: http://www.phac-aspc.gc.ca/cm-vee/publicat/pdf/child_e.pdf.

Stewart, D., Shamdasani, P. & Rook, D. (2007), *Focus Groups: Theory and Practice,* California: Sage Publications.

Strauss, A. & Corbin, J. (1998), *Basics of Qualitative Research: Techniques and Procedure for Developing Grounded Theory,* California: Sage.

Sundell, K. (1997), 'Child-care personnel's failure to report child maltreatment: some Swedish evidence', *Child Abuse and Neglect,* vol. 21, pp.91-105.

Sundell, S. & Colbiörnsen, M. (2000), *The support to pupils with psychosocial problems: a study of 23 schools in 1995 and 1998,* Fou rappot 1994:16, Socialfövaltning, FoU-byran, Stockholm.

Swift, K. (1997), 'Canadian Child Welfare: Child Protection and the Status Quo", in: Gilbert, N. (eds.) *Combatting Child Abuse: International Perspectives and Trends,* New York: Oxford University Press.

Swift, K. (2011), 'Canadian Child Welfare: Child Protection and the Status Quo' in: Gilbert, N., Parton, N. & Skivenes, M. (eds.), *Child Protection Systems: International Trends and Orientations,* New York: Oxford University Press.

Teeuw, A., Derkx, B., Koster, W. & van Rijn, R. (2012), 'Detection of Child Abuse and Neglect at the Emergency Room', *European Journal of Pediatrics,* 171, pp.877-885.

Tesch, R. (1990), *Qualitative Research: Analysis Types & Software Tools,* Bristol: Falmer Press.

Thomas, N. (2000), *Children, Family and the State, Decision-making and Child Participation,* Macmillan (paperback edition, policy press).

Thompson, K. (2012), 'Multi-agency information practices in children's services: the metaphorical 'jigsaw' and professionals quest for a 'full' picture', *Child and Family Social Work,* [online] available at: onlinelibrary.wiley.com/doi/10.1111/j.1365-2206.2011.00821.x/abstract

Tite, R. (1993), 'How Teachers define and Respond to Child Abuse: The Distinction between Theoretical and Reportable Cases', *Child Abuse and Neglect,* 17, pp.591-603.

Tite, R. (1994), 'Detecting the Symptoms of Child Abuse: Classroom Complications', *Canadian Journal of Education,* 19(1), pp.1-14.

Trocmé, N. *et al.* (2001), *Canadian Incidence Study of Reported Child Abuse and Neglect: Final Report*, Ottowa: Minister of Public Works and Government Services Canada.

Trocmé, N. *et al.* (2005), *Canadian Incidence Study of Reported Child Abuse and Neglect 2003 (CIS-2003): Major Findings*, Ottowa: Minister of Public Works and Government Services Canada.

Trocmé, N., Siddiqi, J., Fallon, B., MacLaurin, B. & Sullivan, S. (2002), 'Ontario incidence studies of reported child abuse and neglect 1993/1998: Outcomes of investigations', Information Sheet, [online] available at: http://cwrp.ca/sites/default/files/publications/en/OIS93-98Investigations2E.pdf.

Trocmé, N., Tourigny, M., MacLaurin, B. & Fallon, B. (2003), 'Major Findings from the Canadian incidence study of reported child abuse and neglect', *Child Abuse and Neglect,* 27, pp.1427-1439.

Tuairim Report (1966), *Some of Our Children: A Report on the Residential Care of the Deprived Child in Ireland,* London: Norman Press Limited.

Tversky, A. & Kahneman, D. (1981), "The Framing of Decisions and the Psychology of Choice", *Science,* 211(4481), pp.453-458.

Tversky, A. & Kahneman, D. (1992), "Advances in Prospect Theory: Cumulative Representation of Uncertainty", *Journal of Risk and Uncertainty,* 5, pp.297-323.

Ungar, S. (2001), 'Moral panic versus the risk society: the implications of the changing sites of social anxiety', *British Journal of Sociology,* 52(2), pp.271-291.

UNICEF (2003), 'A League Table of Child Maltreatment Deaths in Rich Nations', Innocenti Report Card, Issue No. 5, [online] available at: http://www.unicefirc.org/publications/pdf/repcard5e.pdf.

U.S. Department of Health and Human Services (2008), *Child Maltreatment,* [online] available at: http://www.acf.hhs.gov/programs/cb/resource/child-maltreatment-2008.

Vulliamy, A. & Sullivan, R. (2000), "Reporting Child Abuse: Pediatricians' Experiences with the Child Protection System", *Child Abuse and Neglect,* 24(11), pp.1461-1470.

Waldfogel, J. (1998), *The Futures of Child Protection: How to break the Cycle of Abuse and Neglect,* Cambridge: Harvard University Press.

Wallace, I. and Bunting, L. (2007), 'An Examination of local, national and international arrangements for the mandatory reporting of child abuse: the implications for Northern Ireland', NSPCC Northern Ireland Policy and Research Unit, [online] available at: http://www.nspcc.org.uk/inform/research/findings/mandatoryreportingni_wda51129.html.

Walsh, K., Bridgstock, R., Farrell, A., Rassafiani, M & Schweitzer, R. (2008), 'Case, teacher and school characteristics influencing teachers' detection and reporting of child physical abuse and neglect: Results from an Australian Survey', *Child Abuse and Neglect,* 32, pp.983-993.

Ward, M., Bennett, S., Plint, A., King, W.J., Jabbour, M. & Gaboury, I. (2004), 'Child protection: a neglected area of pediatric residency training', *Child Abuse and Neglect,* 28, pp.1113-1122.

Weatherly, R. & Lipsky, M. (1977), "Street-Level Bureaucrats and Institutional Innovation: Implementing Special-Education Reform", *Harvard Educational Review,* 47(2), pp.171-197.

Wendt, A. (1987), "The Agent-Structure Problem in International Relations", *International Organization,* 41(2), pp.335-370.

Wenzel, M. (2004), "The Social Side of Sanctions: Personal and Social Norms as Moderators of Deterrence", *Law and Human Behavior,* 28, pp.491-508.

Wurfel, L.J. & Maxwell, G.M. (1965), 'The battered-child syndrome in sexual abuse', *Australian Paediatric Journal,* 1, pp. 127-130.

Yates, J. (1997), "Using Giddens' Structuration Theory to Inform Business History", *Business and Economic History,* 26(1), pp.159-183).

Zellman, G. (1990), "Report decision-making patterns among mandated child abuse reporters", *Child Abuse and Neglect,* 14, pp.325-336.

Appendix 1: Breakdown of International Legislative Provisions

Table 1: USA

	Legislation	Year of Intro	Mandated Reporters	Reportable Behaviour	Sanctions	Sharing of Information	Immunity	Identity
Alabama	**Alabama Code 26-14-1 to 26-14-13**	Between 1963-1966	Hospitals; clinics; sanatoriums. Individuals in: health/medical, education, justice, social work, childcare, mental health, clergy. **(Code 26-14-3).** Any other person. **(§ 26-14-4)**	Physical abuse; neglect; sexual abuse/exploitation; emotional abuse **(26-14-1(1)-(3)**	**Failure to report:** any person knowingly fails to report- guilty of misdemeanour (up to 6 months or $500 fine). **(26-14-13)**	Dep of Human Resources- make case reports available to the courts **(26-14-7(d)).** The Department (info on corporal punishment) in schools and residential facilities-LEA **(26-14-3(b)-(d))**	All persons are immune from civil/criminal liability where the report is made in good faith **(26-14-9)**	Reporters' identity is protected **(26-14-8)**
			Exception: Privileged Communications: clergy-penitent (**26-14-3)** attorney-client **(26-14-10)**	**Standard for reporting:** where abuse is known or suspected **(26-14-13)**				
				Exception: Spiritual treatment in lieu of medical treatment **(§ 26-14-7.2)**				

Alaska	**Alaska Statute 47.17.010**	Between 1963-1966	Individuals in: health/medical, education, childcare, crisis intervention, counselling, justice, film processing services, child fatality teams, multidisciplinary teams.**(47.17.020 and 47.17.023).** Any other person **(§ 47.17.020)**	Physical; neglect; sexual abuse/exploitation; emotional abuse. **(47.17.290)**	**Failure to report:** any person who knowingly/reasonably fails to report will be guilty of a Class A misdemeanour (up to 1year). **(47.17.068).**	LEA- inform Dep of Health and Social Services of report indicating harm. Dep- inform the Dep of Law of report indicating harm. **(47.17.025(a))**	All persons are immune from civil/criminal liability where the report is made in good faith (47.17.050)	Not addressed
				Standard for reporting: reasonable cause to suspect a child suffered harm **(47.17.290)**			Exception: Where a person knowingly makes an untimely report. **(47.17.050)**	
				Exception: Spiritual treatment in lieu of medical treatment **(47.17.020(d))**				

Arizona	**Arizona Revised Statute 13-3620**	Between 1963-1966	Individuals in: health, mental health/medical, social work, justice, clergy/religious, parents/guardians, education, crisis intervention **(13-3620).** Any other person **(§ 13-3620)**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment. **(8-201)**	**Failure to report:** a person who fails to comply- Class 1 misdemeanour (up to $2,500 fine or 6 month jail). Where it involves a reportable offence-Class 6 felony (up to 1 year and minimum 6 months). **(13-3620(O))**	Mutual sharing of information between child protective services and peace officers. **(13-3620(H))**	Any person is immune from civil/criminal liability. **(13-3620(J))**	Not addressed
			Exception: Privileged communications: clergy-penitent, attorney-client **(13-3620)**	**Standard for reporting:** where a person reasonably believes a child is or has been a victim of abuse or neglect. **(13-3620)**	**False reporting:** a person knowingly/intentionally made a false report-Class 1 misdemeanour. **(13-3620.01)**			
				Exception: Parent's inability to meet child's needs due to unavailability of reasonable services. **(8-201)**				

Arkansas	**Arkansas Stat. Ann. 12-12-502**	Between 1963-1966	Individuals in: childcare, foster care, health/medical, crisis intervention (employees & volunteers), Dep Human Services, parents, judges, justice, prosecuting attorneys, mental health, education, social work, advocacy (employees & volunteers), clergy **((12-18-402)).** Any other person (§ 12-18-401)	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment. **(12-18-103)**	**Failure to Report:** A person (first degree) knowingly fails to report- Class A misdemeanour (up to $1,000) and is also liable for civil damages. In the second degree, recklessly fails to notify- Class C misdemeanour (up to $100). **(12-18-201; 12-18-202; 12-18-206).**	Dep of Human Services- inform LEA of severe maltreatment. **(12-18-504).** Dep- inform the following of any report: parents/guardians, attorney ad litem, court appointed child advocate, counsel in dependency/neglect cases, appropriate multidisciplinary teams. **(12-18-503)**	All persons are immune from civil/criminal liability where the report is made in good faith **(12-18-107)**	If the reporter wants to remain anonymous they must use the toll-free Child Abuse Hotline. **(12-18-302)**

			Exception: Privileged communications: lawyer-client and religious-penitent. **(12-18-402(c); 12-18-803)**	**Standard for reporting:** When there is reasonable cause to suspect a child has been subjected to maltreatment. **(12-18-402)**	**False reporting:** A person knowingly makes a false report (1st offence)- Class A misdemeanour, second offence- Class D felony (up to $10,000). **(12-18-203)**			
				Exception: A parent restraining or correcting the child. **(** 12-18-103)				
California	**Penal Code 11165**	Between 1963-1966	Individuals in: education, youth, childcare, public assistance, foster/residential care, social work, justice, district attorney, fire-fighters (excl. volunteers), health/medical, mental health, counselling, therapy, film processing,	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(§ 300)**	**Failure to report:** Mandated reporter- misdemeanour (up to 6months &/or $1,000 fine).Supervisor impedes reporting- (up to 6months or $1,000) **(11166(c); 11166.01)**	LEA- inform child protection agency of every report. **(11166(k)).** County probation or welfare department must inform the LEA of abuse/neglect. **(11166(j))**	Mandated reporters are protected from civil/criminal liability even where the information was received outside of professional settings **(11172(a), (b))**	Reporters names-included in the report **(11167)** **M**andated reporter's identity will remain confidential except in specific circumstances. **(11167)**

			animal control, clergy, justice, employees/volunteers of advocate programs, any other services to minors **(11165.7).** Any other person (mandated reporter acting in private capacity) **(§ 11166)**	**Standard for reporting:** based upon facts that could cause a reasonable person in a like position (drawing on training and experience) to suspect child abuse/neglect **(11166)**	**False reporting:** any person knowingly false reports or with reckless disregard- liable for damages **(11172(a))**
			Exception: Clergy-penitent privilege is covered. **(11166)**	Exception: Age appropriate spanking (with no evidence of serious physical injury). Spiritual treatment in lieu of medical treatment **(300; 300.5)**	

Colorado	**Colorado Stat. 19-3-301**	Between 1963-1966	Individuals in: health/medical, education, social work, mental health, counselling, therapy, vets, justice, fire-fighters, advocacy, film processing, clergy, Dep Human Services, Bureau of Animal protection **(19-3-304)** Any other person (§ 19-3-304)	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(19-1-103; 19-3-102).**	**Failure to report:** Mandated reporters who wilfully fail to report- Class C misdemeanour (up to 6 months imprisonment and $750 fine) and are liable for damages. **(19-3-304(4))**	Mutual sharing of information between the local Dep of Social Services and LEA **(19-3-307(3) and 19-3-308(4)(b), (5))**	Provision for immunity from civil/criminal liability or termination of employment where made without malice. **(19-3-309)**	The reporter's name must be included in the report. **(19-3-307).** The reporter's identity is protected. **(19-1-307)**
				Standard for reporting: reasonable cause to know/suspect abuse/neglect **(19-3-304)**	**False reporting:** Any person- Class C misdemeanour and liable for damages. **(19-3-304(3.5), (4))**			
				Exception: Cultural practices. Reasonable parental discipline. Spiritual treatment in lieu of medical treatment **(19-1-103; 19-3-103)**				

Florida	**Florida Stat Ann. 415-502**	Between 1963-1966	Individuals in: health/medical, mental health, spiritual healers, education, social work, childcare, foster/residential care, justice, judges **(39.201).** Any other person **(§ 39.201)**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(39.01).**	**Failure to report:** person-knowingly/wilfully fails to report or impedes others-misdemeanour 1st degree (up to 5years & $1,000 fine). Someone in the house fails to report (except domestic violence)-felony 3rd degree (up to 5years & $5,000 fine) **(39.205(1)-(2)).**	Dep of Children and Family Services must inform the LEA where there is a report of criminal conduct. They are then required to co-ordinate where an investigation is considered necessary. **(39.301(2)(a), (c))**	Where reporting is made in good faith reporters are immune from civil/criminal liability. **(39.203(1))**	Reporters are required to provide their name to hotline staff. **(39.201).** Their identity is to be protected. **(39.201; 39.202)**
			Exception: Privileged communications: Attorney-client and clergy-penitent **(39.204)**	**Standard for reporting:** reasonable cause to suspect **(39.201)**	Note: The Department of Children may also impose a fine of up to $10,000 on-top of the above sanctions.			
				Exception: corporal discipline by parents that does not result in harm. Failure to provide for the child because of financial inability. Spiritual treatment in liew of medical treatment. **(39.01)**				

Idaho	**Idaho Code 16-1619**	Between 1963-1966	Individuals in: health/medical, education, childcare, social work, justice. **(16-1605)** Any other person **(§ 16-1605)**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(16-1602).**	**Failure to report:** misdemeanour (up to 6months and fine of up to $1,000) **(16-1605(4)).**	LEA-inform the Dep of Health and Welfare of any reports made to them. **(16-1605(1))**	Where reporting is made in good faith reporters are immune from civil/criminal liability. **(16-1606)**	Not addressed
			Exception: Privileged communications: Attorney-client and clergy-penitent **(16-1605; 16-1606)**	**Standard for reporting:** reason to believe that a child has been abused/neglected. **(16-1605)**	**False reporting:** Bad faith reporting-any person liable for damages to reported party or statutory damages of $2,500, plus legal fees. **(16-1607)**			

Illinois	**Illinois Stat. ch. 23 sec. 2051**	Between 1963-1966	Individuals in: health/medical, education, coroner/funeral home director, counselling, social work, crisis intervention, childcare, justice, mental health, animal control, foster parents, clergy, film processors **(325, § 5/4; Ch. 720, § 5/11-20.2).** Any other person **(325, § 5/4).**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(Ch. 325, § 5/3)**	**Failure to Report:** Physicians/dentists/hygienists-disciplinary action. First violation-misdemeanour Class A(up to 1year and $2,500fine); second Class 4 felony (1-3yrs and $25,000fine). Concealment, first violation-Class 4 felony, second violation-class 3 felony (2-5yrs and $25,000fine). **(325, §§ 5/4.02; 5/4)**	Dep of Children and Family Services-inform the LEA where a report concerns a death or serious injury. **(325 Ill. Comp. Stat. Ann. 5/7)**	Good faith reporting is assumed in all cases and those who report in good faith are afforded civil/criminal liability. **(Ill. Comp. Stat. Ann. Ch. 325, § 5/9)**	A report shall include the reporter's details. **(Ch. 325, § 5/7.9).** The reporter's identity is protected. **(325, § 5/11.1a)**

			Exception: Privileged communications: clergy-penitent **(325, § 5/4; Ch. 735, § 5/8-803)**	**Standard for reporting:** Reasonable cause to believe that a child may be abused/neglected (Ch. 325, § 5/4).	**False reporting:** where a false report is knowingly made by any person it is a Class 3 felony. **(Ch. 325, § 5/4)**			
Kansas	**Kansas Stat Ann. Sec 1520**	Between 1963-1966	Individuals in: health/medical, mental health, education, childcare, fire-fighters, justice **(§ 38-2223).** Any other person **(§ 38-2223).**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(§ 38-2202).**	**Failure to report:** wilful/knowingly fails to report-Class B misdemeanour (up to 6months and $1,000fine). It is not a defence to say another mandated reporter made a report. Impeding a report-Class B misdemeanour **(§ 38-2223(e)).**	Where a report of child abuse/neglect indicates serious physical harm or sexual abuse there will be joint investigation between the Secretary of Social and Rehabilitation Services and the LEA with free exchange of information. **(§ 38-2226(a), (b), (f))**	Where reporting is made in good faith reporters are immune from civil/criminal liability. **(§ 38-2223(f))**	Reporters' identity is protected. **(§ 38-2213)**

			Note: No privileged communications are exempt. **(38-2249)**	**Standard for reporting:** A report is required when there is reason to suspect that a child has been harmed. **§ 38-2223**	**False reporting:** wilfully/knowingly made by any person or made knowing the report lacks factual foundation-Class B misdemeanour.(**§ 38-2223(e))**			
				EXCEPTION: Spiritual treatment in lieu of medical treatment. **(§ 38-2202)**				
Louisiana	**Children's Code 603**	Between 1963-1966	Individuals in: health/medical, coroners, mental health, counselling, social work, clergy, education, justice, foster parents, residential care, childcare, film processors **(Children's Code Art. 603(15)).** Any other person **(609).**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(art. 603).**	**Failure to report:** any person who knowingly & wilfully fails to report-misdemeanour (up to $500 fine or up to 6months) **(Children's Code art. 609; Rev. Stat. 14:403(A)(1)).**	LEA-inform the Dep of Social Services where the abuser is resident in the house with the parent/caregiver. The local child protection unit-inform the LEA where abuse does not involve parent/guardian/resident. **(Children's Code Art. 610(E)**	Where reporting is made in good faith reporters are immune from civil/criminal liability. **(Children's Code art. 611)**	A report must include the reporter's name. **(Children's Code Art. 610).** The reporter's identity is protected except in false reporting cases. **(Rev. Stat. § 46:56(F)(8)(b))**

			Exception: Privileged communications: clergy-penitent **(603; 609).**	**Standard for reporting:** Cause to believe a child's physical/mental health/welfare is endangered as a result of abuse or neglect **(art. 609).**	**False Reporting:** Knowingly makes a false report-same penalties as above (Children's Code art. 609; Rev. Stat. 14:403(A)(3)).
				Exception: Parents' inability to provide for the child because of inadequate financial resources. Spiritual treatment in lieu of medical treatment **(art. 603).**	

Michigan	**Michigan Comp. Laws Ann. Sec 722.621-722.636**	Between 1963-1966	Individuals in: health/medical, education, childcare, mental health, therapy, social work, justice, clergy **(§ 722.623).** Any other person including a child (§ 722.624)	Physical; neglect; sexual abuse/exploitation; emotional abuse **(§§ 722.622; 722.628(3)).**	**Failure to report:** A person who fails to report-civilly liable for damages. Knowingly fail to report-misdemeanour (up to 93days and/or up to $100 fine) **(§ 722.633(1), (2)).**	LEA- inform Dep Family Independence Agency of all reports. They should also inform the Childcare Regulatory agency where the accused is a childcare provider. **§ 722.623(b)(7).** The Dep-inform LEA where the accused is not related to the child **(§ 722.623(b)(5)-(6))**	All persons are immune from civil/criminal liability where the report is made in good faith **(§ 722.625)**	The person's identity is protected from disclosure unless they give consent or for judicial process. It is also protected in any release to the subject of the report. **(§§ 722,625; 722.627)**
			Exception: Privileged communications: Attorney-client and clergy-penitent **(§ 722.631).**	**Standard for reporting**: Reasonable cause to suspect child abuse or neglect. (§ 722.623)	**False reporting:** Intentionally false reporting-misdemeanour. Where the abuse constitutes a felony they can be guilty of a lesser felony (up to 4 years or up to $2,000 fine) **(§ 722.633(5)).**			
				EXCEPTION: Spiritual treatment in lieu of medical **(§ 722.634).**				

Minnesota	**Minnesota Stat. Ann. Sec. 626-556**	Between 1963-1966	Individuals in: healing arts, health/medical, mental health, justice, clergy **(§ 626.556, Subd. 3).** Any other person **(§ 626.556, Subd. 3)**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment. **(§ 626.556, Subd. 2; § 260C.007, Subd. 15; § 260C.007, Subd. 6).**	**Failure to report:** Mandated reporter knowingly fails to report within the preceding 3yrs of the abuse-misdemeanour (up to 90days and/or $1,000fine). Fails to report 2/more children abused by someone unrelated within the preceding 10yrs of the abuse-gross misdemeanour (up to 1year and/ore $3,000fine). **(§ 626.556, Subd. 6)**	Local Welfare Agency will coordinate with LEA on reports alleging violations of a criminal statute. The welfare agency will notify the LEA where a report concerns a perpetrator unconnected to the family. **(§ 626.556, Subd. 10(a), 10a(a)-(b)).** The police Dep must notify the welfare agency on receipt of a report. **(§ 626.556, Subd. 3 & 7)**	All persons are immune from civil/criminal liability where the report is made in good faith**(§ 626.556, Subd. 4)**	The written report must include the reporter's name. **(§ 626.556, Subd. 7).** During the investigation the reporter's name will be kept confidential but once completed the subject of the report may compel disclosure upon the reporter's consent or if found to have been a false report. **(§ 626.556, Subd. 1)**

			Exception: Privileged communications: clergy-penitent **(§ 626.556, Subd. 3 & 8).**	**Standard for Reporting:** Person knows or has reason to believe that a child is neglected/physically/sexually abused. **(§ 626.556, Subd. 3).**	**False reporting:** Person knowingly/recklessly false reports-civilly liable for damages and punitive damages set by the court. **(§ 626.556, Subd. 5)**			
				Exception: Spiritual treatment in lieu of medical treatment. Reasonable disciplining by parents. Reasonable force by teacher/principal, school employee **(§§ 626.556, Subd. 2; 260C.007, Subd. 15).**				
New Jersey	**New Jersey Stat. Ann. Sec. 9:6-8.10**	Between 1963-1966	No professional groups are specified in statute; all persons are required to report.	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(§ 9:6-8.21).**	**Failure to report:** Person knowingly/reasonably fails to report-deemed a disorderly person (up to 6 months and/or $1,000 fine). **(§ 9:6-8.14)**	The Division of Youth and Family Service will notify the police or LEA where reports are considered to be substantiated. **(§ 9:6-8.10a(e))**	All persons are immune from civil/criminal liability where the report is made in good faith. The same immunity is offered in any judicial proceeding. **(§ 9:6-8.13)**	The identity of the reporter shall not be made public. Any information that could endanger any person shall not be released. **(§ 9:6-8.10a)**
				Standard for reporting: reasonable cause to believe that a child has been subjected to child abuse **(§ 9:6-8.10)**				
				Exception: Spiritual treatment in lieu of medical treatment. **(§ 9:6-8.21)**				

New York	**Social Services Laws sec 411**	Between 1963-1966	Individuals in: health/medical, social work, therapy, mental health, clergy, education, childcare, residential care (including volunteers), counselling, justice **(§ 413).** Any other person (§ 414).	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(§ 371).**	**Failure to report:** a mandated reporter who wilfully fails to report-Class A misdemeanour (up to 1 year I imprisonment). A reporter is also civilly liable for damages **(§ 420).**	The Social Services district may establish a multidisciplinary investigative team at local or regional level (at their discretion but intended for serious abuses/death). **(§ 423(6))**	Good faith reporting is assumed in all cases and those who report in good faith are afforded civil/criminal liability. **(§ 419)**	The report shall include the name and contact information for the reporter **(§ 415).** Identify the source of the report is protected. **(§ 422-a)**
			Note: No privileged communications are exempt **(§ 415).**	**Standard for reporting:** Reasonable cause to suspect that a child has been abused or maltreated. (§ 413)	**False reporting:** Any person who knowingly makes a false report is guilty of a Class A misdemeanour **(Penal Law § 240.50(4))**			

North Carolina	**Gen Stat. sec. 7A-543**	Between 1963-1966	Any person or institution that has cause to suspect abuse or neglect shall report. **(§ 7B-301)**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(§ 7B-101)**	No sanctions outlined	Dep of Social Services-inform State Bureau of sexual abuse allegations within a childcare facility. **(§ 7B-301).** The Dep-inform District attorney & LEA of abuse. LEA will coordinate with Child Protective Services on criminal investigations. The Dep-inform District Attorney where the perpetrator is unconnected to the family. **(§ 7B-307(a))**	Good faith reporting is assumed in all cases and those who report in good faith are afforded civil/criminal liability.**(§ 7B-309)**	The report must include the name, address, and telephone number of the reporter. **(§ 7B-301).** The Department of Social Services shall hold the identity of the reporter in strictest confidence. **(§ 7B-302)**
			Exception: Privileged Communication: Attorney-client **(§ 7B-310).**	**Standard for reporting:** A report is required when there is cause to suspect that a child is abused, neglected, or dependent **(§ 7B-301)**				

Ohio	**Code Ann. Sec. 2151.421**	Between 1963-1966	Individuals in: justice, health/medical, mental health, coroners, childcare, education, social work, counselling, religious, mental disability **(§ 2151.421).**Any other person **(§ 2151.421)**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(§§ 2151.031; 2919.22; 2151.03(A); 2907.01; 2151.011).**	**Failure to report:** mandated reporters who fail to report-misdemeanour, 4th degree (up to 30days and/or $250). Clergy mandated reporters who fail to report abuse by designated religious staff (except volunteers)-misdemeanour 1st degree (up to 180 days and/or $1,000 fine). **(§ 2151.99)**	The Public Children Service Agency will investigate in cooperation with the LEA. The PCS will inform the person about whom the allegation is made. The PCS will submit reports to a central registry in Dep of Job and Family Services. **(§ 2151.428(F)).** The municipal/county peace officer will notify the PCS of reports. **(§ 2151.421(D))**	Anyone/hospital /institution/school/health department/agency is provided immunity from civil/criminal liability where reporting was made in good faith. **(§ 2151.421(G)(1)(a) & (2)(b))**	Reporter does not have to provide their name on the report unless they want feedback on the case outcome. **(§ 2151.421).** Reporter's info is protected and cannot be used in any civil action brought against them. **(§ 2151.421)**

			Exception: Privileged communication: Attorney-client/physician-patient/cleric-penitent. **(§ 2151.421)**	**Standard for Reporting:** Reasonable cause to suspect that a child has suffered or faces a threat of suffering abuse or neglect **(§ 2151.421)**	**False reporting:** Any person who knowingly makes a false report is guilty of a misdemeanour 1st degree. **(§ 2921.14)**			
				EXCEPTION: Spiritual treatment in lieu of medical treatment. Corporal punishment/physical disciplining by a parent that is not excessive or cruel. **(§§ 2151.03(B); 2151.031; 2919.22)**				
Oklahoma	**Stat. Ann. Title 21 sec. 846**	Between 1963-1966	All persons. Commercial film and photographic print processors or computer technicians. **(Tit. 10A, § 1-2-101; Tit. 21, § 1021.4)**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(Tit. 10A, § 1-1-105).**	**Failure to report:** Person knowingly/wilfully fails to promptly report or interferes with reporting-misdemeanour (up to 1year and/or $500 fine) **(Tit. 10A, § 1-2-101(C)).**	LEA-notify any report to the Dep of Human Services. **(Tit. 10A, § 1-2-102).** The Dep will notify the LEA where the perpetrator is someone who is not responsible for the child's welfare. **(Tit. 10A, § 1-2-102(B))**	Civil/criminal immunity is guaranteed to any person, good faith reporting is assumed. They are also provided immunity from participation in judicial proceedings. **(Tit. 10A, § 1-2-104)**	Not addressed

				Standard for reporting: Person has reason to believe that a child is a victim of abuse or neglect. (Tit. 10A, § 1-2-101)	**False reporting:** Any person knowingly/wilfully falsely reports or knows the report lacks foundation-misdemeanour (court imposed fine of up to $5,000) **(Tit. 10A, § 1-2-101(D))**			
				Exception: Parent/teacher/other person using ordinary force to discipline. Spiritual treatment in lieu of medical treatment. No medical treatment where receipt of it is considered professionally futile in saving the child's life.**(Tit. 10A, § 1-1-105)**				
South Carolina	**Code Ann. Sec. 20-7-510**	Between 1963-1966	Individuals in: health/medical, coroners, education, childcare, mental health, counselling, justice, undertakers, film processors **(§ 63-7-310).** Any other person **(§ 63-7-310)**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(§ 63-7-20).**	**Failure to report:** mandated reporters who knowingly fail to report or intimidate a witness-misdemeanour (up to $500fine and/or 6months) **(§ 63-7-410).**	Dep of Social Services must cooperate with the LEA and establish referral procedures. The Dep must inform the LEA of any reports of criminal violations. The LEA must inform the Dep of all reports. **(§ 63-7-980)**	Any person who reported in good faith is provided with civil/criminal immunity. **(§ 63-7-390)**	Reporter's identity is protected and cannot be disclosed by the agency/Dep in receipt of the report. **(§ 63-7-330)**

			Exception: Privileged communication: Attorney-client; clergy-penitent **(§ 63-7-420).**	**Standard for reporting:** Reason to believe that a child has been abused or neglected **(§ 63-7-310).**	**False reporting:** any person who makes a false report-misdemeanour (up to $5,000fine and/or 90 days) **(§ 63-7-440)**
				Exception: Corporal punishment/discipline by parents/guardians for the purpose of restraining that is moderate. Absence from school unless the parents refused to cooperate with school efforts to bring about attendance. **(§ 63-7-20)**	

Tennessee	**Code Ann. Sec. 37-1-403**	Between 1963-1966	Individuals in: health/medical, education, childcare, foster care, residential care, social work, spiritual healers, justice, neighbours, relatives, friends **(§§ 37-1-403; 37-1-605).** Any other person **(§§ 37-1-403; 37-1-605)**	Physical; neglect; sexual abuse/exploitation; emotional abuse **(§ 37-1-102).**	**Failure to report:** Any person knowingly fails to report-Class A misdemeanour. Where they plead guilty it is a fine of up to $2,500, if they plead not guilty it is passed onto a grand jury **(§ 37-1-412).**	Juvenile Court Judge/LEA notify all concerns to Dep of Children's Services. Dep/Sheriff/LEA notify Judge of concerns needing immediate removal of the child. The Dep notify the District Attorney of all severe abuse reports. **(§ 37-1-405(a), (b)(1)-(2)).** LEA/Judge will notify the Dep when they become aware of concerns in a personal capacity. **(§ 37-1-605(b)(2)).**	Good faith reporting is assumed. Any person is afforded the same scope of immunity with respect testimony the person may be required to give in any judicial/admin proceeding. **(§ 37-1-410(a)(5)(B), (6)-(8))**	Only employees of the department or other child protection team members, the abuse registry, or the appropriate district attorney can access the reporters name upon subpoena. The reporter's identity shall be irrelevant to any civil proceeding. **(§ 37-1-409)**
				Standard for reporting: Reasonable cause to suspect that a child has been abused/neglected/sexually abused. (§§ 37-1-493; 37-1-605)	**False reporting:** Any person who knowlingly makes a false report or aids a false report-Class E felony (between 1-6years and $3,000fine). **(§ 37-1-413)**			

				Exception: Acts for medical purpose; normal caregiver interaction are not to be considered child sexual abuse. **(§ 37-1-602)**				
Texas	**Fam. Code. Ann. Sec 34.01**	Between 1963-1966	Individuals in: State employees who have contact with children, health/medical, justice **(§ 261.101).** Any other person **(§ 261.101).**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(§ 261.001).**	**Failure to report:** Any person knowingly fails to report-Class A misdemeanour. Where the child has a mental disability and lives in State supported centre-felony **(§ 261.109)**	Mutual requirement to notify between LEA & Dep Family & Protective Services. Dep-inform any agency licensed/registered by the State. Dep-inform school of abuse by employee. District Attorney-can request notification from Dep **(§ 261.105)**	All persons are immune from civil/criminal liability where the report is made in good faith. The same immunity is offered in any judicial proceeding **(§ 261.106)**	Reporter's identity is confidential unless waived. The court can order disclosure in special circumstances. **(§§ 261.101; 261.201).**
			Note: No privileged communications are exempt **(§§ 261.101; 261.202).**	**Standard for reporting:** Cause to believe that a child has been adversely affected by abuse or neglect. **(§ 261.101)**	**False reporting:** false reporting with the intent to deceive-jail felony. Second offence-third degree felony plus additional State civil penalty of up to $1,000 and fees. **(§ 261.107)**			
				Exception: Reasonable discipline by parents **(§ 261.001)**				

Virginia	**Virginia Code Ann. Sec. 63.1-248**	Between 1963-1966	Individuals in: health/medical, healing arts, social work, justice, education, childcare, mental health, animal control, advocacy, persons over 18 who are trained & approved by the Dep Social Services to recognise and report abuse **(§ 63.2-1509).** Any other person **(§ 63.2-1510).**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(§ 63.2-100)**	**Failure to report:** Any person who fails to report within 72hrs of first suspicion-up to $500 fine. Subsequent failures-between $100-$1,000 fine **(§ 63.2-1509(D))**	LEA and any other State or local departments/agencies/authorities must cooperate with the child protection system and multidisciplinary teams **(§ 63.2-1507).**	Any person who makes a report/takes child into custody/participates in judicial proceedings shall be immune from civil/criminal liability **(§ 63.2-1512).**	Identity can be court ordered if there is reason to believe the report was made in bad faith **(§ 63.2-1514)**
			Note: No privileges are exempt **(§§ 63.2-1509; 63.2-1519).**	**Standard for reporting:** reason to suspect that a child is abused or neglected **(§ 63.2-1509).**	**False reporting:** Any person knowingly makes false report-Class 1 misdemeanour. Subsequent false reports-Class 6 felony **(§ 63.2-1513(A))**			
				Exception: Spiritual treatment in lieu of medical treatment. Refusal by persons with legal authority for the child to refuse medical treatment where child has life-threatening condition **(§ 63.2-100).**				

Wyoming	**Wyoming Stat. sec. 14-3-205**	Between 1963-1966	All persons must report **(§ 14-3-205).**	Physical; neglect; sexual abuse/exploitation; emotional abuse; abandonment **(§ 14-3-202).**	**False reporting:** Any person who knowingly makes a false report or coerces someone else-misdemeanour (up to 6months &/or $750) **(§ 14-3-205(d)).**	Mutual sharing of information between the LEA and child protective agency **(§ 14-3-206(a)).**	Any person who reported in good faith is provided with civil/criminal immunity. Good faith reporting is assumed **(§ 14-3-209).**	The report must include any available photographs, videos, and x rays with the identification of the person who created the evidence and the date the evidence was created **(§ 14-3-206).**
			Exception: Privileged communication: clergy-penitent & attorney-client **(§ 14-3-210).**	**Standard for reporting:** when a person knows or has reasonable cause to suspect that a child has been abused or neglected **(§ 14-3-205).**				
				Exception: Spiritual treatment in lieu of medical treatment **(§ 14-3-202)**				

Table 2: Australia

	Legislation	Year of Intro	Mandated Reporters	Reportable Behaviour	Sanctions	Sharing of Information	Immunity	Identity
New South Wales	**Children and Young Persons (Care and Protection) 1998 Act**	1977	Individuals in: health care, welfare, education, children's services, residential services, law enforcement and people in management position within those organisations **(s.27.1(a)-1(b))**	Physical abuse, sexual abuse, emotional/psychological, neglect, exposure to domestic violence, not receiving medical care, not receiving an education, not protecting a new born from identified risk factors **(s.23 (1))**	The penalty applying to mandatory reporters was removed from the legislation on 24 January 2010.	Amendments now allow agencies and NGOs to share info and for prescribed bodies to exchange info without Community Service's involvement **(Chp 16(a))** Director General may request info **(s. 248)**	A person who reports in good faith is protected from professional liability, civil liability, defamation action and disclosure in certain proceedings (a number of exemptions to the latter are outlined) **(s.29)**	A report may be made anonymously **(s.26).**
				Standard for reporting: Reasonable grounds to suspect significant harm **(s.24)**				

Western Australia	**Western Australia Family Court Act 1997** s.160	2009	Court personnel, family counsellor, family dispute resolution practitioner or arbitrator **(s. 160(1))**	Physical, sexual, emotional/psychological and neglect	Not addressed	Not addressed	A person is not liable for civil, criminal or professional liability where made in good faith **(s.161).**	Report is not admissible in court except where the person who made the report is giving evidence **(s.161 (1)(4).**
	Child Care Services (Child Care) 2006 regulation 20		Individuals in: childcare	Death/injury of a child during a care session. Abuse/neglect/assault/sexual assault **(Reg 20 (1a))**	Fine $6 000 **(Regulation 20(3))**	Not addressed	Not addressed	Not addressed
			Standard for reporting: allegation of abuse/neglect/assault/sexual assault of an enrolled child during a care session **(Reg 20 (1)(a))**					

	Children and Community Services Amendment (Reporting Sexual Abuse of Children) Act 2008	Doctor, nurse, midwife, police officer, teacher **(s. 124B 1(a))**	Sexual Abuse **(s. 124 B 1(b))**	$6,000 fine **(s. 124B 1(c))**	The CEO Dep of Child Protection must give a copy of each report to the Commissioner of Police **(s.124D)**	Defence where person making the report can prove he/she honestly and reasonably believed a report was made by another person or believed that the CEO was making inquiries or had taken action in the case **(s. 124 B (3))**	A reporter's identity is protected, save for a number of prescribed situations **(s. 124 F)**
			Standard for reporting: A person during the course of their work has reasonable grounds to believe a child has been/continues ot be subject to child sexual abuse **(s. 124 B 1(b))**				

Queensland	**Child Protection Act 1999**	1980	"Responsible person": authorised officer, an officer/employee of the Dep involved in administering this act, a person employed in a Dep care service or licensed care service **(s. 148(1) & S 148(6))**	Harm **(s. 148(1))** Physical, sexual/exploitation, emotional/psychological abuse and neglect **(s.9(3))**	20 penalty units **(s. 148(1))**	The CEO Dep-pass on reports to the Children's Commissioner **(s. 148(5))**	Not addressed	Not addressed
				Standard for reporting: reasonably suspects that harm has been caused to a child **(s. 148(1))**				
				Exception: Reasonable excuse not to report where doing so might incriminate the person **(s. 148 (3))** Where it is known or reasonably supposed that the CEO is already aware of the case **(s. 148(4))**				
	Public Health Act 2005		Professional during the practice of his/her profession **(s. 191(1)(a)**	Harm **(s. 191(1)(a))**	50 penalty points **(s. 193)**	Professional may seek further info in order to confirm there is a reasonable suspicion i.e. from a colleague **(s. 191(4)).** CEO may request further info from a professional reporter **(s. 194)**	A professional is protected from criminally/civil /administrative liability where made in good faith **(s. 195)**	The notifier's identity is protected **(s. 196(2))**

				Standard for reporting: Person becomes aware/reasonably suspects a child has been, is being or is likely to be harmed **(s. 191 (1)(a))**		Note: failure to comply is 50 penalty units **(s. 194)**		
Tasmania	**Children, Young Persons and their Families Act 1997**	1974	"Prescribed person": individuals in health/medical, mental health, therapy, justice, education, childcare and any employee/volunteer in Gov agency with connections to children **(s.14(1))**	That the child will be killed, abused, neglected by a person with whom the child resides or that after birth the child will suffer abuse or neglect or require medical treatment or intervention as a result of the mother's behaviour or behaviour of someone residing with the mother **(S 14 (2) a,b,c)**	Up to 20 penalty points **(S 14 (2))**	In 2009 amendments were made requiring more info sharing: staff in orgs delivering services to children & families can share info with child protection services. Staff can be requested by child protection system to provide info on their clients **(S. 53 B)**	It is a defence if the prescribed person failed to report because they believed the Community based Intake Service was already aware of the case or if that person complied with the guidelines of the organisation, body or person for whom they work **(s. 14 (6))**	The notifier's identity is protected (some exceptions outlined) **(s. 16)**

			Note: An adult has a responsibility to take steps to prevent the occurrence or further occurrence of abuse or neglect **(s. 13 Part 3 (1))**	**Standard for reporting:** Knows, believes or suspects on reasonable grounds that a child has suffered, is suffering or is likely to suffer abuse or neglect **(S 13 Part 3 (1) & 14(2))**				
Australian Capital Territory	**Children and Young People Act 2008**	1997	Individuals in: health/medical, education, justice, childcare, public servant working with children families, public advocate, person prescribed by regulation to work with children & families **(s. 356 (2))**	Sexual abuse, non-accidental physical injury **(s. 356 (1) c)** Prenatal reporting of anticipated abuse/neglect **(s. 362)**	50 penalty units and/or up to 6 months imprisonment **(S 356 (1) e)**	Director General (Health): can seek info from info sharing entity. Can refer a matter in a report to the Chief Police Officer. Can refer matters to a Gov/community service for advice **(s. 360)**	A reporter who honestly and without recklessness makes a report is protected from civil/professional liability **(s. 356 (1)(Note 1))**	Identity is protected **(s. 846)**

				Standard for reporting: report believes on reasonable grounds that the child has experienced or is experiencing abuse which arises during the course of or as a cause of that person's work **(s. 356 (1) c)**	**False reporting:** knowingly making a false report-offence (50 penalty units and/or 6 months imprisonment) **(s. 358)**	
				Exceptions: mandated person believes on reasonable grounds that someone else has reported the same case. The child is experiencing abuse at the hands of another child. The person responsible for the child is willing to protect them from any further injury **(s. 357 (1) & (2))**		
			Any person can make a voluntary report **(s. 354 (1))**	Abuse, neglect **(s. 354 (1) a,b,c)**	**False reporting:** 50 penalty points and/or up to 6 months for false reporting **(s. 355)**	Person-honestly & without recklessness makes a report-protected from civil/professional liability **(s. 354 (2)(Note 2))**
				Standard for reporting: Believes or suspects a child is being or is at risk of being abused/neglected **(s. 354 (1))**		

Northern Territory	**Care and Protection of Children Act 2007**	Circa 1983/1984	Members of the public **(s. 24 (a))**	Physical, psychological, emotional abuse or neglect of the child; sexual abuse or exploitation of the child; exposure of the child to violence **(s. 15 (2))**	Up to 200 penalty points **(s. 26)**	Police officer-notify CEO of reports **(s. 28).** CEO-may inform the reporter & police officer who notified of actions taken/proposed **(s. 29).** CEO/Police officer may request info from specified info-sharing entities **(s. 34)**	A person is not liable civilly or criminally or in breach of any professional code when making a report. The report and its information will not be admissible in court except where it is of critical importance **(s. 27(1))**	Not addressed
				Standard for reporting: Believes on reasonable grounds a child has been/is likely to suffer harm or exploitation **(s. 20)**	Exception: It is a defence against prosecution where the defendant has a reasonable excuse **(s.26 (2))**	Note: everyone providing services for a child in children's services, hospitals and education must ensure everyone under their control are aware of their reporting obligations under statute **(s. 30)**		

South Australia	**Child Protection Act 1993**	1975	Individuals in: health/medical, mental health, justice, social work, clergy, employees/volunteers in religious orgs, education, childcare, employees/volunteers in gov./non-gov. orgs providing services in contact with children **(s. 11(2))**	Sexual abuse, physical abuse, emotional/psychological abuse, neglect **(s. 6(1))**	$10, 000 **(s. 11(1))**	CEO may require persons who examined, assessed, carried out tests or treated the child or the agency for whom the person works, to furnish the CEO with written reports of those tests/assessments **(s. 19(2))**	A voluntary/mandated reporter is protected from civil/criminal/professional liability if report made in good faith **(s.12)**	Reporter's identity is protected (with some listed exception). Where this is violated- subject to $5,000 fine **(s.13)**
			Exception: Privileged communication: clergy-penitent **(11(4)**	**Standard for reporting:** On reasonable grounds believe a child is at significant risk of serious harm **(s. 6(2) & 11(1)(a))**			Reporter protected from intimidation when making a report. If this occurs can be subject to $10,000 fine **(11(6))**	

Victoria	**Children Youth and Families Act 2005**	1993	Individuals in: health/medical, education, justice, childcare, youth/social/welfare workers in health/education community or welfare services, mental health **(s.182)**	Physical abuse, sexual abuse **(s.184, s. 162(1)(c) & s. 162(1)(d))**	10 penalty units **(s. 184(1))**	The Secretary (Dep Human Services) may request information from the person in charge/employee in a registered community service in relation to a report **(s. 192)**	A person is protected from liability and not deemed to have contravened any professional ethics or conduct if the report is made in good faith **(s. 189)**	A notifier's identity is protected save in certain situations **(s. 190(2))**
				Standard for reporting: Any person who believes on reasonable grounds, during the course of their work, that a child has suffered or is likely to suffer significant harm **(s. 183, s. 184(1) & s.162(1))**	**False reporting:** It is an offence for a person to give false or misleading information- 10 penalty points **(s. 201)**	Note: Failure to provide such information can be subject to 10 penalty units **(s.197)**		Note: Unauthorised disclosure of reporter ID can receive up to 10 penalty units
					Exception: It is a defence where the person reported on honest and reasonable grounds **(s. 184(2))**			

Table 3: Europe

	Legislation	Year of Intro	Mandated Reporters	Reportable Behaviour	Sanctions	Sharing of Information	Immunity	Identity
Sweden	**Social Services Act 2001, Chapter 14**	1980	*Authorities':* whose activities affect children & young people; authorities in health, medical care, forensic psychiatric investigation, social services, prison and probation. *'Persons'* employed in the above authorities. *'Persons':* within professionally conducted private services affecting children & young people or in health, medical care. *'Persons':* employed in couples counselling **(Chp 14, s.1).**	Any matter': this refers to child abuse and neglect **(Chp 14, s.1).**	**Failure to Report:** may result in an inquiry to find out if a breach of duty has been committed according to the provisions of the penal code. Where a failure is established- up to 2 years imprisonment; this also applies where the person did not realise a crime was being committed but should have **(Penal Code Chp 23, s.6).**	Police must notify social services of a report **(Daphne report, 2012)**	Not addressed	Identity of reporter not addressed. Both persons working in professional private activity or couples' counselling may not improperly disclose information about a person

			Any person' is allowed to notify social welfare committee of a concern **(Chp 14, s.1).**	**Standard for reporting:** Report immediately when a suspicion implies the need for social welfare committee to intervene **(Chp 14, s.1).**				
The Netherlands	**Reporting Code domestic violence and child abuse**	Code was introduced in 2009. Law on code not yet introduced	Every organisation and professional working with children/parents must have a reporting code **(Daphne report, 2012)**	Child abuse and neglect: physical abuse, physical and psychological neglect, mental or emotional abuse, sexual abuse and witness to domestic violence	None	Anyone can contact the AMK for advice/consultation. The police will notify the AMK of child abuse or neglect.	Not addressed	Not addressed
				Standard for reporting: Anyone who suspects child abuse can contact the Advice and Reporting Centre (AMK) to make a report				
Hungary	**Child Protection Act 1997**	2010	Health professionals, health visitors, GP paediatricians, childcare professionals, school social workers or those responsible for child protection **(Daphne Report, 2012)**	Abuse and neglect	Fines, obligatory training	Unknown	Unknown	Unknown

				Standard for reporting: Suspicions or awareness of abuse/at-risk situation				
Cyprus	**Law for the Prevention and Protection of Victims of Domestic Violence**	1998	Public officers of the Ministries of Health, Education, Justice and Public Order (Police) and Labour and Social Insurance (Social Welfare Services) **(Panayiotopoulos, 2011)**	Physical, sexual or emotional abuse **(Law (119/I/2000) Para. 3, part B).**	**Failure to report:** any person who omits to report a case of violence against a minor which came to his or her knowledge- up to 2 years and/or £1,000fine **(Art 35A)**	Family counsellor can request views, advice and opinion of the multidisciplinary group appointed by the Council of Ministers **(Part III 6(5)).**	Unknown	Unknown
				Standard for reporting: Concerns, suspicions or evidence of family violence				
Bulgaria	**Child Protection Act 2000**	2000	All citizens and professionals working with children and families **(Art 7 & Daphne Report, 2011)**	Protection against violence: activities harmful to physical, mental, moral and educational development **(Art 11(1)**	Persons who fail to fulfil an obligation under the Act- fine of 50-100 Lev. For an official- 100-200 Lev **(Art 45(1))**	Not addressed	Not addressed	Not addressed
				Standard for reporting: become aware of the existence of a child in need of protection **(Art 7)**				

Estonia	**Child Protection Act 1992 & Family Law Act 2010**	1993	All citizens **(s.59 CPA).** Official of State agency/local gov. agency, policeman, health care professional, judge, prosecutor, notary, bailiff and teacher **(s. 134(2) FLA)**	Where the well-being of the child is endangered **(s.134(2) FLA)**	Sanctions exist. Form unknown.	Not addressed	Not addressed	Not addresse d
				Standard for reporting: Knows of a child in need of protection **(s.59 CPA)**				
Romania	**General Directorates for Social Assistance and Child Protection Law 272/2004**	2004	All individuals have the right to report. Staff in public/private institutions who come in contact with children are mandated **(Art 85).** Professional staff who interact directly with children: teachers, child care workers, medical staff and social workers **(Art 91)**	Child abuse, neglect, maltreatment **(Art 85)** Abuse or neglect **(Art 91)**	**Failure to report:** is a serious misbehaviour and sanctioned in accordance with the law **(Art 134)**	Unknown	Unknown	Unknown
				Standard for reporting: Suspicions of abuse or neglect **(Art 91)**				

	Prevention and Fight against Family Violence Law 217/2003	2003	Persons working with the family **(Art 29)**	Acts of violence against children **(Art 29)**	**Failure to report:** Summary offence **(Art 29)**	Not addressed	Not addressed	Not addresse d
Turkey	**Juvenile Protection Law**	2005	All judicial and admin authorities, law enforcement officers, health and education institutions and NGOs **(Art 6(1))**	Juvenile whose physical, mental, moral, social or emotional development & personal safety is in danger, who is neglected/abused, or victim of crime **(Art 3)**	Sanctions exist. Form unknown.	Not addressed	Not addressed	Not addresse d

Finland	**Child Welfare Act 417/2007**	1983	Individuals employed in or in a position of trust in: social care, health care, education, youth, police, parish or other religious communities, working in asylum seeker centres, emergency centres, evening activities for children, healthcare professionals **(s.25(1))** Any other person may notify authorities **(s.25(2))**	Reports made where there is concern for the child's need for care, circumstances endangering the child's development or child's behaviour **(s.25(1))**	Sanctions exist. Form unknown.	Social Services must notify a new municipality where a child being investigated moves domicile **(s.25(5)).** Child Welfare Authorities must notify the police where there are reasonable grounds to suspect sexual offences or bodily injury with a max penalty of up to 2 yrs **(25(6))**	Not addressed	Not addressed
				Standard for reporting: Where a person discovers that it is necessary for a child to be investigated **(s.25(2))**				
Norway	**Child Welfare Act 1992**	1993	Public authorities; Orgs & private individuals that perform functions for central gov or municipality; practitioners in health, mental health, municipal health, family	Mistreated, serious neglect **(s.6-4).** Parents fail to ensure treatment for life-threatening illness, injury **(s.4-10).** Parents fail to ensure disabled child receives treatment **(s.4-11).** Parental deficiencies	Not addressed	Public authorities are obligated to disclose information on child welfare concerns when ordered to do so by bodies responsible for implementing the Act **(s.6-4).** Child Welfare Service must respond to all reporters within 3	Not addressed	Not addressed

			counselling, independent schools and marriage mediators **(s.6-4)**	to ensure everyday care, security, contact, health & development **(s.4-12).**		wks of report **(6-7)**		
				Standard for reporting: Reason to believe the child is mistreated/subjected to serious neglect. Child shows persistent behavioural problems **(s. 6-4)**				
Portugal	**Act for Protection of Children and Young People in Danger Law 147/99**	2001	All persons **(Art 66)** but there is complex legislation for different professionals	"In peril": abandoned, physical/sexual abuse, not receiving adequate care/affection, excessive work, emotional abuse, activities harmful to the health, safety, upbringing, education or development of the child **(Art 3(2))**	Sanctions exist. Form unknown.	Law enforcement & judicial authority must communicate concerns to the CPCJ*; shelter homes must notify public prosecutors office **(Art 64)**	Unknown	Unknown
						*Commission of Protection of Children and Youngsters		
France	**French Penal Code**	1971	All persons **(Art. 434-3)**	Ill-treatment, abuse or neglect of a child or vulnerable adult **(Art. 434-3)**	Failure to report: up to 3 years imprisonment and 300,000F fine **(Art. 434-3)**	Not addressed	Not addressed	sed

Table 4: Canada

	Legislation	Year of Intro	Mandated Reporters	Reportable Behaviour	Sanctions	Sharing of Information	Immunity	Identity
Quebec	**Youth Protection Act**	1975/ 76 fiscal year	Every professional who provides care or assistance to children. Any employee of an institution, any teacher, anyone in childcare establishment or policeman. Any person other than those already referred to. **(s. 39)**	Security or development of child in danger: abandoned, neglected, subjected to psychological ill-treatment, sexual, physical abuse or has serious behavioural disturbances **(s. 38)**	Not addressed	Multisectoral Agreement: protocol requiring cooperation and collaboration between Director of Youth Protection and all other concerned parties (police, legal community, school, day-care etc) where criminal offence committed. See below:	Good faith reporting is exempt from prosecution **(s. 43)**	Identity is protected **(s. 44)**

				Standard for reporting: Reasonable grounds to believe the security and development of child is/may be in danger where: child leaves home without authorisation; does not attend school/frequently absent; parents fail to carry out obligation to provide care, maintenance, education or do not exercise supervision **(s. 38.1)**		**Entente multisectorielle relative aux enfants victimes d'abus sexuels, de mauvais traitements physiques ou d'une absence de soins menaçant leur santé physique, MSSS, 2001.**		
				Exception: Where an advocate receives such information during practice of profession **(s. 39)**				
Ontario	**Child and Family Services Act**	1965	A person, including a person who performs professional or official duties with children **(72(1)).** Professionals in healthcare, education, family counsellor, nursery, youth and recreation, religious official, mediator, peace officer, coroner, solicitor, service provider **(s. 72(5))**	Physical harm, sexually molested, child pornography, not receiving medical treatment, emotional harm, impairment of emotional/mental development, abandonment, patterns of neglect, refusal to provide treatment to a child that has caused the death/serious injury of another **(s. 72(1))**	**Failure to report:** guilty of an offence **(s. 72(4))** Person who discloses the ID of an informant is guilty of an offence **(s. 72 (4.2))** If convicted liable for up to $50,000 and/or up to 2 years	Not addressed	Good faith reporting is protected **(s. 72 (1.3))** Reporter is protected from dismissal, suspension, demotion, disciplining, harassment and interference **(s. 72(1.5))**	Reporter's identity is protected **(s. 72 (1.4))**

					(s. 72 (6.2))			
			Exception: Youth and recreation does not include volunteers **(s. 72(6))**	**Standard for reporting:** Reasonable grounds to suspect that the child is or is likely to suffer harm **(s. 72(1))**	A director, officer, employee of a corporation who permits contravention of this obligation is guilty of an offence **(s. 72(6.1))**			
			Exception: Privileged communication: solicitor-client **(s. 72(8))**	Note: A reporter must continue to make ongoing reports **(s. 72(2))**				
Nova Scotia	**Children and Family Services 1990**		**1.** Every person **(s. 23(1))**	In need of protective services': physical harm, sexual abuse, refusal of medical treatment, emotional harm, impairment of child's developmental condition, exposure to domestic violence, chronic/serious neglect, abandonment,	**Failure to report:** summary offence-up to $2,000 and/or up to 6 months **(s. 23(3))** **False reporting:** same as above	Not addressed	A person is provided with immunity **(s. 23(2))**	

			failure to treat a child who has killed/seriously injured another **(s. 22(2)**			
			Standard for reporting: where a person has information **(s. 23(1))**	Note: No action can be take 2 yrs after contravention **(s. 23(4))**		
		2. Professional obligation: health care, education, social work, family counsellor, clergy, operator/employee of day-care or childcare facility, peace officer, medical examiner, youth/recreation worker **(s. 24(2))**	In need of protective services': physical harm, sexual abuse, refusal of medical treatment, emotional harm, impairment of child's developmental condition, exposure to domestic violence, chronic/serious neglect, abandonment, failure to treat a child who has killed/seriously injured another **(s. 22(2)**	**Failure to report:** summary offence-up to $5,000 +/or up to 1 yr imprisonment **(s. 24(6)** **False reporting:** up to $2,000 +/or 6months **(s. 24(8))**		Good faith reporting is protected **(s. 24(5))**

			Note: No communications are privileged **(s. 24(3))**	**Standard for reporting:** reasonable ground to suspect a child is or may be suffering or may have suffered abuse **(s. 24(2))**	Note: No action can be take 2 yrs after contravention **(s. 24(7))**			
			3. Every person **(s. 25(2))**	Third party abuse (physical, sexual, emotional) of the child **(s. 25(2))**	**Failure to report:** up to $2,000 fine +/or 6 months **(s. 25(3)) False reporting:** same as above **(s. 25(6))**		Good faith reporting is protected **(s. 25(5))**	
					Note: No action can be take 2 yrs after contravention **(s. 25(4))**			
Alberta	**Child Youth and Family Enhancement Act 2000**	1966	Any person **(s. 4(1))**	"Child in need of interventive services": abandoned, guardian is dead, neglect, physical/sexual abuse, emotional injury, unwillingness of guardian to protect the child **(s. 2)**	**Failure to report:** up to $2,000 fine or up to 6 months imprisonment **(s. 4(6))**	Not addressed	Good faith reporting is protected **(s. 4(4))**	Reporter's identity is protected **(s. 4(2))**

			Note: No communications are privileged **(s. 4(3))**	**Standard for reporting:** Where there is reasonable and probable grounds to believe a child has been or there is substantial risk that the child will require interventive services **(s. 2 & s. 4(1))**				
				A Director who has reasonable grounds to believe that a person registered as a profession/occupation prescribed by regulation failed to report must notify the appropriate governing body of this **(s. 4(5))**				
New Brunswick	**Family Services Act 1980**		Any person **(s. 30(1))** Professional: in health care, education, social work, childcare, justice, mental health, guidance counsellor, mediation services, recreational services, any person whose employment requires them to discharge a duty of care towards a child **(s. 30(10))**	Security/development in danger: abandonment, physical/sexual/emotional abuse, neglect, sexual exploitation, exposure to domestic violence, failure to provide medical care, living in improper conditions, guardian unable/unwilling to provide care, child is out of control or has committed a crime **(s. 31(1))**	**Failure to report:** Professional who fails to report commits an offence **(s. 30(3))** **False reporting:** Any person who makes a false report is guilty of an offence **(s. 30 (5.1))**	Minister may provide person/org providing services to children with info on (inter alia): court order in relation to a danger to child's security/development; findings by Minister after investigation in relation to child's safety **s. 30.1(1))**	Good faith reporting protected **(s. 30(5))**	Reporter's identity protected **(s. 30(6))**

			Note: No communications are privileged **(s. 30(2))**	**Standard for reporting:** Where a person has information causing them to suspect abuse/neglect	A Minister who suspects that a professional has failed to report may require the society/association/org to regulate the activities of the person in question to cause an investigation to be made into the matter **(s. 30(4))**			
Yukon	**Child and Family Services Act 2008**	2010	A person' **(s. 22(1))**	Child in need of protective services': physical harm, sexual abuse/exploitation, emotional harm, parental failure to protect the child, deprived of health care, abandoned, under 12 and killed/seriously injured another **(s. 21)**	No person shall knowingly report false information **(s. 22(3))**	Not addressed	Good faith reporting protected **(s. 22(4))**	Reporter's identity protected **(s. 22(5))**
			Exception: Privileged communication: solicitor-client **(s. 22(2))**	**Standard for reporting:** Reason to believe a child is or is likely to be subjected to harm **(s. 22(1))**				

Northwest Territories & Nunavut	**Child and Family Services Act 1998 & 2011**	A person' **(s. 8(1))**	Physical, sexual, emotional abuse, guardian refusal to provide medical treatment, pattern of neglect, exposure to domestic violence, well-being of child harmed by drug/alcohol/substance abuse, malnutrition, abandonment, guardian unwilling/unable to provide care, child less than 12 has killed/seriously injured someone **(s. 7(3))**	**Failure to report:** Every person who fails to report is guilty of a summary offence-up to $5,000 fine &/or up to 6 months imprisonment **(s. 8(6))**	Not addressed	Good faith reporting protected **(s. 8(4))**	Not addressed
		Exception: Info received in the process of judicial proceeding **(s. 8(1.1))**					
		Note: A person may not delegate responsibility to report **(s. 8(2))**					
		Exception: Privileged communication: solicitor-client **(s. 8(5))**					

British Columbia	**Child, Family and Community Services Act 1996**	A person' **(s. 14(1))**	Child needs protection': physical/sexual abuse, sexual exploitation (prostitution), emotional abuse, deprived of health care, parental refusal to provide medical treatment, unable/unwilling to provide care, endangerment of child's well-being, parents have died/abandonment, parents unwilling to resume care of the child **(s. 13(1))**	**Failure to report:** up to $10,000 fine and/or 6 months imprisonment **(s. 14(3) & 14(6))** **False reporting:** same as above **(s. 14(4) & 14(6))**	Not addressed	Good faith reporting protected **(s. 14(5))**	Not addressed
		Exception: Privileged communication: solicitor-client **(s. 14(2)(a))**	**Standard for reporting:** reason to believe a child has been/likely to need protection **(s. 14(1) & 13(1))**				
		Note: Prohibited disclosures under another Act or confidentiality will not exempt reporting **(s. 14(2)(b))**					

Manitoba	**The Child and Family Services Act 1985**	**1.** 'A person' **(s. 18(1))** The person must report to either the Agency or the parent/guardian **(s. 18(1))**	Child in need of protection: lacking adequate care, guardian unwilling/unable to provide care or their conduct endangers child's well-being, neglect, refusal to provide medical treatment, child is out of control, child pornography, exposure to domestic violence, aggression of sexual harassment, abandonment, unlawful adoption **(s. 17)** Must also report discovery of child pornography material **(s. 18(1.01)**	Failure to report/disclosure of the reporter's identity/disadvantaging the reporter: up to $50,000 fine &/or 2 yrs imprisonment **(s. 18.3)**	Peace officer-notify Agency with info when requested **(s. 18.4(1.1))** Agency-notify following where conclusion child needs protection: parents/guardians, abuser, employer of abuser, school principal, child (where appropriate), reporter **(s. 18.4(2))**	Good faith reporting protected **(s. 18.1(1))** Reporter is protected from dismissal, suspension, demotion, disciplining, harassment or interference **(s. 18.1(3))**	Identity protected except as required in judicial proceedings **(s. 18.2(2))**

		Note: Where the person believes the parent is responsible for the abuse they should only report to the Agency **(s. 18(1.1))**	**Standard for reporting:** reasonably believe a child might be/is in need of protection **(s. 18(1))**	
		Exception: Privileged communication: solicitor-client **(s. 18(2))**	Note: Reporting entity (org/agency/person) designated under regulation, must prepare an annual report on actions taken re: reporting of child pornography material **(s. 18.7(2))**	
		2. Director Child & Family Services	Must notify body/governing body of a person within their authority who is believed to have failed in reporting an abuse **(s. 18.2(1))**	Body/governing person must undertake an investigation to determine of disciplinary proceedings are necessary **(s. 18.2(2))**

Prince Edward Island	**Child Protection Act**	Every person **(s. 10(1))**	Child in need of protection: physical harm, neglect, failure to protect/supervise, sexual abuse, sexual exploitation (prostitution), emotional harm, exposure domestic violence, failure to provide medical treatment, refusal, unable to resume ensure child's well-being, abandoned, refusal/unable to resume care, child less than 12 killed/seriously injured another **(s. 10(1) & 9)**	Failure to report, false reporting and disclosure of informants identity are all subject to fine of up to $2,000 **(s. 59 (b),(c)&(d))**	Peace officer must notify Director of Child Protection of cases **(s. 10(1))** Director may disclose info contained in a report to, inter alia, official/org providing child welfare services in another jurisdiction or to person/org for purpose of maintaining it in an info system to be used for the admin of this Act **(s. 7(2))**	Good faith reporting protected **(s. 10(4))** Person is not protected where info provided is false/misleading **(s. 10(5))**	Reporter's identity protected **(s. 10(3))**
		Exception: Privileged communication: solicitor-client **(s.10(2))**	**Standard for reporting:** knowledge/reasonable grounds to suspect a child has suffered or is at substantial risk of harm **(s. 10(1) & 9)**				

Newfoundland and Labrador	**Children and Youth Care and Protection Act 2010**	Professionals in course of their work: health care, education, mental health, guidance counsellor, social work, family counsellor, clergy/religious, operator/employee of childcare service, youth worker, recreation worker, peace officer, solicitor **(s. 11(4)&(5))**	Child in need of protective intervention: physical harm, sexual abuse/exploitation, emotional harm, failure by parent to protect/provide medical treatment, abandoned, parents are dead/absent/unwilling to care for child, exposure to domestic violence, parents allegedly killed/seriously injured another, child under 12 killed/seriously injured another and parents either encouraged it or failed to intervene **(s.10)**	**Failure to report:** up to $10,000 and/or 6 months **(s. 11(8))**	Police must notify social work of all reports received **(s. 11(3))** but may refuse to disclose info under certain circumstances **(s. 74(4)** Public body/person in control/care of child/youth shall disclose info to social work when required **(s. 74(1)(2))**	Good faith reporting is protected unless made maliciously or without reasonable cause **(s. 11(6))** Informant protected from interference or harassment **(s. 11(7))**	Not addressed
		Note: No communication is privileged or exempt from obligation **(s.**	**Standard for reporting:** reasonable grounds to believe child is or is at risk of being in need of protective intervention **(s. 10)**				

		11(6))					
Saskatchewan	**The Child and Family Services Act 1989-90**	Every person **(s. 12(1))**	As a result of action/omission by parent child is in need of protection from: physical harm, emotional/mental impairment, sexual abuse/exploitation, failure to provide medical treatment, failure to remedy mental/emotional or developmental condition, exposure domestic violence, parents unwilling/unable provide for the child, child less than 12 committed criminal/narcotic/drug offence & family fail to prevent recurrence **(s. 11)**	Not addressed	Peace office must notify officer **(s. 12(4))** Info can be disclosed where consent is obtained **(s. 74(5))** or where the benefit of disclosure outweighs any invasion of privacy **(s. 74(5.1))**	Good faith reporting protected **(s. 12)** Application for leave (action) will be granted where established the person reported maliciously/without reason **(s. 12(3.2))**	Informant identity protected **(s. 74(4))**

		Exception: Privileged communication: solicitor-client and crown privilege exempt **(s. 12(2))**	**Standard for reporting:** reasonable grounds to believe a child has suffered or is likely to suffer **(s. 12(1)&s. 11)**	Note: Applicant must pall all/portion of costs if leave not granted **(s. 12(3.3)**

Appendix 2: Information Sheet



TRINITY COLLEGE DUBLIN | THE UNIVERSITY OF DUBLIN
COLÁISTE NA TRÍONÓIDE, BAILE ÁTHA CLIATH



IRCHSS

Participant Information Sheet

Project Title: An examination of professionals' attitudes towards mandatory reporting of child abuse

I am a PhD candidate at Trinity College Dublin, under the supervision of Dr. Helen Buckley, School of Social Work and Social Policy. I am undertaking a research study entitled: ***"An examination of professionals' attitudes towards mandatory reporting of child abuse"*** which you are invited to take part in because of your experience in the children's services area.

Below is a discussion of some of the questions that may arise for you when considering the possibility of partaking in this research.

1. **What is the purpose of the study?**

Mandatory reporting[109] has been promoted as the appropriate response for those that fail to report to the authorities. The proposal to place Children First guidelines on a statutory footing and the new *Criminal Justice (Withholding Information on Crimes against Children) Bill* means that Ireland will be subscribing to a mandatory reporting system. Undoubtedly these provisions will have implications for a variety of professions working with children. It is therefore my intention to uncover the concerns of professionals, such as yourself, should you be mandated to report all known or suspected cases of child abuse.

[109] **Mandatory reporting** places a sanction on failures to report known or suspected cases of child abuse, normally in the form of a fine or imprisonment, as opposed to an obligation to report where requirements to report are not backed by a penalty.

2. Why am I being asked to partake?

The research aims to establish the attitudes of those that work directly with children or whose profession brings them in contact with children, where they are deemed to be in a position to detect if that child is subject to abuse. Study participants are those for whom the Children First guidelines are applicable and who may subsequently be subject to mandatory reporting law.

3. What procedures are involved?

You will be asked to take part in a focus group interview with your colleagues or individually if you are the designated liaison person.[110] The interviews and focus groups will be based on the following topics:

- Background information from participants (training and awareness of reporting procedures);
- Issues associated with reporting (concerns about reporting, for example fear of reprisal);
- Concerns about the impact of mandatory reporting (on you professionally, on your relationship with the child and family).

The interviews will take between 45 minutes to an hour. Your name will be kept anonymous and any identifying information will be removed in accordance with TCD's ethical research requirements.

4. Am I obliged to take part?

Participation is voluntary and you are free to withdraw from the research at any stage. If you choose to withdraw mid-interview any information already shared will be omitted from the study.

5. What are the potential risks or disadvantages?

---

[110] A designated liaison person for child protection is normally the person in an agency with responsibility for receiving and passing on reports from staff of suspected child abuse to the statutory authorities.

It is hoped that the process will not be a stressful experience for you as it is up to you exactly how much information you wish to share. If you decide to share any information about past experiences of reporting abuse it is advised that no names or identifying information relating to the child in question or his/her family are used, however, should any identifying information be shared in the interview it will be omitted during the transcription stage. Also, should it come to light during interview that you have not reported a child protection concern to the statutory authorities, I will be required to notify them the concern in question.

6. What will happen after I have taken part?

After the interview has taken place you are free to ask any questions about issues that may have arisen for you in the process of the interview or point out an important issue which you feel the interview failed to address that is important to the reporting of child abuse.

The next stage is for the recording to be transcribed which will involve the 'typing up' of all the information discussed. It is at this stage that anything identifying will be anonymised. The recording will be stored on my office computer which is password protected, any hardcopy information will be locked into my office cabinet and destroyed after a certain period, in accordance with TCD's 'Policy on Good Research Practice 2009'. The data arising from the interviews will be analysed and used to generate overall findings and theories in light of all interviews undertaken. At no point will your name or any information about you be discussed in the final research document. Any papers or publications arising from the study will exclude any identifying information.

Thank you for considering taking part in this study. In light of recent child abuse revelations and the proposed new provisions being put forward by government it is a critical time to consider the opinions and attitudes of those that they will directly affect, that is why your participation is so important. Should you have any further questions or queries please feel free to contact me directly:

Roni Buckley

Email: bucklero@tcd.ie

Mobile: (085) 737 0227

Office: (01) 896 2718

Appendix 3: Interview Schedules

MANDATORY REPORTING STUDY INTERVIEW PROTOCOL

Frontline/Designated Liaison Person

Instructions
-Introductions
-Quick Study synopsis
-Explain their contribution, what is expected
-Quickly address the general topics of discussions: background info; issues around reporting procedures and perceived impact of mandatory reporting

Tape Recorder Instructions
-Instruct that it will be audio recorded
-Explain what will happen with the recordings
-Reassure of anonymity

Consent Form Instructions
-Instruct them to read consent form if they have not already and then sign
-Once all handed back begin recording

Part I: DEMOGRAPHIC

- Background
- Children First Training and any other additional child protection training
- Adequacy of training

Part II: ISSUES AROUND REPORTING PROCEDURES

- Perception of role/responsibility in child protection
- Confidence in capabilities....to identify abuse, to respond to an allegation
- Allegation versus Suspicion
- Familial abuse versus Third Party

- The different forms of abuse....difficult to identify, difficult to confirm suspicions?
- Consultation processes....with any third parties
- Suspicion of mistaken/malicious allegations
- Fears/impediments associated with reporting (reprisal, making a mistake etc)
- Knowledge of family difficulty (financial, mental health, addiction, disability)
- Reporting relationship between Frontline/DLP/Social Services (dealing with them, getting feedback etc)
- Opinions on the process overall

Part III: IMPACT OF MANDATORY REPORTING

- Understanding of the new provisions (Children First legislation and Criminal Justice Withholding of Information)
- Perceptions of how the new provisions will affect them professionally
- Perceptions of how the new provisions will affect their working relationships
- Any perceived differences now that they could face a penalty/sanction (will they report more)
- Is mandatory reporting considered a positive/negative thing?

Part IV: CONCLUSION

- Confirm major issues of concern
- Establish if it is believed children and families are better/worse off as a result of mandatory reporting
- Any additional information

-Thank participants for their time and contribution.
-Allow time for feedback, questions

MANDATORY REPORTING STUDY INTERVIEW PROTOCOL

Social Work Duty Teams

Instructions
-Introductions
-Quick Study synopsis
-Explain their contribution, what is expected
-Quickly address the general topics of discussions: background info; issues around reporting procedures and perceived impact of mandatory reporting

Tape Recorder Instructions
-Instruct that it will be audio recorded
-Explain what will happen with the recordings
-Reassure of anonymity

Consent Form Instructions
-Instruct them to read consent form if they have not already and then sign
-Once all handed back begin recording

Part I: DEMOGRAPHIC

- Background
- Education
- Children First Training and any other additional child protection training
- Adequacy of training

Part II: ISSUES AROUND REPORTING

- Perception of role/responsibility in child protection
  - Screening process
  - Workload
  - How they are perceived by families
  - Working relations with families

- Difficulties for them about reports they receive
  - Allegation versus Suspicion;

- The different forms of abuse....difficult to identify, difficult to confirm suspicions?
- Quality of reports received and evidence to support?
- Verifying reports, confidence in verifying;
- Observations on reporting patterns;
- Identify those who are weak reporters.

- Communication/relationships with reporters, other services
  - What causes delayed feedback?
  - How this influences their working relationships?

- Fears and concerns

- Opinions on the process overall

Part III: IMPACT OF MANDATORY REPORTING

- Understanding of the new provisions (Children First legislation and Criminal Justice Withholding of Information)?
- Perceptions of how the new provisions will affect them professionally?
- Perceptions of how the new provisions will affect their working relationships?
- Impact on the service?
- Do they see the potential of a penalty/sanction changing things?
- Anticipated compliance by those mandated to report?
- Resources needed to implement mandatory reporting?
- Is mandatory reporting considered a positive/negative thing?

Part IV: CONCLUSION

- Confirm major issues of concern
- Establish if it is believed children and families are better/worse off as a result of mandatory reporting
- Any additional information

-Thank participants for their time and contribution.
-Allow time for feedback, questions

Appendix 4: Consent Forms

CONSENT FORM

Full title of Project:
Child Abuse Reporting in Ireland and the socio-legal implications of introducing a Mandatory Reporting Law.

Researcher Details:
Roni Buckley, PhD candidate (IRCHSS scholar)
Room 31, bucklero@tcd.ie
191 Pearse Street, Mob: (085) 7370227
Trinity College Dublin. Office: (01) 896 2718

	Please Tick Box Yes	No
1. I have read and understand the Participant's Information Sheet for the above study and have been given the opportunity to ask questions.	☐	☐
2. I understand that my participation is voluntary and that I am free to withdraw at any time, without giving reason.	☐	☐
3. I agree to take part in the interview	☐	☐
4. I agree to the interview/focus group being audio recorded	☐	☐
5. I agree to the use of anonymised quotes in publication	☐	☐

_____	_____	_____
Name of Participant	Date	Signature
_____	_____	_____
Name of Researcher	Date	Signature

CHILD ABUSE REPORTING IN IRELAND AND THE SOCIO-LEGAL IMPLICATIONS OF INTRODUCING A MANDATORY REPORTING LAW

Roni Buckley

Aim: The primary aim of this study has been to explore relevant frontline professionals' experience of the child protection reporting system in Ireland. To do so it examined awareness raising and training delivery of child protection duties and responsibilities; issues around child abuse detection; experiences of reporting to social services and finally, understandings and perceptions of mandatory reporting laws and their implications.

Background: While conducting this research steps were being taken by the Department of Children and Youth Affairs to place Children First (Ireland's national child protection reporting guidelines) on a statutory footing; effectively putting in place, for the first time, a mandatory reporting regime in Ireland. In light of such developments the study placed particular focus on what mandatory reporting would mean at a frontline level.

Methods: Twenty-four focus groups and 27 individual qualitative interviews were conducted with a total population sample of 156 participants. Interviewees were drawn from relevant services across health, education, justice, childcare, social work, sport and youth services. The data was analysed using Atlas software and coding techniques drawn from Charmaz's constructivists grounded theory.

Findings: The study found that there was a significant lack of child protection awareness raising within formative education, causing many of the professionals interviewed to feel unprepared to adopt the role of reporter. It also found that the majority of concerns which do arise within the work environment are tenuous, making detection difficult. Transitioning to a point where a participant decides social work need to be notified was also met with complication. A number of competing issues were seen to impede or delay reporting, such as, the utility of reporting, consequences for the child and family and consequences for the service. Finally, it was found that various understandings around what mandatory reporting entails meant that there were very mixed opinions around the adoption of the new law. Those who supported mandatory reporting perceived it as a way of redressing the wrongs that have recently emerged in child protection inquiries, while also removing any burden of discretion associated with a decision to report. Those who opposed mandatory reporting were concerned with how it would impact on social services' workload.

Conclusion: Overall, the findings suggest that child protection detection and reporting is a complex area with numerous intervening factors and issues which are unlikely to be simply resolved through the adoption of a mandatory reporting law.